

THIRD RENEWAL LICENCE

This Third Renewal Licence is made effective as of October 1, 2015 (the “Effective Date”)

BETWEEN:

CITY OF VANCOUVER, represented by its
BOARD OF PARKS AND RECREATION, having offices at
2099 Beach Avenue
Vancouver, British Columbia
V6G 1Z4

(the “Board”)

AND:

JERICHO SAILING CENTER ASSOCIATION (Incorporation No. S-0011235)
1300 Discovery Street
Vancouver, British Columbia
V6R 4L9

(the “Association”)

BACKGROUND:

A. The City of Vancouver owns certain lands and premises (the “Lands”) in the City of Vancouver, British Columbia, legally described as:

Parcel Identifier: 015-849-511
District Lot 5098 Group 1 New Westminster District;

B. The Board has control and management of the Lands;

C. By way of a licence agreement made as of October 1, 1990 (the “1990 Licence”), the Board licenced to the Association a portion of the Lands and a building on the Lands, as more particularly described in the 1990 Licence (the “Premises”), for a term of 5 years commencing on October 1, 1990 and ending on September 30, 1995, which 1990 License replaced a previous licence granted by the Board to Association, pursuant to a five year term, which commenced October 1, 1985 and ended on September 30 1990;

D. By way of a modification and renewal of licence agreement made as of October 1, 1995, the Board modified and renewed the 1990 Licence for a further term of 10 years commencing October 1, 1995 and ending on September 30, 2005 (the “First Renewal Licence”);

E. By way of a renewal licence agreement dated effective October 1, 2005, the Board renewed the 1990 Licence, as modified and renewed by the First Renewal Licence, for a further term of ten (10 years) commencing effective October 1, 2005 and ending September 30, 2015 (the “Second Renewal Licence”);

F. The Association has requested that the Board grant to the Association a further renewal of the license agreement for a further term of 10 years commencing effective October 1, 2015

and ending on September 30, 2025 (the “Third Renewal Licence”) and the Board has agreed to do so on the terms and conditions set out herein;

G. All defined terms in this Third Renewal Licence have the meanings ascribed to them in the 1990 Licence, as modified and renewed by the First Renewal Licence, renewed and modified by the Second Renewal Licence, and as renewed and modified by this Third Renewal Licence unless otherwise indicated; and

H. The 1990 Licence, as renewed and modified by the First Renewal Licence, renewed by the Second Renewal Licence, and as renewed and modified by this Third Renewal Licence is called the “Licence”.

The Board and the Association agree as follows:

1. Third Renewal Term

The Board hereby grants a non-exclusive licence to the Association to use and occupy the Premises to operate the Jericho Sailing Center for a term of 10 years commencing effective the 1st day of October, 2015 and ending at midnight on the 30th day of September, 2025 (the “Third Renewal Term”).

2. Rent for Third Renewal Term

The Association will pay to the Board, during the Third Renewal Term, a licence fee in the amount of \$1.00 upon the commencement of the Third Renewal Term, the receipt of which is hereby acknowledged by the Board.

3. Modification

To modify the Licence as follows:

(a) By deleting Section 2.04 and replacing with the following:

“The Association shall, without limiting any of its obligations or liabilities under this Agreement, obtain and continuously carry during the Term at its own expense and cost, insurance coverage with minimum limits of not less than those specified, as follows:

(a) comprehensive general liability insurance with limits of \$2,000,000 dollars per occurrence or such higher limit of coverage as the City of Vancouver’s Director of Risk Management may require from time to time and the policy shall:

(i) indemnify and protect the Association, its employees, agents and to any person or persons and for damage to the Premises or to any public or private property occurring within or about the Premises or arising by virtue of the Association’s occupation or possession of the Premises;

(ii) insure the Association, the City of Vancouver, the Board and their respective officers, employees and agents in the same manner and

to the same extent as if separate policies had been issued to each and apply with respect to any action brought against one party by the other or by any officer, employee or agent of one party and any breach of a condition of the policy by any party or by any officer, employee or agent of one party shall not affect the protection given by the policy to any other party or to any officer, employee or agent of any party;

