

**AMONGST:**

**THE CITY OF CALGARY,**

- and -

**THE CALGARY BOARD OF EDUCATION,**

(collectively the “Licensor”)

- and -

**XX COMMUNITY ASSOCIATION,**

(the “Association”)

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**LICENSE OF OCCUPATION  
FOR XX COMMUNITY ASSOCIATION,**

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**THIS LICENSE OF OCCUPATION** dated for reference the 27<sup>th</sup> day of February, 2012.

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**THE CITY OF CALGARY,**

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<b>BACKGROUND</b>
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- 1.1 The Association was formed by volunteers in the Community to promote the recreational, cultural and social activities of its members. This is recognized in the Association’s articles and bylaws filed under the requirements of the *Societies Act*, R.S.A. 2000, Chapter S-14, as amended or replaced from time to time.

- 1.2 The Licensor owns the Lands within the Community that the Association represents. The Association wishes to use the Lands. The Licensor has agreed to allow the Association to use the Lands according to the provisions of this License.
- 1.3 The Lands have restrictions placed upon their use by Section 671(2) of the *Municipal Government Act* R.S.A. 2000, Chapter M-26 as amended or replaced from time to time. The Lands are administered jointly and cooperatively for the benefit of the citizens of Calgary by the JUCC. The CBE and Council, with the approval of the JUCC, has agreed to allow this License.
- 1.4 Council approved a policy for granting licenses of occupation to community associations and social recreation groups by resolution made on February 27, 2012. That policy is reflected in the provisions of this License.

**THIS LICENSE WITNESSES THAT**, in consideration of the covenants, conditions and stipulations herein contained, **THE PARTIES HERETO AGREE AS FOLLOWS:**

## DEFINITIONS

- 2.1 In this License, including the Background:

**"Association"** means the **XX Community Association**,  
an association under the laws of Alberta representing the Community;

**"Business Plan"** means a guiding document for the Association which, at a minimum, must satisfy the following criteria:

- a) outlines the Association's priorities for service delivery and an associated budget for the following year;
- b) be responsive to the Community's needs and reflective of the Association's financial capabilities; and
- c) meets the mandate of the Association as outlined in its bylaws;

**"CBE"** means The Calgary Board of Education

**"City"** means The City of Calgary, a municipal corporation under the laws of the Province of Alberta;

**“City Liaison”** means the City’s official designated from time to time by the General Manager as the primary contact for the Association on behalf of Community Services, The City of Calgary;

**"Community"** means the **Name of Group (i.e. Lake Bonavista)** community with boundaries that have been defined and recognized by the City;

**“Commencement Date”** has the meaning ascribed to it in Section 4.1;

**"Council"** means the elected Mayor and Councillors of the City;

**"Facility"** means any buildings which may be situated on the Lands;

**“General Manager”** means the City’s official with the title General Manager of Community Services, appointed from time to time, and any individual designated to carry out his/her duties in connection with this License;

**“Government Authority”** means any federal, provincial, municipal or other governmental body, agency, tribunal or authority;

**"Improvements"** means any repairs, replacements or alterations on or in the Lands or Facility and includes any amenities, landscaping, permanent equipment, fixtures, or anything that affects the structure or operation of the mechanical systems of any of the same;

**"JUCC"** means the Joint Use Coordinating Committee which is made up of the City of Calgary, the CBE, and the Calgary Separate School Board;

**"Lands"** means those lands legally described in Schedule “A” and includes all Improvements which may be situated on the lands;

**"License"** means this non-exclusive license of occupation together with the following attached schedules:

- (i) Schedule "A" – Lands;
- (ii) Schedule "B" - Map of the Lands; and
- (iii) Schedule “C” - Dispute Resolution Process.

**“Licensor”** means collectively, the City and the CBE;

**"License Fee"** means the non-refundable amount payable for the use and occupation of the Lands as outlined in Section 7.1;

**“Lifecycle Study”** means a report prepared by a third-party qualified consultant, that is conducted to establish the Facility’s condition, estimated cost and timing of the replacement and repair of the Facility over a 25-year span, and includes a condition assessment and lifecycle plan;

**"Public Use Policy"** means the policy approved by Council on September 2, 1986 as may be replaced, revised or amended from time to time;

**"Relocation Lands"** has the meaning ascribed to it in Section 6.1;

**"Superintendent, Facilities and Environmental Services"** means the CBE's official with the title Superintendent, Facilities and Environmental Services, appointed from time to time, and any individual designated to carry out his/her duties in connection with this License;

**"Term"** means the period of time for this License outlined in Section 4.1;

**"Utilities"** means the provision of electricity, gas, water, sewer, telecommunication, cable and any other rates or services assessed in connection with the use and occupancy of the Lands and Facility.

