

Schedule 1

THIS AGREEMENT made in triplicate this day of June, 2016

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON

(hereinafter called the "City")

OF THE FIRST PART

- and -

**1403544 ONTARIO LTD. o/a LK PROMOTIONS AND ADVERTISING AND
GLOBAL SPECTRUM FACILITY MANAGEMENT L.P.**

(hereinafter collectively called "LK")

OF THE SECOND PART

WHEREAS the City issued RFP-15-50 (the "**Proposal**") for the sale and implementation of Naming Rights, Sponsorship and Advertising at the City of London Recreation Facilities for an approved program, property, initiative or asset under the Direction of Parks and Recreation or the recreation services area of Neighbourhood, Children and Fire Services that has been approved for advertising opportunities, naming rights or sponsorship programs in accordance with the City of London Naming/Re-Naming Policy, and/or the City of London Sponsorship and Advertising Policy (collectively or individually the "**Policy**") as amended from time to time;

AND WHEREAS LK's submission to the Proposal was selected by the City and as a result the City has agreed to grant LK the right to utilize the approved programs, property, initiatives or assets of the City identified in this Agreement for the sale of advertising opportunities, naming rights, and sponsorship programs in accordance with the City of London Policy all in accordance with this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of mutual covenants herein contained, the parties hereto covenant and agree, each with the other, as follows:

1.0 Services

The City hereby grants to LK the right to act as the City's agent to sell, supply, install and place advertising, naming rights, and sponsorships in or on any program, property, initiative or asset under the direction of Parks and Recreation or the recreation services area of Neighbourhood, Children and Fire Services that has been approved for advertising opportunities, naming rights, or sponsorship programs in accordance with the City of London Policy as amended from time to time using the forms and procedures established by the City for that purpose.

LK agrees that all advertising, naming, and sponsorships shall be sold, supplied, placed, installed, manufactured, or constructed substantially in accordance with this Agreement and in accordance with the City of London Policy as amended from time to time using the forms and procedures established by the City for that purpose.

LK agrees that the City's Policy shall be identified on all naming, advertising, naming rights and sponsorship contracts negotiated on behalf of the City by LK pursuant to this Agreement and each such agreement shall be approved on behalf of the City by the person authorized to approve the agreement pursuant to the City's Policy.

2.0 Term

This Agreement shall be for a term of five (5) years commencing May 1, 2016 and ending April 30, 2021 (the "**Term**") provided however that the City in its sole discretion shall have the right to renew this Agreement for an additional five (5) year term in accordance with the provisions of the Proposal. The City agrees to notify LK of its intention to extend in writing not less than sixty (60) days prior to the end of the initial five (5) year period. In determining whether to renew the contract, the City will consider, but not be limited to the following; performance, pricing, service and value.

3.0 Scope of Services

Definitions:

Advertising – The selling or leasing of advertising space on corporate materials (printed and electronic), and signage on City-owned assets and properties, whereby the advertiser is not entitled to any additional benefits beyond access to the space purchased. Advertising is a straightforward purchase of space based on pre-established base rates and a defined time period

Naming/Re-Naming Rights – An exclusive right of a third party sponsor to name a major external asset for a fixed period of time in exchange for cash. No additional benefits other than the naming/re-naming occur in this type of transaction, provided however that a naming/re-naming right may form part of a larger sponsorship agreement.

Sponsorship – A marketing-oriented, contracted arrangement that involves the payment of a fee or payment in-kind by a person or entity in return for the rights to a public association with an activity, item, or property for commercial benefit. Sponsorships may be in the form of or include financial assistance, non-cash goods, advertising, naming/re-naming rights, or a contribution of skills or resources.

LK agrees that its rights to sell Advertising, Naming / Re-Naming Rights and/or Sponsorship shall be limited to the "Recreation Services Area" which includes any approved program, property, initiative or asset that is under the direction of Parks and Recreation or the recreation services area of Neighbourhood, Children and Fire Services in accordance with the City's Policies as amended from time to time.

