

**CITY OF HAMILTON**

**COMMUNITY SERVICES DEPARTMENT**  
**Recreation Division**

<b>TO:</b> Chair and Members Emergency & Community Services Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> May 14, 2012	
<b>SUBJECT/REPORT NO:</b> Ivor Wynne Stadium Licence Agreement between the City of Hamilton and Hamilton Tiger-Cats Football Club (2007) Corporation (CS12019) (City Wide)	
<b>SUBMITTED BY:</b> Joe-Anne Priel General Manager Community Services Department	<b>PREPARED BY:</b> Rom D'Angelo 905 546 2424 ext. 4617
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the Licence Agreement between the City of Hamilton and the Hamilton Tiger-Cats Football Club (2007) Corporation, for the use of Ivor Wynne Stadium during the 2012 Canadian Football League season (attached as Appendix A to Report CS12019), be approved;
- (b) That the Mayor and City Clerk be authorized and directed to execute the said Licence Agreement between the City of Hamilton and the Hamilton Tiger-Cats Football Club (2007) Corporation for the use of Ivor Wynne Stadium during the 2012 Canadian Football League season, in a final form satisfactory to the General Manager of Community Services and the City Solicitor;
- (c) That two concert dates to celebrate the final year of Ivor Wynne Stadium, which will be organized and paid for by the Tiger-Cat organization at a cost of \$25,000 per event, and which will be scheduled outside of the Tiger-Cats' regularly scheduled season, be approved as part of the Licence Agreement; and,

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- (d) That the Policy for Special Event Planning; Ivor Wynne - Site Guidelines, item #9 be waived in order to allow the approval of the two concert dates as outlined in subsection (c).

**EXECUTIVE SUMMARY**

The City of Hamilton (the "City") requires amendments to the agreement between the City and the Hamilton Tiger-Cats Football Club (2007) Corp., for the use of Ivor Wynne Stadium for Canadian Football League (CFL) games in 2012.

The current agreement between the City and the Hamilton Tiger-Cats Football Club (2007) Corp. for the use of Ivor Wynne Stadium expired on December 31, 2011. The Hamilton Tiger-Cats Football Club (2007) Corp. has agreed to terms on a new one year Stadium Licence Agreement. The terms are the same as the previous agreement with the exception of the addition of two additional dates for concert venues. The Licence Agreement term will commence on June 10, 2012 and will expire on December 1, 2012.

The 2012 CFL season marks the final year that the Tiger-Cats will be playing in Ivor Wynne Stadium. The stadium is scheduled to be demolished shortly after the season is over to make room for a new state-of-the-art multi-purpose venue. As part of the celebration, and to commemorate Ivor Wynne Stadium's final year, the Tiger-Cat Organization will be organizing two concert dates as follows: Saturday September 22<sup>nd</sup> 2012 and Saturday October 6<sup>th</sup> 2012. As outlined in Appendix B to Report CS12019, the concerts will utilize the south stands only with a capacity of approximately 15,000 spectators.

City staff, along with the Tiger-Cats Organization, contacted the Fire Prevention Bureau and Building Engineering and Zoning, Building Services Section, to discuss compliance of the concert venues. Both jurisdictions have given the Tiger-Cats the approvals to proceed with the events. Permits will be required for each event.

***Alternatives for Consideration – Not Applicable***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:**

The Stadium Licence Agreement fee, which the Hamilton Tiger-Cat Football Club (2007) Corp. pays to the City of Hamilton for use of Ivor Wynne Stadium, will remain the same as last year, \$27,500 for this final season at Ivor Wynne.

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The Stadium Licence Agreement fee which is required if there is a CFL Home Playoff Game is \$16,000. This amount is paid only if the Tiger-Cats are in the Playoffs.

As with the previous Stadium Licence Agreement, the Hamilton Tiger-Cat Football Club (2007) Corp. agrees to actively market the City of Hamilton and to provide the City with \$100,000 of in-kind advertising for the 2012 football season.

As part of the celebration, and to commemorate Ivor Wynne Stadium's final year, the Tiger-Cat Organization will be organizing two concert dates as follows: Saturday September 22<sup>nd</sup> 2012 and Saturday October 6<sup>th</sup> 2012. The cost to the Tiger-Cat Organization will be a flat rate of \$25,000 per event.

**Staffing:**

There are no staffing implications associated with Report CS12019.

**Legal:**

Legal Services has been involved in the preparation of the Licence Agreement.

**HISTORICAL BACKGROUND**

The stadium consists of a large grandstand on one side of the field, with a small section curving around the end zone, and a separate grandstand on the opposite side of the field. The stadium was heavily rebuilt in 1970-71 and renamed for Ivor Wynne, the former chairman of the City's Parks Board. From 1971 to 1975, Ivor Wynne's 34,500 seats made it the largest stadium in the CFL. In the 1980s, the west end zone bleachers were removed for the addition of a new scoreboard, reducing capacity to approximately 29,500. A subsequent retrofit of the north stand lower east section was completed for better accessibility in the 1990s, but this further reduced capacity to just under 29,000 seats.

The stadium was renovated again after the 2002 football season at which time a new Astroplay playing surface was installed. Shortly after the 2003 season, a new scoreboard, known as Dofasco TigerVision, was erected in the west end of the stadium. Native Hamiltonian Bob Young has owned the Tiger-Cats since 2004.

The City previously agreed to an extension of the License Agreement, dated November 12, 2003, between the City of Hamilton and the Hamilton Tiger-Cats Football Club (2007) Corp., for the use of Ivor Wynne Stadium for Canadian Football League games until December 31, 2009. For the past three years City staff has requested year-to-year extensions in order to not over-commit, knowing that a new stadium was on the horizon. As part of the new stadium project, City staff will be negotiating a long-term arrangement with the Tiger-Cat organization.

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The CFL requires a new Licence Agreement between the City and the Hamilton Tiger-Cats Football Club (2007) Corp. for the use of Ivor Wynne Stadium during the 2012 CFL season. The season begins on June 13, 2012.

**POLICY IMPLICATIONS**

There are no policy implications associated with Report CS12019.

**RELEVANT CONSULTATION**

- Hamilton Tiger-Cat Football Club (2007) Corp.  
The City negotiated Terms of Agreement with the Tiger-Cat Organization.
- City Manager's Office; Legal Services Division  
The agreement was amended to reflect the 2012 season as well as both concert venues.
- Hamilton Emergency Services; Fire Prevention Bureau  
Discussions took place regarding fire safety compliance for both concerts.
- Planning and Economic Development Department; Building Engineering and Zoning, Building Services Section  
Discussions took place to ensure building compliance and necessary building permits are in place for both concerts.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The Licence Agreement will secure the use of Ivor Wynne Stadium for the Hamilton Tiger-Cat Football Club (2007) Corp. for the 2012 CFL football season. The CFL requires that the Agreement be in place prior to the beginning of the football season.

The licence fee for the stadium use and playoff games will remain the same as the agreement in 2011. The details are as follows:

- TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500.00) for the term of the Agreement (2012) (based on \$2,750.00 per game);
- The Licencee shall pay the sum of SIXTEEN THOUSAND DOLLARS (\$16,000.00) plus applicable taxes, without deduction, for the term of the Agreement, for the use of the premises for CFL playoff games;

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- The Licencee shall pay the sum of ONE DOLLAR (\$1.00) plus applicable taxes, without deduction, for the term of the Agreement, for the right to use the Premises for the Licencee's training camp;
- The Licencee shall pay the sum of ONE DOLLAR (\$1.00) plus applicable taxes, without deduction, for the term of the Agreement, for the right to operate the concession to sell food and beverages during the Hamilton Tiger-Cat games, including beer, at the premises;
- The Licencee shall pay the sum of ONE DOLLAR (\$1.00) plus applicable taxes, without deduction, for use of the parking area located on the northwest corner of Balsam Avenue and Cannon Street, Hamilton, Ontario;
- The Licencee shall pay the sum of ONE DOLLAR (\$1.00) plus applicable taxes, without deduction, for the term of the Agreement, for the right to sub-licence the corporate and media boxes; and,
- The Licencee agrees to actively market the City of Hamilton and to provide the City with ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) of agreed upon advertising for 2012.

**ALTERNATIVES FOR CONSIDERATION**

None.

**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Intergovernmental Relationships***

- ◆ Maintain effective relationships with other public agencies

***Growing Our Economy***

- ◆ A visitor and convention destination

**APPENDICES / SCHEDULES**

Appendix A to Report CS12019: Ivor Wynne Stadium License Agreement

Appendix B to Report CS12019: Map of Ivor Wynne Stadium

## IVOR WYNNE STADIUM LICENCE AGREEMENT

THIS AGREEMENT made in quadruplicate this 1<sup>st</sup> day of June, 2012.

BETWEEN:

**CITY OF HAMILTON,**

a municipality created by the *City of Hamilton Act*, S.O. 1999, c.14, Sched. C

(hereinafter called the "City" and the "Licensor")  
OF THE FIRST PART

- and -

**HAMILTON TIGER-CATS FOOTBALL CLUB (2007) CORP.,**

a corporation incorporated under the laws of Nova Scotia

(hereinafter called the "Licensee")  
OF THE SECOND PART

**WHEREAS** the Licensor is the owner of Ivor Wynne Stadium, (hereinafter called the "Stadium") located at 75 Balsam Avenue in the City of Hamilton, Ontario;

**AND WHEREAS** the Licensee has requested a Licence from the Licensor to use the Stadium for the playing of football games in the Canadian Football League as is more particularly described in this Agreement;

**AND WHEREAS** the Licensor has agreed to grant such a Licence on the terms and conditions herein;

**AND WHEREAS** the Director of Recreation, Community Services Department for the City of Hamilton (hereinafter called the "Director"), or his or her designate, has the general responsibility for the day to day administration of the Premises;

**NOW THEREFORE** in consideration of the payments, covenants, terms and conditions and provisos contained in this Licence, the parties agree as follows:

### **1. Interpretation**

In this Agreement and any Schedules attached hereto, unless there is something in the subject matter or context inconsistent therewith or defined elsewhere in this Agreement, the following terms and expressions will have the following meanings:

- (a) "**CFL**" means the Canadian Football League;
- (b) "**City**" and "**Licensor**" mean the City of Hamilton, and where an authority or discretion is conferred upon the Licensor under the Agreement, means the Director or other appropriate official of the City as designated or appointed under its governing by-laws, resolutions or policies from time to time;

- (c) **“Play-Off Games”** means the Licensee’s CFL scheduled play-off games and does not include the Grey Cup;
- (d) **“Concert”** means the Licensee’s concert event, which includes a live music venue and related activities;
- (e) **“Premises”** and **“Stadium”** mean the Ivor Wynne Stadium in the City of Hamilton, more particularly described in Schedule “A” attached hereto and, where authorized for use as a practice field or otherwise, include Brian Timmis Stadium;
- (f) **“Taxes”** means means all taxes, rates, duties, charges, assessments, impositions, levies, charges for local improvements and/or licence fees imposed by any authority having jurisdiction, including but not limited to federal, provincial, regional, municipal or other government, agency, board or commission, general and special, ordinary and extraordinary, foreseen and unforeseen, whether or not liability for same exists as of the date hereof, of every nature and kind whatsoever upon or in respect of the Premises, Licensee’s occupancy thereof, the existence or operation of the Premises or any part(s) thereof, whether real or personal property and any taxes or other type of levy imposed on the Licensor or Licensee or anyone else on account or in lieu thereof, by any authority having jurisdiction, whether or not forming a charge on the Premises itself, and any other taxes, rates, duties or assessments which may hereinafter be levied in lieu of, or of a nature similar to the foregoing, and whether recurring annually or at other intervals or on a special or single instance basis only, and any business taxes, business occupancy taxes or other taxes levied against the Licensor and/or the Licensee and attributable to the Premises, in whole or in part and, without limiting the generality of the foregoing, any applicable commercial concentration tax, any business occupancy tax and any applicable Harmonized Sales Tax (federal Goods and Services Tax and Ontario’s Retail Sales Tax), or any other or similar taxes which may in the future be imposed from time to time, whether or not same are exigible as at the date hereof, all the above to be paid by Licensee to the proper authorities as and when due;
- (g) a reference to any Act, by-law, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, by-law, rule or regulation or provision enacted in substitution therefor or amendment thereof;
- (h) the captions and headings in this Agreement are inserted for convenience of reference only and do not form part of the Agreement and do not define, limit or enlarge the scope, meaning or intent or any provision;
- (i) all monies, fees, charges and payments expressed herein shall be in Canadian funds, unless expressly provided otherwise;
- (j) this Agreement shall be governed by, interpreted, and constructed under the laws of the Province of Ontario and the laws of Canada applicable in the Province (excluding their rules governing conflicts of laws), and shall be treated in all respects as an Ontario contract. The parties to this Agreement specifically submit to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom;
- (k) this Agreement is a licence agreement only and shall not be construed to constitute an agency, partnership or joint venture relationship between the parties hereto or the relationship of landlord and tenant, nor shall it be construed to create any interest in land and shall not be registered in the Land Registry Office by either party hereto;



- (l) any act or consent required to be done or given by the Licensor or the Director hereunder may be done or given by the Director or by such representative or representatives from time to time as may be authorized in writing by the Director;
- (m) any Schedules attached to or referred to in this Agreement shall form an integral part of this Agreement;
- (n) without restricted or limiting the rights and privileges of the Licensor to any broader interpretation, any “breach”, “default”, “act” or “omission” of or in respect of a term, covenant, warranty, condition or provision of this Agreement caused by an officer, employee, servant, member, contractor, subcontractor, consultant, agent, permitted assign or invitee of the Licensee or of any person permitted or allowed by the Licensee to enter upon or use the Premises shall constitute a breach, default, act or omission by or of the Licensee to enter upon or use the Premises shall constitute a breach, default, act or omission by or of the Licensee; and
- (o) time is of the essence in this Agreement.