- (iii) add the City of Vancouver, the Board and its officials, officers, employees and agents as additional insureds;
- (iv) include All Risk (Broad Form) Tenant's Legal Liability insurance for an amount equal to the full replacement cost of the Premises, such coverage to include the activities and operations conducted by the Association and third parties in the Premises;
- (v) include blanket contractual liability covering liability arising directly or indirectly out of the performance of this Agreement; and
- (vi) provide for a limit of deductibility not greater than Two Thousand Dollars (\$2,000.00) or such other minimum limit as the City of Vancouver's Director of Risk Management may sanction from time to time.

All Risk (Broad Form) insurance on property of every description and kind owned by the Association or for which the Association is legally liable or installed by or on behalf of the Association (and which is located in the Premises), including without limitation furniture, fittings, installations, alterations, additions, partitions, fixtures, trade fixtures and any display model, project, prototype, tool, instrument or device within the Premises in an amount not less than ninety percent (90%) of the full replacement cost thereof. The City of Vancouver and the Board shall be added as named insured and loss payee for its interest.

General Requirements of Insurance

The following shall apply to all insurance policies:

- (a) the policies shall be with insurers duly authorized to carry on business in the Province of British Columbia, in a form and in amounts satisfactory from time to time and acceptable to the City of Vancouver's Director of Risk Management and shall provide the City of Vancouver with 30 days prior written notice of material change or cancellation. Notice shall be given to the City of Vancouver, c/o Risk Management Division, Attention: Insurance Administrator. Notice must identify the name of the Association as set out in this Agreement and the location or address of the Premises;
- (b) neither the providing of insurance by the Association in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing shall be held to relieve

the Association from any other provisions of this Agreement with respect to liability of the Association or otherwise;

- (c) the insurance coverage shall be primary insurance as respects the City of Vancouver and the Board and any insurance or self-insurance maintained by or on behalf of the City of Vancouver or the Board, its officials, officers, employees or agents shall be excess of this insurance and shall not contribute with it; and
- (d) subject to the provisions of this section, the Association shall provide at its own cost any additional insurance which the Association is required by law to provide or which the Association considers necessary.

Evidence of Insurance

Prior to the commencement of the Term, the Association shall provide evidence of each policy of insurance required to be taken out by the Association in the form of a City of Vancouver Certificate of Insurance. If required by the Board, the Association shall provide certified copies of the policies signed by the insurers. Although not required to do so, if the Association fails to adduce satisfactory proof of such coverage being in full force and effect at all times, the Board may secure such insurance and the Association shall pay the cost of same as additional rent.”

- (b) by adding the following provisions at the end of Section 2.13 - “The Premises, including, without limitation, the interior of the Premises must be painted at least twice during the Third Renewal Term, to the satisfaction of the Board. Board representatives may inspect the Premises at any reasonable time. If, in the Board’s opinion, the Association is not providing efficient management or maintaining the Premises in a satisfactory condition or state of repair, then, upon written notice from the Board, the Association will rectify the deficiencies in accordance with such notice.

If the Association fails to comply, within a reasonable period of time, with the said written notice given by the Board, the Board may enter the Premises and cure such deficiencies and take such measures as the Board, in its sole discretion, deems necessary to restore the Premises to a satisfactory condition and state of repair and to ensure efficient management of the Premises, including terminating this Agreement in accordance with Section 2.15, and the Association, on demand, will pay the Board’s cost of doing so, plus the Board’s overhead charges of twenty percent (20%) of said costs to the Board.”

- (c) By adding the following sentence to the end of Section 2.15 - “There shall be no compensation paid to the Association and the Association shall have no claim for compensation or damages with respect to any termination of this Agreement”;
- (d) By adding the following sentence to the end of Section 2.15 - “If the Association fails to pay the Board or the City of Vancouver any money it owes to them or either of them under this Agreement such money will bear interest at a rate equal to the “Prime Rate” as defined herein plus three percent (3%) per annum or if a court judges the Prime Rate to be void or unenforceable or if there is no Prime Rate, twenty-one percent (21%) per annum, in each case calculated monthly not in advance from the date due until paid.