Specifically LK shall:

- become familiar with the existing Advertising, Naming/Re-Naming, and Sponsorship which has been completed to date and from that identify additional priorities for marketing the Recreation Services Area's assets,
- develop a marketing and sales campaign within six (6) months from the commencement of the Term of this Agreement and identify and develop the required marketing materials necessary to support the campaign,
- establish positive working relationships with City management (as required) and Recreation staff to achieve the objectives of the Naming/Re-Naming Rights, Sponsorship and/or Advertising program,
- initiate sales contacts and negotiate Naming/Re-Naming, Sponsorship and/or Advertising rights and contracts consistent with the Recreation Services Area and the City's Policy,
- adapt the business plan when and where required to ensure that the revenue targets are achieved, and identify to recreation staff any changes required in policy, procedures or processes to advance the achievement of the targets,
- identify new revenue opportunities within the Recreation Service Area mandate, and make recommendations,
- establish a bi-monthly reporting mechanism on the status of the marketing and sales activities including but not limited to:
 - Contacts made during the period and planned activities for the next period;
 - Potential agreements;
 - Information on offers rejected or deferred for consideration at another time; and
 - Completed agreements; and,
- provide input to the Business Solutions service area in the development of reports on the status of the Naming/Re-Naming, Sponsorship and/or Advertising rights, sales activities.

LK shall be responsible for the sales, pricing, placement, construction and content of sponsorship, naming rights, and advertising materials as the City's agent at all times in accordance with this Agreement and the City's Policy, delegation by-laws and policies and fees and charges by-laws, if applicable, as amended from time to time.

4.0 Fee Schedule

4.1 During the Term of this Agreement, and any renewal thereof, LK shall pay the City a percentage of sales revenue generated by LK from the sale of Advertising, Naming / Re-Naming and Sponsorship Right in the following manner:

a) Advertising,

The City shall receive payment from LK in an amount equal to 50% of the sales revenue from all sales of advertising during the Term of this Agreement, and any renewal thereof, while LK shall receive as commission an amount equal to the remaining 50% of all sales revenue derived from Advertising during the Term of this Agreement, and any renewal thereof.

b) Naming / Re-Naming Rights

The City shall receive payment from LK an amount equal to 62.5% of gross sales revenue exclusive of taxes during the first year of any particular naming/re-naming rights agreement and 75% in each subsequent year of the naming/re-naming rights agreement, and any renewal thereof. LK shall receive as a commission an amount equal to 37.5% of the sales revenue in the first year of any particular naming/re-naming rights agreement and are responsible for all costs associated with the activation of the Naming/Re-Naming rights including, but not limited to: sign production, installation and ongoing maintenance. LK shall receive 25% in subsequent years of any particular Naming/Re-Naming rights agreement.

c) Sponsorship

During the Term of this Agreement, and any renewal thereof, the City shall receive from LK an amount equal to 80% of the sales revenue or retain 100% of any in kind payment for all sponsorship opportunities where the lead has been sold by LK and LK will receive a commission of 20% of the sales revenue or the payment of money equal to 20% of the market value of any payment in kind for all sponsorship opportunities where the lead has been sold by LK. During the Term of this Agreement and any renewal, the City shall receive an amount equal to 85% of the revenue from City generated sponsorship opportunities and the City will pay LK a commission of 15% for such opportunities. For clarity, in the case of "payment in kind" transactions the City will reimburse LK for the percentage of the market value of the Sponsorship at the rates identified above.