## GRANTING OF LICENSE OF OCCUPATION

- 3.1 The Licenser gives the Association the non-exclusive right to use and occupy the Lands and Facility subject to the provisions outlined in this License. The Association acknowledges that the Licenser has not and cannot confer on, or vest in the Association any title, interest or estate in the Lands and Facility.

## TERM

- 4.1 The Term of this License will be **TERM WORD (Term No.)** YEARS, beginning on **Start Month** 01, 20**Start Year** (the "Commencement Date") and ending on **End Month End Day**, 20**End Year** unless earlier terminated by the provisions of this License.

## APPLICATION FOR A NEW LICENSE AT END OF TERM

- 5.1 Upon the expiration of the Term, the Licenser acknowledges that the Association may apply for a new license of occupation for the Lands and Facility. The Licenser may not unreasonably withhold its approval for such application provided that:

- a) the City does not require the Lands or Facility or any portion thereof for municipal or educational purposes (which determination shall be made in the sole and unfettered discretion of the City);
- b) the CBE does not require the Lands or Facility or any portion thereof for school purposes (which determination shall be made in the sole and unfettered discretion of the CBE);
- c) the Association has duly and regularly performed each and every of the provisions contained in this License and the Association is not in default of any provision of this License at the time the License has expired;
- d) the Association agrees to abide by the then current governing policies of the Licensor regarding community associations, as such policies as may be replaced, revised or amended from time to time;
- e) the Association has provided the Licensor with an up-to-date Business Plan and Lifecycle Study to the reasonable satisfaction of the Licensor; and
- f) the Association is, in the opinion of the General Manager acting reasonably, financially able to continue maintaining and operating the Lands and Facility.

5.2 For further clarity, the Association acknowledges that Section 5.1 does not grant the Association a right to renew the current License, but provides the Association the right to apply for a new license respecting the Lands and Facility subject to the terms of Section 5.1.

## RELOCATION

- 6.1 The Licensor agrees with the Association that if prior to the expiry of the Term the City requires the Lands or any portion thereof for municipal or educational purposes (which determination shall be made in the sole and unfettered discretion of the City), the City shall request Council approval to relocate the Association or terminate the License in accordance with Section 6.2 herein. The Licensor acknowledges that no such relocation or termination shall commence without the City first obtaining the Council approval contemplated in this Section 6.1.
- 6.2 Upon Council granting the approval contemplated in Section 6.1 of this License, the Association agrees that the City shall, upon not less than TWELVE (12) MONTHS written notice, relocate the Association or alternatively terminate this License subject to the remainder of this Section 6.2. If the Association is provided

the notice to relocate referred to herein, the City shall use reasonable efforts to find alternative lands with facilities (if applicable) which would be suitable for the Association's demonstrated community needs (the "Relocation Lands"). For further clarity, "reasonable efforts" means a review by the City of its then current land inventory to determine whether any Relocation Lands could be made available for the Association, failing which the City shall review other reasonable options in order to find Relocation Lands for the Association. In the event that no Relocation Lands can be found within NINE (9) MONTHS from the Association being provided the notice to relocate referred to herein, or if the Association rejects the City's proposed Relocation Lands, this License shall terminate upon THREE (3) MONTHS written notice to the Association. In the event that Relocation Lands can be found and the Association accepts the same, the Relocation Lands to which the Association is relocated shall thereupon be substituted for the Lands for all purposes of this License and the Licensors and the Association shall enter into a license amending agreement in the City's standard form to confirm the terms of the relocation and to confirm that all other terms and conditions of this License shall apply with respect to the Relocation Lands for the remainder of the Term.

#### **LICENSE FEE**

- 7.1 The Association agrees to pay to the Licensors a non-refundable License Fee for the use and occupation of the Lands and Facility. The License Fee shall be TEN (\$10.00) DOLLARS per year of the Term, to be paid in advance of the Commencement Date.

#### **NET LICENSE**

- 8.1 The Association and the Licensors agree that this License is a net license. This means the Association agrees to pay, in addition to the License Fee, all expenses incurred on the Lands and Facility including any insurance or maintenance charges including the payment of all charges for Utilities, and all taxes which may from time to time be levied against the Lands and Facility or from the Association's use and occupancy of the Lands and Facility.
- 8.2 a) The Licensors grants the Association the right:

- (i) of appealing property tax assessments; or
- (ii) of applying for an exemption from any property and/or business taxes;

with respect to the Lands and Facility.

b) The Association agrees:

- (i) to give the Licensors notice of these proceedings; and
- (ii) to prosecute them without delay.