**2. Licensee not Lessee**

No legal title or leasehold interest in the Licensed Premises shall be deemed or construed to have been created or vested in the Licensee by anything contained in this Agreement.

**3. Grant and Term of License**

The Licensor hereby grants to the Licensee a license to use the Premises, pursuant and subject to the terms, conditions and limitations contained in this Agreement, for a term of commencing on June 1, 2012 and terminating on November 30, 2012 (the “Term”), unless earlier termination in accordance with the terms of this Agreement.

**4. Approved Uses and Purposes**

The Licensee covenants and agrees that it shall use the Premises actively during the term of the License for the following uses and purposes only and for no other use or purpose whatsoever:

- (a) to enter, occupy, use and enjoy the Premises for the playing all of the Licensee’s exhibition, regular season league and playoff football games scheduled by the CFL, and any inter-squad games;
- (b) (i) to enter, occupy, use and enjoy the Premises for the construction of a Concert stage at midfield two (2) days before and two (2) days after each Concert, the dates of which are set out below. The Parties agree that only the South Stands of the stadium may be used for Concert spectator seating. Additional seating for either Concert may only be permitted in writing by the City’s Chief Building Official.
  - (ii) to enter, occupy, use and enjoy the Premises for the purpose of hosting a Concert on September 22, 2012; and
  - (iii) to enter, occupy, use and enjoy the Premises for the purpose of hosting a Concert on or before October 30, 2012, subject to the prior written consent of the City.

(c) to hold or permit the performance of shows and events for the purpose of entertainment at the said football games and Concerts between the opening of the Stadium gates to the public for the football game and the closing of the gates to the public at the conclusion of the football game but such shows or events shall at all times:

- (i) ensure that all health and safety requirements are met at the Premises;
- (ii) take reasonable and required measures, including those required by authorities having jurisdiction, to protect public and those employed on the Premises from bodily harm;
- (iii) ensure the use of only recognized, government-approved environmentally compatible and safe products, materials and application methods in its activities and operations upon the Premises;

(d) to permit practices of the shows or other entertainment referred to in Section 4(b) above at the Premises during football practices or at such other times as may be permitted by the Director;

(e) to operate exclusively all food, soft drink, beer, beverage and confection concessions at the Premises during all of its football games scheduled by the CFL, together with any inter-squad games or practices which are open to the public, in addition to Concerts as set out in paragraph (b) above;

(f) to use throughout the year the football operations office space, storage and dressing room areas identified in Schedule "A"; and

(g) to use for football practices the Ivor Wynne Stadium or, where the Ivor Wynne Stadium is unavailable for use as a practice field as determined by the Director, the adjacent Brian Timmis Stadium.

## **5. Licence Fees and Other Payments**

The Licensee covenants and agrees with the Licensor as follows:

### **(a) Licence Fee**

#### **(i) Exhibition and Regular Season Games**

The Licensee shall pay to the Licensor for the use of the Premises for the aggregate of ten (10) CFL games being one (1) exhibition and nine (9) regular season CFL games during the term of this Agreement the sum of TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500.00) for the year (2012) of this Agreement (based on \$2,750.00 per game) without deduction, plus applicable Taxes. The said Licence Fee shall be payable in full, in advance, prior to the commencement of any use of the Premises for the year. The Licence Fee payable by the Licensee for any additional regular season CFL games shall be the amounts stipulated per game, being \$2,750.00 without deduction, plus applicable Taxes for each such additional game.

#### **(ii) Licence Fee – Playoff Games**

The Licensee shall pay to the Licensor for the use of the Premises for CFL playoff games during the term of this Agreement a Licence Fee in the sum of SIXTEEN THOUSAND DOLLARS (\$16,000.00), without deduction, plus applicable Taxes. The said Licence Fee

payable by the Licensee shall be payable in full, in advance, prior to the commencement of any use of the Premises for playoff games.

(iii) The Licence Fee is for the following:

(A) the use of the Premises for the CFL exhibition, regular league and playoff games;

(B) the use of the football operations office space, storage and dressing room areas identified in Schedule "A" attached;

(C) the use of the food and beverage concession space identified in Schedule "A" attached;  
and

the use of Brian Timmis Stadium for football practices, where so designated by the Director.

(iv) Licence Fee – Concerts

The Licensee shall pay to the Licensor for the use of the Premises for two (2) Concerts, a Licence Fee in the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), without deduction, plus applicable Taxes, per Concert. The said Licence Fee payable by the Licensee shall be payable in full, in advance, prior to the commencement of any use of the Premises for a Concert.

(b) Training Camp

The Licensee shall pay to the Licensor for the right to use the Premises for the Licensee's training camp the sum of ONE DOLLAR (\$1.00) without deduction, plus applicable Taxes payable in full, in advance, prior to the commencement of training camp. The Licensee shall notify the Director in writing no less than sixty (60) days in advance of the date(s) that the Premises will be required for training camp, if at all, failing which the Director shall have no obligation to make the Stadium available to the Licensee for such use. In the event that the Stadium is not available on the dates specified by the Licensee due to prior contractual commitments of the Licensor, the Director shall make the Brian Timmis Stadium available in its place provided that the Licensee has complied with the notice provisions contained in this section.

(c) Concession

The Licensee shall pay to the Licensor for the right to operate the concession to sell food and beverages, including beer, at the Premises during all of its football games schedules by the CFL and any inter-squad games and any Concert, a concession fee in the sum of ONE DOLLAR (\$1.00), without deduction, plus applicable Taxes payable in full, in advance, prior to the commencement of use of the Premises for concessions in the year.

(d) Licensor Owned Parking Lot

The Licensee shall pay the sum of ONE DOLLAR (\$1.00) plus applicable Taxes, without deduction, for use of the parking area located on the northwest corner of Balsam Avenue and Cannon Street, Hamilton, Ontario, more particularly described in Schedule "D", payable prior to commencement of use of same by Licensee. The Licensee acknowledges and agrees that such use of the parking area referred to in Schedule "D" is limited to those times when CFL or

inter-squad games are being played at the Premises. The Licensor shall operate and receive all revenue from the car parking areas on Licensor-owned parking areas located on part of Scott Park at the southeast corner of Cannon Street and Melrose Avenue, Hamilton, Ontario, more particularly described in Schedule "D". Notwithstanding the foregoing, the Licensor shall make available to the Licensee at no expense to the Licensee, "spill over" parking space at the Scott Park parking areas to accommodate those players, staff and media for which parking space is not available at parking areas licensed to the Licensee by the Licensor or others. All parking personnel expenses for the Licensee's use of such "spill over" parking at Scott Park shall be borne by the Licensee.

(e) Corporate and Media Boxes

The Licensee shall pay to the Licensor for the right to sub-license the corporate and media boxes, a corporate and media box fee in the sum of ONE DOLLAR (\$1.00) without deduction, plus applicable Taxes. The said media box fee shall be payable in full, in advance, prior to use by the Licensee each year. The Licensee agrees that all tenant's improvements to or in the media boxes shall belong to the Licensor without any compensation whatsoever to the Licensee or any person to whom the Licensee has sub-licensed the media box(es). The Licensee shall repair and maintain the media boxes in good and safe condition during the term of this Agreement.

(f) Advertising

The Licensee further agrees to actively market the City of Hamilton and to provide the Licensor with ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) of in kind advertising during the term of this Agreement. The advertising which the Licensee will provide to the value set out herein may take the form of advertising within the Premises, radio advertisements, print and program advertisements and advertising at other Canadian Football League Stadiums. The Licensee shall report to the Licensor the types and estimated value of the advertisements on or before December 1<sup>st</sup> of each year of this Agreement. The content of the advertisements shall be approved by the Director prior to the advertisement being produced, displayed, published and/or broadcast.

(g) Personnel Costs and Expenses

The Licensee shall pay, when and as the same shall fall due, all costs and expenses incurred by the Licensor with respect to police and security, gate security, ushers, sound systems, electricians and ticket-takers in connection with the exercise of the Licence herein granted.

(h) Utilities and Waste Disposal

The Licensee shall pay all rates and charges for public utilities and waste disposal, if any and when due, used in connection with the football operations and other events carried on by the Licensee at the subject Premises.

(i) Telephone

The Licensee shall pay for all telephone costs when due, including press box, concession ticket booths, dressing rooms, field communications and computer telephone costs incurred by the Licensee in the Premises.

(j) Licences and Approvals

The Licensee shall, at its own expense, be solely responsible for obtaining all municipal and any other licenses, permits or approvals necessary in connection with the use of the Premises as permitted herein and, where applicable, Brian Timmis Stadium, including all necessary licences to sell beer, and the carrying out of the Licensee's operation herein. The Licensor shall, if necessary to obtain a licence, join in any applications by the Licensee for a licence to sell beer provided that the Licensee shall be responsible for all costs, expenses and liabilities whatsoever arising from or related to the Licensor's joining in such application.

(k) Electronic Scoreboards

The Licensee shall be entitled to use of the scoreboards during the term of this Agreement.

(l) Electronic Security System

The Licensee shall annually pay for the cost of the existing electronic security system relating to the dressing rooms and the following other areas:

- (i) on south side: Licensee's dressing rooms, training rooms, V.I.P. lounge and tape storage room; and
- (ii) on north side: Licensee's concession office and concession storage.

(m) Fees, Charges and Payments

The Licensor shall have the same rights and remedies in the event of default in payment of any fee, charge, expense or cost payable by the Licensee hereunder as it would have in the case of the Licensee's default in the payment of the Licence Fee and addition fees, charges, expenses or costs, such unpaid amount shall bear interest, payable as an additional charge, at a rate set out in Section 6.

(n) Synthetic Turf

The Licensee shall take all measures to protect the synthetic turf of the playing field in the Stadium using a system approved by the Licensor, in writing, for the Concert events. Notwithstanding such approval, the Licensee is responsible for all costs required to restore and repair the synthetic turf as a result of any damage or excessive use that occurs during the Concert event. A full inspection shall take place at the end of move out to document any damage.

**5.1 Concert Preparation**

The Licensee shall be solely responsible for the following:

- (a) To furnish all materials, supplies, equipment, tools, machinery, labour and other services required in order to complete the stage area on a safe and timely basis, together with all transportation required in respect of the same, necessary for all intended purposes and uses under this Agreement ("Stage Works");
- (b) To furnish all materials, supplies, equipment, tools, machinery, labour and other services required in order to complete the electrical fit-up on a safe and timely basis, together with all

transportation required in respect of the same, necessary for all intended purposes and uses under this Agreement (“Electrical Works”);

- (c) To assume all costs and expenses resulting from the carrying on of the works, including but not limited to the Stage Works and the Electrical Works, collectively referred to as the “Works”; and
- (d) To assume all risks resulting from the carrying out of the Works and the entry upon the Premises by the Licensee, its employees, subcontractors, suppliers, contract personnel, representatives, invitees, members, volunteers, officials and agents.

## **5.2 General**

The Licensee acknowledges and agrees to install, maintain and remove the Works. The Licensee shall indemnify, defend and save harmless the City from any and all claims, actions, suits, proceedings, costs, expenses, damage and liabilities whatsoever arising out of or connected with or resulting from installing, maintaining and/or removing the Works except arising from the negligent acts or omissions of the City.

The Works shall be removed by the Licensee as provided herein, notwithstanding the foregoing, by two (2) days after the Concert, and all areas restored at the sole cost of the Licensee to a condition satisfactory to City acting reasonably. Failure to remove the Works or to restore the affected areas, the City may, at the Licensee’s sole expense, correct and remove the Works as deemed necessary.

## **5.3 Prohibitions**

- (a) The Licensee shall not sell, transfer, assign, convey or agree to sell, transfer, assign or convey or grant any option in the Works or shall not pledge, hypothecate, mortgage or in any other manner encumber the Works;
- (b) The Licensee shall not limit or interfere with any other person’s rights or access to the Premises; and
- (c) The Licensee acknowledges that it is its own responsibility to obtain all necessary approvals and permits prior to entering the Premises, including municipal, provincial, federal or other governmental approvals.

## **5.4 Construction Liens**

- (a) The Licensee covenants and agrees to not encumber the Stadium or any of the equipment at the Stadium or permit the Stadium or such equipment to become encumbered with any construction, or other liens or orders for the payment of money, levy, privilege, seizure or attachment, and shall remove any such encumbrance within fifteen (15) days after receiving written notice of such encumbrance by the City, failing which the City may, in its sole discretion, immediately terminate this Agreement without further notice to the Licensee or discharge the lien or other encumbrance and add any costs for so discharging from any payments due to the City hereunder.
- (b) Notwithstanding (a) above, the Licensee shall pay punctually all amounts owing to its subcontractors and suppliers, in respect of all services and materials supplied by them with respect to the Works, including any applicable interest, taxes, costs and other charges, and

shall forthwith cause every construction lien preserved or perfected by any person with respect to the Works to be vacated or discharged forthwith (whether or not the Licensee is directly responsible for the payment of that person), and, as between the Licensee and the City, all costs relating thereto shall be paid by the Licensee and shall be for its account.

- (c) If the Licensee shall fail to cause any such lien to be discharged as aforesaid, then, in addition to any other right or remedy of the City, the City may (but shall not be so obligated) discharge same by paying the amount claimed to be due into Court or directly to any such lien claimant and the amount so paid by the City and all costs and expenses (including solicitors' fees, on a substantial indemnity basis) incurred for the discharge of such lien, shall be due and payable by the Licensee to the City on demand and shall bear interest at one percent (1%) above the prime rate of the Bank of Canada on the unpaid balance (compounded monthly).