4.2 LK agrees that it shall pay the City the greater of:

- (i) The aggregate of the amounts to be received by the City pursuant to paragraphs 4.1 a), b) and c); and
- (ii) seventy five thousand dollars (\$75,000.00) plus HST (the "Guarantee");

Under the terms of this Agreement, LK agrees to pay to the City quarterly installments of eighteen thousand, seven hundred and fifty dollars (\$18,750.00) plus HST in the manner set out in section 7.3 hereof. The parties agree that the Guarantee will be paid to the City regardless of the amount of the revenue received from LK for the Advertising, Naming / Re-Naming and/or Sponsorship rights during each year of the Term, and any renewal thereof. Should the amount owed to the City pursuant to paragraphs 4.1 a), b) and c) exceed the Guarantee during a particular year, then LK agrees to pay the City the amounts owed to it by no later than June 30th of the following year.

For the purposes of ascertaining the amount payable, LK shall prepare and keep at its principal office for at least two (2) years following the end of each year during the Term of this Agreement, or renewal thereof, adequate books and records including copies of all advertising contracts, naming contracts, sponsorship contracts and sales records with respect to the sale of Advertising, Naming / Re-Naming Rights and Sponsorship.

4.3 In consideration of the payment by the City to LK of the percentages for sales and commissions to LK specified in paragraphs 4.1 a), b), and c) above, LK agrees to supply at its sole cost and expense all staff, equipment, vehicles, accommodations and technical assistance necessary to perform the services to be furnished by LK under this Agreement.

4.4 Donations to and/or fund-raising conducted by the City are outside of the scope of this Agreement including philanthropic gifts that result in the naming of a building or asset being named.

- 4.5 LK agrees that any existing contractual relationships between the City and a third party shall be outside the scope of this Agreement and will be renegotiated by the City. These include: cold beverage vending, ATM machines, Tim Horton's skates and swims, candy vending, Spectrum catalogue advertising, snack and cold milk vending, washroom deodorizing systems, rink board advertising, and existing sponsorships and service contracts at Storybook Gardens.
- 4.6 LK further agrees that the City will advertise any Advertising, Naming/Re-Naming or Sponsorship opportunity if:
- a) the estimated value is greater than \$100,000;
 - b) the agreement duration is expected to be greater than 5 years; or
 - c) there is a delivery of a service.
- 4.7 Ad Hoc advertisements by not-for-profit organizations using City owned recreation properties are to continue provided that they are not to occlude/obstruct paid Advertising, Naming / Re-Naming Rights or Sponsorship provided by LK.
- 4.8 LK agrees that all Advertising, Naming / Re-Naming and Sponsorship Rights must be in compliance with the City of London Naming/Re-Naming or Dedicating of Municipal Property, Buildings, and Park Elements Policy and the City's Policy.
- 4.9 All exterior signage must comply with the City's Sign and Canopy By-Law S.-3775-94 as amended from time to time.
- 4.10 The City and LK agree that the City shall, in its sole discretion, reserve the right to deny any naming rights opportunity, sponsorship, or any Advertising, Naming / Re-Naming or Sponsorship opportunity without the City incurring any damages or claims from LK. All Advertising, Naming / Re-Naming and Sponsorship opportunities shall be reviewed and approved by the Business Solutions section of the City (and associated committee) prior to LK entering into an agreement with a third party for such opportunity.
- 4.11 The City and LK agree that they will determine the annual Guarantee and percentage payments for the renewal term prior to the commencement of such renewal term.
- 4.12 LK agrees to remove within a reasonable time any advertising or naming / re-naming which is deemed to be offensive or objectionable by the City upon receipt by LK of a notice citing the objection delivered in accordance with this Agreement, failing which the City will remove such advertising at the expense of LK.
- 4.13 LK shall use its best efforts to identify in any agreement the allocation of the value attributed to the Naming/Re-Naming, Sponsorship or Advertising in a particular contract. In the event the contract does not provide for an allocation of the value as between two or more commission payouts for Naming/Re-Naming, Sponsorship or Advertising rights, LK and the City agree to determine the apportionment for each payout, acting reasonably. Under no circumstance will any agreement result in a commission allocation that results in more than one payout being applied to a particular activation element.

