

## OPERATING AND RECREATION PROGRAM DELIVERY AGREEMENT

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

BETWEEN:

Ellison Parks & Recreation Society  
A Society duly incorporated pursuant to the laws of the  
Province of British Columbia  
4411 Old Vernon Road  
Kelowna, British Columbia V1X 7V6

(the "Society");

OF THE FIRST PART

AND:

REGIONAL DISTRICT OF CENTRAL OKANAGAN, having an office at  
1450 KLO Road,  
Kelowna, British Columbia, V1W 3Z4

(the "Regional District");

OF THE SECOND PART

WHEREAS:

- A. The Regional District owns the lands and improvements known as the Ellison Heritage School Community Centre, more particularly known and described as:  
Parcel Identifier: 009-451-595  
Lot 1, Plan KAP11862, District Lot 121, ODYD
- B. The parties recognize the benefits of entering into an agreement to deliver programs and manage facility rentals at the Centre for recreational, educational and cultural opportunities for the public in the Central Okanagan;
- C. Each of the parties brings certain strengths and resources to creating opportunities through such agreement; and
- D. The parties wish to enter into this Operating and Recreation Program Delivery Agreement to establish a frame-work for the use and management of the Centre.

THIS OPERATING AND RECREATION PROGRAM DELIVERY AGREEMENT WITNESSES THAT, in consideration of the mutual representations, warranties and agreements contained herein, the parties agree as follows:

1. DEFINITIONS

1.1 For the purposes of this Agreement, the following words and phrases have the meanings attributed to them:

- (a) "Director" means the Director of Parks Services for the Regional District and/or designate, or any other person that the Regional District hereby advises the Society of in writing;
- (b) "Material Breach" means the breach of a warranty, representation or agreement contained in this Agreement which does or may negatively and materially impact one of the parties to this Agreement;
- (c) "Centre" means a portion of the lands and improvements, outlined in red on the sketch plan attached hereto as **Schedule "A"**, known as the Ellison Heritage School Community Centre located at 4411 Old Vernon Road;
- (d) "President" means the President of the Society and/or designate;
- (e) "Regional District" means the Regional District of Central Okanagan, a local government, mandated to provide municipal services within the municipalities and electoral areas of the Central Okanagan;
- (f) "Society" means Ellison Parks & Recreation Society.

2. OPERATING RATIONALE

2.1 The Society and the Regional District recognize the recreational and community significance of the Centre and agree to enter into this Agreement to provide recreational, educational and cultural opportunities for the public in the community of Ellison. Subject to the specific conditions set out herein, the Society and the Regional District agree to enter into this Agreement for the purpose of establishing the overall terms and conditions for the program delivery and rental management of the Centre.

2.2 The Society and the Regional District recognize that each of them brings their own strengths and resources to this Agreement for the program delivery and rental management of the Centre and in creating educational, cultural and recreational opportunities for the public in the Central Okanagan. These opportunities will be realized through the adherence to the following goals:

- (a) To effectively manage and operate facilities and programs at the Centre for the safe enjoyment of residents and visitors to the Central Okanagan, within the organizational structure of the Society and the Regional District;
- (b) To strive for maximum accessibility of the public to programs and facilities at the Centre, without negatively impacting the physical condition of the Centre;
- (c) To communicate and participate in planning processes to continually assess the needs and opportunities for the public to access programs and facilities at the Centre, while at the same time understanding the impact on the condition of the Centre.

3. AUTHORITY, RESPONSIBILITY AND USE

- 3.1 The Regional District grants to the Society the occupation and use of the Centre, on the terms and subject to the conditions of this Agreement, as of the date of this Agreement.
- 3.2 The Regional District will retain sole authority over the Centre, except as outlined in this Agreement.
- 3.3 It is the intention of the parties that the Society shall be responsible for:
- (a) fundraising activities to support operating and recreational programming costs of the Centre and future capital improvements; and
  - (b) the management and programming of the Centre; and
  - (c) all costs associated with the management and programming of the Centre except as explicitly set out herein.
- 3.4 The Society acknowledges that the Regional District will not be contributing any further monies or contributions in-kind over and above the contributions set out in Paragraph 6.1 (a) of this Agreement.
- 3.5 The Society acknowledges and agrees that any monies that it raises through fundraising efforts using the Centre as the focus thereof, shall be used by the Society for the management and programming of the Centre in accordance with this Agreement. Provided, however, that the Society may place a portion of such funds, in trust with the Regional District, into reserve accounts for future capital or operating expenses.
- 3.6 The Society agrees to allow all residents within the local service area to participate in the Society as full members with all the rights and privileges as set out in their Constitution and Bylaws.

