

NICOLA VALLEY MEMORIAL ARENA FACILITY USE AGREEMENT

THIS AGREEMENT dated for reference on _____, 2024.

BETWEEN

THE CITY OF MERRITT
P.O. Box 189
Merritt, BC
(the "City")

OF THE FIRST PART

AND

1417742 BC LTD., a corporation existing under the laws of the Province of British Columbia and having a registered office at 401- 602 Broughton Street, Victoria, BC V8W 1C7.

(the "Licensee")

OF THE SECOND PART

GIVEN THAT:

- A. The City operates and manages an arena known as the Nicola Valley Memorial Arena, located at 2075 Mamette Ave, Merritt, BC V1K 1B8 (the "NVMA"), and may rent portions of the Facilities for private purposes compatible with other Recreation Centre uses and appropriate for a public facility;
- B. The Licensee, or its designate, wishes to use portions of the Facilities for the purpose of operating a junior hockey team on the terms and conditions of this Agreement;
- C. The Licensee is incorporated as a Company under the laws of British Columbia.

NOW THEREFORE, this Agreement witness that in consideration of these presents and mutual covenants and promises herein contained the sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 LICENSES TO USE

The City grants a contractual license to the Licensee to use those portions of the NVMA described in Section 1.4 at the times described in Section 1.4 for the Term of this Agreement, and any exercised renewal, of this Agreement.

- 1.1 Term** – The Term of the Facility Use Agreement will begin on May 1, 2024 and expire April 30, 2027 or the end of the playoffs in 2027, with a 2 year renewal option for May 1, 2027 to April 30, 2029 or the end of the playoffs in 2029.
- 1.2** Unless expressly stated otherwise, all rights of the Licensee under this Agreement with respect to the NVMA may only be exercised by the Licensee while the Licensee is

registered and actively participating in league play as a full team as part of a Junior Hockey League.

1.3 The City reserves the right at all times to cancel ice use where necessary because of an Act of God, labor dispute, or any other cause that is beyond the reasonable control of the City. The City, in its sole discretion, may permit the rescheduling of any ice use that the City cancels under this provision. Where the City cancels an ice use under this provision, the City shall not be liable to the Licensee for any loss of revenue or for any other costs, expenses, loss or damage incurred by the Licensee or any other person as a result of such cancellation and the Licensee hereby releases the City and its directors, employees and agents from all such liability arising from such cancellation.

1.4 Facilities – The following are the Facilities and the times during which the Licensee may use the Facilities.

- (a) use of the ice rink in the NVMA for Licensee training camp, pre-season, regular season, playoff games, and spring ID Camp;
- (b) the end of season is determined by two weeks past the last regular season or last playoff hockey game;
- (c) for each pre-season and regular season game, the Licensee may use the rink for up to 3.5 hours starting 1.0 hour prior to game time at 7:00 pm (6:00 pm – 9:30 pm);
- (d) use of the ice rink for Licensee pre-season training camp as booked from a Friday to Sunday 8:00 am – 7:00 pm, Monday 8:00 am – 2:00 pm;
- (e) use of the ice rink for Licensee practices as booked from Monday to Friday from 11:30 pm – 1:30 pm (including an ice flood) during Licensee Junior Hockey League pre-season, regular season and playoffs;
- (f) use of the ice rink for Licensee skill sessions as booked from Tuesday to Wednesday from 9:30 am – 10:30 am during Licensee Junior Hockey League regular season and playoffs;
- (g) use of the ice rink for Licensee Spring ID Camp as booked from a Friday to Saturday 8:00 am – 7:00 pm, and Sunday 8:00 am – 5:00 pm;
- (h) use of the ice rink for Licensee Special Events (2) as booked as needed for events such as Youth Development Camp, Licensee League and or Team showcase event, or other hockey special events;
- (i) on or before June 15th of each season, the Licensee will provide the City with a schedule of the dates and times for:
 - pre-season training camp,
 - pre-season practice and games,
 - regular season skill sessions, practice sessions, and games
- (j) on or before February 15th of each season, the Licensee will provide the City with a schedule of the dates and times for Licensee Spring ID camp;