5.0 Personnel

- 5.1 LK shall provide the City with the names and telephone numbers of LK's key contact personnel in the event of any emergency.
- 5.2 All staff hired by LK shall be the employees of LK. LK shall be solely responsible for all pay, supervision, discipline, health and safety, employment insurance, Canada Pension, Workplace Insurance, leave, uniform, footwear and all other items arising out of the relationship between an employer and employee.
- 5.3 LK acknowledges and agrees this Agreement is in no way deemed to be an agreement of employment. Specifically, the parties agree that it is not intended by this Agreement that LK or its officers, employees, agents, representatives or others for whom it is responsible in law are to be employees of or have an employment relationship of any kind whatsoever with the City or are in any way entitled to employment benefits of any kind whatsoever from the City, whether under employment statutes, workplace safety and insurance plans,

unemployment/employment schemes, health plan contributions, pension plan contributions, or otherwise.

6.0 Termination and Default

- 6.1** The City and LK reserve the right to terminate LK's right to act as the City's agent under this Agreement and any agreement supplementary, without cause, upon one party providing the other party with sixty (60) days written notice of its intention to terminate this Agreement. Upon termination, LK and the City will continue to receive monies from the proceeds from any contracts with customers entered into by LK and approved by the City until the contract with such customer ends, notwithstanding the fact that such contract may extend beyond the Term or the renewal term of this Agreement. In the case of early termination the Guarantee will be prorated for the period that the Agreement was in effect.
- 6.2** If LK is in default of any of its covenants or obligations under this Agreement, the City may provide LK with written notice specifying with reasonable particularity the nature of the default, requiring the default to be remedied and the time within which the same is to be remedied. Upon receipt by LK of the notice which is to be delivered in the manner set out in this Agreement, LK agrees to use reasonable commercial efforts to remedy the default within the time specified in the notice.
- 6.3** Notwithstanding anything in this Agreement, in the case of default, breach or non-observance made or suffered by LK at any time or times in respect of any of the covenants, obligations or agreements on the part of LK under this Agreement, then, provided such default, breach or non-observance is not cured within the time or times provided in section 6.2, the City may terminate this Agreement by giving LK written notice thereof and delivered to LK pursuant to Section 8.1 hereunder.
- 6.4** LK further agrees that if LK becomes insolvent, bankrupt or makes an unauthorized assignment or compromise with its creditors, the City may, in addition to and without prejudice to its other lawful rights and remedies, forthwith terminate this Agreement by written notice to LK in the manner set forth hereunder.
- 6.5** Notwithstanding any termination of this Agreement, LK shall remain liable to the City for monies payable by LK during the Term of this Agreement or any renewal thereof up to the date of termination and thereafter in accordance with section 6.1.

7.0 Terms and Conditions

7.1 Financial Loss

The City shall in no case be required to pay any amount in respect of LK's operational losses in whole or in part at any time during the Term of this Agreement or any renewal thereof regardless of any circumstances whatsoever.

7.2 Taxes and Licenses

LK shall pay all applicable taxes which are LK's responsibility arising directly or indirectly out of its sale of Advertising, Naming / Re-Naming Rights or Sponsorship services it provides under this Agreement.

7.3 Payment

LK shall provide the City, on a quarterly basis, with a sales statement which shall include the following details:

- i) Date;
- ii) Facility name or property address;
- iv) Statement period;
- v) Type of transaction (Advertising, Naming / Re-Naming Rights or Sponsorship)
- vi) Total gross sales and net Sales per location; and
- vii) Total gross sales and net Sales for the quarter.

The quarterly sales statements and quarterly payment of the Guarantee must be sent to the City within one (1) week following the end of each quarter.