4. TERM

- 4.1 The term of this Agreement shall commence on the date hereof and shall end on the 31<sup>st</sup> day of December, 2022, unless earlier terminated in accordance with the provisions of this Agreement (the "Term").
- 4.2 In the event that neither the Society nor the Regional District has breached any of the terms and conditions of this Agreement, then six (6) months prior to the expiration of the Term, the Regional District and the Society shall, without obligation, enter into negotiations for an extension of the Term, on such terms and conditions as the parties may mutually agree. During the period of negotiation of such extension of the Term, the terms and conditions of this Agreement shall be deemed to continue on a month by month basis until such negotiations are concluded. In the event that the parties are unable to reach an agreement on the terms and conditions of such extension within six (6) months of the expiration of the Term, then the Society agrees to cease the use of and vacate the Centre within one (1) month of receiving written notice from the Regional District requiring it to do so.

## 5. COVENANTS OF THE SOCIETY

### 5.1 The Society agrees as follows:

- (a) to pay to the Regional District the sum of twenty percent (20%) of all gross revenue received from all third party rentals as permitted in this agreement (gross rental revenue exclusive of other fees);
- (b) to promptly pay all of the costs for which it is responsible hereunder;
- (c) to produce to the Regional District, from time to time, at the request of the Regional District satisfactory evidence of the due payment by the Society of all payments required to be made by the Society under this Agreement;
- (d) it is responsible for the supervision of the Centre, and for controlling and managing the use of the Centre and the programs delivered by the Society during the Term, subject to the final authority of the Regional District;
- (e) to use, and allow its members, invitees and members of the public to have the full right to reserve use of the Centre during regular times, which will be at a minimum 7:00 AM – 10:00 PM seven days a week, excluding statutory holidays.
- (f) the Society will operate the Centre in such a way as to provide equal opportunity for access and availability for use by all members of the community regardless of age, gender, race, creed, spiritual belief or physical ability;
- (g) the Society will allocate a minimum of \$5,000 annually to the Community Centre recreational programming budget; guidelines for the use of these funds are as outlined in Table 5a.

#### Table 5a – Programming Objectives and Program Subsidy Guidelines.

##### Family Events

(i.e., Community Breakfasts, Summer Event, Community Potlucks, Hallowe'en event, Christmas Fair, etc.)

Family events are defined as events that help build a sense of "community" in Ellison. Family events will target all members of the community including children, youth and adults.

Number of Events	Max Subsidy Level	Total Budget	Budget per Event
8	100%	\$2,000	\$250

##### Recreation and Community Programming

(i.e. Adult Crafts, Board Games Night, Active Games, Yoga, Guest Speakers, Tot Time, Teen Night and After School, etc.)

Recreation and Community Programming is defined as programs that have a specific topic or interest, are targeting one specific demographic, and can be one time or recurring.

Age Demographic	Min Hours of Programming	Max Subsidy Level	Total Budget	Budget per program hour
Children / Youth 0-15	80	100%	\$2,000	\$50.00
Adult 16+	160	50%	\$1,000	\$12.50

