

**USE AND OCCUPANCY LICENCE AGREEMENT**

**South Cariboo Recreation Centre**

**BETWEEN:**

**CANLAN ICE SPORTS**

PO Box 1199  
100 Mile House, BC V0K 2E0

(hereinafter called the "Operator")

**AND:**

**CARIBOO REGIONAL DISTRICT**

Suite D, 180 North 3<sup>rd</sup> Avenue  
Williams Lake, BC V2G 2A4

(hereinafter called the "Region")

**AND:**

**100 MILE HOUSE WRANGLERS JUNIOR B HOCKEY CLUB SOCIETY**

Society Registration No. S-58069  
PO Box 2228  
100 Mile House, BC V0K 2E0

(hereinafter called the "Society")

**WHEREAS** the Region is the owner of the South Cariboo Recreation Centre located at 175 Airport Road in 100 Mile House (hereinafter called the 'Facilities') and;

**WHEREAS** the Region has entered into a Management Agreement (2014- March 2019) with the Operator to manage the Facilities, which includes administration of space rental and use of the recreation centre;

**WHEREAS** the Society, including its players, executive members, employees, agents or persons acting on their behalf, wishes to exclusively occupy portions of the South Cariboo Recreation Centre for the purpose of operating a Kootenay International Junior Hockey League (KIJHL) Junior B Hockey Team, including Arena Dressing Room No. 1 and adjoined storage areas (hereinafter called the "Dressing Room" and defined in Schedule A of this agreement);

**AND WHEREAS** the Society wishes to use the Facilities for the purposes of team practices, games, and training camps as well as obtain the rights for advertising in the arena portion of the Facilities defined on the attached Schedule B of this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the covenants and conditions hereinafter contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged the parties hereto covenant and agree, each with the others, as follows:

**Term**

1. The Region hereby agrees to grant the Society a licence to occupy the Dressing Room and use the Facilities for a period of three (3) years commencing April 1, 2018 and ending March 31, 2021.

**Renewal**

2. Upon expiry of the Term, the Agreement may be renewed by confirmation in writing by the parties for an additional three (3) years, or other Term as agreed to, provided all obligations of the Agreement are met.

**Termination**

3. Should the Society default in any of the covenants contained herein, the Region may terminate this Agreement and retake possession of the Dressing Room should the Society fail to rectify such default within ten (10) days of being given Notice to do so.
4. This Agreement may be terminated by the Region or the Society upon giving sixty (60) days Notice of its intention to so terminate. Upon termination, the Society shall be entitled to be repaid a portion of the Annual Fee paid in advance for the balance of the period so paid for in advance and during which the full benefits of the Agreement were not realized.

**Annual Fee**

5. In return for the benefits provided herein, the Society will pay the Operator \$25,750 in year one, \$26,523 in year two and \$27,318 in year three – equating to a 3% increase per year plus all applicable taxes. Payments are to be made quarterly in advance in January, April, July and October and in response to an invoice from the Operator to the Society.
6. In the event that the Society ceases operations with an outstanding debt payable to the Operator or the Region, the Society hereby agrees that all amounts due will be paid immediately upon termination of this Agreement. The Society also agrees that revenue generated through the subsequent sale of the KIJHL franchise must also be used to pay outstanding debt to the Operator or the Region.

### **Summary of Benefits Included**

7. The Annual Fee shall include the following:
  - a) Rental of up to 225 hours of ice time for games, practices and training camps, ice rental includes setting the nets by the Operator as required;
  - b) Exclusive Use of the Dressing Room and storage room No. 6;
  - c) Exclusive rights for advertising sales in the arena portion of the Facility as defined in Schedule B and the second floor player's lounge;
  - d) Use of the Player's Lounge for four (4) hours concurrent with each home game;
  - e) Use of the Meeting Room up to twelve (12) times per year;
  - f) Access to wireless internet services for regular business use.

### **Additional Benefits Not Included**

8. The Annual Fee shall not include the following:
  - a) Playoff games; the Society will be charged \$310 for each playoff game;
  - b) Additional ice time booked over and above 225 hours will be charged at the current youth rate according to the Region's fees and charges bylaw for the Facilities;
  - c) Video streaming that requires a large upload of data;
  - d) Any other benefit not specifically included in the Annual Fee for which a cost is normally charged at the Facilities;
9. The cost of all additional benefits must be paid at the time of booking.