### **5.5 Carpenter's Union**

- (a) The City is bound by the Provincial Collective Agreement between the Carpenters' Employer Bargaining Agency ("EBA") and the Carpenters' District Council of Ontario of the United Brotherhood of Carpenters and Joiners of America ("Union") in the Industrial, Commercial and Institutional (ICI) Sector ("Carpenters' ICI Collective Agreement"). All work covered by the Carpenters' ICI Collective Agreement must be performed in accordance with that agreement.

**Therefore, for the Works under this Agreement, the Licensee's contractor and any subcontractors performing the work covered by the Carpenters' ICI Collective Agreement shall be bound by the Carpenters' ICI Collective Agreement.**

For informational purposes, Schedule "A" (work claimed but not limited to) of the Carpenters' ICI Collective Agreement can be accessed on the City of Hamilton Procurement Section website ([www.hamilton.ca/Procurement/labourtradeobligations](http://www.hamilton.ca/Procurement/labourtradeobligations)). The City has no discretion in setting wage rates or in using union labour for certain trades performing work for the City. The City's Fair Wage Policy shall be separate from this obligation.

- (b) Failure to comply with the requirements of the preceding clause (a) shall be deemed to be a default under the Agreement, and the City may take such remedies as provided for in this Agreement or are otherwise available at law or in equity.
- (c) Any damages incurred by the City as a result of the Licensee's contractor or any of its subcontractor's failure to:
  - .1 employ only Union members to perform the work covered by the Carpenters' ICI Collective Agreement, or
  - .2 contract or subcontract the work covered by the Carpenters' ICI Collective Agreement to the contractors and subcontractors who are bound by the Carpenters' ICI Collective Agreement,will be added to any monies payable to the City.
- (d) The City reserves the right to request confirmation from the Licensee at any time during the Term that the contractor and subcontractors performing the work covered by the Carpenters' ICI Collective Agreement are bound by the Carpenters' ICI Collective Agreement. Failure of the Licensee to provide proof of such confirmation within two business days of request by the City shall be deemed to be a default under this Agreement, and the City may take such remedies as provided for in the Agreement or as are otherwise available at law or in equity.

**6. Interest on Unpaid Amounts**

If the Licensee fails to pay to the Licensor any amounts required to be paid under this Agreement at the time or times for such payment, the Licensee shall pay interest on such unpaid amounts from the due date to the date of payment at the rate of two percent (2%) above the Prime Rate per annum charged by the Licensor's Bank in effect from time to time calculated and compounded monthly.

**7. Warranties of Authority of Licensee**

The Licensee expressly warrants as follows:

- (a) The Licensee is not prohibited or restricted from entering into any of the obligation assumed, liabilities imposed, or restrictions accepted by the Licensee under this Agreement by any agreement, constating documents, constitution, legislation, statute, act, regulation, order or otherwise.
- (b) To the best of the Licensee's information and belief and after making diligent inquiries, the Licensee is not aware of any material facts or circumstances having a bearing upon its ability to perform or comply with its obligations under this Agreement.

**8. Covenants by the Licensee**

The Licensee covenants and agrees with the Licensor as follows:

- (a) Use of Premises
  - (i) The Licensee shall not carry on any activities in or at the Premises or Brian Timmis Stadium, nor permit others to carry on activities in the Premises or Brian Timmis Stadium, for any purposes except those as set forth in Section 4 herein without the prior written approval of the Director.
  - (ii) Where the Licensee uses the Premises for a purpose, other than the purpose set out in Section 4 herein, without the prior written approval of the Director, the Licensor may terminate this Agreement immediately and the Licensor shall not be responsible for any loss, expense, costs, charges, damages, indemnities and/or liability, which may be sustained by the Licensor. Where the Licensor so terminates this Agreement, the Licensee shall immediately cease all operations on the Premises and make whatever arrangements are necessary to leave the Premises in a clean, tidy and safe condition and vacate. The Licensor may suspend for such period of time as it deems necessary in its sole discretion, exercised reasonably, or terminate the License hereunder in an emergency, or whenever in its sole reasonable opinion such suspension or termination may be necessary to ensure the safety of life, or of a structure, or of a neighbouring property, or whenever in its reasonable opinion the use of the Premises or any part or party thereof are being carried out in an unsafe manner, and the Licensor shall not be responsible for any loss, expense, costs, charges, damages, indemnities and/or liability which may be sustained, paid or incurred by the Licensee of any other person or persons, by reason of such suspension or termination by the Licensor. The Licensor shall not be responsible for any damage, loss, injury or death, however caused, or for any compensation whatsoever to the Licensee or others resulting from suspension or termination of this Agreement in accordance with this Section.



- (iii) The Licensee will conduct its business in accordance with the rules and regulations established by the City for the subject Premises, from time to time and as notified by the Licensor. The Licensee's use of the Premises and its activities thereon shall comply with, at the Licensee's expense, all governmental, municipal, provincial and federal statutes, laws, by-laws, regulations, directives and controls and all court orders, judgments and declarations of a court of competent jurisdiction. The Licensee shall not do anything or permit anything to be done on the Premises that may constitute a nuisance, cause damage or loss or endanger the Premises, adjoining properties or any person. Without limiting the foregoing, the Licensee, at its own expense, shall obtain all necessary municipal, provincial, federal or other government approvals, permits and licences to conduct its business, operations and/or activities in or upon the Premises prior to entering the subject Premises, including, where applicable, the Workplace Hazardous Material Information system, and collection and payment of applicable Taxes on all food, beverage, souvenir and other sales. With respect to the Licensee's employees, including concession employees, subcontractors, agents and hawkers, the Licensee shall comply with the laws of the Province of Ontario.
- (iv) The Licensee further agrees that the Director shall have the sole right to prohibit any entertainment events referred to in Section 4 if such events may, in the sole opinion of the Director, exercised reasonably, cause damage to the Premises or cause discredit to the Licensor or the Stadium.
- (v) Notwithstanding any other term or condition of this Agreement, the Licensee acknowledges that the Licensor and the Director and his/her representatives may enter the Premises at any time upon presentation of credentials.
- (vi) In no event shall the Licensee admit more than the maximum number of spectators, which the Director or his/her designate has determined the stadium can safely accommodate. The occupancy of the Stadium shall not exceed the current maximum permitted under the Ontario *Building Code Act* which is approximately 28,000 spectators, including the standing room only capacity. This decision is in the sole discretion of the Director or his/her designate.

(b) Safety and Environmental Measures – Responsibilities and Obligations of the Licensee

Without limited or restricting in any way any other responsibilities and obligations of the Licensee in this Agreement, the Licensee, at its own cost and expense, shall:

- (i) ensure that all health and safety requirements are met at the Premises;
- (ii) ensure that the Premises and any buildings, structures, erections or improvements thereon are maintained in a condition of good, safe, clean and tidy condition, and free and clear of and from slippery surfaces or any other unsafe condition, hazards, obstructions, debris, equipment, supplies, empty containers and all other unsightly or potentially dangerous rubbish;
- (iii) maintain and keep in good repair all the football operations office space, storage space, the concession areas and dressing room areas described in Schedule "A" and shall deliver up to the Licensor such areas at the termination or expiry of this Agreement in good repair, reasonable wear and tear excepted. The Licensee shall be responsible for all costs of such maintenance and repair including but not limited to heating, ventilation and air conditioning systems, painting, plumbing and repairs of a non-structural nature. The

Licensee shall not be responsible to the Licensor for structural damage in the areas described in Schedule "A" unless such damage is caused by or attributed to the acts or omissions of the Licensee, its employees, contractors, sub-licensees, invitees or agents;

- (iv) not do or permit any waste or damage, disfiguration or injury to the Premises or any of the equipment, chattels, fixtures, buildings, structures, erections or improvements of the Licensor thereof or permit any overloading of same nor place thereon any heavy equipment, machine, materials, supplies or other heavy thing, without first obtaining the consent in writing of the Licensor;
- (v) ensure that all equipment, supplies and other materials are stored properly and in a safe and secure manner and that all materials, equipment and supplies delivered to the Premises are neatly and safely stored or contained upon delivery and shall be so maintained until used up;
- (vi) take reasonable and required measures, including those required by authorities having jurisdiction, to protect public and those employed on the Premises from bodily harm;
- (vii) shall neither permit nor allow the introduction or use of beer or other alcoholic beverages or liquors upon the Premises without the written consent of the Licensor, not to be unreasonably withheld, and on such conditions as the Licensor may impose including but not limited to strict compliance with the City of Hamilton's *Municipal Alcohol Risk Management Guidelines* or any successor policy, the Liquor Licence Act, R.S.O. 1990, Chapter L.19, as amended, the Alcohol and Gaming Regulation and Public Protection Act, 1996, Chapter 26, and the regulations thereto;
- (viii) neither permit nor allow the introduction or use of illegal narcotics upon the Premises;
- (ix) neither permit nor allow smoking in the Premises;
- (x) neither permit nor allow the preparation, service and/or sale of food in or at the Premises other than is expressly provided in this agreement or with the written consent of the Licensor and in strict compliance with all applicable health and safety requirements, laws and regulations;
- (xi) not use or permit to be used any part of the Premises for any dangerous, noxious or offensive manner and not to cause or permit any annoyance or nuisance, as determined by the Director, in, at or on the Premises;
- (xii) ensure the use of only recognized, government-approved environmentally compatible and safe products, materials and application methods in its activities and operations upon the Premises;
- (xiii) not use or produce on the Premises or allow to be brought on to the Premises any noxious, offensive, toxic or hazardous substance or any vehicles, equipment or parts thereof which contain any such substances, or any substance which if it were to remain on or escape from the Premises would contaminate the Premises or any other property to which it came in contact. This provision shall not apply to prevent the Licensee from bringing equipment, which contain gasoline and engine oil, upon the Premises provided that such equipment is adequately protected against the escape of such substances; and

(xiv) make full restitution for such harm and damage resulting from failure to take adequate protective measures, and shall make good any such damage from whatever cause.

(c) Licensee To Play Home Games At The Stadium

Where any CFL exhibition, league or playoff football games are scheduled to be played by the Licensee as the home team, the Licensee covenants with the Licensors to play all such games at the Stadium unless otherwise directed by the CFL.

(d) Concessions

(i) Sale Of Novelties And Souvenirs

The Licensee shall be responsible for the sale of all Club and CFL novelties and souvenirs during the approved activities listed in Section 4 above, the income from which shall be the sole property of the Licensee. The Licensee may, with the consent of the Director, which consent may be unreasonably withheld, sell Club and CFL novelties or other souvenirs at other events held in the Stadium not related to or sponsored by the Licensee.

(ii) Maintenance of Concession Equipment

The Licensee shall, at its own expense, operate and maintain the concession equipment owned by the Licensors and described in Schedule "C" hereto and shall keep same in present working order and repair, reasonable wear and tear excepted.

(iii) Non-Removal of Concession Equipment

The Licensee shall not remove any of the Licensors owned Concession equipment described in Schedule "C" from the concession space described in Schedule "A" without the prior written consent of the Director.

(iv) Other Concession Equipment

The Licensee shall supply, at its own expense, all such other concession equipment necessary to operate the concessions including supplies, utensils and drinking cups. The Licensee shall be solely responsible for all capital equipment required to set up proper serving areas in the areas designated by the Director for the sale of beer.

(v) Concession Staff of Licensee

The Licensee shall supply, at its own expense, all staff necessary to operate the concessions described in Section 4 and such staff shall be of neat and professional appearance at all times with all uniforms subject to approval by the Director.

Further to any provision in this Agreement, the Licensee shall protect and comply with the liquor licence issued for the Stadium, attached as Schedule "E".

(vi) Garbage Disposal

The Licensee, or its agents, shall prepare and put out in garbage bags all garbage within the concession booths. The Director shall specify the size of containers, the manner of

placing and the time of collection. Cardboard boxes and cardboard from the souvenir stands or other promotional events must be crushed and left for collection. If the Licensee, or its agents, fails to follow the Director's orders on the proper garbage procedures, the Licensor may prepare the garbage for pickup and shall be authorized to charge this expense to the Licensee and the Licensee shall pay this charge forthwith upon presentment by the Licensor of the Licensor's invoice for same.

(vii) All Other Staff of Licensee For Football Games

(A) The Licensee shall provide, employ and pay the sound system announcer, ticket sellers, parking staff (other than at the Scott Park parking area during the Licensor's use), emergency/ambulance services and arrange for umpires, referees, game officials and such other officials the Licensee deems necessary to control the operations of the Licensee's football games;

(B) The Licensee shall hire and train all persons or shall require all concessionaires selling alcohol to hire and train all persons necessary to ensure compliance with the requirements of the City of Hamilton's *Municipal Alcohol Risk Management Guidelines* or any successor policy, the Liquor Licence Act, R.S.O. 1990, Chapter L.19, as amended, the Alcohol and Gaming Regulation and Public Protection Act, 1996, Chapter 26, and the regulations thereto; and

(C) The Licensee shall ensure that or shall require all concessionaires serving liquor or beer to ensure that all persons serving liquor or beer shall be certified by a recognized Ontario-based server program, presently known as the "Smart Serve Ontario Responsible Alcohol Beverage Service Training Program" (i.e. Smart Serve) prior to beginning to serve liquor or beer. The Licensee shall ensure or shall require that all concessionaires use their best efforts to have all such personnel in attendance no later than the time of the opening of the Stadium gates to the public.

(viii) Scoreboard Computer Operator

The Licensee shall supply, at the Licensee's expense, a scoreboard computer operator for the electronic scoreboard in the Stadium for all the events of the Licensee and at such other non-Licensee events held in the Stadium as requested by the Director on the basis that the daily cost of such operator at non-Licensee events shall be absorbed by the party using the Premises.

(x) Non-Interference With Electronic Scoreboard

The Licensee agrees that its employees and agents shall not at any time interfere with the operation of or attach anything to the structure containing the electronic scoreboard without the prior written consent of both the Licensor and the scoreboard maintenance contractor of the Licensor, and any request by the Licensee to connect advertising to the said structure must be accompanied by engineering drawings and specifications for review and approval by the Director.