- (h) to provide the Regional District with a schedule of activities and events occurring at the Centre on a quarterly basis;
- (i) the Regional District shall be permitted at any time to post notices at the Centre that the Regional District will not be responsible for any liability under the provisions of the Builders' Lien Act then in force in British Columbia;
- (j) to take good care of the Centre and keep the same in a tidy, healthy and safe condition, at its own expense;
- (k) to pay when due all taxes payable by the Society in respect of the Society's occupancy of the Centre;
- (l) to conduct its affairs in a proper and efficient manner according to the reasonable standards of a facility which allows access to the public;
- (m) not to assign, sub-let, mortgage or encumber its interest in this Agreement, in whole or in part without the Regional District's prior consent in writing, which consent may be arbitrarily withheld;
- (n) not to at any time use, exercise, or carry on or permit to be used, exercised or carried on, in or upon any part of the Centre any noxious, noisome, or offensive act, trade, business, occupation or calling and no act, matter or thing whatsoever shall at any time be done in or upon any part of the Centre which is an unreasonable annoyance, nuisance or disturbance to the occupiers or owners of adjoining land and properties;
- (o) not to do or permit to be done any act or thing which may render void or voidable or conflict with the requirements of any policy of insurance, on the Centre;
- (p) to comply with all statutes, regulations, and by-laws of any governmental authority relating in any way to the Society's use or occupation of the Centre;
- (q) not to make any alterations, installations or changes of any kind to the Centre without the prior written consent of the Regional District, which consent may be arbitrarily withheld;
- (r) all alterations, additions, improvements and fixtures to, in or upon the Centre including everything attached to any part of the Centre other than the Society's trade fixtures, machinery, plant and equipment shall become the property of the Regional District and shall remain on the Centre upon the expiration or earlier termination of this Agreement subject to such exceptions that the Regional District may consent to in writing;
- (s) not to remove from the Centre any goods, chattels or fixtures moved onto the Centre, except in the normal course of business, until all payments due or to become due during the Term are fully paid;

- (t) it shall keep records of its rental management and programming activities at the Centre, in a form and content acceptable to the Regional District acting reasonably, for a period of seven (7) years, and the Regional District shall be entitled to review and obtain copies of such records as it may reasonably require from time to time;
- (u) it is responsible for the cost and supervision for all volunteers and staff required to program and manage the Centre;
- (v) it is responsible for the creation and the cost of any advertising and communications program created to promote the fundraising efforts and the programming of the Centre;
- (w) it shall require criminal records checks for all staff and volunteers who provide services to or have contact with children and vulnerable adults;
- (x) to promptly pay all charges incurred by the Society for any work materials or services that may be done, supplied or performed in respect of the Centre and shall not cause or permit any builders' lien to be registered against the Lands as a result of work, materials or services carried out by or on behalf of the Society, and if any such lien should be so registered the Society shall pay off and discharge the same immediately and, if it shall fail or neglect to do so within ten (10) days after written notice from the Regional District of the registration of such lien, the Regional District may, but shall not be obliged to, pay and discharge such lien and may collect such sum including all costs to the Regional District together with interest on such amount from the date of payment; Provided that in the event of a bona fide dispute by the Society of the validity or correctness of any such claim of lien the Society shall be entitled to defend against the same and any proceedings brought in respect of the same after having first paid into Court the amount claimed and such costs as the Court may direct or having provided such other security as the Regional District may in writing approve to ensure payment of the claim; Provided further that upon determination of the validity of any such lien the Society shall immediately pay any judgment in respect of such lien against the Regional District, including all proper costs and charges incurred by the Regional District, and the Society in connection with any such lien and shall cause a discharge of such lien to be registered without cost or expense to the Regional District;
- (y) at the expiration or earlier termination of this Agreement, to peaceably surrender and deliver up vacant possession of the Centre in the condition required in this Agreement;
- (z) to:
  - i. Notify the Regional District at once, in the event any toxic or hazardous substances are produced on or brought onto the Centre,
  - ii. Not stock-pile any toxic or hazardous substances on the Centre and if such contaminants are produced on the Centre, it shall at once notify the Regional District
  - iii. Indemnify and hold harmless the Regional District from all liability from whatever source, for pollution from any cause whatsoever, to or escaping from the Centre and this indemnity shall survive the termination or expiration of this Agreement;