### **Ice Use and Booking Procedures**

10. The ice time schedule shall be established each year by the Operator in consultation with ice user groups and shall be based on operational needs. The Society will be entitled to one weekday prime time ice slot per week for its practice schedule. The timing of this prime time slot will be determined through the ice time scheduling consultation with all user groups.
11. The Society shall have a representative attend all ice user group meetings organized by the Operator and shall follow regularly established procedures to book ice time. The Society shall have priority over other ice user groups when

booking ice time for home games, playoff games and day time practices from Monday to Friday. Games shall be scheduled for three (3) hours of ice time unless otherwise agreed to by the Operator. Adequate security personnel and parking attendants must be provided by the Society at its cost for games. Level of security and parking attendant services required will be agreed to by the Society and the Operator.

12. Changes to the practice schedule may be made with the mutual consent of the Operator and the Society. ~~Any practice time requested for Saturday or Sunday during the regular season will be provided only when available and will be charged as additional ice time at the applicable hourly youth rate.~~ AS  
[Signature]
13. For clarity, it is understood by all parties that ice time used by the Society must be paid for in advance and that failure to do so will result in cancellation of the scheduled ice time. The Society will not be able to use or book future ice time while it has outstanding debt owing to the Operator or the Region.

### **Dressing Room and Storage Space**

14. The use of the Dressing Room and storage room No. 6 by the Society is for the sole purpose of operating a Junior B Hockey Team. In the event that the Society ceases to operate as a valid KIJHL franchise, all rights to the Dressing Room and other benefits provided under this Agreement are forfeit.

### **Use**

15. The Society accepts that the Dressing Room is received in an 'as is' condition and the Region has not made any representations, warranties or agreements as to the condition of the Dressing Room including the suitability for the Society's purposes.
16. The Dressing Room shall be utilized by the Society in a safe, organized manner of a standard equivalent to similar venues and within Facility policies and rules as determined by the Region and the Operator.
17. It shall be the responsibility of the Society to clean and maintain the Dressing Room and not permit any garbage or objectionable material, as determined by the Region or the Operator at their sole discretion, to accumulate in or about the Dressing Room. The Dressing Room shall be available to the Operator for inspection upon reasonable request.
18. The Operator shall provide basic utilities including heat, light, water and electricity for the Dressing Room at its expense. All other services installed to the Dressing Room shall be provided by the Society at its expense.

19. The Society shall have access to the Dressing Room via the common entry to the Facilities at all times; however, the Operator reserves the right to reasonably and temporarily restrict access to the Dressing Room to avoid conflicts with other groups renting the Facilities.
20. The Society accepts responsibility for any damage to the Dressing Room directly caused by its use and will cover the cost of remediation work necessary.
21. The Society will post, and will keep posted, on or in the Dressing Room any notice or sign that the Operator or Region may require, including postings under the Builders' Lien Act.

### **Improvements**

22. No major renovations or structural improvements whatsoever shall take place at the Dressing Room without the express authorization of the Region and the Operator.
23. Any alterations, additions, or improvements to the Dressing Room undertaken by the Society shall be at its sole cost and expense unless agreed to under a separate arrangement between the parties.
24. To ensure the safe use and security of the Dressing Room, the Region or Operator may require the Society to make minor improvements to the Dressing Room at any time. Failure to respond in a timely fashion to these requests may be considered a default of this Agreement. Should the Society fail to make minor improvements upon receipt of said Notice, the required action may be undertaken by the Operator and invoiced to the Society.
25. Any improvements made to the Dressing Room by the Society during the Term shall, upon non-renewal or termination of this Agreement, become the property of the Region free and clear of all liens, costs or charges, and the Society shall indemnify and save harmless the Region and the Operator from any and all liability whatsoever for such liens, costs and charges. Upon termination and the vesting of such improvements in the Region, the Society shall have no right to compensation whatsoever for such improvements.
26. Equipment and appliances installed by the Society but not structurally attached or inherent to the Facilities may be removed by the Society upon non-renewal or termination of the Agreement.
27. Upon non-renewal or termination of the Agreement, the Region may give Notice requiring the Society to remove any improvements made to the Dressing Room and the Society agrees upon such Notice to restore the Dressing Room to the state in which it was first received. The Society shall make good any

damage to the Dressing Room resulting from the removal of improvements or activities beyond normal use. Reasonable wear and tear from normal use of the Dressing Room is acceptable and will not require remediation. Should the Society fail to remove improvements, repair damage and restore the Dressing Room to its initial state, the required remediation may be undertaken by the Operator and invoiced to the Society.

