



## NAMING RIGHTS SPONSORSHIP AGREEMENT – REGAL HEIGHTS PARK KINSMEN CLUB OF MOOSE JAW INC.

This Agreement made in duplicate this \_\_\_\_ day of \_\_\_\_\_, 2022

### Between:

**THE CITY OF MOOSE JAW**, a municipal corporation in the Province of Saskatchewan, (hereinafter referred to as “the City”);

- and -

**KINSMEN CLUB OF MOOSE JAW INC.**, a registered non-profit charitable entity in the Province of Saskatchewan, (hereinafter referred to as “the Club”).

**WHEREAS** the City is the owner of Lands identified as ‘Regal Heights Park’ and legally described and identified in “Schedule A” of this Agreement;

**AND WHEREAS** the City adopted an Advertising and Sponsorship Policy on April 22, 2019, which considers the sale of naming rights to City-owned and civic assets including facilities, parks, structures, equipment, programs and events as a sponsorship opportunity;

**AND WHEREAS** the City has identified naming rights opportunities within Regal Heights Park;

**AND WHEREAS** the Club is interested in purchasing naming rights sponsorship to Regal Heights Park in exchange for the promotional opportunities outlined within this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

### ARTICLE 1: GRANT OF LICENSE

**1.1** The City hereby grants to the Club naming rights sponsorship to Regal Heights Park pursuant to the terms and conditions outlined herein.

### ARTICLE 2: TERM AND RENEWAL

**2.1** The term of this Agreement is for twenty-five (25) years commencing on the 1<sup>st</sup> day of June 2022 and ending the 31<sup>st</sup> day of May 2047.

- 2.2** It is understood and agreed that renewal of this Agreement shall be subject to the mutual agreement of the parties for which the City will give the Club favorable consideration provided the Club has performed its obligations under this Agreement in a satisfactory manner.

### **ARTICLE 3: NAMING RIGHTS SPONSORSHIP FEE**

- 3.1** In consideration of the naming rights sponsorship opportunities provided herein and throughout the term of the agreement, the Club agrees to provide support in the form of financial consideration totaling one hundred thousand dollars (\$100,000.00) to the City as follows:
- a) June 30<sup>th</sup>, 2022 – a sum of twenty-five thousand dollars (\$25,000).
  - b) June 30<sup>th</sup>, 2023 – a sum of thirty-seven thousand five hundred dollars (\$37,500).
  - c) June 30<sup>th</sup>, 2024 – a sum of thirty-seven thousand five hundred dollars (\$37,500).
- 3.2** All financial considerations identified in Article 3.1 shall be inclusive of all applicable sales taxes.
- 3.3** The City agrees to issue an invoice to the Club a minimum of thirty (30) days prior to the annual payment becoming due.
- 3.4** Both parties agree that the City shall apply the naming rights sponsorship fee to the following Regal Heights Park projects:
- a) Twenty-five thousand dollars (\$25,000) towards Blackwell Baseball Diamond improvements including replacement of the existing backstop and the purchase and installation of a new score clock.
  - b) Seventy-five thousand dollars (\$75,000) towards the construction of a new spray park.

### **ARTICLE 4: CITY COMMITMENTS**

- 4.1** The City shall:
- a) Provide the Club the exclusive right to name the said park as Kinsmen Regal Heights Park for the duration of this agreement.
  - b) Coordinate the installation of two (2) cedar park signs with the park name and Club logo at a maximum size of fifteen (15) feet long by two (2) feet wide to be installed at mutually agreed upon locations in the park.

- c) Be responsible for fifty percent (50%) of the costs associated with the installation and replacement of the two (2) cedar signs during the term of the agreement.
- d) Install signage on the new baseball score clock with the Club logo at the City's cost.
- e) Provide reference to the new park name on all City communication platforms, including but not limited to news releases, City website, social media, and directional signage.
- f) Coordinate a grand opening media ceremony once the two (2) projects identified in Article 3.4 are substantially completed, in which the Club will be publicly recognized for their contributions and provided the opportunity to speak about the project.
- g) Be responsible for the regular maintenance and repair of all sign structures and new amenities installed through the naming rights sponsorship fees received from the Club.
- h) Be fully responsible for the replacement of any sign structures that are damaged by the act, default or negligence of the City.

## **ARTICLE 5: CLUB COMMITMENTS**

### **5.1 The Club shall:**

- a) Make annual financial contributions to the City as identified in Article 3.1 of this agreement.
- b) Be responsible for fifty percent (50%) of the costs associated with the installation and replacement of the two (2) cedar signs during the term of the agreement.
- c) Approve all design work coordinated by the City for the park recognition signage in a timely manner.
- d) Be able to install additional naming signage at the other entrances to the park, at their own expense and with the approval of the City.
- e) Remain a registered non-profit charitable entity in the Province of Saskatchewan throughout the term of the agreement and provide the City with a copy of its Saskatchewan Corporate Registry Profile Report upon request.