Example

1st quarter— June 1 to August 31

2nd quarter — September 1 to November 30

3rd quarter — December 1 to February 28 or 29

4th quarter — March 1 to May 31

Quarterly sales statement shall be sent to:
Manager of Business Solutions and Customer Service
Market Tower
151 Dundas Street
P.O. Box 5045
London, ON N6A 4L6

A cheque payable to the City equal to no less than one quarter of the annual Guarantee shall accompany the sales statement each quarter. Within thirty (30) days following the end of each year during the Term or renewal thereof, LK shall deliver to the City a statement showing the Guarantee and calculation of any additional amounts payable. Statements shall be verified by an independent licensed accountant within ninety (90) days following end of each year during the Term or renewal thereof and up to six (6) years following termination of this Agreement verifying the initial statements and any adjustments required. LK agrees to provide the City or its auditor reasonable access to LK's financial books relating to the Advertising, Naming / Re-Naming Rights and Sponsorship services hereunder in order to allow the City to verify the monies to be paid to the City under this Agreement.

Non-residents of Canada are subject to a withholding tax of 15% as per paragraph 153(1) (g) of the *Canadian Income Tax Act* and Section 105(1) of the *Income Tax Regulations*. As required by law, the City will withhold 15% on all amounts payable to a non-resident vendor for services rendered in Canada. A Canada Revenue Agency approved waiver/reduction form must be submitted prior to payment processing in order to exempt/reduce the vendors required withholding tax amount. The withholding tax does not apply to GST or HST charged as well as any reimbursable costs (e.g. airfare, meals) provided they are itemized on the invoice.

The City's withholding of tax under this section does not relieve the non-resident vendor of its obligation to withhold tax on payments to non-resident subcontractors nor does it necessarily relieve the vendor of its total Canadian tax liability.

7.4 Access to Facilities

LK will be provided with access to City recreational facilities during regular operating hours only or when City staff is otherwise present in such facility, or through special arrangements made with City staff.

7.5 Loss or Damage

LK shall to be responsible to maintain controls over the storage and safekeeping of property belonging to LK or its customers, employees or third party vendors. The City shall not be liable for any loss or damage to LK's property or the property of LK's customers, employees or third party vendors for any reason unless such loss is caused by the negligence or willful misconduct of the City.

7.6 Occupational Health and Safety

- a) LK shall abide by and enforce the requirement of the current *Ontario Occupational Health and Safety Act*, Regulations for Industrial Establishments, the Workplace Hazardous Materials Information System (W.H.M.I.S.) and other relevant regulations made under the *Ontario Occupational Health and Safety Act*.
- b) LK shall be considered the "Employer" as defined by the *Ontario Occupational Health and Safety Act*. LK will appoint an appropriate number of supervisors to provide supervision to its employees. These supervisors appointed by LK will be considered supervisors and must be "Competent Persons" as defined by the *Ontario Occupational Health and Safety Act*.

- c) LK shall during the Term of this Agreement and any renewal thereof establish and maintain a health and safety policy and program relating to its contracted business. The policy and program shall include, but not limited to, the following items:
 - (i) roles and responsibilities of the employer, supervisors and workers;
 - (ii) procedures on the safe operation and maintenance of equipment, tools, machinery, etc.;
 - (iii) emergency and evacuation procedures;
 - (iv) procedures for the reporting and investigation of health and safety concerns and injuries;
 - (v) compliance with MSDS, labeling and training requirements of the Workplace Hazardous Materials Information system; and
 - (vi) employee training on workplace hazards, safe work procedures, first aid, emergency procedures, etc.

- d) In the event of a fire, death, critical injury, disabling injury, occupational illness or other circumstance described in the *Occupational Health and Safety Act* while carrying out the terms of this Agreement, LK shall notify the Ministry of Labour and any other groups or individuals as required as well as the City's representative.
NOTE: the City's representative should not be a Financial Clerk but should be someone in a supervisory position.

- e) The City shall require LK adhere to the City's health and safety policies, procedures, practices, guidelines, etc. as established from time to time. As a result the City agrees that these requirements will be communicated by the City's representative as necessary. Any cost incurred for this purpose will be borne by LK.

- f) LK will take every precaution reasonable in the circumstances for the protection of their employees.