- (k) exclusive use of the home dressing room, coaches' office, trainers' room, and ticket booth business office during game time in the NVMA during the Term of this Agreement;
- (l) the City and the Licensee will perform a walkthrough of the home dressing room in the NVMA at the start and completion of each season to inspect and agree on the condition of the dressing room. The Licensee will be responsible for providing normal day-to-day cleaning and janitorial services to the designated home team dressing room throughout the season.
- (m) use of two (2) visiting team dressing rooms in the NVMA, from 2 hours before until 1 hour after each Licensee pre-season, regular season and playoff game; the City is responsible for cleaning throughout the season;
- (n) use of one (1) referee dressing room in the NVMA from 2 hours before until 1 hour after each Licensee pre-season and regular season game; the City is responsible for cleaning throughout the season;
- (o) use of operations deck, sound room, and press room #1 and #2 in the NVMA two hours before until 1 hour after each Licensee game;
- (p) use of two (2) washers and two (2) dryers in the NVMA, supplied by the Licensee, during Licensee hockey season;
- (q) exclusive use of existing storage room(s) in the NVMA located, bench side, under seating storage area;
- (r) use of all existing booths and open spaces located throughout the facility behind seating on both sides of the ice arena and two additional spaces for future Merritt Centennials historical display, and Licensee to incur all related costs;
- (s) with approval from the City, volunteer/team appreciation events may be held during the 3.5 hr game bookings in the NVMA at no charge. The booking of facility space (i.e., upper mezzanine, lobby, parking lot) must be confirmed in advance through Facility Bookings. Additional clean-up or set-up outside the "normal game night set-up" will be charged to the Licensee. For any further facility usage outside the 3.5 hr game bookings, will be negotiated on a case by case basis;
- (t) for any other facility usage, special event, showcase events, rates will be based on the City of Merritt Fees and Charges Bylaw.

2.0 FEES AND PAYMENT

2.1 For year one, 2024-2025, the Licensee will pay the following rates:

- (a) Pre-Season Training Camp - \$1,170 / camp
- (b) Pre-Season Games - \$210 / game @ 4 home games
- (c) Regular Season Games - \$410 / game @ 22 home games
- (d) Practice Sessions - \$2,300 (as per scheduled provided by June 15th)
- (e) Skill Sessions - \$2,400 (max number of 40 sessions)

- (f) Spring ID Camp - \$1,170 / camp
- (g) Playoff Games - \$410 / game
- (h) Licensee Special Events - rates as per City of Merritt Fees and Charges Bylaw
- 2.2** For year 2 (2025-2026), the Licensee will pay year 1 ice rates plus 5% annual increase;
- 2.3** For year 3 (2026-2027), the Licensee will pay year 2 ice rates, plus 5% annual increase; and
- 2.4** For years 4 (2027-2028) and year 5 (2028-2029), the Licensee may exercise its option for year 4 and 5 with rates negotiated with the City, prior to January 31, 2027.
- 2.5** The Licensee will pay all applicable taxes in addition to any amounts paid to the City under this Agreement. For greater certainty, all payment amounts stated under this Agreement are exclusive of any applicable taxes, unless expressly stated otherwise.
- 2.6** All fees, except playoff fees, will be invoiced annually on September 1st of each year, with 60% paid net 30 days, remaining 40% paid by January 15th.
- 2.7** All playoff fees, invoiced at time of booking and due net 30 days.
- 2.8** All additional ice payments, invoiced at time of booking and due net 40 days.
- 2.9** In the event of nonpayment, the Licensee will pay 5% interest per month on all outstanding amounts, charged based on actual due dates.
- 2.10** Failure by the City to insist upon the strict performance, observance or satisfaction of any of the covenants or conditions herein shall not be construed as a waiver of any such covenant or condition or that time is not of the essence to any other provision, condition or covenant.