8.3 If the Licensors receives any assessment notices for the Lands or Facility it agrees to immediately provide a copy of that assessment notice to the Association.

### **USE OF THE LANDS**

9.1 The Association agrees to use and occupy the Lands and Facility for the following purposes only:

- a) a public park;
- b) a public recreation area;
- c) a school operated by either the Calgary Separate School Board or the CBE; and
- d) any social, recreational, athletic or community activities which:
  - (i) support the uses set forth in Sections 9.1(a), 9.1(b), and 9.1(c) above;
  - (ii) are consistent with the registered articles and bylaws of the Association; and
  - (iii) strictly comply with the current policies of the Licensors as may be replaced, revised or amended from time to time.

9.2 The Association agrees to strictly comply with the Public Use Policy.

9.3 The Association accepts the Lands and Facility in their current condition. The Association agrees that the Licensors has not made any representation, warranty or undertaking about the condition or quality of the Lands and Facility, their suitability or fitness for Association purposes, or their safety.



- 9.4 The Association agrees to comply with all laws, bylaws, statutes, rules, orders and regulations of any Government Authority in force from time to time throughout the continuance of this License with respect to the Lands and Facility and the use and occupancy thereof.
- 9.5 The Association must comply with The City of Calgary *Land Use Bylaw 1P2007*, as may be replaced, revised or amended from time to time, with respect to its use of the Lands and Facility.
- 9.6 Bearing in mind the nature of the activities ordinarily and usually carried out on the Lands and Facility, the Association agrees not to bring in or on the Lands:
- a) any harmful, noisy or offensive act, trade, business or occupation;
  - b) any action or object that may be a fire hazard;
  - c) anything that is or may become a nuisance, damage or disturbance to the:
    - (i) City;
    - (ii) CBE;
    - (iii) general public; or
    - (iv) occupants or owners of adjoining lands or properties.
- 9.7 The Association agrees not to store or bring on to the Lands and Facility any articles of a dangerous or environmentally hazardous nature which alone or in combination are defined, listed, prohibited, controlled or otherwise regulated by any Government Authority, unless they are specifically required for the maintenance and operation of the Lands and Facility and are pre-approved by the Licensors.
- 9.8 The Association must not permit any waste or damage to the Lands and Facility.
- 9.9 The Association agrees not to participate or knowingly permit any person to participate in an activity on the Lands and Facility:
- a) for any illegal purpose; or
  - b) in any manner which would cause the cancellation of any insurance or the refusal of any insurer to give the insurance required under this License.

- 9.10 a) The Association agrees, within FOURTEEN (14) DAYS of receiving notice from the City to submit a copy to the City of:
- (i) its current rates and fees charged for the use of the Lands and Facility; and
  - (ii) its current schedule of the use of the Lands and Facility.
- b) The Association agrees to make reasonable changes to the rates and fees charged for the use of the Lands and Facility, if requested by the General Manager upon consultation with the respective Ward Councillor.
- 9.11 The Association agrees not to give another person an interest in any form in this License or authorize anyone else to do so, without the prior written consent of the General Manager, which consent may be arbitrarily withheld.
- 9.12 Notwithstanding Section 9.11, if the Association has and is continuing to satisfy the requirements of the Public Use Policy, the Association may sub-license a portion of the Lands and Facility on a temporary basis provided that the Association has obtained the prior written approval of the General Manager. The Association will ensure that any sub-license between the Association and the respective sub-licensee shall strictly comply with the terms and conditions of this License. Any approval by the City to a sub-license request shall not constitute a waiver of the necessity for such approval to any subsequent sub-license request.

#### **ASSOCIATION'S INSTALLATION OF IMPROVEMENTS**

- 10.1 The Association agrees to comply with the provisions of Sections 10.2 to 10.6 prior to and during the construction of any Improvements.
- 10.2 Before beginning any Improvements that cost more than FIFTY THOUSAND (\$50,000.00) DOLLARS in total combined project cost or for any Improvements requiring a development permit, the Association agrees:
- a) to submit for the General Manager's prior written approval, detailed designs, plans, elevation drawings (where applicable), specifications (including materials to be used), and cost estimates that have all been prepared by competent consultants at the Association's cost. The General Manager will not unreasonably withhold his approval provided that the Association has fully complied with this License; and

- b) if required by the General Manager, to apply to the Finance Leader responsible for Community Services or his designate, and receive a Controllers' Certificate. The Controllers' Certificate is a letter from the Finance Leader that states that the Finance Leader is satisfied that the Association is in a financial position to finance capital construction and operation of any proposed Improvements. The General Manager will provide the Association with all the necessary information for obtaining a Controller's Certificate when it has been requested by the Association.