**9. Tickets**

All tickets sold or issued by the Licensee shall contain the following as a condition of admission to the Stadium:

“Holder of ticket voluntarily assumes all risks and danger incidental to the admission of the Ivor Wynne Stadium and incidental to any event for which this ticket is issued, whether occurring prior to, during or subsequent to the actual game, the holder releases the Hamilton Tiger-Cats Football Club (2007) Corp. and the City of Hamilton and the participants in the event from any liability thereof howsoever and wherever caused and whether caused by negligence or not. The holder of the ticket acknowledges that smoking is prohibited in Stadium and that any persons permitted into the Stadium are subject to a search of any bags or carrying items in their possession at the request of the operator. Admission is subject to compliance with all laws and regulations and regulations and the terms contained herein. Failure to comply may result in non-admission or ejection.”

**10. Conditions of Premises**

The Licensee accepts the Premises in its present condition and acknowledges and agrees that the Licensor has not given any representation, warranty or condition, express or implied, in fact or by law, as to the state, quality or condition in, on, or of the Premises, whether with respect to environmental matters or otherwise, or that the Premises are suitable for any particular use or purpose, including, but not limited to any use permitted by this Agreement, or as to any other matter or thing, whether or not related to any of the foregoing. Furthermore, the Licensee assumes any and all risks relating to the physical condition of the Premises, including the surface and subsurface conditions thereof. Neither the Licensee nor any permitted occupant shall have any recourse to the Licensor as a result of the nature or condition of the Premises, whether or not the Licensor has or had actual or imputed knowledge of such nature and condition as at the Licence commencement date or at any other time during the Term or any renewal thereof. The Licensee acknowledges and agrees that it shall be an occupier pursuant to the *Occupier's Liability Act*, R.S.O. 1990, c.O.2.

**11. No Alterations, etc. Without Approval**

The Licensee agrees that it shall not make any alterations whatsoever to the Premises without the prior written approval of the Director, which may be withheld unreasonably. Without limiting the generality of the foregoing, the Licensee shall not construct, renovate, install or erect any buildings, structures, fixtures, improvements or other facilities without first obtaining the written approval of the Licensor for such works. The Licensee shall at its own cost and expense prepare the Premises appropriately for the approved use and the Licensor shall not be responsible in any way for any improvement or preparation of the Premises. The Licensee shall implement, at its own cost and expense, all precautions, measures and safeguards as are necessary to protect the public from injury during and after any approved alterations of the Premises. Without limiting the generality of the foregoing, the Licensee shall fence any portion of the Premises under construction, repair or improvement at its own cost and expense and will ensure the Premises are secured and safeguarded during non-working hours.

**12. Alterations, Improvements and Additions**

All buildings, structures, improvements, installations, alterations, additions, partitions and fixtures of the Licensee construed, installed or placed at, in or upon the Premises are, immediately upon construction, installation or placement, the Licensor's property without compensation therefore to Licensee and shall not be removed from the Premises by the Licensee at any time either during or after the Term, subject to the following:

- (a) the Licensor is under no obligation to repair or maintain the Licensee's buildings, structures, installations, alterations, additions, partitions and fixtures or anything in the nature of an occupant's improvement made or installed by the Licensee; and

(b) the Licensor has the sole right upon the termination of this agreement by effluxion of time or otherwise to require the Licensee to remove its installations, alterations, additions, partitions and fixtures or anything in the nature of an occupant's improvement made or installed by the Licensee and to make good all damage caused to the Premises by the construction, installation or removal thereof.

**13. Signage**

The Licensee shall have the right to erect temporary CFL Hamilton Tiger-Cats team signage on the Premises, the design, quality and location of which shall be subject to the Licensor's prior approval. The Licensee shall not install, exhibit or display any other advertising, signage, notices, posters or like displays in the subject Premises without the prior written consent of the Director, which will not be unreasonably withheld. All concession signs shall be of materials approved by the Director.

**14. Liens**

The Licensee covenants to the Licensor to pay all charges incurred by or on behalf of the Licensee for any services, work or materials which may be supplied, done or performed in respect of the Premises and the Licensee shall forthwith discharge any liens arising therefrom at any time claimed or registered against or in respect of the Premises or any part thereof. In the event that the Licensee shall fail to cause any liens forthwith to be discharged after being notified thereof, then, in addition to any other right or remedy of the Licensor, the Licensor may, but shall not be obliged to, discharge same by paying the amount claimed to be due and any other amounts necessary to obtain such a discharge and the amount so paid by the Licensor and all costs and expenses, including reasonable solicitor's fees on a solicitor and client basis, incurred by the Licensor in procuring the discharge of such lien, shall be payable by the Licensee and due to the Licensor as an additional charge due and payable forthwith.

**15. Licensee's Responsibility for Losses and Damages**

The Licensee shall itself, and shall cause its agents and all workers and persons employed by them, or under its control, or employed by, or under the control of sub-contractors, to use due care that no persons or property is injured, and the Licensee shall be solely responsible for all damages by whomsoever claimed in respect of any such injury. All loss or damage occasioned by or arising out of the nature of the activities, business or operations to be done, or from the normal action of the elements or from any reasonably foreseeable circumstances in the prosecution of the same shall be sustained and borne by the Licensee at its own expense.

**16. Licensor Not Responsible For Loss, Etc.**

Subject to Section 18(i), the Licensee acknowledges that the Licensor shall not under any circumstances be liable to the Licensee for any loss or damage, however, caused to property of the Licensee located at the Premises, or Brian Timmis Stadium during or after the term of this Agreement, save and except such loss or damage directly caused by the negligence of the Licensor, nor shall the Licensor be liable to the Licensee for any economic or consequential loss suffered by the Licensee as a result of such damage or as a result of the Licensor's performance or non-performance of any of its rights or obligations hereunder.

**17. Notice of Accident, Injury or Harm**

The Licensee shall give immediate notice, and written notice with complete details thereof, to the Licensor of any accident, injury or harm to any person on or using the Premises or of any damage, loss or defect in or to any part of the Premises or any damage or loss of any property of any person using the Premises or any damage or loss of any property of the Licensor in the Premises which comes to the attention of the Licensee, its officers, employees, members, servants or contractors, notwithstanding that the Licensor may not have any obligation with respect to same. Notwithstanding the foregoing, in the event of injury to personnel of Licensee, the Licensee shall give such notice to the Licensor only where such injury is material.

**18. Indemnities**

- (a) The Licensee shall pay to the Licensor the amounts of all loss or damage caused to the Premises or Brian Timmis Stadium or to the Licensor's equipment and facilities therein by reason of the Licence hereby granted, whether such damage is caused by the Licensee or its employees, agents licensees, invitees, or any other persons present at football games, practices, Concerts or other Licensee events, on or about the Premises or Brian Timmis Stadium, reasonable wear and tear excepted and same and except for any such loss or damage resulting from the failure of the Licensor, its employees and agents to carry out its obligations under the terms of this Agreement;
- (b) The Licensee agrees at all times to defend and indemnify and save the Licensor harmless from and against any and all demands, claims, including but not limited to all claims for bodily injury (including death) or loss of reputation or property damage, actions, causes of action, suits and all other proceedings, or damages, loss injuries, fines, penalties, interest, charges, expenses and costs (including legal costs on a solicitor and client basis) that are caused to or incurred by, sustained or suffered by, occasioned to or imposed upon or made or instituted against, the Licensor or to which the Licensor may be liable by reason of or arising from any act or omission, neglect or default on the part of the Licensee or by reason of the Licensee carrying out or failing to carry out any obligation or responsibility to which it is subject, or exercising any right to which it is entitled, under this Agreement or by reason of or arising from any breach, violation or non-performance of any covenant, term, warranty, condition or provision in this Agreement by the Licensee or arising out of the use of the Premises, the Licensor's chattels and fixtures, Brian Timmis Stadium or the City-owned parking lots by the Licensee, except to the extent that the same are caused by the direct negligence or deliberate wrong-doing of the Licensor or result from the failure of the City, its employees or agents to carry out its obligations under this Agreement.
- (c) The Licensee covenants with the Licensor that the indemnities contained in this Section shall extend to all actions, causes of action, demands, costs, damages, interest, expenses or loss, including injury or death, arising by reason of the operation of any of the concessions and the equipment in the same as described in Section 4(d) and the sale of the novelties or by reason of the erection, maintenance or construction of any structures, improvements, fixtures or alterations erected or installed by the Licensee, its servants, contractors, employees or agents, whether or not such have been approved by the Licensor or the Director.
- (d) Provided further that the Licensor shall not be responsible for, and the Licensee hereby releases the Licensor from, any personal injury, including death, or property damage or loss which may be sustained by the Licensee or any other person upon the Premises or upon lands adjacent thereto, arising out of any accident or occurrence upon the Premises except to the extent that the same are caused by the direct negligence or deliberate wrong-doing of the

Licensor; all risks of such injury or damage being assumed by the Licensee, who shall defend and hold the Licensor harmless and indemnified therefrom.

- (e) Except to the extent that the same are caused by the direct negligence or deliberate wrongdoing of the Licensor or breach of its obligations hereunder, the Licensor shall, in no way, be responsible for the theft of any equipment, supplies, materials or other property owned or used by the Licensee or by any person permitted or allowed by the Licensee to enter upon or use the Premises or by any other person; nor, except as aforesaid, shall the Licensor, in any way, be responsible for any damage, loss, injury or death to any person or property, however caused, resulting from the Licensee's use of the Premises, from the condition of the Premises or from the Licensee's use of any other property owned by the Licensor and provided to the Licensee for use, or from the use of the Premises or of such other property by any person permitted or allowed by the Licensee to enter upon or use the Premises. This includes, but is not limited to, any harm resulting from the presence of any contaminants in the soil, buildings or structures at, in or on the Premises or at, in or on such other property of which the Licensor may not have been aware when it provided such property to the Licensee, regardless of whether the presence of any such contaminants were pre-existing or not. The Licensor shall not, in any way, be responsible for any damage, loss, injury or death to person or property, however caused, resulting from the Licensor's use or treatment of any property adjacent to the Premises or to any other property owned by the Licensor.
- (f) Without limiting any other provision of this agreement, except to the extent that the same are caused by the direct negligence or deliberate wrongdoing of the Licensor or breach of its obligations hereunder, the Licensor is not liable or responsible in any way for any loss of or damage or injury to any property belonging to the Licensee or to any other person while the property is in or upon the Premises whether the property has been entrusted to employees of the Licensor or not and the Licensor is not liable for damage to property caused by steam, water, rain or snow which may leak into, issue or flow from any part of the Premises or from the water, steam or drainage pipes or plumbing works of the Premises or from any other place or quarter or from any damage caused by or attributed to the condition or arrangement of any electric or other wiring or for any damage caused by anything done or omitted by any other person.
- (g) The Licensee shall defend, indemnify and save the Licensor harmless from all actions, causes of action, claims, costs, damages, loss, demands, interest and expenses sustained or incurred by the Licensor in connection with the Licensee's full and part-time employees including concession workers, hawkers and subcontractors associated with the concessions and with respect to all participants at any such games of the Licensee which participants shall include the players, coaches, managers, referees, linesmen, staff members, team workers officials, scorekeeper, mascot, band and cheerleaders and all other personnel, including but not limited to media personnel, permitted to enter any restricted areas which are defined as those areas restricting access to the general public and spectators.
- (h) The rights to indemnity provided for in this Agreement shall be deemed to be in addition to any rights with respect to insurance in favour of the Licensor provided under this Agreement. The rights of defence and to indemnity provided for in this Agreement shall survive the expiration or any termination of this Agreement, and shall prevail where inconsistent with any other provision in this Agreement.
- (i) The Licensee shall have no liability under this Section 18 or Section 16 in respect to any loss or damage occurring at an event at the Premises that is not an event sanctioned by,



participated in or undertaken by or involving the Licensee or its personnel, and its sub-licensees and contractors (hereinafter referred to as "Non-Club Events"). Sub-licensees and contractors of the Licensee performing services directly for the Licensor shall be deemed to be participating in a Non-Club Event. The Licensor agrees to defend, indemnify and save harmless the Licensee from and against any and all demands and claims made against the Licensee in connection with or otherwise related to a Non-Club Event.

**19. Insurance**

The Licensee shall provide and maintain during the term of this Agreement the following Policies of Insurance in form, amounts and with insurers acceptable to the Licensor:

- (a) Property Damage and Public Liability Insurance, including but not limited to:
  - (i) commercial general liability insurance coverage, covering all operations and uses by the Licensee of the Premises, including but not limited to product liability, advertising liability, tenant's legal liability, non-owned automobile liability;
  - (ii) (event specific commercial general liability insurance coverage in a minimum of TEN MILLION (\$10,000,000) per occurrence, covering all operations and uses by the Licensee of the Premises for the Concert events, including but not limited to tenant's legal liability and non-owned automobile liability;
  - (ii) coverage naming the Licensor as an additional insured containing a provision for cross liability as between the Licensor and the Licensee except for non-owned automobile;
  - (iii) a provision that the insurers shall notify the Licensor in writing at least thirty (30) days prior to any cancellation thereof;
  - (iv) in a minimum amount of Public Liability and Property Damage Insurance of FIVE MILLION DOLLARS (\$5,000,000), and an aggregate of TEN MILLION DOLLARS (\$10,000,000);
  - (v) if applicable Public Liability and Property Damage Insurance with a minimum limit of FIVE MILLION DOLLARS (\$5,000,000) and endorsed to include Host Liquor Liability in respect of the Liquor Licence Act Liability endorsement;
  - (vi) with respect to the third party operation of food, beer and souvenir concessions at Ivor Wynne Stadium and Brian Timmis Stadium of FIVE MILLION DOLLARS (\$5,000,000), in any one occurrence, if applicable, an aggregate limit of FIVE MILLION DOLLARS (\$5,000,000) and if applicable endorsed to include Host Liquor Liability;
  - (vii) Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than FIVE MILLION DOLLARS (\$5,000,000) per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Licensee for the provision of services; and
  - (viii) The Licensee shall maintain Property Insurance, as may be applicable, with respect to loss or damage (including fire, theft, burglary, etc.) of its own property and

property in its care, custody and control, including but not limited to its equipment, tools, stock, used in connection with this Agreement.