“Prime Rate” means the floating annual percentage rate of interest established from time to time by the Bank of Montreal, 595 Burrard Street, Vancouver, B.C. as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as the prime rate.”

- (e) By deleting Section 2.20 and replacing it with the words “Intentionally Deleted” and by deleting the following words in Section 2.21 “Without derogating from clause 2.20”;
- (f) By inserting the following provision as Section 2.22(c) - “the Association shall not allow any encumbrance to charge title to all or part of the Lands”;
- (g) By inserting the following [provision as Section 2.22(d) - “the Association shall remain in good standing”;
- (h) By inserting the following provision as Section 2.22 (e) - “the Association, at no cost to the Park Board or the City, at least once every three calendar years during the Third Renewal Term, shall provide the Park Board with a written report regarding the condition of the Premises including, without limitation, showing the location of any defects, extraordinary wear and tear and deficiencies and shall contract with an accredited building inspection service, at least once every three calendar years during the Third Renewal Term, for a maintenance inspection to determine the condition of the Premises including, without limitation, the condition of the structural, mechanical, electrical and finishing components of the Premises and shall provide the Park Board with a full report in respect thereof at least once every three calendar years during the Third Renewal Term.”
- (i) By adding the following provision as Section 2.29 - “The Association will ensure that at all times the provisions of the *Human Rights Code* (British Columbia) are observed in all respects in connection with its use and occupation of the Premises and the membership in and the operation of the Premises, and the Association will not sponsor, implement or permit any activity in or use of the Premises which contravenes the *Human Rights Code* (British Columbia) or which demeans any group or any member of any group protected under the *Human Rights Code* (British Columbia).”
- (j) By adding the following provision as Section 2.30 - “The Association shall be the “prime contractor” (as defined in the *Workers Compensation Act*) for WorkSafeBC purposes in respect of the work performed by or on behalf of the Licensee on the Lands and accept all responsibilities of the prime contractor as outlined in the City’s current Multiple-Employer Workplace/Contractor Coordination program, the *Workers Compensation Act* (Part 3) and the *WorkSafeBC Occupational Health & Safety Regulation*”; and
- (k) By adding the following provision as Section 2.31 - “Nothing expressed or implied herein will be deemed to derogate from or prejudice or affect the City’s rights, powers, duties, or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, other public or private statutes, bylaws, or statutory orders or regulations, and the City may exercise such rights, powers, duties, and obligations as fully and effectively as if the Licensee and City had not executed and delivered this Agreement to one another.”

4. Summary of Terms of Previous Modifications

For convenience, below are the modifications which were made with respect to the First Renewal Licence:

- (a) “The Board may use the Premises for community programming during such times as mutually agreed to by the Board and the Association.” (Section 1.04(d)); and
- (b) “Without in any way limiting the Association’s obligations set forth in Section 2.10 of this Agreement, the Association agrees that in connection with the caretaker’s trailer situate on the Premises, the Association shall do whatever is required to meet the City of Vancouver’s licencing requirements.” (Section 2.10(A)).

5. General

- (a) This Third Renewal Licence will be deemed to incorporate all of the terms and provisions of the 1990 Licence, as modified and renewed by the First Renewal Licence, renewed by the Second Renewal Licence, and as modified and renewed by this Third Renewal Licence and the Board and the Association mutually ratify and confirm all of the terms and conditions of the 1990 Licence as so modified and renewed.
- (b) This Third Renewal Licence will enure to the benefit of and be binding upon the successors and assigns of the Board and the Association.

IN WITNESS WHEREOF the parties have executed and delivered this Third Renewal Licence to be effective as of the Effective Date.

CITY OF VANCOUVER as represented by its
BOARD OF PARKS AND RECREATION,
by its authorized signatory:

Signature and Name

JERICO SAILING CENTRE ASSOCIATION

Per:

Authorized Signatory

Authorized Signatory