

## DISTRICT OF 100 MILE HOUSE

### MEMO

**Date:** [REDACTED]  
**To:** [REDACTED]  
**From:** Administration  
**Subject:** 100 Mile House & District Soccer Assoc. Lease

The 100 Mile House & District Soccer Assoc. lease for use of the soccer complex at the north end of town.

Changes to the agreement included:

- Annual lease fee was capped at \$10,000
- Added clause to include requirement to ensure Association registrants living outside the SC Recreation Function area had obtained a Recreation Pass.

#### Recommendation:

**BE IT RESOLVED THAT the District of 100 Mile House Council approve the lease renewal between District of 100 Mile House and the 100 Mile House & District Soccer Association at the stipulated annual fee of \$10,000.**

  
Roy Scott, CAO



District of 100 Mile House

Contract #215 / File No. 2320

Term: \_\_\_\_\_

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_\_, 2019 (the "**Effective Date**").

BETWEEN:

**DISTRICT OF 100 MILE HOUSE**, a municipal corporation, having its municipal offices at 385 South Birch Avenue, District of 100 Mile House, Province of British Columbia, VOK 2E0

(hereinafter called the "**District**")

OF THE FIRST PART

AND:

**100 MILE HOUSE AND DISTRICT SOCCER ASSOCIATION**, a Society incorporated pursuant to the laws of the Province of British Columbia, having its registered and records office at 600 North Birch Avenue, 100 Mile House, in the Province of British Columbia, VOK 2E0

(hereinafter called the "**Association**")

OF THE SECOND PART

WHEREAS:

- A. The District is the owner of certain property legally known and described as: PID:013-365-690 – The Part of District Lot 417 Shown in Red on Plan B9051, Lillooet District (the "Lands");
- B. The District and the Association entered into a public-private partnership for the purposes of designing, developing and building community soccer facilities; and
- C. The District has agreed to issue to the Association a permit to use the Premises for the purposes of administering training, practicing and playing soccer games, under the terms and conditions set out herein,

**NOW THEREFORE** in consideration of the mutual covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

# **1. PERMIT**

- 1.1 **Termination of Lease.** By a lease agreement, the District leased the Lands to the Association for a term five (5) years, expiring on December 31, 2023 (the "**Lease**"). The parties hereby agree that the Lease is terminated as of this Agreement's Effective Date.
- 1.2 **Permit to Use.** The District hereby grants to the Association a non-exclusive Permit to use the existing soccer fields situate on the Lands, (collectively, the "**Premises**") for the purposes of playing soccer games (the "**Permit**").
- 1.3 **Permit Term.** The permit shall be valid for a term of Five (5) years, commencing on the Effective Date and expiring on December 31, 2023 (the "**Permit Term**").
- 1.4 **Renewal.** In the event the Association fulfils the terms and conditions of this Agreement so as to be in good standing with the District, the Association shall have one-(1) option to renew the Permit for Five (5) years, upon providing the District with written notice at least Sixty (60) days prior to the end of the Permit Term or renewal term, as the case may be. The same terms and conditions of this Permit shall apply during the renewal term, and new Permit Fees payable by the Association to the District hereunder shall be established by agreement or, failing agreement, shall be established by a single arbitrator pursuant to the *Commercial Arbitration Act* (British Columbia), but in no event will such Permit Fees be less than the amounts set out herein. Both parties will bear the cost of the arbitration equally and each party will be responsible for all of the costs of its own professional consultants.
- 1.5 **Scheduling Use.** The Association acknowledges and agrees that:
  - a) for the purposes of the Agreement, "Season" means the period of April 1<sup>st</sup> to September 30<sup>th</sup> of any year during the Permit Term hereof;
  - b) on or before the 1<sup>st</sup> day of February during the Permit Term hereof, the Association will provide to the District a tentative schedule of its intended use of the Premises for the upcoming Season;
  - c) the Parties acknowledge and agree that, in light of the Association's contribution to the design, development and building of the Project, and in the spirit of this Public Private Partnership, the Association's access to and use of the Premises will have priority over other community user groups;
  - c) the Association will be responsible for scheduling the use of the Premises by other community user groups, subject always to the District's right to intervene in the even such user groups are not provided with adequate or reasonable access to or use of the Premises.



1.6 **Restrictions on Use.** Neither the District nor the Association shall use, nor suffer, nor permit, nor allow the Premises or any portion thereof to be used for any purpose which:

- b) could reasonably be expected to damage or mar the Premises; or
- b) might render the soccer fields located upon the Premises unfit for use as soccer fields.

1.7 **Permit Fee.** The Association shall pay to the District a Permit Fee of \$10,000 per annum payable in advance of the 1<sup>st</sup> day of June in each year of the Permit Term.

1.8 **Care of the Premises.** The Association agrees that during the Permit Term it shall at its own expense:

- a) maintain and keep the Premises in good and tidy condition;
- b) not permit any refuse, waste, garbage or other unsightly or objectionable material (as the District shall determine in its sole discretion), to accumulate on or about the Premises, and will remove, not less than One (1) month after being requested to do so by the District, refuse, waste, garbage or other unsightly or objectionable material, as the District shall require in its sole discretion;
- c) not do or permit to be done anything in or upon any portion of the Premises, nor bring to or keep anything thereon, which will in any way conflict with the conditions of any insurance policy upon the Premises, or in any way increase the insurance premiums pertaining to the Premises;
- d) promptly comply with all laws, by-law, regulations, requirements and orders of all local, provincial and federal governmental authorities, insurers and public utilities, with regard to the use, occupancy and operation of the Premises; and
- e) not carry on any activity that constitutes a nuisance, as determined by the District in its sole discretion.