## **ARTICLE 6: TERMINATION**

- 6.1** Any of the following occurrences or acts shall constitute an event of default by the Club, and shall be considered sufficient cause to terminate the agreement, specifically:
- a) If the Club willfully breaks or neglects to observe or perform any of the terms of the agreement.
  - b) If payments due to the City under the terms of the agreement are not processed within thirty (30) days of payment becoming due.
  - c) If the rights granted shall at any time be seized or taken in execution or in attachment by any creditor of the Club, or if the Club becomes bankrupt or make any assignment of the contract in violation of the terms of the agreement.
- 6.2** If sufficient cause exists to justify such action, the City may provide written notice to cancel the agreement and terminate all rights of the Club by providing a notice in writing to that effect. Should sufficient cause continue for thirty (30) days after the City has given notice to the Club, all rights and privileges conferred on the Club shall immediately cease and terminate, without prejudice to any other rights or remedies the City may have.
- 6.3** Notwithstanding anything contained herein, the City may, at any time during the term of the agreement, upon giving six (6) months' written notice to the Club terminate the agreement for any other reason. The City shall also be entitled to recover any monies owing and likewise provide money back to the Club on a pro-rata basis for monies already paid.
- 6.4** The parties agree that the Club shall be responsible for the removal of the signage structures upon termination of this Agreement and the site be restored to its original condition.

## **ARTICLE 7: INDEMNITY**

- 7.1** The Club covenants and agrees to indemnify and save harmless the City, its officials, employees and agents from and against all claims, demands, actions, causes of action, damages whatsoever arising and costs, including solicitor-client and party-and-party costs, which may be brought by any person, firm or corporation, including the Club or their invitees or the Club (in the meaning of occupier's liability law) for any matter, injury, death or loss, claims, demands, losses, expenses, liabilities, damages, penalties, fines, actions, suits or other proceedings by howsoever suffered or incurred, in any manner based upon, occasioned by, arising out of or attributable to matters referred to in this Agreement.

**7.2** Article 7.1 shall survive the termination and expiration of this Agreement.

## **ARTICLE 8: DISPUTE RESOLUTION**

**8.1** The City and the Club hereby agree to make reasonable efforts to resolve any dispute between the parties through consultation and negotiation in good faith and in a spirit of mutual cooperation, in accordance with the following:

- a) within seven (7) business days after the receipt of a request for dispute resolution by the other party, the parties shall refer the matter to:
  - i. the City Manager on behalf of the City; and
  - ii. the Club's President.
- b) the City Manager and the Club's President shall attempt to resolve the dispute. If such attempt to resolve the dispute is unsuccessful after fourteen (14) business days of dispute resolution, either party may, after giving notice to the other party, refer the dispute to arbitration by a single arbitrator, which arbitrator shall be appointed jointly by the parties;
- c) no party shall unreasonably withhold consent to the selection of an arbitrator. In the event that the parties cannot agree on the arbitrator to be appointed within a period of seven (7) business days, such arbitrator shall be appointed by reference to a Justice of the Court of Queen's Bench of Saskatchewan;
- d) with consent of both parties, any disputes referred to arbitration under this Agreement may be:
  - i. held in abeyance until the completion or termination of this Agreement; or
  - ii. consolidated into one arbitration.
- e) arbitration shall take place in Moose Jaw, Saskatchewan, unless otherwise agreed to by the parties;
- f) the cost of arbitration shall be borne equally between the parties;
- g) the decision of the arbitrator shall be final and binding on the parties, subject to the right of either party to appeal an award to the court on a question of law, on a question of fact or on a question of mixed law and fact;
- h) in the event of arbitration, each party shall on a timely basis and in any event not less than ten (10) business days prior to the date set for the arbitration hearing provide to the other party full particulars of the provisions of this Agreement upon which that party relies together with a disclosure of any test, reports, field sheets, or inspection results as may be relevant to the disposition

of the arbitration whether or not such party intends to rely upon such materials; and

- i) if a dispute has not been determined by an arbitrator within 180 days after a notice to arbitrate was received and provided that the parties have not mutually agreed to hold the arbitration in abeyance under section 9.1(d), either party may apply to a court of competent jurisdiction for resolution. In such case, and upon the commencement of any court action, the arbitration shall end.

## **ARTICLE 9: OTHER PROVISIONS**

**9.1 FAIR MEANING** - The language in all parts of this Agreement will, in all cases, be construed simply, according to its fair meaning and not strictly for or against either of the parties hereto. For greater certainty, any rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement. If parts of this Agreement become invalid, it does not invalidate the entire Agreement only the clause the invalid part pertains to.

**9.2 REFERENCE AND ASSIGNMENT** - The terms "the City" and "the Club" and references thereto shall include the administrators, directors, successors and permitted assignees of the City and the Club respectively. This agreement may not be assigned unless the written permission of the City is first had and obtained.

**9.3 INTELLECTUAL PROPERTY** - Neither the City nor the Club will use the name, trademarks, or other intellectual property of the other without prior written consent; however, consent will not be unreasonably withheld.

**9.4 COMPLIANCE WITH LAWS** – Both parties shall comply with:

- a) All laws of the Government of Canada and the Province of Saskatchewan.
- b) All policies and procedures of the City.
- c) All rules and regulations from time to time adopted or prescribed by the City for the governance and management of the park facilities described in this Agreement.
- d) All rules and requirements of the Moose Jaw Police and Fire Departments or other municipal authorities.