10.3 Before and during the completion of any Improvements, no matter what their cost, the Association agrees to also:

- a) obtain in advance all relevant federal, provincial or municipal licenses, permits or authorizations required for the Improvements;
- b) conduct and complete the Improvements as soon as practicable and in a good and workmanlike manner;
- c) where applicable, complete the Improvements strictly conforming to all designs, plans, elevation drawings, specifications and cost estimates provided to the General Manager;
- d) comply with all provisions of law including federal and provincial enactments, City bylaws and all governmental regulations relating to the construction and completion of the Improvements;
- e) complete the Improvements free and clear of any conditional sale contracts, personal property security agreements or other claims; and
- f) comply with all current and future Government Authority policies or standards related to capital construction or Improvements.

10.4 During the construction and completion of any Improvements, the Association agrees to comply with the provisions of the *Builders' Lien Act*, R.S.A. 2000, Chapter B-7, as amended or replaced from time to time.

10.5 The Association must ensure that no Builders' Liens or any other encumbrances (as defined in the *Land Titles Act*, R.S.A. 2000, Chapter L-4, as amended) will be attached, filed or registered against the Lands. The Association must obtain the discharge of any Builders' Lien or encumbrance within NINETY (90) DAYS after it has come to the notice of the Association. If the Association fails to meet this 90-day deadline the Licensors may undertake to discharge the Builders' Lien or encumbrance at the Association's cost (including legal fees on a solicitor-and-own-client basis). Any expense incurred by the Licensors in doing so must be paid to the Licensors on demand. Should the Association wish to contest the amount or

validity of any lien or encumbrance in good faith they may notify the Licensor of their intention. The Licensor may then waive the 90-day deadline upon reasonable terms and conditions.

- 10.6 If required as part of construction of an Improvement, the Association agrees to pay for:
- a) the cost of any new connections or extensions from the Facility or any Improvements to the adjacent street, required for the provision of any Utilities; and
  - b) the cost of all access roadways from the Lands to the adjacent street.

## **REPAIRS AND MAINTENANCE**

- 11.1 The Association agrees to take proper care of the Lands and Facility as would a careful and prudent owner and keep the Lands and Facility in good working order and good repair at the Association's cost, including:
- a) observe all relevant regulations and directions of the applicable Government Authority, including but not limited to building inspectors, health, fire or other officers and City or provincial agencies or departments;
  - b) maintain the Lands and Facility in a tidy, clean, sanitary and safe condition;
  - c) service and maintain in good working order every part of the Lands and Facility including all fixtures, machinery, equipment, buildings, structures, heating and air conditioning equipment and all utilities;
  - d) ensure all heating and air conditioning equipment, water and sanitation lines and all utility lines are protected from frost and freezing; and
  - e) service and maintain in good working order the sidewalks, curbs, areaways, plazas, parking lots and rights of way which form part of the Lands and keep them accessible including using reasonable efforts to keep them free from rubbish, ice and snow.
- 11.2 Within ONE (1) YEAR of the Commencement Date, the Association agrees to obtain and submit to the City a Lifecycle Study for the Lands and Facility in order to facilitate the repairs and maintenance of the same.

- 11.3 The Association shall re-submit an updated Lifecycle Study every FIVE (5) YEARS throughout the remainder of the Term.
- 11.4 The Association agrees that those employees, officers and agents of the Licensor designated by the General Manager or the Director, Design and Property Development may, at all reasonable times and upon reasonable notice, and with no notice in cases of emergency, enter and examine the condition of the Lands and Facility. The Licensor may then notify the Association of any necessary repairs for which the Association is responsible under Section 11.1. The Association will complete the required repairs after receiving this notice according to the following time periods:
- a) within TEN (10) DAYS if the General Manager or the Director, Design and Property Development identifies the repairs as being required for public safety or building integrity; or
  - b) within THIRTY (30) DAYS or within a reasonable period of time as agreed to between the Association and the General Manager or Director, Design and Property Development in all other situations if the repairs will reasonably require greater than THIRTY (30) DAYS to complete.

If the Association fails to complete the repairs within the specified time, the Licensor may undertake to complete the repairs. The Association agrees that the Licensor, its officers, employees and agents may enter the Lands and Facility to complete the repairs. The cost of any repairs when the Licensor has completed the work is at the Association's cost and is payable upon demand.