- (b) The Licensee shall furnish to the Licensor prior to the commencement of this Agreement and thirty (30) days prior to the anniversary date of this Agreement each year during the term of this Agreement a copy of originally signed Certificates confirming all such liability coverage is in force and shall provide evidence of continuation of such coverage not less than thirty (30) days prior to the insurance coverage expiry date.
- (c) If the Licensee fails to take out or maintain any such insurance as set out above the Licensor, at its option, shall be entitled to take out and maintain such insurance the cost of which insurance shall be immediately payable by the Licensee.

**20. Insurance Of The Licensee For Non CFL Events And Concessions**

The Licensee covenants with the Licensor that, if at any time in the future, the Licensee undertakes any event in a City facility, which event is not insured under the CFL Policy as usual to the CFL operations, or if the Licensee operates the concessions under Section 4(d) herein at a non-CFL event, or concessions in another City facility, the Licensee shall, prior to any such occurrence, obtain and deliver to the Licensor, no later than thirty (30) days prior to such event, a copy of originally signed Certificate of Insurance covering the insurance requirements set out in this agreement.

**21. Covenants By The Licensor**

The Licensor covenants and agrees with the Licensee as follows:

(a) Premises Maintenance, Repairs and Police Protection

The Licensor shall provide:

- (i) at the Licensor's expense, maintenance and repairs to the Premises, except for those areas licensed to the Licensee under Section 4(e) and subject to the Licensee's obligations to maintain all concession equipment under Section 8(d)(ii) and to maintain and repair the Licensee's licensed areas under Section 8(b)(iii), and
- (ii) at the Licensor's expense, all police, ticket takers, gate security and ushers as may be required before, during and after the football games of the Licensee including any inter-squad game and any other Licensee functions in the Premises approved by the Director.

(b) Advertising Rights

During the term of this Agreement the Licensee shall have all rights to advertise within the Stadium during the Licensee's scheduled CFL football games in a form acceptable to the Director acting reasonably, in accordance with the City of Hamilton's Advertising Policy, including advertising on the electronic scoreboard and the former scoreboard structure in the east end, and shall be entitled to any income arising from the sale or licensing of such advertising rights. Notwithstanding the foregoing, the Licensor may itself or may allow other parties or operators to erect or post advertising signs, displays or banners, including advertising on the electronic scoreboard, on a temporary basis, in and at the Premises at any games, events and functions other than the Licensee's scheduled CFL football games.

Notwithstanding any other provision in this agreement, the Licensee shall have no right to re-name or alter the name of the Stadium.

(c) Preparation For Games

Prior to the playing of the Licensee's football games the Licensor shall, at its own expense, prepare the playing field in accordance with CFL standards and shall prepare the Stadium for games in the manner described in Schedule "B" hereto.

(d) Exclusive Use

The Licensor shall not permit any other professional football team to use the Stadium for competitive games, without the Licensee's consent. For further clarity, this shall not exclude the use of the Stadium by other such teams for practices and exhibitions. The Licensee shall have scheduling priority for exhibition, regular season and play-off games over all other users of the Ivor Wynne Stadium provided, however, that the Licensee shall use its best efforts to notify the Licensor in writing of the dates and times at least sixty (60) days prior to the intended date for each such games and shall undertake to notify the Licensor as soon as possible after it receives the CFL's game schedule.

(e) Practices

The Licensor agrees to make the Stadium available for football practices or, where the Ivor Wynne Stadium is unavailable for use as a practice field as determined by the Director, the adjacent Brian Timmis Stadium at time to be agreed upon between the Licensee and the Director.

(f) Public Address System

The Licensor shall provide a satisfactory public address system at the Stadium for the use of the Licensee during the games.

(g) Scoreboard

Subject to the Licensee's obligations under this agreement, the Licensor shall provide an electronic scoreboard for the use of the Licensee during the games.

(h) Licensor Equipment In Concessions

The Licensor shall allow the Licensee to use the concession equipment owned by the Licensor and listed in Schedule "C" hereto provided that the Licensor assumes no responsibility for the condition, fitness or state of repair of such concession equipment and the Licensee shall protect and maintain same.

(i) Ticket Prices

The Licensor acknowledges that the Licensee shall have the right to establish ticket, general admission and program prices for the football games played by the Licensee. The Licensee agrees to annually notify the Director and provide a schedule of all ticket prices including season tickets.

(j) Radio and Television

The Licensor acknowledges that the Licensee shall have the right to originate radio and television broadcasts of any of its CFL football games held in the Stadium.

**22. Default**

(a) Without limiting any other term of this agreement, the Licensee shall be in default under this Agreement if:

- (i) the Licensee does not pay to the Licensor any payment required hereunder when due,
- (ii) the Licensee fails to maintain the insurance coverage as required under this agreement,
- (iii) the Licensee, in any one football season, plays more than 10% of its league and playoff games, which would normally be scheduled as home games, in any location other than the Stadium,
- (iv) the Canadian Football League shall make an assignment for the benefit of its creditors or have a receiving order made against it or become bankrupt or insolvent or if any action shall be taken to wind up, dissolve or liquidate the Canadian Football League, or
- (v) if the Licensee operates other than as a member of the Canadian Football League,

Upon the happening of any event of default and without limiting any other right or remedy of the Licensor hereunder, the Licensor may enter the Premises and all other areas licensed to the Licensee hereunder and seize any or all of the property of the Licensee for arrears of amounts owing by the Licensee to the Licensor, or may enter any other place to which same has been removed, whether in the Premises or otherwise, and may sell any or all such property at any time or times on any terms and conditions and apply the proceeds thereof to such arrears. The Licensee shall remain liable to the Licensor for any deficiency following any such sale or sales.

(b) Bankruptcy, Insolvency, etc. of Licensee

Notwithstanding anything in this Agreement contained, if any of the goods, chattels or effects of the Licensee shall at any time during the Term be seized or taken in execution of attachment or if a writ of execution shall be issued against the goods, chattels or effects of the Licensee, or if the Licensee shall make any assignment for the benefit of creditors, or if the Licensee shall be adjudged bankrupt, commit any act of bankruptcy or make any proposal under or take advantage of any of the provisions of any act or statute whatsoever that may be in force regarding bankrupt or insolvent debtors or debtors who are not able to or do not pay their debts promptly and in full, or if a receiving order or winding up order shall be made against or in respect of the Licensee, or in case any winding up proceedings are taken by, against or in respect of the Licensee, or a receiver manager is appointed to control the Licensee's operation or in case the Premises become vacant or unoccupied or be used by any person other than those entitled to use them under the terms of this Agreement, or in case the Premises shall be used for any other purpose than that herein set out, or in case the Premises or any part thereof shall be used in any way which shall be contrary to any covenant of the Licensee herein set out, or in case the Licensee shall

attempt to or shall abandon or desert the Premises, or in case the Licensee shall commit a breach of any covenant or agreement whatsoever set out in this Agreement and on its part to be performed (which is not remedied within five (5) Working Days after notice thereof to the Licensee), then and in every such event, the Licensor, its servants or agents, shall have the immediate right to re-enter and thereafter to have, possess and enjoy in full ownership the Premises and all improvements therein including the improvements of the Licensee or any sub-licensee; the Licensor may, at its option, compel the Licensee to remove from the Premises, any improvements and any goods, chattels, materials, effects or things all at the risk of and expense of the Licensee.

(c) Breach/Failure to Perform

Without restricting any other right of the Licensor provided in this agreement or by law, in the event that the Licensee shall breach or default in any of the terms, covenants and/or conditions of this Agreement, fail to perform any of its covenants, responsibilities or obligations under or in this Agreement or fail to perform any provision of this Agreement, the Licensor may, in its sole and unfettered discretion,

- (i) five (5) Working Days after the issuance of a written notice to that effect from the Licensor to the Licensee, unless breach or default is of an emergency nature, undertake to do anything that will remedy the default and may, without foregoing any other remedies, perform the work and the Licensee shall be required to pay to the Licensor all reasonable costs, expenses and expenditures of the Licensor to perform such work forthwith upon written demand by the Licensor, and the Licensor shall have no liability to the Licensee for any loss or damage whatsoever resulting from such action by the Licensor; or
- (ii) in the event that emergency work is necessitated as a result of the breach, default or failure to perform of the Licensee, such work may be undertaken immediately, without notice, by the Licensor and all reasonable costs, expenses and expenditures of the Licensor of such emergency work shall be borne by the Licensee and payable forthwith upon written demand by the Licensor, and the Licensor shall have no liability to the Licensee for any loss or damage whatsoever resulting from such action by the Licensor; or
- (iii) the Licensor may give notice of such breach, default or failure to perform to the Licensee in writing to the effect that unless the Licensee rectifies such breach within ten (10) days of the deemed receipt of such notice, the Licensor may, at its option, terminate this Agreement forthwith;

in either case without prejudice to any other right or remedy the Licensor may have under this Agreement or provided by law. All costs, expenses and expenditures of the Licensor herein shall be deemed an additional charge due to the Licensor and shall be paid by the Licensee upon demand and, if not so paid, shall bear interest in accordance with Section 6 from the date of demand.

**23. Termination, Expiration or Lapse**

Upon termination, expiration, lapse or other manner in which this Agreement may cease to be in force:

- (a) the Licensee shall immediately cease activities and operations at the Premises and make whatever arrangements are necessary to leave the premises in a clean, tidy and safe condition free from any hazards and in good repair; subject to Section 12, the Licensee shall remove, at the Licensee's expense, all equipment, chattels, fixtures, erections or improvements placed or made by the Licensee on the Premises or supplies and materials deposited on the Premises by the Licensee, and shall repair any damage and restore the Premises to the satisfaction of the Licensor, and upon failure to do so within ten (10) days of termination, expiration or lapse as aforesaid, the Licensor may remove all or any of the said all equipment, chattels, fixtures, erections or improvement of the Licensee or supplies and materials so deposited by it and restore the Premises to their former condition and shall be entitled to recover all costs and expenses arising from and related to same from the Licensee and in no event shall the Licensor be required to pay compensation to the Licensee in respect of any such equipment, chattels, fixtures, erections or improvements, supplies or materials or return same to the Licensee; and
- (b) the Licensee shall immediately pay to the Licensor all payments owing under this Agreement; and
- (c) the Licensor shall immediately be free to enter into an agreement similar to this Agreement with any other party.

**24. Destruction of Premises**

In the event that the Premises have been severely damaged and are wholly unfit for use by the Licensee for football games scheduled in the Stadium by the Canadian Football League, the Licensee shall have the right to play such games at another stadium until such damage has been repaired, in which event all such subsequent home games shall be played at the Stadium. The Licensor shall not be obligated to compensate the Licensee, in any manner whatsoever, in the event of any such destruction of the Premises.

**25. Termination if CFL Disbanded**

If the Canadian Football League is disbanded or becomes defunct to the effect that the Licensee's team is no longer able to play professional competitive football against other teams in the Canadian Football League, then either the Licensor may upon fifteen (15) days' advance notice to the other terminate this Agreement and the Agreement shall terminate fifteen (15) days from the date such notice is received by the Licensee or the Licensor, as the case may be, or such later date as may be specified in the notice. In such event, the Licensee shall vacate the Premises and payments from the time of termination shall be apportioned. The remedies of this Section shall not apply if the Canadian Football League changes the League name without a substantial change in the League's constitution and if the Licensee remains in the renamed League and continues to play football games at the Stadium.

**26. Access By Licensor At All Times**

Authorized agents of the Director or the Licensor shall be given access to the Premises and all the areas described in Schedule "A" at all times for overseeing Stadium operations and inspection and in order for the Licensor to carry out its obligations under this Agreement.

**27. No Waiver**

No acceptance of the Licence Fee subsequent to any breach or default, other than non-payment of Licence Fee, shall be taken to operate as a waiver or condoning of any term, condition or covenant of this Agreement non in any way to defeat or affect the rights of the Licensor hereunder. The Licensor's rights under this Agreement shall not in any manner be prejudiced even if the Licensor has overlooked or condoned any non-compliance, breach or default with the terms, covenants and conditions of this Agreement by the Licensee nor shall the Licensor's rights in any way be limited or restricted by any other right or privilege that the Licensor may have under this Agreement or provided by law. Upon default by the Licensee under any term, covenant or condition of this Agreement, and at any time after the default, the Licensor shall have all rights and remedies provided by law and by this Agreement. No delay or omission by the Licensor in exercising any right or remedy shall operate as a waiver of them or of any other right or remedy and no single or partial exercise of right or remedy shall preclude any other or further exercise of them or the exercise of any other right or remedy. Furthermore, the Licensor may remedy any default by the Licensee in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the Licensee. The failure of the Licensor to insist upon strict performance of any of the covenants, terms or conditions of this Agreement, in any one or more instances, shall not be construed as a waiver of its right to insist on compliance with same or any other covenant, term or condition at any time. All rights and remedies of the Licensor granted or recognized in this Agreement are cumulative and may be exercised at any time from time to time independently or in combination.

**28. Obligations of Licensee Continue**

Upon the termination, expiration or lapse of this Agreement for whatever reason, the obligations of the Licensee remaining unperformed or unsatisfied, including all of the indemnities given in this agreement, shall nevertheless continue and be binding on the Licensee.