3.0 OBLIGATIONS OF THE LICENSEE

- 3.1** The Licensee must pay all salaries, wages, fees and commissions of all personnel employed by it, and all royalties, author's publishers', and composer's fees, which may become payable as a result of any of the Licensee's activities at the Facilities, as well as all assessments or taxes lawfully imposed.
- 3.2** The Licensee shall indemnify, defend and save harmless the City and its directors, officers and agents in respect of any claims, demands, actions, suits and costs arising out of or resulting from the use of the Facilities by the Licensee or any servant, agent, player, officer or invitee of the Licensee, provided that nothing in this Agreement shall make the Licensee responsible to indemnify the City against any such claims, demands, actions, suits and costs to the extent that they are caused by the negligence or willful misconduct of the Society or its directors, employees or agents. This indemnity shall survive the expiry or earlier termination of this Agreement.
- 3.3** No later than September 1st of each year of the Term and upon request of the City from time to time, the Licensee must deliver to the City a policy of commercial general liability insurance issued by an insurer licensed to carry on the business of insurance in British

Columbia in an amount of not less than \$5,000,000 per occurrence in respect of any claims for personal injury (including death) and property damage that may be made by the City or by any other person as a result of negligence or willful misconduct on the part of the Licensee, its servants, players or agents, and in respect of anything done or omitted to be done in the Facilities during the Term. This policy of insurance shall:

- (a) name the City as an additional insured;
 - (b) contain a waiver of subrogation rights by the Licensee's insurers against the City;
 - (c) include a cross-liability clause;
 - (d) be primary and provide that any policies carried by the City is non-contributing and considered excess coverage; and
 - (e) contain an undertaking by the insurers to notify the City by registered mail not less than thirty (30) days prior to any material change, cancellation or termination of coverage.
- 3.4** The Licensee must strictly observe, obey and act in accordance with all statutes, bylaws, regulations, and legal requirements of any kind relating to the Facilities and use and maintain the Facilities in a clean and sanitary condition at all times.
- 3.5** The Licensee undertakes that its players, members and staff, by their acts, speech, music, conduct or manner will not violate or incite others to violate any statute law, bylaw, regulations, rule, policy or local standard concerning decency or obscenity.
- 3.6** If an audience becomes appreciably unruly and violates the above regulations, the Licensee, the officials and players must stop the games and the Announcer must announce that this action is not permitted, and the game will resume as soon as the audience is re-seated and orderly.
- 3.7** The Licensee shall obtain and maintain in good standing, a Business License with the City of Merritt.
- 3.8** The Licensee shall at all times observe and comply with the Builders Lien Act (British Columbia) and shall not permit a lien under that Act to be registered against title to the Facilities. The Licensee shall promptly discharge any lien that arises in respect of work performed at the Facilities.
- 3.9** The Licensee shall, in its use of and activities on and within, the Facilities, comply with the Workers Compensation Act (British Columbia) and all regulations and orders from time to time in force thereunder, including the Occupational Health and Safety Regulations, and, upon request from the City, provide evidence of any required registration under that Act and evidence of compliance with any requirement under that Act to make any payments or pay assessments.
- 3.10** The Licensee shall obtain and maintain a valid business licence from the City of Merritt.

4.0 CONCESSION OPERATIONS AND SOUVENIR SALES

4.1 Food & Beverage

- (a) The City has the exclusive right to sell or tender the concession food and non- alcoholic beverages in the Facilities. For clarity, the Licensee may not sell or sample food or non-alcohol beverages in the Facilities;
- (b) The Licensee, with notice to the City, may bring in cake or cupcakes for children's box suite / designated birthday seating section for birthday parties, and/or for special guest(s) events.

4.2 Alcohol Beverages – The Licensee may sell alcohol beverages, provided that the Licensee holds a valid liquor license obtained from the BC Liquor Control and Licensing Board and retain revenues for such, provided that the Licensee must comply with the City's reasonable requirements in that regard.

4.3 Novelties – The Licensee may sell souvenirs, programs, equipment and promotional articles at the Facilities provided that the Licensee must comply with the City's reasonable requirements in that regard.

5.0 FACILITY ACCESS

5.1 Public Access – The Licensee will have control over the entrances to the NVMA at all times during an event and may permit persons with tickets to the event to enter the NVMA and use and have access to those portions of the NVMA normally open to the public at rink events. The Licensee may restrict access to the public in the areas of the NVMA that interfere with the security of the property and production of the event, to include referee/training rooms and storage areas. In the event of an emergency, the Licensee will allow access in these areas as to not impede emergency evacuation procedures.