### **Advertising**

28. The Society is provided the exclusive opportunity to sell advertising space in the arena portion of the Facilities defined on the attached Schedule B of this Agreement. The Society is also provided the exclusive opportunity to sell advertising in the second floor player's lounge. All advertising posted to the arena will be subject to an overview plan approved by the Region and the Operator.
29. Only professionally manufactured signs, with type, artwork and content approved in advance by the Operator is allowed. Liquor or tobacco advertising is not permitted, except in the player's lounge during use when this space is not open to minors.
30. The Society will be responsible for the installation and removal of all advertisements, which must be completed under the supervision of the Operator. All material and maintenance costs for advertisements are at the expense of the Society.
31. The Society agrees that the Operator may remove any unsightly, damaged or inappropriate signs and that the Operator and the Region will not be liable for any loss of revenue upon the removal of such signs.
32. The Society agrees that other short-term renters of the arena will be permitted to cover any of the advertising and sell advertising during their rental of the arena.
33. The Operator reserves the right to install non-commercial signage as required.
34. Upon non-renewal or termination of this Agreement, all attached, non-portable advertising will become the property of the Region unless otherwise agreed to in writing and the Society shall have no right to compensation whatsoever in this regard.
35. Upon non-renewal or termination of this Agreement the Operator may require the Society to remove at its expense any advertising installed during the Term.
36. The Society shall make good any damage to the Facilities resulting from the installation or removal of advertising.



### **Player's Lounge and Meeting Room**

37. The Society shall have access to the Player's Lounge for four (4) hours during home games and the Meeting Room up to twelve (12) times per year as included in the benefits for the Annual Fee.
38. If the Society does not plan to use the Player's Lounge during a home game, Notice must be provided in advance to the Operator. The Meeting Room shall be booked in accordance with established procedures.
39. The Society shall obtain and cover the cost of any liquor permits or other licensing if required for use of the Player's Lounge and conduct its activities therein in accordance with Facility policies and rules as determined by the Region and the Operator.
40. The sale of food in the Player's Lounge is not permitted.

### **Ticket Sales and Merchandise**

41. The Society shall have access to space in the arena lobby during home games for the sale of game tickets and team merchandise. Sale of retail items not directly related to promotion of the Society is not permitted.
42. Location of the space allocated for ticket and merchandise sales will be approved by the Operator.

### **Right of Entry**

43. The Operator and the Region including their employees, agents or representatives may enter the Dressing Room for the purposes of inspection or to access equipment and services necessary for operation of the other assets on the property. Notice will be provided to the Society of the planned entry as soon as possible and preferably prior to accessing the Dressing Room.

### **Encumbrances**

44. The Society shall not mortgage, charge or otherwise encumber its interest in the Dressing Room or any other benefits provided under this Agreement.

### **Facility Damage Rendering it Unfit for Use**

45. In case the Facilities or any part thereof shall at any time during the Term be damaged so as to render the same unfit for the purpose of the Society, the Annual Fee, or a proportionate part thereof according to the nature and extent of the damage sustained, shall be suspended and abated until the Facilities have been rebuilt or made fit for the purposes of the Society, or at the option of the

Region the Agreement shall be terminated and the Society shall cease to be held liable for payment of the Annual Fee except such amounts as have already accrued due, and shall be entitled to be repaid any fees paid in advance for the balance of the period so paid for in advance. The Society will not be entitled to any further claim or payment for loss of access to the facility other than abatement of the Annual Fee or portion thereof as noted.

46. In the event of the Facilities being condemned, for any reason, in whole or in part because of the unsafe condition thereof, this Agreement shall be considered terminated upon the date of such condemnation, and neither the Operator nor the Region shall be responsible for any loss, damage or expense which the Society may suffer or incur by reason of the same. The Society shall be entitled to be repaid a portion of the Annual Fee paid in advance for the balance of the period so paid for in advance.