**29. Notices**

All notices, or any other thing to be given or delivered pursuant to this Agreement, unless otherwise specified, shall be given in writing and delivered personally, transmitted by facsimile or by prepaid registered mail, and addressed:

(a) to the Licensor at:

City of Hamilton  
Community Services Department, Culture & Recreation Division  
77 James Street North, Suite 400  
Hamilton, ON L8R 2K3  
**Attention: Director of Recreation**  
Fax: 905.540.5511

with a copy to:

City of Hamilton, City Hall  
71 Main Street West  
Hamilton ON L8P 4Y5  
**Attention: City Clerk**  
Fax: 905.546.2095

(b) to the Licensee at:

Hamilton Tiger-Cats Football Club (2007) Corp.,  
c/o Weiler & Company, 3-512 Woolwich Street  
Guelph, Ontario N1H 3X7  
Attention: Fred Neil

Or such other address as the Licensee or Licensor may, from time to time, advise each other by notice in writing. All notices delivered by facsimile shall be deemed received upon mechanical confirmation of transmittal. All notices mailed hereunder shall be deemed to have been given and received by the addressee seventy-two (72) hours following mailing. In the event of actual or threatened postal interruption, all notices shall be delivered personally or by facsimile.

**30. No Assignment, Transfer or Encumbrance**

Unless otherwise provided in this agreement, the Licensee shall not assign, transfer or encumber, in any manner or part, this Agreement or any right or obligation thereunder without the prior written consent of the Licensor. Such consent may be arbitrarily or unreasonably withheld by the Licensor notwithstanding any statutory provision to the contrary. Any attempt to assign, transfer or encumber any of the rights, duties or obligations of this Agreement without such consent of the Licensor is void. The Licensee shall not sub-licence the Premises or any part thereof nor part with or share possession of the Premises with a third party or undergo a change in effective voting control, if the Licensee is a corporation, without the prior written consent of the Licensor which may be unreasonably or arbitrarily withheld notwithstanding any statutory provision to the contrary.

**31. Key Man**

The Licensee acknowledges that the Licensor has entered into this Agreement on the basis that Robert Young is the controlling owner of the Licensee and that the Licensor would not have entered into this Agreement if Robert Young did not have a material, controlling and significant interest in the Licensee. In the event that Robert Young ceases, for any reason, to hold a material, controlling and significant interest in the Licensee, the Licensor shall be entitled to terminate this agreement on thirty (30) days' notice to the Licensee.

**32. Binding on Permitted Successors, Assigns**

This Agreement and all terms, covenants, conditions, provisions and Licence Fee herein reserved shall be binding upon and shall enure to the benefit of the Licensor and Licensee and their respective successors and permitted assigns.

**33. Licensor's Right of Set-Off**

The Licensor shall have the right to satisfy any amount from time to time owing by it to the Licensee by way of a set-off against any amount from time to time owing by the Licensee to the Licensor, including but not limited to any amount owing to the Licensor pursuant to the Licensee's indemnification of the Licensor in this Agreement.

**34. No Registration**

The Licensee will not register this Agreement or notice thereof against title to the subject premises.



**35. Non-Performance By Reason Of Force Majeure**

Neither Party shall be obligated to perform any term or condition of this Licence Agreement if such performance is prevented:

- (a) by fire, earthquake, flood, act of God (subject to the provisions of Section 19 hereof), strikes, lockouts or other labour disputes, terrorist action, riots or civil commotions or by reason of any other matter or condition beyond the control of either party; or,
- (b) by any law, by-law, regulation or order of any public, including municipal, or military authority either prohibiting the exhibition of football, use of the Stadium, any part of the Premises or limiting and restricting travel by public conveyance (including train, airplane or bus) to such an extent as to prevent the Licensee (exercising due diligence) from substantially complying with its football game schedule; Provided however, the Licensor, as a municipality, shall not enact a by-law in bad faith or for the purpose of enabling it to avoid its obligations under this Agreement.

hereinafter collectively called "Force Majeure Causes" provided that:

- (c)
  - (i) subject to the provisions of Section 24, under no circumstances shall this Agreement terminate by reason of the occurrence of any of the Force Majeure Causes;
  - (ii) for any period of this Agreement that the Licensee is prevented by reason by any Force Majeure Causes because of the condition of the Stadium from playing football games; in the Stadium, the Licensee may, save and except where the condition of the Stadium is caused by the act or omission, breach or default of the Licensee, play their football games elsewhere without payment of consideration under this Agreement and such shall not be deemed a breach of this Agreement;
  - (iii) the Licensor shall have, and hereby reserves, the right to use the Premises for any purpose during any period that the Licensee is prevented by any of the Force Majeure Causes from playing football games in the Stadium. All revenue received by the Licensor during any such period shall be retained by the Licensor and the Licensee shall not be entitled to any part thereof.

**36. Authority Not Fettered**

Except where such exercise is made by the City in bad faith or for the purpose of enabling it to avoid its obligations hereunder, nothing herein contained derogates or limits the authority of the Licensor in its capacity as a municipality, from exercising its rights under municipality by-laws, the *Municipal Act, 2001*, S.O. 2001, c. 25, the *Planning Act*, R.S.O. 1990, c. P.13, the *Building Code Act*, 1992, S.O. 1992, c. 23, or any other legislation.

**37. Counterparts and Facsimile Delivery**

This Agreement may be executed in two or more counterparts, and every party executing a counterpart shall be deemed to be a party to this Agreement to the same extent as if the signatures of all parties were set out on the same copy of the Agreement. This Agreement maybe delivered by facsimile transmission.

**38. Entire Agreement, No Other Representation, etc.**

This Agreement contains the entire agreement between the parties hereto with respect to the subject matters hereof. It is agreed that there is no verbal or written statements, representations, warranties, covenants, collateral agreements or conditions affecting this Agreement except as expressed in it. No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the parties hereto.

**39. Severability**

If any provision of this Agreement or parts thereof or the application thereof to any person or circumstances shall be found by any Court to any extent to be invalid or unenforceable or to be void or illegal, such provision or provisions or parts thereof shall be deemed severable and all other provision or provisions or parts of this agreement shall be deemed to be separated and independent therefrom and continue in full force and effect unless and until similarly found void and/or illegal. The remainder of this Agreement and its application to any person or circumstances shall not be affected thereby; and the parties hereto will negotiate in good faith to amend this Agreement to implement the intentions set forth herein. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

\*\*\*\*\*

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective proper signing officers in that behalf duly authorized.

**HAMILTON TIGER-CATS FOOTBALL CLUB (2007) CORP.**

Signed for and on behalf of Hamilton Tiger-Cats Football Club (2007) Corp as Licensee by:

Signed \_\_\_\_\_ Signed \_\_\_\_\_  
Name: \_\_\_\_\_ c/s Name: \_\_\_\_\_ c/s  
Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date \_\_\_\_\_ Date \_\_\_\_\_

"I have the authority to bind the Corporation" "I have the authority to bind the Corporation"

**CITY OF HAMILTON**

Signed for and on behalf of the City of Hamilton as Licensor by:

Signed \_\_\_\_\_ Signed \_\_\_\_\_  
Name: R. Bratina Name: Rose Caterini  
Title: Mayor Title: City Clerk

Date \_\_\_\_\_ Date \_\_\_\_\_

Authorized by Report No. 12-XXX, Item X of the  
Emergency and Community Services Committee  
adopted by the Council of the City of Hamilton on the  
XX<sup>th</sup> day of XXXX, 2012.  
  
File Number:

**LIST OF SCHEDULES TO THIS AGREEMENT**

SCHEDULE "A" Diagram of premises licensed to the Licensee

SCHEDULE "B" Field Preparation Standards

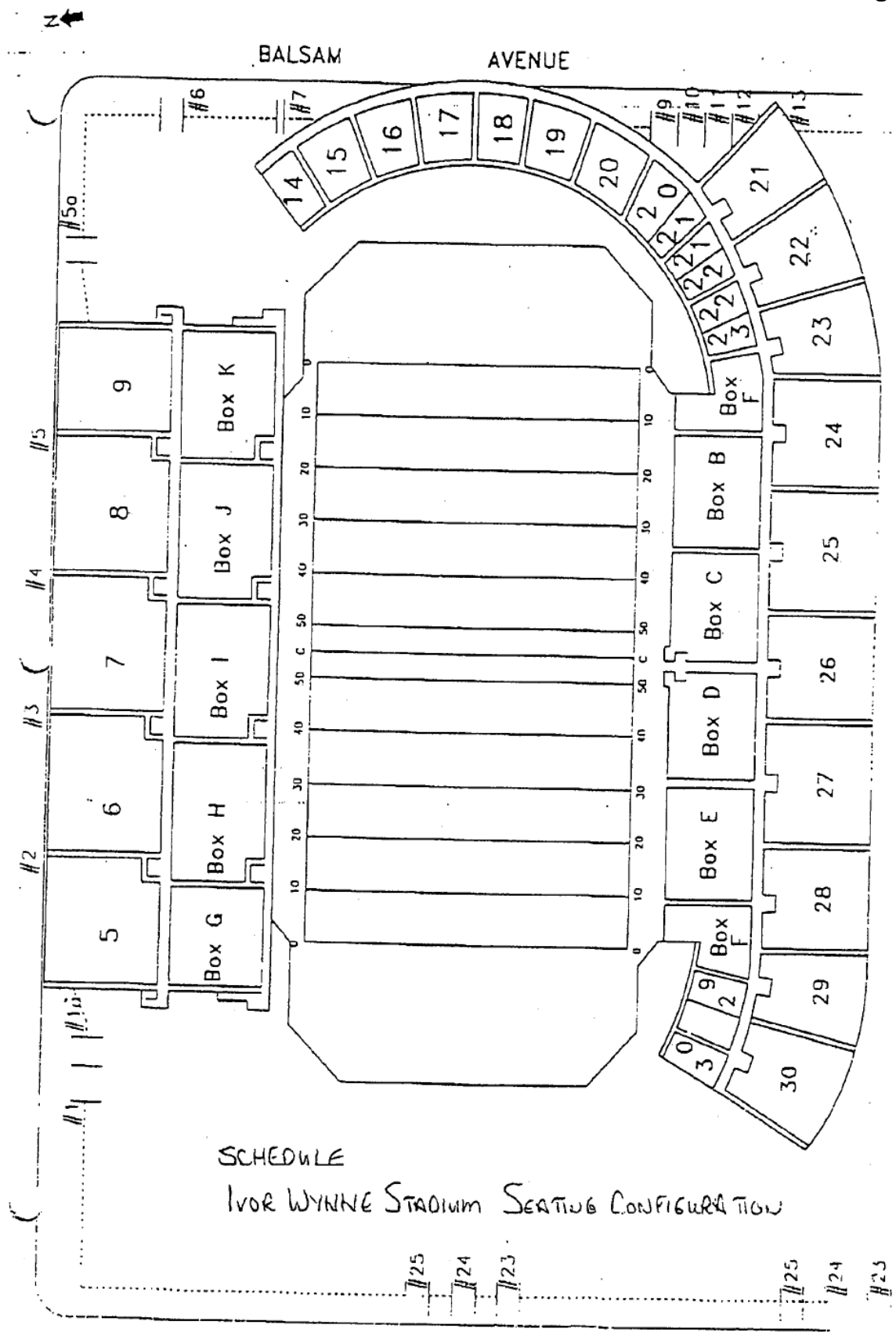
SCHEDULE "C" List of Licensor owned Concession Equipment