- iv. Permit the Regional District to inspect the Centre at all times and with such experts and technical personnel as the Regional District deems necessary, to oversee the production, storage, stock-piling and disposal of any substances deemed toxic by the Regional District, or liable to cause pollution within or without the Centre and to confirm that the Centre is free of all contaminants at the termination for whatever cause of this Agreement; and
  - v. When required to do so by notice in writing from the Regional District, obtain insurance coverage with an insurance company and in the amounts and on terms having the prior approval of the Regional District, sufficient to protect the Regional District from all liability in respect of pollution arising from the activities of the Society in the Centre;
- (aa) the Society acknowledges that the Regional District shall be obtaining insurance on the Regional District's own behalf with respect to the Centre, and the Society agrees to cooperate with the Regional District and/or provide further documentation in respect of the application to any insurance companies, as the Regional District may reasonably request;
  - (bb) the Society shall also obtain Workers' Compensation Insurance, covering all employees of the Society, in accordance with the statutory requirements of the Province of British Columbia and agrees to provide the Regional District with a certified copy of its Workers' Compensation registration; and
  - (cc) to immediately report to the Regional District, the following with respect to the Centre:
    - i. accidents which are or may be life-threatening to users and staff of the Centre;
    - ii. incidents of major vandalism;
    - iii. theft of equipment; and
    - iv. suspension of individuals from using the Centre.

## 6. COVENANTS OF THE REGIONAL DISTRICT

### 6.1 The Regional District agrees as follows:

- (a) to pay all utility rates and charges in respect of and for all water, gas, sewer, and power used in connection with the Centre save and except for telephone charges and cable which shall be paid by the Society;
- (b) to provide limited professional consulting advice to the Society with respect to the management and programming of the Centre;
- (c) to maintain , repair, amend and keep the Centre, with appurtenances and all fixtures, in good and substantial repair when, where and so often as need shall be, as outlined in the standards described in **Schedule "B"** attached to this agreement, with the proviso that any one-time repair cost shall only be the Society's responsibility, up to a maximum of \$500.00 per occurrence;

7. PLANNING OF DEVELOPMENT AND USE

- 7.1 The President and the Director shall meet no less than once per year to identify and discuss the management, programming and use of the Centre, and to review the Society's achievement of the stated goals, the adherence to the criteria, and the success of the initiatives set out in this Agreement. Performance measures and data pertaining to inputs, efficiencies, outputs and effectiveness will be created and reviewed by both parties. The purpose of this review will be to assess the success of this Agreement in terms of:
- (a) the management of the Centre;
  - (b) the viability of the programming of the Centre; and
  - (c) the benefits realized by the public in accessing and using the Centre.
- 7.2 The President and the Director shall also discuss the maintenance and scheduled capital improvements to the Centre. A five (5) year plan for improvements will result from this meeting and be shared with the President.

8. APPROPRIATE USE OF THE FACILITIES

- 8.1 Subject to a contrary agreement set out herein, the Society shall use the Centre at all times in accordance with, and in the furtherance of, the following two (2) purposes of the Society as set out in its Constitution and Bylaws:
- (a) To encourage and promote community awareness for the residents of Ellison;
  - (b) To encourage and promote community recreation for the residents of Ellison.
- Such use shall be in accordance of the approved policies of the Regional District, as amended from time to time. The Society agrees that there shall be no additions, alterations or modifications to its Constitution and Bylaws without the prior consultation of the Regional District. Any changes to the Society's Constitution or Bylaws that are inconsistent with recreation and community programming may provide rationale for the Regional District to visit Section 17 of this agreement.
- 8.2 The Society agrees that the Centre may be used for the following general public uses without the need to obtain any further consent of the Regional District:
- (a) passive recreation;
  - (b) private receptions;
  - (c) private, exclusive use functions;
  - (d) weddings;
  - (e) catered functions; and
  - (f) Society programs;

For all events (b) through (e) the Society agrees to control such activities by the issuance of permits modeled on the Regional District's standard form permit process.



- 8.3 The Society may be allowed to use the Centre for the following purposes, with the prior consent of the Regional District, which consent may be withheld:
- (a) any ongoing commercial enterprises. In deciding whether to provide its consent to the foregoing events on a case-by-case basis, the Regional District will review the following factors in deciding whether to provide such consent:
    - i. whether the Society has followed the terms and conditions of the site rental requirements of this Agreement;
    - ii. the number of people expecting to attend such event in relation to the impact on the health of the Centre;
    - iii. whether the event fits within Regional District policies from time to time; and
    - iv. the need for the Society to generate revenue.

8.4 The Society agrees to ensure that all users of the Centre abide by current laws and regulations with respect to persons smoking on Regional District property.

8.5 The Society agrees to ensure that all users of the Centre abide by the current laws and regulations with respect to persons consuming alcohol on Regional District property. All functions where alcohol is permitted will be required to provide proof of all necessary permits and programs (i.e. "Serving It Right", designated driver service, etc.).