6.0 TICKETS

6.1 The Licensee may hold events as permitted in and in accordance with this Agreement and may charge a fee to the public for admission to such events. Except for the City's express obligations under this Agreement, the Licensee will be solely responsible for all aspects of an event, including the safety of the participants and players of an event and the public attending the event. Before selling tickets to an event, the Licensee will obtain the City's prior approval of the proposed tickets for the event and will change the design of the tickets as may be reasonably required by the City, or reduce the number of tickets available for an event if required by the City to ensure public safety at the event.

6.2 Capacity – The City will provide the capacity seating total and detailed diagram of all official seating within the NVMA and will notify the Licensee in writing if seating have been removed or added as it will affect designated seating arrangements.

7.0 ALTERATIONS AND IMPROVEMENTS

7.1 No advertising shall be placed in the NVMA without the City's approval.

7.2 Upon approval, the Licensee will be solely responsible for all costs of preparing, installing, maintaining and removing any such advertising.

7.3 Ownership of Improvements at Termination – At the expiration of the Term or earlier termination of this Agreement, any improvements, extensions, installations (such as signage), alterations, renovations or additions to the NVMA (the “Additions”) whether done by or on behalf of the Licensee or not, are forfeited to and become the permanent unencumbered property of the City. The City may, by notice to the Licensee, require the Licensee to remove any Additions and the Licensee shall remove such Additions specified in the notice and leave the Facility in a clean and tidy condition prior to the expiration of the Term or earlier termination of this Agreement. The City may remove and dispose of any Additions not removed by the Licensee in accordance with a notice under this Section and the Licensee shall pay the City’s costs of doing so within 14 days’ receipt of an invoice.

8.0 DECORATIONS, PLAQUES AND ADVERTISEMENTS

8.1 The Licensee may, with the prior consent of the City, erect, install or affix decorations, bills, plaques, or other similar things at the NVMA provided that they comply with any requirements set out in this Agreement.

8.2 Upon approval the Licensee will be solely responsible for all costs of preparing, installing, maintaining and removing any such advertising.

9.0 RESTRICTIONS OF USE

9.1 The Licensee must not suffer or permit transportation of liquor or food into the Facility.

9.2 Without written permission of the Director of Community Services, the Licensee must not install, place or operate any engine or motor or machinery in the NVMA, except skate sharpener and glove warmer, or use a flammable substance for either mechanical or other purposes, nor use anything except electrical lighting for illuminating the Facility.

9.3 The Licensee must not stage any act or game in which fire or flame is involved without the prior written permission of the Fire Marshal or the Fire Chief.

9.4 The Licensee must not use any decorative material which may pose a risk to the Facilities or people without the prior written consent of the Director of Community Services.

9.5 The Licensee must not carry on or do anything, or suffer or permit the carrying on or doing of anything in or upon the Facilities that may result in an increase of the premium payable for the insurance of the Facilities against fire or other perils or which may make void or voidable any such policy of insurance.

9.6 Except as otherwise expressly provided in this Agreement, the Licensee must not construct, erect, attach or permit to be constructed, erected or attached any device, fixture or any other thing in or on the Facilities without the prior written consent of the Director of Community Services.

9.7 The Licensee must not sell or dispose of, or permit to be sold or disposed of, tickets in excess of the seating capacity of the NVMA, or admit a larger number of persons that can safely and freely move about in the NVMA.

9.8 Only the Licensee's bona fide players, personnel and guests shall be permitted in dressing rooms.

10.0 CITY OBLIGATIONS

10.1 The City will be responsible for providing electricity, heating according to ice conditions and plant operations and HVAC systems to the Facilities when in use by the Licensee.

10.2 The City will provide normal janitorial and maintenance services for the Facilities including one iceman (facility attendant), one maintenance person and one facility supervisor.

10.3 The City will provide necessary facility repairs to make the Facilities fit for the Licensee's purposes.

10.4 The City will provide the necessary personnel to ensure the proper and safe use of the Facility.

10.5 The City will operate concession and catering services as per Section 4.1.

10.6 The Licensee is required to pay the City for all their playoff games in accordance with Section 2.1(g). Playoff games are not included in annual fees. In the event that prior scheduled NVMA events give rise to playoff scheduling conflicts, the Licensee and the City will mutually agree on an alternate date, or the City will have to accommodate the Licensee playoff schedule requirement as necessary.