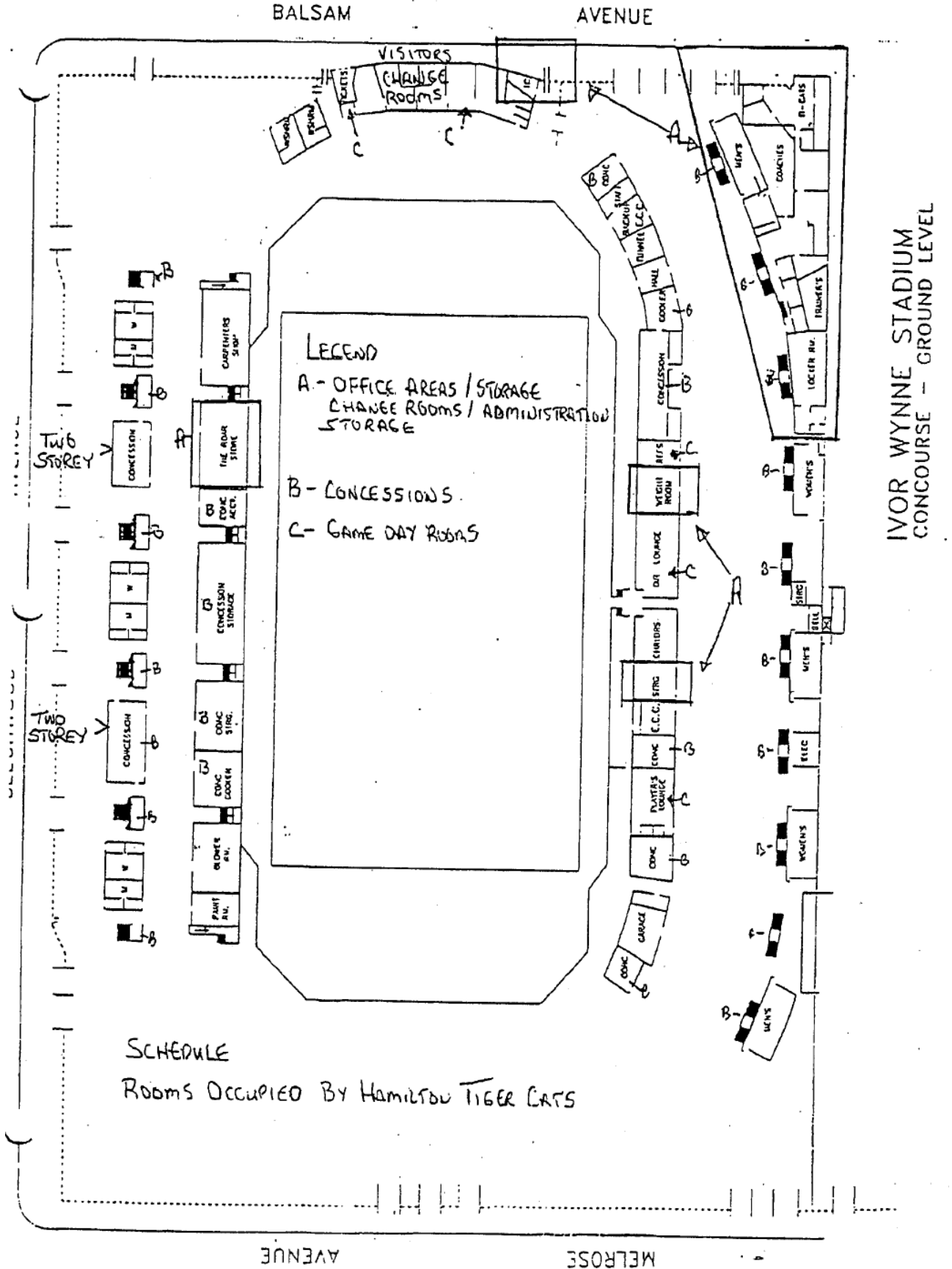
SCHEDULE "D" Car parking areas

SCHEDULE "E" Liquor License

**SCHEDULE "A"**

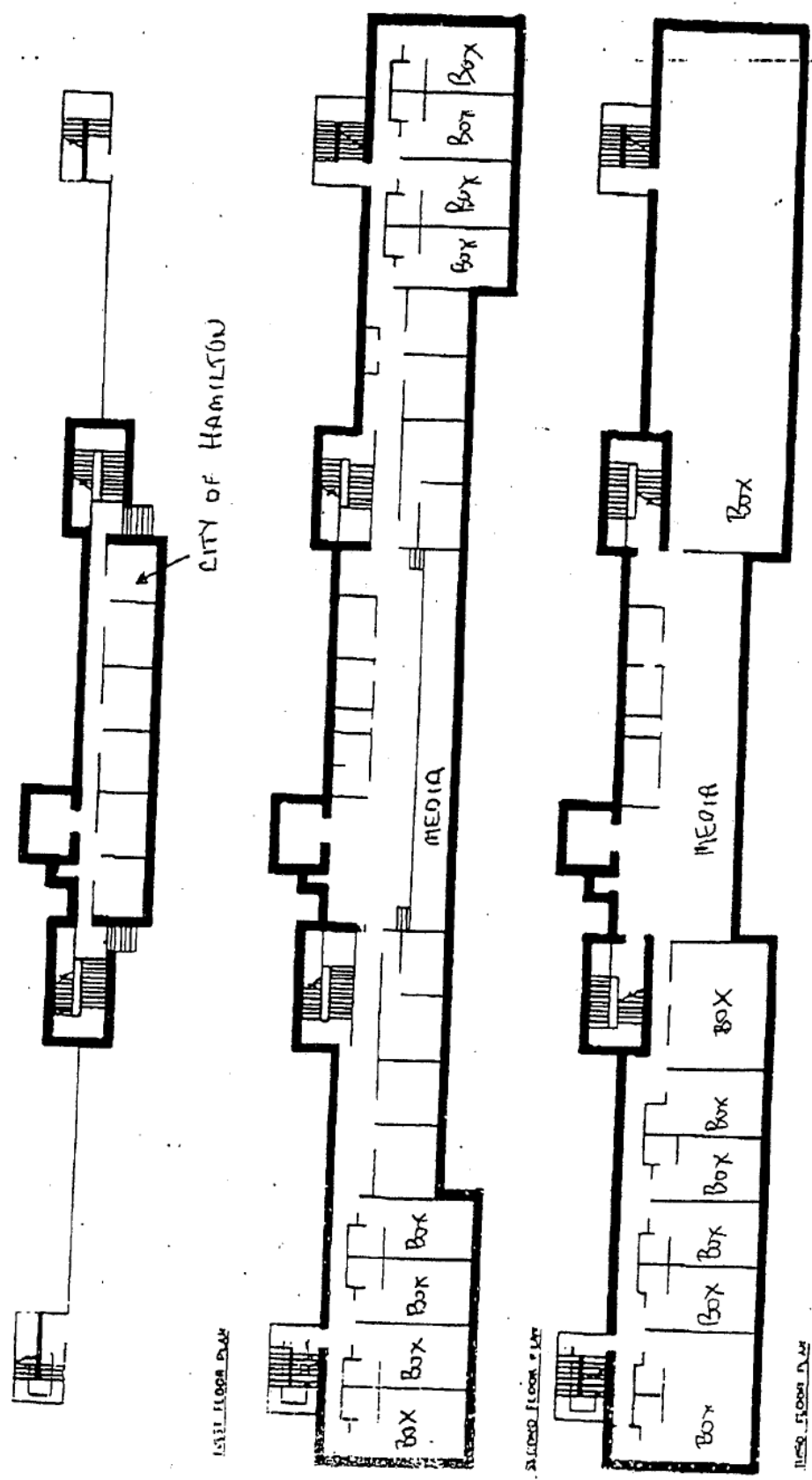
A copy of a plan titled "Ivor Wynne Stadium – Layout", copies of which plan have already been delivered to both parties.





SCHEDULE  
 Rooms Occupied By Hamilton Tiger Cats

SCHEDULE  
SKY BOXES



SCHEDULE SKYBOXES

IVOR WYNN STADIUM  
ALL LEVELS SKY BOXES

BOMB SEARCH AREA - TEAM #3



**SCHEDULE "B" - PREPARATION FOR GAMES**

## 1. PRIOR TO SCHEDULED GAMES:

- (i) place "No Parking" signs and paddles along streets immediately adjacent to Stadium (Cannon, Balsam, Beechwood, Melrose) and install barricades preventing public vehicular access in such areas;
- (ii) provided access for television cameras and crews at times to be mutually agreed upon;
- (iii) erect restricted parking signs and chains in Scott Park Arena lot, provide control for restricted parking of vehicles;
- (iv) clean and prepare visiting team dressing rooms – 24 hours before game time;
- (v) clean and prepare visiting games official's room for use on day of schedule games;
- (vi) place, at public entrances to Ivor Wynne Stadium, ticket boxes and turnstiles; same to be removed at half-time of game;
- (vii) erect net in East end zone for "passed Balls";
- (viii) erect Canadian and team flags (to be supplied by Licensee) above stands;
- (ix) assure cleanliness of Ivor Wynne Stadium and streets immediately surrounding Stadium, and provide empty garbage containers for use by patrons;
- (x) open all public entry gates at times designated by the Licensee.

## 2. DURING GAME:

- (i) provide facilities in Brian Timmis Stadium for use by Police;
- (ii) provide use of all dressing rooms in Brian Stadium for use by employees associated with game;
- (iii) provide certified electrician on premises to effect any emergency repairs required relative to the Stadium;
- (iv) provide four (4) staff available for emergency repairs and maintenance, i.e. fencing washrooms.

## 3. FOLLOWING GAME:

- (i) clean Stadium and street areas surrounded by Stadium;
- (ii) remove all ticket boxes;
- (iii) lock up Stadium and facilities.

**SCHEDULE "C" – LIST OF LICENSOR OWNED CONCESSION EQUIPMENT****Ivor Wynne Stadium Equipment Inventory: City of Hamilton Equipment**

Originally Called: "Concession booth - South Hawkers – North Hawkers"

Now broken down into two areas, "North Hawkers" &amp; South Hawkers"

**North Hawkers & North Storage Room**

1	8' x 8' Walk in Freezer
1	10' x 8' Walk in Freezer
1	4' x 8' Walk in Cooler
1	Large Wooden Storage Shelving Unit (approx. 15' long x 8' tall)
8	Garland double burner hot plate
1	Ice Cream Freezer
2	Ceiling Mounted Heaters
1	Hot Water Tank
1	Two Compartment Sink with single faucet
1	Stainless Steel utility counter and shelving unit (14' long x 3.5' deep x 3' high)
1	Wooden Shelving unit (approx. 12' wide x 7' high)
22	Balasts (light fixtures)
2	Two Compartment sink (not connected to plumbing)
1	Walk in Cooler (built into wall) approx. 28' x 10'
1	Wooden Shelving Unit approx. 7' wide x 8' tall x 3' deep
1	Wooden Shelving Unit approx. 8' long x 8' tall x 1.5 deep
1	Ceiling Mounted Wooden Shelf approx. 24' long
1	Menu Board

**South Hawkers & South Stock Room**

9	Balasts (light fixtures)
1	Four Drawer Warmer
1	Counter (24' long . 3' tall)
1	Three Compartment Sink with double faucet
1	Walk in Freezer 5' wide x 6.5' deep x 7' tall
1	Walk in Freezer 6.5' wide x 6.5' deep x 7' tall
1	Wooden Shelving Unit (2 shelf) 10' wide x 4' deep 10' tall
1	Wooden Shelving Unit (2 shelf) 12' wide x 3' deep x 10' tall
1	Hot Water Tank
<b>Originally Called: "Booth No. 1"</b>	
<b>Now Called: Pizza Pizza</b>	
1	Three Compartment Sink with double faucet
1	Fire Suppression System
1	Exhaust Canopy
1	Counter Unit with Stainless Steel Top originally was a laminate top
7	Balasts (light fixtures)
1	Outside Sign
1	Small Outside Sign

**Originally Called: "Booth No. 2"**  
**Now Called: "Booth No. 2"**

1	Laminated Counter unit
1	Four Drawer Warmer
2	Garland Frymaster Fryers
1	Exhaust Canopy
1	Fire Suppression System
1	Ice Cream Freezer
1	Menu Board
7	Balasts (light fixtures)
1	Three Compartment Sink with double faucet
1	Ceiling Mounted Heater
1	Outside Sign
1	Water Heater
2	Counter Top Food Warmers (7 bulb)

**Originally Called "Booth No. 4"**  
**Now Called "Booth No. 4"**

6	Balasts (light fixtures)
1	Ceiling Mounted Heater
1	Menu Board
1	Outside Sign
1	Small Outside Sign
1	Exhaust Canopy
1	Fire suppression System
1	Ice Cream Freezer
1	Four Drawer Warmer
2	Garland Frymaster Fryers
1	5' Stainless Steel table

**Originally Called: "Booth No. 3"**  
**Now Called: "Booth No. 3"**

7	Balasts (light fixtures)
1	Two Compartment sink With single faucet
1	Outside Sign
1	Four Drawer Food Warmer
1	Laminated Counter unit
1	Exhaust Canopy Now located in B.T. under bleachers
1	Water heater
1	Stainless Steel 6" table
1	Wooden Shelving Unit Approx. 4' long x 1" deep
1	Ice Cream Freezer
2	Counter Top Food Warmers (8 bulb)

**Originally Called: "Booth No. 5"**  
**Now Called: "Booth No. 5"**

6	Balasts (light fixtures)
1	Ceiling Mounted Heater
1	Outside Sign
1	Ice Cream freezer
1	Fire Suppression System
1	Exhaust Canopy
1	Laminated Counter Unit
2	3' Stainless Steel Table
4	Garland Frymaster Fryers
2	Counter top Food Warmers (6 bulb)
1	Single Shelving Unit (7' long)

- 1 Laminated Counter unit
- 1 8' Stainless Steel Table
- 2 Counter Top Food Warmers  
(8 bulb)

**Originally Called: "Booth No. 12"**  
**Now Called: "Booth No. 6"**

- 6 Balasts (light fixtures)
- 1 Three Compartment Sink  
with double faucets
- 2 Menu Boards
- 1 Outside Sign
- 1 Small Outside Sign
- 1 Fire suppression system
- 1 Exhaust Canopy
- 1 Ice Cream Freezer
- 1 Laminated Counter Unit
- 1 Hot Water Tank
- 2 Counter Top Food Warmers  
(6 bulb)
- 1 Four Drawer Food Warmer
- 4 Garland Frymaster Fryers
- 1 Double level wooden shelving  
unit, 2' x 2'
- 1 Stainless Steel table 2.5' x 2.5'

**Originally Called: "Booth No. 8"**  
**Now Called: "Booth No. 8"**

- 1 Three Compartment sink  
with double faucet
- 1 Laminated Counter Unit (large)
- 2 Laminated Counter Unit (small)
- 1 Wooden shelving enclosed unit  
approx. 4' wide x 2' deep 2 6' tall
- 1 Four Drawer Warmer

**Brian Timmis Kitchen**  
**Not on original listing**

- 1 Exhaust Canopy
- 1 Fire Suppression System
- 2 Laminated Counter Units
- 1 Garland Frymaster Fryer
- 1 Garland Double Burner Hot Plate
- 1 Counter Top Warmer
- 6 Balasts (light fixtures)

**Originally Called: "Booth No. 9"**  
**Now Called: "Booth No. 9"**

- 1 Three Compartment sink  
with double faucet
- 1 Exhaust Canopy
- 1 Fire Suppression System
- 1 Laminated Counter Unit (large)
- 2 Laminated Counter Unit (small)

- 1 Fire Suppression system
- 1 Exhaust Canopy
- 4 Garland Frymaster Fryers
- 1 Counter Mounted Manual Can Opener
- 2 Stainless Steel 5' tables
- 1 Ice Cream Freezer
- 1 Stainless Steel table 3 drawer
- 3 Ceiling Mounted Heaters
- 4 Menu Boards
- 1 Outside Sign
- 5 Counter Top Food Warmers (4 bulb)
- 18 Balasts (light fixtures)