- 11.5 In the event of damage or destruction to the Lands and Facility which would render 50% or more of the Lands and Facility unusable for the Association's purposes, both the Association and the Licensor shall have the right to terminate this License upon THIRTY (30) DAYS written notice to the other party.
- 11.6 Subject to the provisions in Sections 10.1 and 13.1, in the event that neither party has terminated the License pursuant to Section 11.5, or in the event of damage or destruction to the Lands and Facility which renders less than 50% of the Lands and Facility unusable for the Association's purposes, the Association agrees to either:

- a) repair or replace any or all parts of the Lands and Facility destroyed with new structure(s) and Improvements in accordance with any agreement which may be made by it with the Licensors; or
- b) at its own cost, repair or replace such damage or destruction if there is no such agreement in place.

## INDEMNITY

12.1 The Association agrees to indemnify, defend and hold harmless the Licensors against any loss or liability arising from and any damages, costs, charges and expenses (including reasonable legal fees on a solicitor-and-own-client basis) incurred in connection with:

- a) the Licensors exercising a right under this License;
- b) any breach, violation or non-performance of any provision of this License which is to be observed and performed by the Association;
- c) a person being injured or a death occurrence or property being damaged directly or indirectly from the Association's use or occupation of the Lands; or
- d) any act, omission, negligence or wilful misconduct by the Association, its officers, agents, employees, customers or invitees or anyone permitted by the Association to be on the Lands.

This obligation shall apply to all matters excepting a bona fide action by the Association against the Licensors, or an action arising from the negligence or wilful misconduct of the Licensors, its officers, agents or employees.

12.2 The Licensors agree to indemnify, defend and hold harmless the Association against any loss or liability arising from and any damages, costs, charges and expenses (including reasonable legal fees on a solicitor-and-own-client basis) incurred in connection with:

- a) the Association exercising a right under this License;
- b) any breach, violation or non-performance of any provision of this License which is to be observed and performed by the Licensors;
- c) a person being injured or a death occurrence or property being damaged directly or indirectly from the Licensors's use of the Lands; or

- d) any act, omission, negligence or wilful misconduct by the Licensors, its officers, agents, employees or customers.

This obligation shall apply to all matters excepting a bona fide action by the Licensors against the Association, or an action arising from the negligence or wilful misconduct of the Association, its officers, agents or employees or others for whom the Association is responsible for at law.

- 12.3 Each indemnity is a continuing obligation, separate and independent from either party's other obligations. It continues after this License is terminated. Neither the Licensors nor the Association has to incur any expense before it can enforce a right of indemnity.

## **INSURANCE**

- 13.1 The Association agrees to maintain insurance policies in a form and substance and with an insurer satisfactory to the Licensors including:

- a) a commercial general liability insurance policy with an inclusive limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence for death, bodily injury and property damage. This policy must:
  - (i) include the Licensors as an additional insured;
  - (ii) contain a cross liability clause;
  - (iii) include broad form contractual liability coverage;
  - (iv) include products and completed operations coverage;
  - (v) contain non-owned automobile liability;
  - (vi) not contain a participant's exclusion clause; and
  - (vii) not contain a host liquor liability exclusion clause;
- b) an "all risks" Property insurance policy insuring the Facility and Improvements on the Lands for their full replacement cost. This policy is also to include the Licensors as an additional named insured;
- c) during the course of construction of any Improvements and until the work is completed and accepted by the Licensors, the Association agrees to:
  - (i) maintain an "all risks" course of construction insurance policy for an amount of not less than the total insurable value of that being constructed and:

- (a) coverage will not be restricted to the job site but will cover property in transit except ocean marine risks;
  - (b) coverage will not insure equipment owned, rented or leased by the contractor or sub-contractor;
- (ii) ensure any contractor hired by the Association maintains a comprehensive general liability insurance policy with an inclusive limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence for death, bodily injury and property damage. The contractor's insurance must be for any one occurrence and must include:
  - (a) products, completed operations and contractual liability coverage;
  - (b) a cross liability clause;
  - (c) the Licensor, the Association, the contractor and all sub-contractors are additional named insureds.

- 13.2 All insurance policies required under this License shall not include a participant's exclusionary clause.
- 13.3 All insurance policies required under this License must include a provision that the Licensor will be notified in writing THIRTY (30) DAYS before the policy is discontinued or materially changed.
- 13.4 All insurance policies required under this License and all deductible amounts provided in them are at the Association's cost.
- 13.5 The Association agrees to provide certificates of insurance to the Licensor at the beginning of the Term. The Association agrees to also provide proof, to the Licensor's satisfaction, of the renewal or continuance of the Association's insurance before it expires.
- 13.6 The Association agrees to assume the liability and relieve the Licensor from any responsibility from any loss or damage covered by the insurance required under this License.
- 13.7 The Association must comply with all regulations imposed by insurance underwriters providing the insurance under this License.