11.0 RIGHTS OF THE CITY

11.1 The City, by the Director of Community Services, the Operations Manager or by any person designated by the City may, at any time while the Facilities are used by the Licensee, enter the Facilities, inspect the Facilities and make alterations, repairs, or additions which, in their opinion, may be necessary for the safety or preservation of the Facilities, and may in the case of fire or other catastrophe cause the evacuation of the Facilities without liability to the Licensee for damages caused by the evacuation.

11.2 If in the opinion of the Director of Community Services a threat of arson, bombing or other violence has been made in connection with the Facilities, the Director of Community Services may cause the Facilities to be evacuated.

11.3 Unless the threat was caused by the negligence or willful misconduct of the Licensee, its servants or agents, the Licensee has the right, at some time convenient to the City, to use the Facility for the purpose of making up for time lost due to the evacuation.

11.4 If the Licensee is obligated by reason of an evacuation to refund any tickets sold, the Licensee hereby releases the City from and agrees to indemnify the City against any loss of revenue, or for any costs, expenses, losses or damages incurred by the Licensee or any other person.

12.0 ADVERTISING

12.1 Advertising in the building excludes the TV monitors in the front end of the building.

- 12.2** The City hereby grants the rights to the Licensee to sell advertising space in the Arena for the duration of the Term of this Agreement.
- 12.3** The Licensee shall be responsible for all the advertisements covered in this Agreement. The Licensee shall obtain prior approval from the City regarding the arrangements for installation of all signs covered in this Agreement. The intention for all rink board and wall board advertisements must be abutted to prevent space between signs.
- 12.4** In the situation where the City deems that it is necessary to improve the maintenance of any of the advertisements covered in this agreement, the City shall give written notice to the Licensee, and the City will have the right to complete the maintenance work and invoice the Licensee for all costs relating to this work, to include labor, equipment and materials – the Licensee is responsible for paying such invoice.
- 12.5** The Licensee shall observe, perform and comply with all laws, bylaws, codes, fire regulations, health regulations, and rules and regulations applicable to the use, operation and occupation of the premises.
- 12.6** The Licensee shall provide 5 spare lexan replacements at all times for emergency changes which are to be kept at the Facility.
- 12.7** The Licensee, its agents, servants, members and employees shall not be deemed to be agents, servants or employees of the City.
- 12.8** The Licensee shall not assign or subcontract the sale of advertising as provided in this agreement without prior written consent by the City.
- 12.9** The Licensee shall accept full responsibility for protecting and insuring all advertisements in the premises, and shall save and hold harmless and indemnify the City from any liability whatsoever, as a result of theft, vandalism, structural failure or natural disaster, resulting in the loss of or damage to the advertisements held in the premises.
- 12.10** The Licensee may place a floor stand advertisement in the front entrance prior to game time; the advertisement display must be removed at the end of game time.
- 12.11** No advertising shall promote products or services that are not consistent with the Society's mandate to promote health and a family friendly environment. (i.e., tobacco, e-cigarettes and other controlled substances).

13.0 TELECOMMUNICATIONS AND MEDIA

- 13.1** The Licensee will have the sole and exclusive right to photography, radio, television and internet recording rights with respect to the Licensee's events during their scheduled times.
- 13.2** The Licensee may use the sound equipment at the NVMA during games.
- 13.3** The Licensee must provide their own internet services for their purposes.
- 13.4** The Licensee may use the City's server room to house router and network cable. The Licensee must request entrance by the City prior to entering the server room.

- 13.5** The Licensee will be responsible for the installation of any telephone and internet services it requires in the office space and will be responsible for the payment of any charges, including monthly rental and long-distance charges, incurred by it.
- 13.6** The Licensee must request any changes to shared space (i.e., ops deck, media rooms, server room) or equipment prior to any work being started. Any Licensee-requested improvements to IT services will be at the sole cost of the Licensee.