**Originally Called: "Booth No. 10"**  
**Now Called: "Booth No. 10"**

- 1 Laminated Counter Unit
- 2 Small Laminated Counters Unit
- 1 Outside Sign
- 2 Small Outside Sign
- 1 Fire Suppression System
- 1 Exhaust Canopy
- 1 Three Compartment sink with double faucet
- 1 Walk in Cooler (6'x7')
- 2 Stainless Steel Table (5' x 3')
- 1 Stainless Steel Table (2' x 2')
- 2 Counter Top Rood warmer (6 bulb)
- 4 Menu Boards
- 2 Ice Cream Freezer

- 3 Ceiling Mounted Heaters
- 1 Four Drawer Food Warmer
- 2 Counter Top Food Warmers (6 bulb)
- 3 Menu Boards
- 3 Master Jet Fryers
- 6 Wooden Storage Shelving Units
- 15 Balasts (light fixtures)

**Originally Called: "Booth No. 11"**  
**Now Called: "Booth No. 11"**

- 1 Three Compartment sink with double faucets
- 1 Exhaust Canopy
- 1 Fire Suppression system
- 1 Laminate Counter Unit
- 2 Small Laminated Counter Units
- 1 Outside Sign
- 2 Small Outside Sign
- 4 Menu Boards
- 2 Ice Cream freezers
- 1 Four Drawer Warmer
- 2 Stainless Steel Table (5' x 3')
- 1 Stainless Steel Table (2' x 2')
- 9 Wooden Shelves (4')
- 4 Garland Frymaster Fryers

- 1 Hot Water Tank
- 2 Garland Frymaster Fryers
- 3 Wood Storage Shelving Units
- 6 Wood shelves (4)
- 1 1000 kg Hydraulic Lift (hoist)
- 18 Balasts (light fixtures)

**North Side Storage Room  
Not on original listing**

- 1 2' x 2' Stainless Steel Tables
- 1 Ceiling Mounted Heater
- 1 Keg Scale
- 4 Balasts (light fixtures)

**South Side Permanent Bar #10  
Not on original listing**

- 1 Balasts (light fixtures)
- 1 Counter Top Unit

**South Side Permanent Bar #13  
Not on original listing**

- 1 Balasts (light fixtures)
- 1 Counter Top Unit

- 2 Ceiling Mounted Heaters
- 1 Hot Water Tank
- 23 Balasts (light fixtures)
- 1 Cold Draft Ice Cube Machine
- 1 Stainless Steel Counter unit 2 drawer

**South Side Permanenet Bar #9  
Not on original listing**

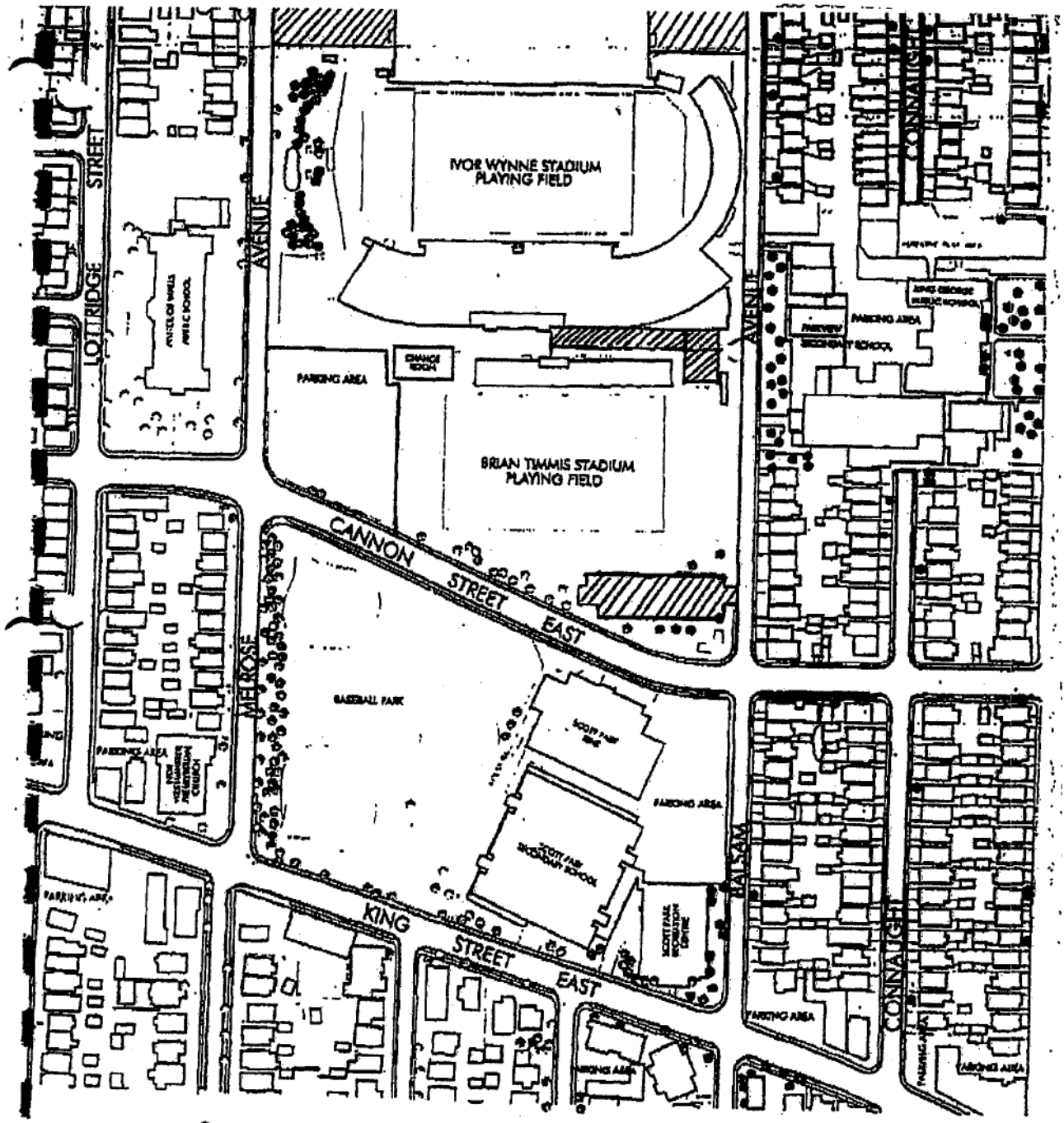
- 2 Balasts (light fixtures)
- 1 Counter Top Unit

**South Side Permanent Bar #11  
Not on original listing**

- 2 Balasts (light fixtures)
- 1 Counter Top Unit

**SCHEDULE "D" – CAR PARKING AREAS**

Ivor Wynne Stadium Site Location showing parking areas.



SCHEDULE  
IVOR WYNNE STADIUM SITE LOCATION  
▨ PARKING AVAILABILITY SUBJECT TO STREET PERMITS

**SCHEDULE "E" - LIQUOR LICENCE**



Alcohol and  
Gaming Commission  
of Ontario

Commission des  
alcools et des jeux  
de l'Ontario

**Liquor  
Licence  
Act**

**Loi sur  
les permis  
d'alcool**

**LIQUOR LICENCE**

**PERMIS DE VENTE D'ALCOOL**

**FOR THE SALE AND SERVICE OF  
SPIRITS, BEER AND WINE/  
POUR LA VENTE ET LE SERVICE DE  
SPIRITUEUX, DE VIN ET DE BIÈRE**

Establishment/Licence Number:  
Numéro d'établissement/permis: 79902

Issued to:  
Delivré à: Corporation of the City of Hamilton (The  
Compass Group Canada Ltd.

For:  
pour: **IVOR WYNNE STADIUM**

Address:  
adresse: **75 BALSAM AVE N  
HAMILTON, Ontario**

In respect of the premises listed:  
Relativement aux locaux inscrits comme: **Capacity  
Capacité**

Entire Stadium **N/A**

**Endorsement(s) / Avenant(s) :**

Catering **Services de traiteur**  
Stadium **Stade**

**ALL MANAGERS, SERVERS OF LIQUOR AND SECURITY STAFF MUST HOLD  
COMPLETION OF A COMMISSION APPROVED SERVER TRAINING PROGRAM  
AS A CONDITION OF EMPLOYMENT WITHIN 60 DAYS OF THE COMMENCEMENT OF  
EMPLOYMENT.**

**THIS LICENCE EXPIRES ON: June 19, 2013**  
**CE PERMIS EXPIRE LE: 19 juin 2013**

**Dated at Toronto August 23, 2010/Fait à Toronto le 23 août 2010**

Registrar of Alcohol and Gaming  
/Registreur des alcools et des jeux

This licence is to be posted and displayed in a prominent place./Ce permis doit être affiché dans un endroit bien en vue.  
Not transferable without approval of the Registrar./Ne peut être cédé sans l'approbation du registraireur.

2103 (03/07)

Serial no./N° 274312



BEECHWOOD AVE.

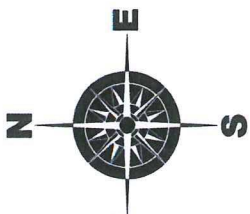
BEECHWOOD GATES

WILL CALL

MAPLE LEAF PLATINUM VIP AREA

THE TIGER TOWNSTORE  
CARLING PRE-GAME AREA

- PLATINUM
- GOLD
- SILVER
- BRONZE
- RED
- FAMILY (Alcohol Free)
- END ZONE



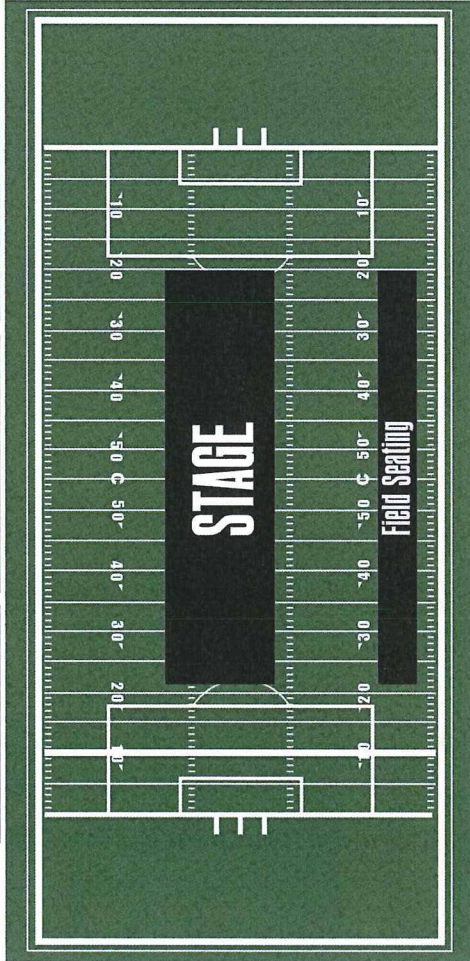
Home Team Sideline

In The Trenches

Visiting Team Sideline

12

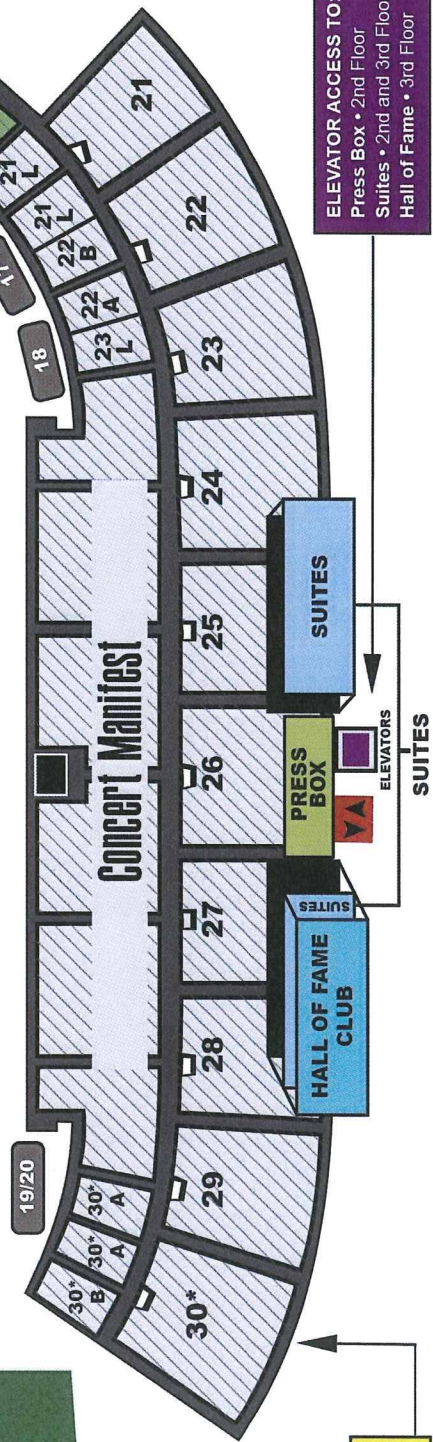
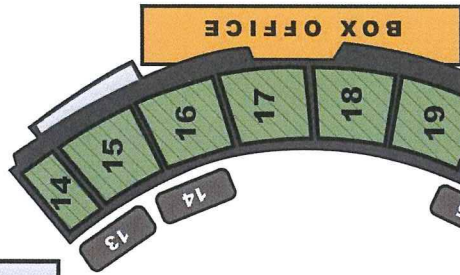
St John Ambulance



MELROSE AVE. N

MELROSE GATES

- IN THE TRENCHES
- PLATINUM VIP AREA
- PRE-GAME AREA
- TICATS STORE
- FIELD TENTS
- HOF CLUB
- SUITES
- PRESS BOX
- ELEVATORS
- Accessibility icon



ELEVATOR ACCESS TO:  
Press Box • 2nd Floor  
Suites • 2nd and 3rd Floor  
Hall of Fame • 3rd Floor

SECTION 30  
\*Non-Alcoholic Family Zone

CANNON ST. E