- 13.8 Any money received from insurance policies required by Sections 13.1(b) and 13.1(c)(i) of this License must be used to either:
- a) repair or rebuild the Facility that was insured or for other purposes contemplated under this License; or
  - b) for purposes mutually agreed upon between the Licensor and the Association.
- 13.9 The Association agrees that the Licensor may require the Association to carry new types, forms and amount of insurance. The Licensor may require these changes once a year during the Term. The Association agrees to make any changes to the insurance as may be required by the Licensor within THIRTY (30) DAYS of being notified. The Licensor shall act reasonably in requesting any change to the form or amount of insurance required.

#### **ADDITIONAL ASSOCIATION RESPONSIBILITIES**

- 14.1 The Association agrees to abide by every provision of this License and not knowingly permit any violation of it.
- 14.2 The Association agrees to pay the License Fee and any other amount that is payable by the Association as soon as they are due or demanded.
- 14.3 The Association acknowledges that in addition to Section 8.1 this License is intended to be a net license and all costs, expenses or other charges whatsoever connected with the Association's use and occupation of the Lands and Facility or in the exercise of the Association's rights under this License shall be at the Association's sole cost and expense.
- 14.4 The Association is responsible, at its sole cost and expense, for paying all charges for Utilities servicing the Lands and Facility.
- 14.5 The Association acknowledges that the General Manager or his representative or the Director, Design and Property Development or his representative, may upon 48 hours' notice of its intention enter the Lands and Facility to:
- a) check whether the terms of this License are being complied with;

- b) exercise any of the rights of the Licensors under this License; or
  - c) perform any work or operation usually carried out by the Licensors on the Lands or Facility.
- 14.6 The Association shall comply with all provisions of the *Societies Act*, as amended, and, shall provide a record of any changes to its bylaws or articles of association to the General Manager within THIRTY (30) DAYS of those changes being registered.
- 14.7 The Association shall submit to the City annual proof of filing in the Alberta Corporate Registry which indicates that the Association remains a non-profit society in good standing under the *Societies Act*.
- 14.8 If the Association is a registered charity under the *Income Tax Act (Canada)*, the Association shall submit to the City annual proof of filing of the Association's charitable tax returns which indicates that the Association remains a charity in good standing under the *Income Tax Act (Canada)*.

<b>FINANCIAL REPORTING</b>
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- 15.1 The Association agrees to submit its annual audited financial statement to the General Manager within THIRTY (30) DAYS of its annual general meeting where the annual audited financial statement is presented to the members of the Association for their review.
- 15.2 The City may appoint an auditor to review the financial records of the Association at the City's cost.
- 15.3 The Association agrees to provide complete and immediate access to all financial records for the auditor's review.
- 15.4 Within ONE (1) YEAR of the Commencement Date, the Association agrees to submit to the City a Business Plan approved by the Association's Board of Directors, in order to facilitate and organize the proper distribution of resources to meet demonstrated community needs.

- 15.5 The Association shall re-submit an updated Business Plan throughout the remainder of the Term upon the expiration of the then current approved Business Plan or upon the expiration of FIVE (5) YEARS, whichever event comes first.
- 15.6 The Association shall meet with their designated City Liaison at least twice per year throughout the Term in order to:
- a) discuss, review and create action plans for the Association's priorities with reference to the Association's current Business Plan; and
  - b) review the Association's Lifecycle Study and the status of the repairs and maintenance to the Lands and Facility completed to date.

<b>EVENTS OF DEFAULT BY THE ASSOCIATION</b>
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- 16.1 Any of the following events will constitute an event of default by the Association where the Licensor has the right to immediately terminate this License by notice to the Association:
- a) the Association's interest in this License is seized, taken in execution, or attached by a creditor of the Association if the Association has not commenced proceedings within THIRTY (30) DAYS hereof to vacate such seizure, execution or attachment;
  - b) if any part of the Facility is seized, taken in execution or attached by a creditor of the Association if the Association has not commenced proceedings within THIRTY (30) DAYS hereof to vacate such seizure, execution or attachment;
  - c) if the Association moves, commences, attempts or threatens to move any Improvements or fixtures off the Lands and Facility without the prior written approval of the Licensor (excluding anything associated with repairs, maintenance);
  - d) if the Association voluntarily winds up its affairs or disbands;
  - e) if the Association becomes insolvent or bankrupt;
  - f) if the Association files a proposal or a notice of an intention to file a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, Chapter B-3, as amended;

- g) if a liquidator or a receiver or a trustee in bankruptcy is appointed for the Association if the Association has not commenced proceedings within THIRTY (30) DAYS thereof to vacate such appointment; or
- h) if the Association's Board of Directors or Executive Committee, because of a dispute, is unable to function or it is unclear who has the authority to represent the Association.