7.7 Other Mandatory Contractual Provisions

- a) LK and its personnel shall observe all regulations of the City.
- b) LK shall not permit any liens or encumbrances to be placed against any property owned by the City as a result of its failure to make all payments or perform any obligations required under this Agreement, and will take all necessary steps at LK's expense to remove such liens or encumbrances.
- c) No changes, renovations or capital improvements shall be made by LK to any equipment or structure of a facility without the express written permission of the City.
- d) All signage, recognition, and marketing material will be of consistent font, style, and size as mutually agreed between the City and LK, acting reasonably.

7.8 Publicity and Confidentiality

LK acknowledges and agrees that in providing the services under this Agreement it may acquire proprietary, confidential, personal and/or private knowledge and information of the City's operations and labour relations, its customers, contractors, employees and related third parties and other confidential documents and information. As a result of the foregoing, the City and LK agree as follows:

- a) the City and LK shall at all times comply with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA") with respect to the use, collection and maintenance of information, documents and records, communicated to and acquired, collected and created by it under this Agreement which in all cases shall be treated in accordance with MFIPPA;

- b) LK shall provide access to all confidential information, documents and records provided to it by the City, only to those officers, employees, agents, representatives or advisors who are providing the Services to the City and only to the extent such officers, employees, agents, representatives or advisors need to have access to such information, documents and records to provide the services;
- c) The City and LK shall treat all information, documents and records communicated to and acquired, collected and created by it in the course of providing the services as confidential and shall not release or disclose the same to any person at any time during or following the Term of this Agreement or renewal thereof without the express prior written consent of the other, except as may be required by law and subject to MFIPPA and the *Municipal Act 2001*;
- d) LK shall not use, in its own internal advertising, marketing programs, or other promotional efforts, any data, pictures, or other representation of the City without the prior written authorization of the City's Communication Division. LK shall not install signs or other displays within or outside the City's facilities in areas not contemplated in this Agreement unless in each instance the prior written approval of the City has been obtained, which approval may be arbitrarily withheld. However, nothing in this clause will preclude LK from listing the City on its routine client list for matters of reference;
- e) No information, documents and records communicated to and acquired, collected and created by LK in the course of providing the services shall be used by LK on any other project nor shall LK publish or issue any information regarding its services under this Agreement without the prior written consent of the City;
- f) LK shall ensure that all necessary steps are taken to protect all confidential information, documents and records by making all necessary security arrangements against any and all risk including without limitation to unauthorized access, use, disclosure, publication or dissemination or destruction and to ensure that the said information, documents and records do not fall into the possession of unauthorized persons, in accordance with *MFIPPA*; and
- g) In the event LK or the City or both are required by law to make any disclosure that is prohibited or otherwise restrained by this Agreement, the party required to make disclosure will provide the other with prompt written notice of such requirement prior to disclosure unless prohibited by law from doing so, so that the party required to make disclosure may seek a protective order or other appropriate relief.

7.9 Limitations

LK will not be permitted to utilize the City's facilities for any purpose other than those outlined in this Agreement.

7.10 Disclaimer

The City does not guarantee the future operation of any facility covered by this Agreement. The City reserves the right to close any facility for maintenance, capital improvements, or to alter the use and purpose of the facility or to de-commission the facility altogether. The City agrees to provide one (1) year written notification of any such potential activity.

7.11 Police Records Check and Vulnerable Position Screening

It shall be the responsibility of LK to obtain a Police Records and Vulnerable Position Screening clearance for all employees who will be providing on-site services and ensure that they are kept current throughout the Term of this Agreement and any renewal thereof. LK shall make these documents available for review by the City upon written request. The City may conduct random reviews (the City will provide LK with advance written notice) at LK's office to ensure that there is documentation showing compliance hereunder. Failure to provide the documentation when requested could result in termination of this Agreement by the City.