### **Indemnities**

47. The Society will indemnify and save harmless the Region and the Operator and all of their employees, servants, representatives and agents, from and against all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) which the Region and the Operator or their employees, servants, representatives or agents incur, suffer or are put to arising out of or in connection with the Society's Use and Occupation of the Facilities, or any failure, breach or non-performance by the Society of any obligation of this Agreement, or any wrongful or negligent act of the Society or any employee or agent of the Society.
48. The Region and the Operator will indemnify and save harmless the Society and all of their employees, servants, representatives and agents, from and against all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) which the Society or their employees, servants, representatives or agents incur, suffer or are put to arising out of or in connection with the Region and the Operator's use of the Facilities, or any failure, breach or non-performance by the Region and the Operator of any obligation of this Agreement, or any wrongful or negligent act of the Region and the Operator or any employee or agent of the Region and the Operator.

### **Insurance**

49. The Society will provide and maintain comprehensive general liability insurance, with a company satisfactory to the Region, against claims through personal injury, death, or property damage resulting from its Use and Occupancy of the Facilities. Such insurance must provide protection in an amount not less than \$5,000,000 with respect to any one accident or incident. All policies of insurance shall include the Region and the Operator as additional



insured parties, contain a cross liability clause and a 30-day notice of cancellation. A certified copy of such policy shall be delivered annually and upon request to the Operator.

50. The Society shall maintain Tenants Legal Liability insurance on the standard industry "All Risks" basis in an amount of at least \$1,000,000.
51. All property of the Society kept or stored in the Facilities shall be so kept or stored at the sole risk of the Society, and the Society agrees to indemnify the Region and the Operator and save it harmless from any claims arising out of any damage to same, including, without limiting the foregoing, any subrogation claims by the Society's insurers.
52. The Society shall also obtain workers' compensation coverage insurance, covering all employees of the Society, in accordance with the statutory requirements of the Province of British Columbia and agrees to provide the Operator with a certified copy of its WorkSafeBC registration. The Society will also ensure that all contractors working on its behalf at the Facilities have WorkSafeBC coverage, copies of which are to be provided to the Operator upon request.

#### **Assignment**

53. The Society shall not assign nor sublet this Agreement or any benefit described herein except with the written consent of the Region.

#### **Management Agreement between the Region and the Operator**

54. It is hereby recognized that the current Management Agreement between the Region and the Operator expires in March 2019. For the sake of continuity of this Use and Occupancy Agreement, it is understood that should the Operator cease to manage the Facilities on behalf of the Region, the necessary amendments will be completed and the terms, conditions and benefits shall remain in effect.

#### **Force Majeure**

55. Notwithstanding anything to the contrary contained in this Agreement, if any of the parties is bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required under this Agreement by reason of an Event of Force Majeure, the said party will be relieved from the fulfillment of such term, covenant or act during the period of such interruption and the period for the performance of any such term, covenant or act will be extended for a period equivalent to the period of such delay. Every obligation in this Agreement except any payment obligation will be deemed to be subject to an Event of Force Majeure. For the purpose of this Agreement, an Event of Force Majeure means acts of God or public enemy, wars (declared or undeclared), revolution, riots,

insurrections, civil commotions, fires, floods, slides, epidemics, quarantine restrictions, strikes or lockouts, including illegal work stoppages or slowdowns, or stop work orders issued by a court or Statutory Authorities including the Region, freight embargoes or power failures, or any event or circumstance which reasonably constitutes a material disabling event or circumstance, which is beyond the reasonable control of a party, which does not arise from the neglect or default of a party, and which results in material delay, interruption or failure by a party in carrying out its duties, covenants or obligation under this Agreement, but which does not mean or include any delay caused by a party's lack of funds or financial condition.

#### **Compliance with Laws and Regulations**

56. The Society shall in the use and occupancy of the Dressing Room and Facilities comply with all Local Government, Provincial and Federal legislation relating thereto. Non-compliance with this section will be considered a breach of the Agreement.

#### **Nuisance**

57. The Society shall not cause nor permit any act or thing to be done at the Facilities which is, or would constitute a nuisance in the Facility or to the owners or occupiers of any lands or premises adjoining the Facilities, or in the vicinity of the Facilities, or to the public in general and shall indemnify and save harmless the Region and the Operator from any liability therefrom.