16.2 Any of the following events will constitute an event of default by the Association where upon notice from the Licensor the Association will have THIRTY (30) DAYS to remedy the default. If the default is not remedied or actions taken to remedy the default within THIRTY (30) DAYS or after a reasonable period of time as determined by the General Manager or the Director, Design and Property Development, the Licensor has the right to immediately terminate this License by notice to the Association:

- a) the Association fails to pay the License Fee or any other amount due under the provisions of this License after a demand has been made;
- b) the Association not performing or not observing any provision of this License;
- c) the Association fails to promptly comply with any directions, rules or regulations of the Licensor within a reasonable time after the Association has been informed of them;
- d) the Association fails to hold an annual general meeting as set out in their bylaws;
- e) the Association fails to maintain good standing under the *Societies Act*; and
- f) the Association transfers or assigns an interest under this License without the written consent of the City.

<p><b>EXPIRATION, TERMINATION AND OVERHOLDING</b></p>
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17.1 When this License expires or is terminated the Association must completely vacate the Lands and Facility. The Lands and Facility must be left in the same condition that is required under this License, except for reasonable wear and tear.

- 17.2 When this License expires or is terminated the Facility and any Improvements (if not already owned by the Licensor), shall become the property of the Licensor.
- 17.3 If the Association does not vacate the Lands and Facility when this License expires then notwithstanding any statutory provisions or legal presumptions to the contrary, there shall be no tacit renewal of this License and the Association will be deemed to be occupying the Lands and Facility on a month to month license on an overholding basis upon the same terms, covenants and conditions as in this License, which may be terminated at the discretion of the General Manager upon THIRTY (30) DAYS written notice. For further clarity, the Association shall remain liable for all costs and expenses under the License in relation to their use and occupation of the Lands and Facility during any such month to month occupation under this Section 17.3.

#### **HOW THE LICENSOR MAY EXERCISE ITS RIGHTS**

- 18.1 Either the Licensor or the Association may exercise a right, remedy or power in any way they consider appropriate. If either party does not exercise a right, remedy or power at any given time, this does not mean that they cannot exercise it later.
- 18.2 The rights, remedies and powers of the Licensor and the Association under this License are in addition to any other rights, remedies and powers provided by law, independently of it.
- 18.3 Either the Licensor or the Association may excuse a violation of this License without either party losing any right to insist on and enforce compliance with the License in the future.
- 18.4 Any termination of this License does not affect any other right or remedy the Licensor may have for amounts due to the Licensor which remain unpaid.
- 18.5 All costs associated with the Licensor exercising a right, remedy or power under this License (including expenses, expenditures and solicitor fees and disbursements on a solicitor-and-own-client basis) must be paid by the Association to the Licensor upon demand.

## NOTICES AND COMMUNICATIONS

- 19.1 Formal notices and communications, including demands and certificates, made in connection with this License must be in writing and must be delivered to the following addresses:

To the City:

The City of Calgary  
P.O Box 2100  
Stn. M, #94  
Calgary, Alberta T2P 2M5

Attn: General Manager,  
Community Services

With a copy to:

The Calgary Board of Education  
1221 – 8 Street SW  
Calgary, Alberta T2R 0L4  
Phone: (403) 817-7997

Attn: Legal Services

To the Association:

XX Community Association  
Mailing Address  
Calgary, Alberta Postal Code  
Attention: President  
Telephone: (XXX) Phone  
Email:

If notices are sent by mail, they are taken to be received on the 10th day after posting. Either party may change its address by notice given to the other in accordance with this section in which event this section shall be deemed to have been amended accordingly. Any notice or communication given by way:

- a) Of courier shall be deemed to have been given and received on the date of courier; or
- b) Of email shall be deemed to have been given and received on the first business day following the email thereof unless the email is received prior to 4:00 p.m. (MST) on the day the email is sent provided such day is a business day.