14.0 DEFAULT AND TERMINATION

14.1 Whenever:

- (a) the Term or any of the goods or chattels in the Facilities are at any time seized or taken in execution or attachment by any creditor of the Licensee or under bill of sale or chattel mortgage;
- (b) a writ of execution issues against the goods and chattels of the Licensee;
- (c) the Licensee makes any assignment for the benefit of creditors or becomes insolvent or bankrupt;
- (d) proceedings are begun to wind up the Licensee or the Licensee are dissolved;
- (e) the Licensee is in default in the payment of any amount due and owing under this Agreement and the default continues for fourteen (14) days after notice by the City to the Licensee;
- (f) the Licensee does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Agreement to be observed, performed and kept by the Licensee, and persists in such default for fourteen (14) days after written notice by the City;
- (g) the Licensee uses or permits or suffers the use of the Facilities for any purpose other than the purposes permitted by this Agreement; or
- (h) the Licensee ceases to operate a junior hockey team at the NVMA the City may, at its option, terminate this Agreement and the Term then becomes immediately forfeited and void and the Licensee must immediately cease all use of the Facilities and must immediately vacate the Facilities and remove all equipment, furnishings and supplies brought into the Facilities by the Licensee. Upon termination the Licensee is responsible for payment of all cost incurred to date of termination including advertising contracts with the City and third parties.

- 14.2** **Damage or Destruction** – If the Facilities, or any part of them, is destroyed or damaged by any cause so that in the opinion of the City the Facilities are no longer reasonably fit for the purposes set out in this Agreement for any period of time in excess of ninety (90) days, the City may terminate this Agreement within thirty (30) days of the damage occurring.

15.0 TAILGATE SOCIALS

- 15.1** The Licensee will be permitted to hold six (6) regular season tail gate socials during the regular season the Licensee and City will mutually agree on the number of tailgate socials approved for playoffs.
- 15.2** The Licensee may sell food and non-alcoholic or alcoholic beverages with a Special Occasion License (SOL) obtained from the BC Liquor Control and Licensing Board and retain revenues for such. All costs associated with the Event will be at the sole cost of the Licensee.

The City will provide:

- (a) Designated area of the parking lot as per Schedule A, the Licensee may cordon off the designated area to ensure spaces are available at least three (3) hours prior to game start.
- (b) Public washrooms in the NVMA.
- (c) City will provide access to twelve (12) 8' tables and will provide access to electricity and water as per Schedule A.
- (d) The Licensee will liaise with the Merritt Fire Department to ensure the highest safety standards are met.
- (e) SOL license must be clearly displayed.

The Licensee agrees:

- (a) no smoking in the cordoned off area or six metres from the barrier as per Schedule A.
 - (b) the Licensee is responsible for all set up and clean up related to the event.
 - (c) the licensee is responsible for any tents and additional equipment specific to the event. All 10x10 pop up tents must be weighted down.
 - (d) Beverage gardens must be fenced off with a controlled entrance. Minors are permitted.
- 15.3 Food Safety** – The Licensee shall complete the British Columbia Health Authority's Application for Catered Function of Bake Sale form and comply with all conditions set out by the BC Health Act.
- 15.4 Insurance** – Licensee will provide the Insurance required to host tailgate socials.
- 15.5 BBQ Safety** – In accordance with the Merritt Fire Department requirements, the Licensee agrees to ensure:
- (a) all BBQs must be outdoors and separated from buildings.
 - (b) all cooking must have the appropriate portable extinguisher available.
 - (c) safe storage of extra fuel, the City staff must be notified of such storage for game day and all fuel to be removed at end of game. Fuel is not permitted to be stored inside the Nicola Valley Memorial Arena building.

- (d) tents used will have appropriate flammability ratings of the cover must be provided and spatial separations need to be considered due to radiant heat around or potentially above the BBQ.

