



LICENCE OF USE

THIS AGREEMENT made the day of 2023

BETWEEN:

Cowichan Valley Regional District
175 Ingram Street
Duncan, BC V9L 1N8
(the "**Owner**")

OF THE FIRST PART

AND:

Island Capitals Sports and Entertainment Group Ltd.
2687 James Street
Duncan, BC V9L VX5
(the "**Tenant**")

OF THE SECOND PART

W H E R E A S :

- A. The Owner is the Owner of the Land defined in section 1 of this Agreement;
- B. The Tenant wishes to be granted this licence of use with respect to the licenced area, as defined in section 1 of this Agreement, and the Owner has agreed.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the licence fee to be paid by the Tenant to the Owner and in consideration of the premises and covenants and agreements contained in this agreement (the "**Agreement**"), the Tenant and the Licensee covenant and agree with each other as follows:

Definitions

- 1. In this Agreement,
 - (a) "Owner" means the Cowichan Valley Regional District,
 - (b) "Tenant" means Island Capitals Sports and Entertainment Group Ltd,
 - (c) "Land" means the lands situated at 2687 James Street, Duncan, B.C., legally described as Lot 1, Section 18, Range 6, Quamichan District, Plan VIS741, owned by the Owner,

- (d) "Licenced Area" means the part of the building situated on the Land outlined in Schedule "A" of this agreement; containing approximately 1,000 square feet of concession service space,
- (e) "Equipment" means those items supplied in the space by the owner as outlined in Schedule "B" of this agreement.
- (f) "Deposit" means the sum of \$750.00 to be held by the Owner pursuant to section 4(d) of this Agreement,
- (g) "Permit" means an approval, authorization, consent, license, or permit, issued under any statute or regulation, which is lawfully required for the Tenant's use and occupation of the Licenced Area, and
- (h) "Hazardous substance" means a contaminant, dangerous good, hazardous substance, pollutant, special waste, or toxic substance, or waste, as defined under the federal Canadian Environmental Protection Act or provincial Environmental Management Act, or other legislation pertaining to the environment (such legislation is hereafter referred to as "environmental laws").

Grant of Licence

- 2. The Owner grants the Tenant a licence (the "licence") to occupy the Licenced Area, on the terms and conditions stated in this Agreement, from July 1, 2023 to June 31, 2025 (the "Term").
- 3. The Owner may grant a 2 year licence extension prior to the expiry of the Term, at the Owners sole discretion and subject to CVRD Board approval.

Fees and Deposit

- 4. In consideration for granting the license, the Tenant agrees to pay the Owners:
 - (a) A licence fee of \$750.00 per month (the "Licence Fee"), plus applicable taxes, in advance on the start of every month of the Term until the licence ends, starting on July 1, 2023.
 - (b) The amount of the Licence Fee shall be increased every twelve months by an amount equal to the percentage increase in the Consumer Price Index (All Items – Greater Victoria) over the previous twelve month period. For certainty, if there is a decrease in the Consumer Price Index, the Licence Fee shall not be reduced.
 - (c) The monthly lease payment may be temporarily suspended or adjusted in the event of a facility closure due to the COVID-19 pandemic or for any other reason outside the Tenant's control.
 - (d) A Deposit of \$750.00, as security for the performance of the Tenant's obligations under this Agreement, will be due on execution of the agreement.
 - (e) Any arrears in payment of the Licence Fee are to bear interest at 1.5 percent per month.

Use of Licenced Area

- 5. The Tenant may use the licenced area for the following purposes only:
 - a) Providing concession food and non-alcoholic beverage services; as well as providing food

and beverage catering to customers of the recreation centre as requested. This does not imply an exclusive right to catering services within the building.

- b) The concession operating hours are as follows; any changes to these hours must be mutually agreed to in writing between the Owner and Tenant:

September to April

Monday to Friday 10:00am to 2:00pm & 4:00pm to 7:00pm

Saturday & Sunday 9:00am to 5:00pm

*Additional hours to support facility services & events as required.

May to August

Monday to Friday 10:00am to 2:00pm

*Additional hours to support facility services & events as required.

It is understood that the Tenant may adjust service hours during statutory holidays.

- c) The Tenant must post and maintain current menu and concession operating hours signage in the arena warm room and multi-purpose hallway as approved by the Owner.
- d) During service times the Tenant is required to manage patrons and cleanliness of the small dining area adjacent to the concession.
- e) The Tenant is permitted access to the Equipment supplied in the space as outlined in Schedule B during the Term with full acceptance and responsibility for proper use, maintenance and repair at its own cost and shall only use the Equipment in a careful and proper manner and will comply with all laws, rules, ordinances, statutes, and orders regarding the use, maintenance, and storage of the Equipment. The Owner reserves the right to remove any of these items at its sole discretion.