7.12 Assignment

LK shall not, without written consent of the Manager of Purchasing and Supply or his/her Designate, make any assignment or any subcontract for the execution of any of the services to be delivered hereunder. The consent of the Manager of Purchasing and Supply or his/her designate may be arbitrarily withheld.

7.13 Compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and City Policies

LK shall ensure that all its employees, agents, representatives, or others for whom LK is legally responsible receive training regarding the provision of the goods and services contemplated herein to persons with disabilities in accordance with Section 6 of Ontario Regulation 429/07 (the "Regulation") made under the *Accessibility for Ontarians with Disabilities Act, 2005*, as amended (the "Act"). LK shall ensure that such training includes, without limitation, a review of the purposes of the Act and the requirements of the Regulation, as well as instruction regarding all matters set out in Section 6 of the Regulation. LK shall submit to the City, as required from time to time, documentation describing its customer service training policies, practices and procedures, and a summary of its training program, together with a record of the dates on which training was provided and a list of the employees, agents volunteers or others who received such training. The City reserves the right to require LK to amend its training policies to meet the requirements of the Act and the Regulation.

LK shall ensure that in providing the services under this Agreement, all its officers, employees, agents, representatives or others for whom it is responsible conduct themselves at all times in a professional manner and in accordance with the City's workplace policies, including without limitation its *Workplace Harassment and Discrimination Prevention Policy, Code of Conduct for Employees, Workplace Violence Prevention Policy and Use of Technology Policy*. LK acknowledges that it has been provided with copies of these policies.

7.14 Insurance and Indemnification

LK shall at its own expense obtain and maintain during the Term of this Agreement and any renewal thereof, and provide the City with evidence of:

- a) Comprehensive general liability insurance on a per occurrence basis for an amount not less than Two Million (\$2,000,000.) dollars and shall include the City as an additional insured with respect to the LK operations, and obligations of LK under this Agreement, such policy to include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and proponent's protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses;
- b) Automobile liability insurance for an amount not less than Two Million (\$2,000,000.) dollars on forms meeting statutory requirements covering all vehicles used in any manner in connection with the performance of the terms of this Agreement.
- c) The policies shown above will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the effective date of cancellation or expiry. The City reserves the right to request such higher limits of insurance or other types policies appropriate to the work as the City may reasonably require.
- d) LK shall not commence its services under this Agreement until such time as evidence of insurance has been filed with and approved by Risk Management for the City. LK shall further provide that evidence of the continuance of said insurance is filed at each policy renewal date for the duration of the Agreement.
- e) LK shall indemnify and hold the City harmless from and against any liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by any acts or omissions either in negligence or in nuisance whether willful or otherwise by the proponent, it's agents, officers, employees or other persons for whom LK is legally responsible, except that LK shall not be responsible for any liability, loss, claims, demands, costs, and expenses including reasonable legal fees caused by the negligence

or willful misconduct of the City.

- f) LK further covenants and agrees to save harmless and indemnify the City from and against any and all claims, assessments, charges, taxes, or other penalties or demands which may be made by the Canada Revenue Agency, the Minister of National Revenue or other official of the Government of Canada, requiring the City to pay income tax, charges or penalties under the *Income Tax Act (Canada)* in respect of any claims, demands and amounts payable in accordance with this Agreement which may be made by, on behalf of, or related to Services Canada Skills Development and Human Resources Development Canada or by any other government agency under any applicable statute and regulation with respect to any amounts which may in the future be found to be payable by the City on LK's behalf.

7.15 Workplace Safety and Insurance Board

- a) LK shall furnish a WSIB Clearance Certificate indicating their WSIB firm account number and that their account is in good standing. This form must be furnished prior to commencement of this Agreement. LK further agrees to maintain that good standing throughout the Term of this Agreement and any renewal thereof.
- b) LK will be required to produce a Clearance Certificate from WSIB from time to time during the term of this Agreement and any renewal thereof upon the written request of the City.