1.9 **Maintenance.** Subject to section 1.8 herein, the District shall be responsible for maintaining the Premises.

## 2 **INSURANCE, WAIVER, RELEASE AND INDEMNITY**

2.1 **Waiver and Release.** The Association hereby releases and waives all claims against the District, its employees, agents, representatives, insurers and assigns (collectively, the "**Released Parties**") and releases the Released Parties from any and all liability and claims for all injury, death, loss, damage and expense of any kind that the Association or any other person may suffer as a result of or in connection with the Association's use of the Premises, due to any cause whatsoever, including but not limited to negligence, breach of contract, breach of any statutory duty or duty of care on the part of any of the Released Parties and also including the failure on the part of any of the Released Parties to safeguard or protect

any person from the risks, dangers and hazards associated with use of the Premises. This waiver and release of liability provision shall survive expiry or sooner termination of the Permit.

- 2.2 **Indemnity.** The Association hereby agrees to unconditionally indemnify and save harmless the Released Parties from and against, all claims, suits, actions, liabilities, losses, damages, expenses, fees, awards and costs of every kind whatsoever, which arise as a consequence of or in connection with any acts or omissions of the Association or any of the Association's licensees, invitees, agents, employees, members or volunteers, including, without limitation, any and all:

- a) damage to the Premises, or to any property while said property is in or about the Premises; and
- b) loss or injury suffered by the Association or any of the Association's licensees, invitees, agents, employees, members or volunteers, including death, occurring in or about the Premises,

and this indemnity provision shall survive expiry or sooner termination of the Permit.

- 2.3 **Insurance.** At all times during the Permit Term, the Association shall at no expense to the District maintain to the District's satisfaction commercial general liability insurance against any and all third party claims for bodily injury, death, or property damage whatsoever. Such insurance shall name the District as an ADDITIONAL INSURED but not as an ADDITIONAL NAMED INSURED and shall cover for not less than Three Million Dollars (\$3,000,000).

- 2.4 **Certificate of Insurance.** Upon signing this Agreement, the Association shall promptly forward a Certificate of Insurance including insuring agreements acceptable to the District. The District will supply a form of insurance certificate to be completed by the Association's insurer containing minimum insurance coverage required by the District. During the Permit Term, the District may obtain directly from the Association's insurer copies of all such Certificates of Insurance and all such insuring agreements required under this Agreement.

- 2.5 **Expiry.** Should the insurance policies under which the insurance certificate is drawn expire during the Permit Term or any extension or renewal thereof, the Association shall forward a renewal insurance certificate to the District thirty (30) days prior to the expiry of said insurance policies on a form satisfactory to the District.

- 2.6 **Insurance Carrier.** All required policies of insurance must be issued by insurers duly authorized by law to do business in the Province of British Columbia and shall include a provision that coverage shall not be cancelled or any material changes made unless thirty (30) days written notice has been given to the District.

- 2.7 **Termination.** Should the Association fail to supply the Certificate of Insurance required by this Agreement, then the Permit may be terminated by the District.

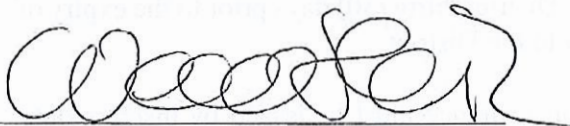


### 3 GENERAL

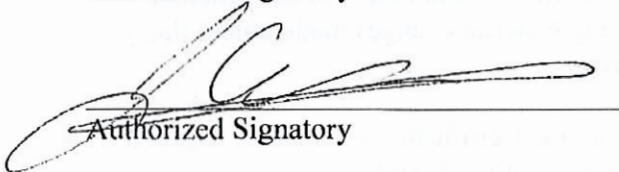
- 3.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto and there are no representatives, warranties covenants or terms except as contained herein. No amendments shall be made to this Agreement unless it is made in writing, executed by both parties.
- 3.2 **Waiver.** No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, will be deemed to be or construed as further or continuing waiver of any such term, provision or condition.
- 3.3 **Association's Employees.** The Association acknowledges that its officers, directors, members, employees, volunteers, agents and workmen will not be deemed to be agents, servants or employees of the District, and the Association acknowledges that neither the District nor anyone on its behalf has made any warranty or representation as to the state of repair, or to the fitness for the Association's purposes of the lands and premises which are the subject of this Agreement.
- 3.4 **Participants.** Operation and maintenance of the soccer fields are funded through the sub-regional recreation function of the Cariboo Regional District in partnership with the District of 100 Mile House. As such, all registered participants using the fields must hold a valid Recreation Pass as required by Cariboo Regional District Fees and Charges Bylaw No. 5602 and subsequent amendments thereto. Recreation passes are not required for drop in use or tournaments.
- 3.5 **Assignment.** The Association will not be entitled to assign this Agreement or any right, privilege or obligation hereunder, without the prior written consent of the District.
- 3.6 **Further Steps.** The parties agree to do and to execute all such further acts and assurances as may be necessary to give more and full effect to the intent of this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals by their proper duly authorized therefore on the day and year first above written.

**DISTRICT OF 100 MILE HOUSE**, by its  
authorized signatory(ies):



Authorized Signatory



Authorized Signatory

**100 MILE HOUSE AND DISTRICT  
SOCCER ASSOCIATION**, by its  
authorized signatory(ies):

Authorized Signatory

Authorized Signatory