## 9. SCHEDULING AND AVAILABILITY

9.1 The principle goal of scheduling the use of the Centre will be to achieve the maximum possible use by all potential user groups for the mutual benefit of the Society, the Regional District and their stakeholders, subject to the impact on the physical condition of the Centre.

## 10. RENTAL OF FACILITIES

10.1 Subject to the terms of this Agreement, the Society shall be entitled to rent the Centre to third parties for community purposes, but not for any period exceeding fifty-six (56) hours consecutively without prior written consent of the Regional District, which consent may be arbitrarily withheld.

10.2 The Society and the Regional District shall enter into written rental agreements with all third parties using any portion of the Centre, in the form of written contract attached to this Agreement as **Schedule "C"**.

10.3 The terms and conditions of such third party rental agreements shall not be altered without the prior written consent of the Regional District, which may be arbitrarily withheld. All such third party rentals shall be conducted so as to comply with all laws and regulations concerning the use of the Centre and to comply with the Society's agreements for use of the Centre as set out herein.

10.4 The Society shall follow the Regional District facility rental policies for the Centre, as amended from time to time, except as otherwise agreed between the Regional District and the Society in this Agreement.

11. BUDGETING AND PERFORMANCES MEASURES

- 11.1 The President shall provide the Director with the Society's budget on an annual basis for the anticipated rental management and programming costs of the Centre, including any projected revenues by the end of October of each year.
- 11.2 The Society shall provide the Regional District with annual financial statements within ninety (90) days of the end of each Regional District fiscal year in accordance with generally accepted accounting practices, consistently applied, that has been duly and appropriately reviewed and approved by a majority of the Board Members of the Society. Notwithstanding the foregoing, upon written notice from the Regional District, the Regional District may require the Society to prepare such annual statements as a notice to reader, review engagement or on an audited basis at its option.
- 11.3 Within thirty (30) days of the end of June, the Society shall meet with the Regional District and provide the Regional District with an income and expense statement for the immediately preceding 6 months showing the results from the programming and management of the Centre.
- 11.4 The Society acknowledges that it is critical to the Regional District's provision of services that the Regional District maintain a set of statistics which measures certain use and performance data associated with the programming and management of Community Centres. The Society acknowledges that the Regional District is constantly reviewing, revising and enhancing such performance measures and as of the date of this Agreement, certain performance measures exist for the Centre and are attached to this Agreement as **Schedule "D"** (the "Performance Measures"). The Society agrees to provide to the Regional District a report in the form of the Performance Measures, on a quarterly basis, in arrears, within ten (10) days of the end of each calendar quarter. The Society acknowledges that the Performance Measures may be changed by the Regional District with written notice to the Society from time to time.

12. QUALITY STANDARDS OF FACILITIES

- 12.1 The Society shall cause the Centre to be open, safe and otherwise usable to the public to a standard consistent with the operation of a facility at all times that are scheduled for use by the Society.

13. RISK MANAGEMENT PROGRAM

- 13.1 The rental of any portion of the Centre to any third party shall require such third party to enter into a written rental agreement and to obtain comprehensive general liability insurance as specified in the rental agreement and such insurance shall name the Regional District and the Society, as additional insureds thereunder. The Society and the Regional District shall reserve the right to require proof of insurance from all users of any portion of the Centre prior to such use. The rental agreement entered into by any third party shall require an agreement that the third party shall indemnify and hold harmless the Regional District, its elected officials, officers, employees and agents and the Society, its elected officials, officers, employees and agents from and against any and all suits or claims alleging damage or injury (including death) to any person or property that may occur or that may be alleged to have occurred, in the course of the rental or other use of the specific facility described in the rental agreement.

- 13.2 The Society acknowledges and agrees that the Regional District has the right, in appropriate circumstances, to close the public access to the Centre, or any portion thereof, if the Regional District in its sole discretion determines that there is a safety risk to either persons or property. In the event that the Regional District advises the Society of such closure, the Society agrees that it shall do all things or omit to do all things as may be directed by the Regional District through its appropriate designated personnel from time to time.
- 13.3 The Society acknowledges and agrees that in the event that the Regional District determines there is an imminent threat to persons or property, the Regional District may enter to the Centre, without notice to the Society in order to deal with such risk. To the extent that such actions of the Regional District are contrary to the terms and conditions of this Agreement, the Society consents to such variation to the extent necessary to deal with such risk.