Nature of Licence

- 6. The Tenant acknowledges that this Agreement grants a licence only, and does not give, and must not be deemed to give, any other interest in the licenced area.

Dealings with Licence

- 7. The Tenant may not assign the licence, or sub-licence all or part of the licenced area, without the Owner's prior written consent. The Owner may withhold consent without reason.
- 8. Assigning the licence does not release the Tenant from its obligations under the licence.
- 9. The Tenant may not encumber its interest in the licence.
- 10. The Tenant may not allow another person except (a) its agents, employees, members and guests, and (b) assignees and sub-licencees permitted by the Owner, to occupy all or part of the licenced area.
- 11. The Tenant must ensure that its agents, employees, members, guests, and assignees and sub-licencees permitted by the Owner, comply with the terms of the licence.
- 12. The Tenant and its agents, employees, members, guests, assignees, and sub-licencees are not, and must not be deemed to be, agents or employees of the Owner.

Re-entry into Licenced Area

13. The Tenant must allow the Owner, and persons whom the Owner authorizes, to enter the licenced area at any time on reasonable notice and for any reason.

Maintenance of Licenced Area

14. The Tenant accepts full responsibility for the condition of the licenced area and agrees to keep the licenced area clean, tidy, and in good repair. The Owner is not obligated to conduct any repairs or maintenance within the licenced area.

Repairs to Licenced Area

15. The Tenant must repair, at its expense, damage to the licenced area that results from the use of the licenced area by the Tenant or a person whom the Tenant allows to enter onto the licenced area.

Enactments and Permits

16. The Tenant must, during the Term, comply with all applicable enactments and permits regulating the use and occupancy of the licenced area. Without limitation, the Tenant must comply, during the Term, with applicable enactments and permits relating to (a) building, (b) fire protection and control, and (c) environmental laws.
17. The Tenant must show the Owner, on demand, that the Tenant holds all Permits necessary for the Tenant's use and occupation of the licenced area.

Taxes

18. The Tenant must pay, on time, all taxes imposed during the Term on the Tenant's activity, income, and property, including but not limited to all taxes imposed on the Tenant as a result of the Tenant's use and occupation of the licenced area, and WorkSafe BC assessments.

Liens

19. The Tenant must promptly remove liens against all or part of the licenced area or the Land that arise from work done for, materials supplied to, and obligations incurred by, the Tenant.

Utilities

20. The Owner will provide electricity, water and garbage disposal to the licenced area.
21. Recycling of used oil shall be the responsibility of the Tenant, storage space will be provided by the Owner.
22. The Tenant is responsible for the regular maintenance and certification of the fire suppression system connected to cooking equipment.

Changes and Improvements to Licenced Area

23. If a provincial or federal enactment or a change to a provincial or federal enactment requires changing the licenced area or part of the licenced area, then the Tenant must (a) notify the Owner, and (b) change the licenced area or part of the licenced area (as the case may be) at the Tenant's expense. Otherwise, the Tenant may not change or improve the licenced area, or part of the licenced area, without the Owner's prior written consent.

Nuisances

24. The Tenant must not do or have or allow to be done anything in the licenced area that is, in the Owner's opinion, a nuisance.
25. The Owner may, at any time, in its sole discretion, revoke permission for any person to remain within the licenced area and may evict any person or persons who is or are or who may be causing a nuisance, creating a disturbance or otherwise behaving in an unacceptable manner.

Environmental Protection

26. The Tenant must not store or have stored, treat or have treated, or dispose or have disposed, hazardous substances in the licenced area, except with the consent of the Owner, which may be withheld for any reason, and then only in accordance with applicable environmental laws.
27. The Tenant must notify the Owner immediately if (a) a hazardous substance is released in the licenced area, (b) a government agency notifies the Tenant that the Tenant is not complying with an environmental law, (c) the Tenant is notified of a third-party claim relating to the environment, or (d) the Tenant learns that a hazardous substance is present in the licenced area.
28. The Tenant must investigate, and report to the Owner, as the Owner directs, if the Owner reasonably suspects that the Tenant's occupation and use of the licenced area might be introducing, or increasing the presence of, hazardous substances in the licenced area.
29. If the Tenant's use and occupation of the licenced area introduces, or increases the presence of, hazardous substances in the licenced area, then the Tenant must undertake remediation (as defined In the Environmental Management Act of British Columbia) at its expense.

Indemnity

30. The Tenant agrees to indemnify and save harmless the Owner against any and all claims, actions, causes of action, damages, costs (including legal costs on a solicitor client basis) arising from
 - (a) the Tenant's occupation and use of the licenced area, or
 - (b) breach of a term or condition of the licence by the Tenant or an agent, employee, member, guest, assignee and sub-licencee of the Tenant;
 - (c) any injury, loss or damage sustained by any person while present on the licenced area.