#### **Cessation of the Society**

58. Should the Society, at any time during the Term, cease to exist as a registered society, then and in that event, its right of use and occupancy and any other rights hereunder shall be forthwith terminated, but nevertheless the assets of the Society shall be chargeable for any liability remaining unpaid at such time to the Region or the Operator, including any cost related to returning the Facilities to its original state.

#### **No Partnership or Joint Venture**

59. Nothing contained in this Agreement shall be deemed or construed by the parties, nor by any third party, as creating the relationship of principal and agent or partnership or of joint venture between the parties or as giving the Society any power or authority to bind the Region or the Operator in any way.

#### **Succession**

60. This Agreement will remain in effect after its expiration date to facilitate negotiations for renewal of the Agreement. This succession will be considered a

temporary, month-to-month arrangement and continue to be subject to all terms of this Agreement. If attempts to renew the Agreement are unsuccessful, it may be terminated upon ten (10) days Notice to the other parties by the Region or the Society.

### **Amendments**

61. No amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by the parties to this Agreement at the time of the amendment, supplement, restatement or termination.

### **Notices**

62. Any notice, report or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise provided for, and will be deemed to be validly given to and received by the addressee, if served personally, on the date of such personal service or, if delivered by mail, fax or email, when received. Any of the parties may, from time to time, advise the other by notice in writing, of any change of address of the party, giving such notice and from and after the giving of such address specified therein this shall, for the purpose of this paragraph, be conclusively deemed to be the address of the party giving such notice.

The addresses for delivery will be as follows:

#### **Canlan Ice Sports**

PO Box 1199  
100 Mile House, BC V0K 2E0  
c/o Josh Dickerson, Facility Manager  
Phone : 250-395-1353  
Email: [jdickerson@icesports.com](mailto:jdickerson@icesports.com)

#### **Cariboo Regional District**

180D N. 3rd Avenue  
Williams Lake, BC V2G 2A4  
c/o Manager of Community Services  
Phone : 250-392-3351  
Email: [dcampbell@cariboord.bc.ca](mailto:dcampbell@cariboord.bc.ca)

#### **100 Mile House Wranglers Junoir B Hockey Club Society**

PO Box 2228  
100 Mile House, BC V0K 2E0  
c/o Tom Bachynski, Society President  
Phone: 250-395-1005  
Email: [office@100milewranglers.com](mailto:office@100milewranglers.com)

### **Entire Agreement**

63. This Agreement shall be deemed to constitute the entire Agreement between the Operator, the Region, and the Society with respect to the matter herein and shall supersede all previous negotiations, representations, and documents in relation hereto made by either party to this Agreement.

### **Peaceful Surrender**

64. The Society will upon non-renewal at the expiration of the term or sooner if the Agreement is terminated as provided herein, immediately surrender the Dressing Room and all other benefits in a peaceable way.

### **Waiver**

65. No waiver by any of the parties of any breach by the other parties of any covenants, obligations and agreements will be a waiver of any subsequent breach or of any other covenant, obligation or agreement, nor will any forbearance to seek a remedy for any breach be a waiver of any rights and remedies with respect to such or any subsequent breach.

### **Miscellaneous**

66. The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of the Agreement.
67. In this Agreement, wherever the singular or masculine is used, it shall be construed as if the plural or feminine or body corporate as the case may be, had been used where the context of the parties hereto so require.
68. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
69. The invalidity of any provision of this Agreement or part thereof shall not affect the remainder of this Agreement or such provision.
70. This Agreement may be signed in counterparts and each such counterpart will constitute an original document and such counterparts, taken together, will constitute one and the same instrument. A counterpart may be delivered by fax or any other form of electronic transmission.
71. This Agreement will be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of British Columbia.

- Signature Page Follows -

IN WITNESS WHEREOF the parties have duly executed this agreement as of the day and year written below.