16.0 GENERAL PROVISIONS

- 16.1 Force Majeure** – The Licensee will not be entitled to any refund or abatement of fees or other amounts paid to the City or other compensation due to strike by or lockout of NVMA Staff, acts of God, war, hostilities, civil commotion, terrorism, epidemic or other events outside of the reasonable control of the City and the Licensee hereby releases the City from any claim the Licensee may at any time have against the City in respect of any loss suffered by the Licensee in such circumstances.
- 16.2 Other Use of Facilities** – The City may inspect the Facilities at all times and may use and permit others to use the Facilities at all times when not in use by the Licensee.
- 16.3 State of Facilities at Termination** – At the expiration of the Term or earlier termination of this Agreement, the Licensee must leave the Facilities in good repair and condition, excepting reasonable wear and tear. If the Licensee fails to leave the Facilities in a condition required by this Agreement, the City may perform the Licensee’s obligations in that regard and the Licensee must, on demand, compensate the City for all costs incurred by the City.
- 16.4 No Assignment** – Except as expressly permitted in this Agreement, the Licensee may not assign this Agreement or the benefit thereof or permit anyone else to enjoy the benefits of this Agreement without the prior written consent of the City and the City may withhold such consent without reason.
- 16.5 Licensee Designated Representatives** – During the Term, the Licensee hereby designates Bradley Anstey, President and Governor, and Daniel Schofield, Vice-President and Alternate Governor as its sole representatives for the purpose of communicating with the City for any purpose in connection with this Agreement. The Licensee will notify the City of any changes to its designated representatives.
- 16.6 Annual Meeting** – The City and the Licensee shall meet annually at the end of each season to ensure effective communication between the two parties. The City will have the Director of Community Services, a Manager and the Arena Staff attend the meeting.
- 16.7 Remedies Cumulative** – No reference to or exercise of any specific right or remedy by the City will prejudice or preclude the City from exercising any other right or remedy, whether at law or in equity or expressly provided for in this Agreement. No such right or remedy is exclusive or dependent upon any other such right or remedy and the City may from time to time exercise any one or more of such rights and remedies independently or in combination. Without limiting the foregoing, the City may commence and maintain an action against the Licensee to collect any amount not paid when due, without terminating this Agreement.
- 16.8 Notices** – Where any notice, request, direction or other communication (any of which is a “Notice”) may be given or made by a party under the Agreement, it must be in writing and will be effective if delivered in person or sent by registered mail to the address set

forth above in the Agreement, as the case may be, provided that any Notice to the City must be to the attention of the City's Director of Community Services. Notice will be considered given if delivered in person, when delivered; if by registered mail, when the postal receipt is acknowledged by the other party. The address of a party may be changed by notice in the manner set out in this provision.

- 16.9 Severance** – If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid will not affect the validity of the remainder of the Agreement.
- 16.10 Binding on Successors** – This Agreement enures to the benefit of and is binding upon the parties and their respective successors and assigns, notwithstanding any rule of law or equity to the contrary.
- 16.11 Laws of British Columbia** – This Agreement must be construed according to the laws of the Province of British Columbia.
- 16.12 Entire Agreement** – The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants, and agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement.
- 16.13 Waiver or Non-Action** – Waiver by the City of any breach of any term, covenant or condition of this Agreement by the Licensee shall not be effective unless in writing and no waiver shall operate as a waiver of any subsequent default by the Licensee. Failure by the City to take any action in respect of any breach of any term, covenant or condition of this Agreement by the Licensee will not be considered to be a waiver of such term, covenant or condition.
- 16.14 Reference** – Every reference to the Licensee is deemed to include the heirs, executors, administrators, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of the Licensee where the context requires or allows.
- 16.15 Non-Disparagement** – The Licensee/City agrees that they will not disparage the City/Licensee or any of its officers, directors or employees. For purposes of this section “disparage” shall mean any negative statement, whether written or oral about City of Merritt or the Junior Hockey Club, or their people, facilities, products etc. The parties agree and acknowledge that this non-disparagement provision is a material term of this Agreement, the absence of which would have resulted in the City/Licensee refusing to enter into this Agreement.
- 16.16 Time of the Essence** – Time is of the essence of this Agreement.
- 16.17 Acknowledgment of the Licensee** – The Licensee acknowledges that the City has given no representations or warranties with respect to the Facilities or their condition.