## GENERAL

- 20.1 This License is governed by the laws of Alberta.
- 20.2 A term of this License, or a right created under it, may not be waived or varied except in writing signed by both the Licensors and the Association.
- 20.3 Time shall be of the essence of this License.
- 20.4 The Licensors and the Association acknowledge that effective on the Commencement Date, this License fully replaces and supercedes any offer, agreement, letter, letter of intent or any other contractual arrangement, whether oral or written, between the Licensors and the Association in relation to the Lands existing as of the Commencement Date. The parties further acknowledge that this License contains the entire agreement between the parties for the Lands and it is agreed that there are no covenants, promises, agreements, condition precedents or subsequent warranties, representations or understandings, whether oral or written, other than as set forth in this License.
- 20.5 The attached schedules form part of this License.
- 20.6 If a provision of this License is found to be invalid or unenforceable the rest of the License remains in effect.
- 20.7 The Licensors shall, in a timely manner, notify the Association of the nature and content of any proposed changes recommended to Council policies which affect the Association or any of the Association's obligations under this License.
- 20.8 The Association may, in regards to any dispute arising between it and the Licensors relating to the interpretation, application or alleged violation of this License, follow the non-binding Dispute Resolution Process as set out in Schedule "C".
- 20.9 The Association acknowledges that the City is entering into this License solely in its capacity as a licensor of real property and not as a regulatory, statutory or approving Government Authority and nothing in this License shall constitute the granting by the municipality of any approval or permit as may be required pursuant to the *Municipal Government Act* (Alberta) or any other legislation in force in the Province of Alberta. Nothing in this License restricts the municipality, its municipal

council, its officers, employees or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a Government Authority.

20.10 This License may be executed in counterpart originals, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument.

[the remainder of this page intentionally left blank]



20.11 The Licenser and the Association acknowledge that the headings in this License have been inserted for convenience of reference only.

**The Licenser and the Association execute this License under seal by the signatures of the properly authorized officers signing below.**

<b>APPROVED</b>	
<b>As To Content</b>	
PARTNERSHIPS	
CBE	
<b>As To Form</b>	
LAW (Solicitor)	

**THE CITY OF CALGARY**

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Director of Partnerships

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City Clerk

**THE CALGARY BOARD OF  
EDUCATION**

**XX COMMUNITY ASSOCIATION**

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President

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Officer

---

Witness

## AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY

I/We, \_\_\_\_\_ and \_\_\_\_\_, of the City of \_\_\_\_\_, in the Province of \_\_\_\_\_ make oath and say:

1. I am/We are an officer or a director of \_\_\_\_\_, named in the within or annexed instrument.
2. I am/We are authorized by \_\_\_\_\_ to execute the instrument without affixing a corporate seal.

SWORN before me at the City of \_\_\_\_\_ )  
\_\_\_\_\_, in the Province of \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_) \_\_\_\_\_  
\_\_\_\_\_) \_\_\_\_\_  
Notary Public or Commissioner for \_\_\_\_\_ )  
Oaths in and for the Province of \_\_\_\_\_

## AFFIDAVIT OF EXECUTION

I, \_\_\_\_\_, of the City of \_\_\_\_\_, in the Province of \_\_\_\_\_ make oath and say:

1. I was personally present and did see \_\_\_\_\_ and \_\_\_\_\_ who is/are known to me to be the person(s) named in the within (or annexed) instrument, duly sign the instrument;

or

I was personally present and did see \_\_\_\_\_ and \_\_\_\_\_ who, on the basis of identification provided to me, I believe to be the person(s) named in the within (or annexed) instrument, duly sign the instrument;

2. The instrument was signed at the City of \_\_\_\_\_, in the Province of \_\_\_\_\_ and I am the subscribing witness thereto;
3. I believe the person(s) whose signature(s) I witnessed is/are at least eighteen (18) years of age.

SWORN before me at the City of \_\_\_\_\_ )  
\_\_\_\_\_, in the Province of \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_) \_\_\_\_\_  
\_\_\_\_\_) \_\_\_\_\_  
Notary Public or Commissioner for \_\_\_\_\_ )  
Oaths in and for the Province of \_\_\_\_\_

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**AMONGST:**

**THE CITY OF CALGARY,**

- and -

**THE CALGARY BOARD OF EDUCATION,**

(collectively the "Licensor")

-and-

**XX COMMUNITY ASSOCIATION,**

(the "Association")

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**LICENSE OF OCCUPATION  
FOR XX COMMUNITY ASSOCIATION**

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The City of Calgary  
Law, Legal Services  
12th Floor, Municipal Building  
800 Macleod Trail S.E.  
P.O. Box 2100, Station "M"  
Calgary, Alberta  
T2P 2M5

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