This Agreement is executed on behalf of the  
**Cariboo Regional District** by its officer  
duly authorized on its behalf:

A Johnston  
Authorized Signatory

Sept. 11, 2018  
Date

This Agreement is executed on behalf of  
**Canlan Ice Sports** by its officer  
duly authorized on its behalf:

Josh Dick  
Authorized Signatory

Aug. 23/18  
Date

JOSH DICKERSON  
Print Name

GM  
Title

This Agreement is executed on behalf of the  
**100 Mile House Wranglers Junior B Hockey Club Society**  
by its officer duly authorized on its behalf:

[Signature]  
Authorized Signatory

Aug 31 18  
Date

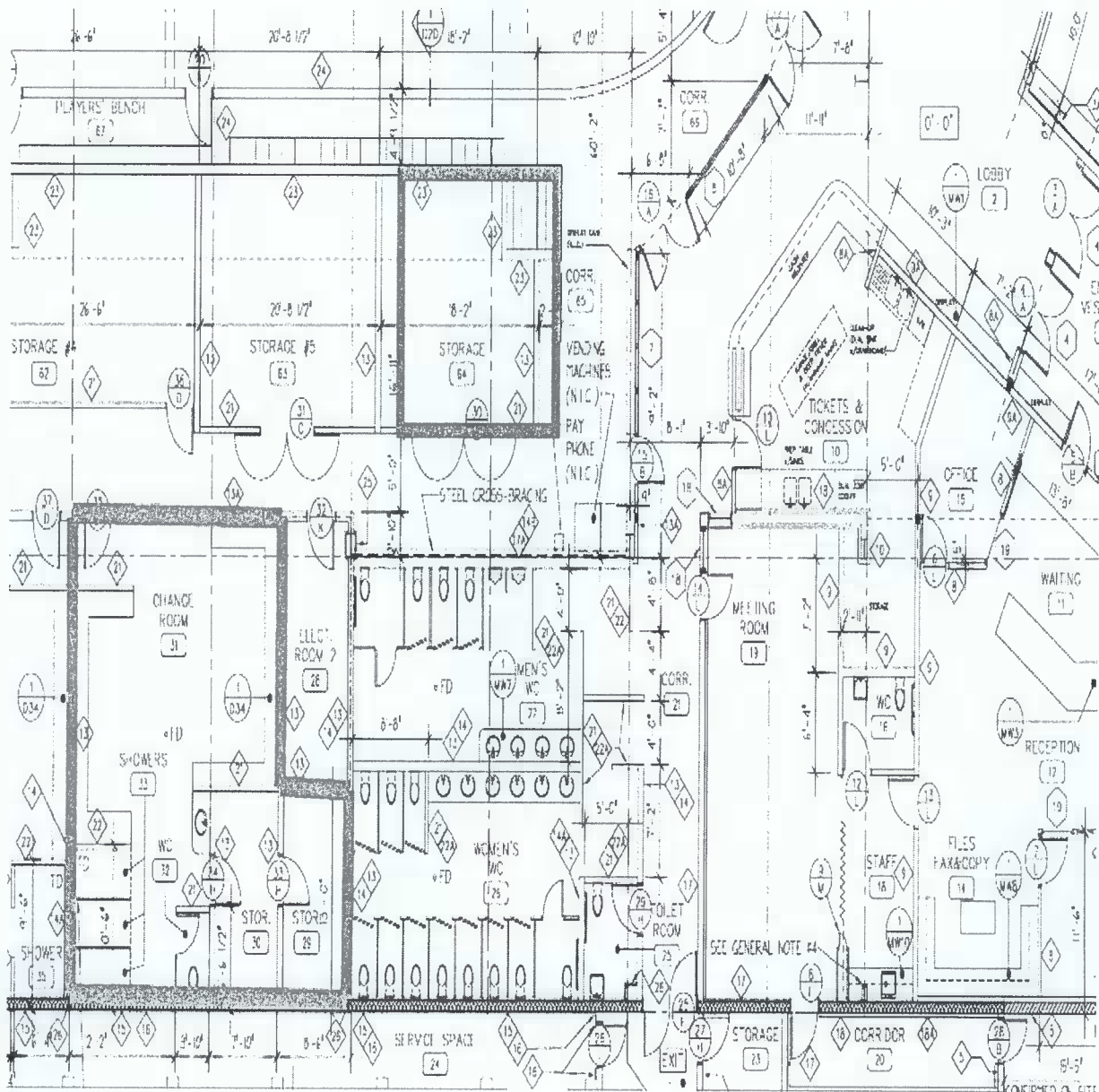
Tom Baduryska  
Print Name

President  
Title



## SCHEDULE A

### Dressing Room and Storage Space Occupancy



## SCHEDULE B

Exclusive Opportunity to Sell Advertising