As evidence of their agreement to be bound by the above terms, the City and the Licensee each have executed this Agreement below on the respective dates written below:

City of Merritt by its authorized signatory:

Name: Cynthia White, Chief Administrative Officer

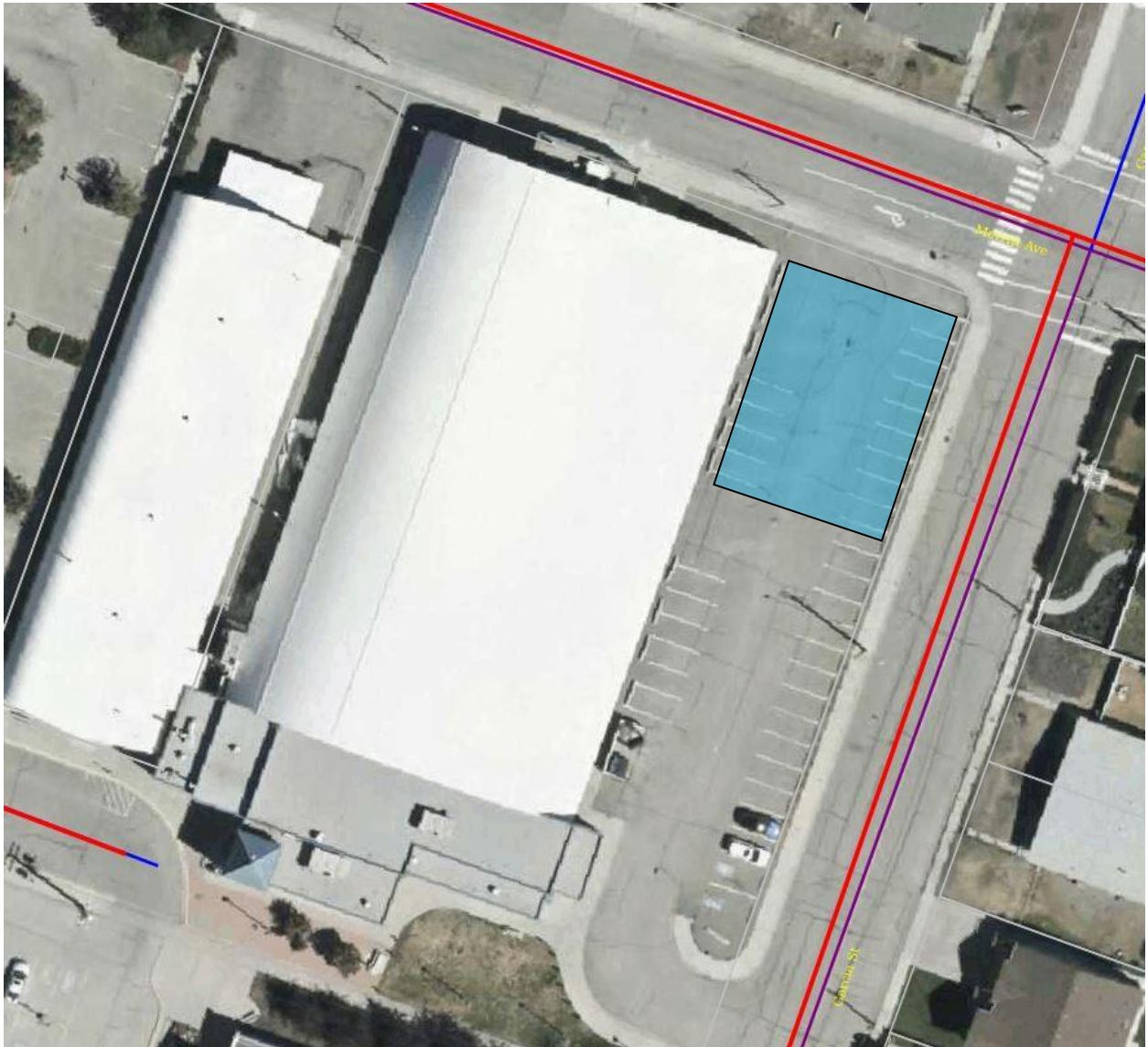
Date: _____

1417742 BC Ltd. by its authorized signatory:

Name: _____

Date: _____

SCHEDULE A



Location of Tailgate Event Area shown in blue

Location of Water Access and Power Outlets shown in blue