**9.5 FORCE MAJEURE** - In the event that any of the facilities or park space is destroyed or damaged by fire, water or any other cause, or if any other eventuality or unforeseen occurrence renders the fulfillment of this Agreement by the City impossible, then and thereupon the Club will be relieved of payments for any such period of time that the facilities are unavailable for the various uses

contemplated in this Agreement and the Club hereby waives any claim for damages or compensation should the facilities or park space be so rendered unavailable.

- 9.6 NOTICES** - Any notice, communication or other document required or permitted to be given or sent or delivered hereunder to any party hereto shall be in writing and shall be sufficiently given if it is sent or delivered to the party entitled to receive it as follows:

In the case of the City:  
City of Moose Jaw  
228 Main Street North  
Moose Jaw, Saskatchewan S6H 2W9  
Attention: Director of Parks & Recreation

In the case of the Club:  
Kinsmen Club of Moose Jaw  
P.O. Box 492  
Moose Jaw, Saskatchewan S6H 4P1  
Attention: President

Such notice shall be deemed to have been served when sent by the delivering party.

- 9.7 WAIVER** - No delay, neglect, or forbearance on the part of either party in enforcing against the other party any term, condition or obligation of this Agreement will be, or be deemed to be, a waiver or in any way prejudice any right of that party under this Agreement, and any waiver of any term, condition, obligation, or breach of this Agreement must be in writing to be effective.
- 9.8 ENTIRE AGREEMENT** - This Agreement, including any schedules, constitutes the entire agreement between the parties and supersedes all prior agreements, undertakings, representations, and understandings, written or oral, between the parties or their representatives relating thereto.
- 9.9 SEVERABILITY** - If any of the provisions in this Agreement are for any reason held to be invalid or unenforceable, such provision is severed from this Agreement and such invalidity or unenforceability will not invalidate, affect, or impair the remaining provisions, and this Agreement will be construed as if such invalid or unenforceable provision had never been part of the Agreement.
- 9.10 PROTECTION OF PRIVACY** - This Agreement may be subject to provisions of the Municipal Freedom of Information and Protection of Privacy Act.

## **ARTICLE 11: EFFECTIVE DATE**

- 11.1** Notwithstanding the date of execution by the respective parties, the effective date of this Agreement shall be the 1<sup>ST</sup> day of June 2022.

**IN WITNESS WHEREOF** the **City of Moose Jaw** has executed this Agreement as attested to by the signatures(s) of its proper signing officer(s) this \_\_\_\_ day of \_\_\_\_\_, 2022.

**THE MUNICIPAL CORPORATION OF THE  
CITY OF MOOSE JAW**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

**IN WITNESS WHEREOF** **Kinsmen Club of Moose Jaw Inc.** has executed this Agreement as attested to by the signatures(s) of its proper signing officer(s) this \_\_\_\_ day of \_\_\_\_\_, 2022.

**KINSMEN CLUB OF MOOSE JAW INC.**

**Per:** \_\_\_\_\_



## **SCHEDULE 'A' – REGAL HEIGHTS PARK LANDS**

Legal Land Location:

Blk/Par R1-Plan 82MJ11293 Ext 0



**AFFIDAVIT OF WITNESS**

I, \_\_\_\_\_ of \_\_\_\_\_ Saskatchewan,

MAKE OATH AND SAY THAT:

1. I was personally present and did see \_\_\_\_\_, the person named in the within document, who is personally known by me, duly sign the document.
2. The document was executed at Moose Jaw, Saskatchewan on \_\_\_\_\_, 20\_\_\_\_, and that I am the subscribing witness thereto.
3. I know \_\_\_\_\_ and he/she is in my belief eighteen (18) years old or more.

SWORN BEFORE ME at the City of \_\_\_\_\_ )  
Moose Jaw, Saskatchewan, on \_\_\_\_\_ )  
\_\_\_\_\_, 20\_\_\_\_. )  
 )  
 )  
 )  
 )  
\_\_\_\_\_ )

\_\_\_\_\_

A COMMISSIONER FOR OATHS  
For Saskatchewan  
Being a Solicitor, OR  
My commission expires: \_\_\_\_\_

CANADA )  
PROVINCE OF SASKATCHEWAN )  
TO WIT: )

### AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY

I, \_\_\_\_\_ (*name*) of \_\_\_\_\_ (*place*) in the Province of Saskatchewan

MAKE OATH AND SAY THAT:

1. I am the \_\_\_\_\_ (*position*) of \_\_\_\_\_ (*corporation name*) named in this document.
2. I am authorized by the corporation to execute the document with affixing a corporate seal.

SWORN BEFORE ME at the City of \_\_\_\_\_ )  
Moose Jaw, in the Province of Saskatchewan, )  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. )  
\_\_\_\_\_  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

A COMMISSIONER FOR OATHS  
For Saskatchewan  
Being a Solicitor, OR  
My commission expires: \_\_\_\_\_