7.16 Ownership of Materials, Reports, Designs, Specifications & Training Materials

Any work completed at the City's expense, on-site or remotely during the course of the Agreement, including training materials, reports, designs, custom applications, specifications or otherwise shall become the exclusive property of the City.

7.17 Changes in Law

The parties acknowledge that performance of the obligations required hereunder may be affected by changes in applicable laws of the Province of Ontario. In the event of a change in applicable legislation that results in a material impact on the performance of any act required by this Agreement, the parties agree to renegotiate the provisions of this Agreement to achieve mutually acceptable terms for the performance of the services required hereunder. If the parties are unable to agree on the revised terms and conditions either Party may submit the dispute to arbitration in accordance with the provisions of the *Arbitration Act S.O. 1991, C. 17*.

7.18 Environmental Considerations

In order to contribute to waste reduction and to increase the development and awareness of environmentally sound purchasing, acquisitions of goods and services, LK will ensure that, wherever possible, specifications are amended to provide for expanded use of durable products, reusable products and products (including those used in services) that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are made available at competitive prices.

8.0 Compliance with the Law

LK agrees that it shall comply with all federal and provincial laws and regulations, all municipal by-laws and any other orders, rules and regulations and shall obtain all required licenses and permits as may be applicable in providing the services under this Agreement.

8.1 Notice

Any notice or communication required or permitted to be given under the Agreement shall be in writing and served personally, delivered by courier or sent by registered mail, addressed to the other party. If by registered mail, any such notice shall be deemed to have been received on the third (3rd) business day after mailing, and if by hand delivery or via courier, on the date of delivery:

To the City: The Corporation of the City of London
Attention: Manager of Business Solutions and Customer Service
151 Dundas Street
London, ON N6A 4L6

To LK: 1403544 Ontario Ltd. o/a LK Promotions and Advertising and Global Spectrum
Facility Management LP
99 Dundas Street
London, ON N6A 6K1
Attention: Geoff Hare

8.2 Catastrophe

Neither LK nor the City shall be liable for failure to perform its respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God, civil disorder or disturbances, strikes, lock out, vandalism, war, riot, sabotage, weather and energy related closings, governmental rules and regulations or like causes beyond the reasonable control of such party, or for real or personal property destroyed or damaged due to such causes.

8.3 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent or for any reason be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.4 Independent Contractors

Nothing in this Agreement shall be interpreted as creating an employer/employee relationship between the City (as employer) and LK or any of its employees or agents. LK acknowledges that it is being retained to deliver the services described herein and is responsible for the performance of its employees and agents.

8.5 Amendments or Renewal

Any amendment or renewal of this Agreement shall be in writing and authorized by the City by by-law in accordance with the City's Policy as amended from time to time. The City may enter into supplementary agreements authorized by delegated officers or employees in accordance with the City's Policy in accordance with section 1 of this Agreement.

8.6 Enurement

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.7 Governing Law

This Agreement shall be governed by and interpreted in accordance with Ontario law.

8.8. Waiver

Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. No exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.

8.9 Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to this Agreement.


IN WITNESS WHEREOF, the parties hereto have entered into the Agreement as of the date first signed or the first day of the Term, whichever is sooner.

**THE CORPORATION OF THE CITY
OF LONDON**

By: _____
Matt Brown, Mayor

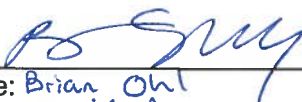
By: _____
Catharine Saunders, City Clerk

**1403544 ONTARIO LTD. o/a
LK PROMOTIONS AND ADVERTISING**

By:  _____
Name: Dale Hunter
Title: President

By: _____
Name:
Title:
I/We have authority to bind the Corporation

**GLOBAL SPECTRUM FACILITY
MANAGEMENT LP, by its general partner
GLOBAL SPECTRUM FACILITY INC.**

By:  _____
Name: Brian Oht
Title: GM / VP

By: _____
Name:
Title:
I/We have authority to bind the Corporation