Insurance

31. The Tenant must take out and maintain during the Term,
 - a. comprehensive general liability insurance of at least \$3,000,000.00,
 - b. blanket tenant legal liability insurance of at least \$3,000,000.00,
 - c. completed operations insurance of at least \$3,000,000.00,
 - d. blanket contractual liability insurance,

- e. premises and operations insurance,
- f. cross liability and severability of interests' insurance,
- g. sudden & accidental liability insurance of at least \$3,000,000.00,
- h. non-owned automobile liability insurance of at least \$3,000,000.00, and
- i. primary and non-contributory insurance.

32. The Tenant's insurance policies must

- (a) Name the Owner as an additional insured,
- (b) State that the policy may not be cancelled, allowed to expire, or materially changed, unless the insurer notifies the Owner in writing at least 30 days in advance, and
- (c) State that the Owner's insurance claims must be paid before any other.

33. The Tenant must supply the Owner with proof of insurance (a) when this agreement is signed, (b) annually at the anniversary date, and (c) on any renewal of the licence.

Release

34. The Tenant releases and forever discharges the Owner from claims arising from

- (a) the licence's grant, existence and end,
- (b) the Tenant's occupation and use of the licenced area, and
- (c) the Owner exercising its rights under the licence.

Curtailment or Temporary Suspension of Use

35. If the Owner determines that circumstances beyond the Owner's control require curtailing or temporarily suspending the Tenant's use of the licenced area, then the Tenant must curtail or temporarily suspend (as the case may be) its use of the licenced area as the Owner directs.

Default

36. If the Tenant does not fulfill an obligation under the licence, then the Owner may fulfill the obligation for the Tenant. If the Owner incurs costs to fulfill an obligation under the licence that the Tenant does not fulfill, then the Owner may recover the Owner's costs of fulfilling the obligation from the Tenant on demand.

Cancellation or Forfeiture of License

37. The Owner or the Tenant may cancel the licence for just cause with, at minimum, thirty (30) days written notice. In the absence of just cause, either party may cancel the licence with, at minimum, six (6) months written notice.

38. If the Tenant does not fulfill an obligation under the licence, then the Owner may, rather than fulfill the obligation for the Tenant, cancel the licence in writing, effective thirty (30) days after

giving notice, unless the Tenant fulfills the obligation in that time.

39. If (a) a creditor of the Tenant tries to seize the licence, or take the licence in execution or attachment, or (b) the Tenant becomes bankrupt or insolvent, then the Tenant forfeits the licence, and improvements to the licenced area, to the Owner.

End of License

40. The Tenant must give up possession of the licenced area when the licence ends.

41. When the license ends, the Tenant must

(a) remove, at its expense, its property from the licenced area and accepts that the Owner will determine what Tenant building improvements will become property of the Owner,

(b) leave the licenced area clean, tidy, and in good repair, and

42. If the Tenant (a) does not change or improve the licenced area, or part of the licenced area, during the licence without the Owner's prior written consent, (b) removes its property from the licenced area when the licence ends, (c) leaves the licenced area in good repair when the licence ends, and (d) removes improvements to the licenced area as the Owner directs when the licence ends, then the Owner must refund the Tenant the Deposit without interest. Otherwise, the Tenant forfeits the Deposit to the Owner.

Dispute Resolution

43. The Owner and the Tenant agree to try to resolve disputes that arise from or in connection with this agreement as efficiently and cost effectively as possible.

44. The Owner and the Tenant agree to try to resolve disputes by negotiation. To aid negotiation, the Owner and the Tenant agree to fully and frankly disclose relevant information.

Freedom of Information

45. The Tenant acknowledges that the Freedom of Information and Protection of Privacy Act may require disclosing (a) this Agreement, and (b) records relating to this Agreement that are in the Owner's custody or under its control.

Schedule A



Schedule B**Owners Equipment:**

- One (1) Sandwich/Salad Preparation Refrigerator
- One (1) Stand-up Merchandizing Refrigerator
- One (1) Two Compartment Sink and Drainboard
- One (1) Sink Faucet with Pre-rinse Assembly
- One (1) Stainless Steel Preparation Table (30"X30"X34")
- One (1) Stainless Steel Preparation Table (48"X30"X34")
- One (1) Stainless Steel Preparation Table (96"X30"X34")
- One (1) Wall Mounted Shelf (24"X12")
- One (1) Commercial Countertop Griddle

IN WITNESS WHEREOF the parties have set their hands and seals as of the day and year first above written.

COWICHAN VALLEY REGIONAL DISTRICT, by
Its authorized signatory(ies):

Aaron Stone
Board Chair

Patrick Robins
Corporate Officer

ISLAND CAPITALS SPORTS AND ENTERTAINMENT GROUP LTD, by
Its authorized signatory(ies):

John Dewar
President

Corey Pace
Partner