14. INDEMNITY AND INSURANCE

- 14.1 The Society agrees that the use of the Centre will be at its own risk. Notwithstanding any other provision of this Agreement, the Society shall indemnify the Regional District, its elected officials, officers, employees and agents (collectively known as the "Releasees") and save them harmless from all losses, claims, damages, liability, expenses, and outlays of any nature whatsoever in connection with loss of life, bodily injury, personal injury, damage to property, or any other loss or injury of any nature whatsoever, arising out of the Society's use of the Centre, or any occurrence in, upon or at the Centre or any part thereof, or occasioned wholly or in part by any act or omission of the Society or by anyone permitted to be on the Centre by the Society, all arising out of this Agreement. If the Regional District shall, without fault on its part, be made a party to any litigation commenced by or against the Society arising out of the Society's use of the Centre hereunder, then the Society shall protect, indemnify, and hold the Releasees harmless in connection with such litigation. At its option, the Regional District may participate in or assume carriage of any such litigation or settlement discussions in connection therewith, or alternatively, may require the Society to assume sole responsibility therefore. The provisions of this Paragraph shall survive the expiration or earlier determination of this Agreement.
- 14.2 The Regional District agrees to take out and maintain, during the Term, such insurance which contains such coverage as the Regional District considers advisable for all property owned by the Regional District. Contained in such insurance shall be such perils, for such amounts, and with such deductibles, as a reasonable owner of reasonably similar properties, improvements and equipment, would deem advisable, having regard to size, age and location.
- 14.3 Notwithstanding the Regional District's covenant in this Paragraph, the Society acknowledges and agrees that:
- (a) The Society is not relieved of any liability arising out of or contributed to by its negligence or its wilful acts or omissions;
  - (b) Except to the extent specifically set out in this Agreement, no insurable interest is conferred upon the Society under any insurance policies carried by the Regional District; and

- (c) Except to the extent specifically set out in this Agreement, the Society has no right to receive any proceeds of insurance policies carried by the Regional District.

14.4 The Society shall take out and maintain, during the Term, the following insurance at its sole cost:

- (a) "All Risks" property insurance, including flood and earthquake, subject to terms, conditions, and exclusions normally found in policies carried by prudent owners of properties, improvements and equipment similar to the Society's, insuring property of every description owned by the Society including, without limiting the foregoing, leasehold and freehold improvements, while located on or in its own facilities or the Centre, in an amount not less than 90% of the full replacement cost thereof;
- (b) Comprehensive General Liability insurance, with inclusive limits of at least \$5,000,000, and shall include the following extensions of coverages:
  - i. occurrence property damage;
  - ii. personal injury;
  - iii. contractor's and owner's protective;
  - iv. employees as insureds;
  - v. blanket contractual;
  - vi. contingent employers;
  - vii. broad form property damage; and
  - viii. non-owned automobile;

Such policy shall name the Regional District as an Additional Insured and shall contain a Cross Liability clause;

- (c) Tenants Legal Liability insurance on the standard industry "All Risks" basis in an amount no less than a minimum of \$5,000,000;
- (d) Automobile liability insurance on an owners form covering all licensed vehicles owned, leased, or operated by the Society with inclusive limits of at least \$5,000,000;
- (e) Directors and Officers insurance covering the actions and omissions of its officers and directors; and
- (f) Any other form of insurance which the Regional District, acting reasonably, requires, from time to time, in amounts and for risks which a prudent occupant would insure.

14.5 All policies referred to in 14.4(b) and taken out by the Society shall:

- (a) be taken out with insurers acceptable to the Regional District;
- (b) be in a form acceptable to the Regional District;
- (c) be non-contributing and apply as primary and not as excess to any other insurance available to the Regional District; and

- (d) contain an undertaking by the insurers to notify the Regional District by registered mail not less than thirty (30) days prior to any material change, cancellation, termination or non-renewal of coverage.
- 14.6 Certificates of Insurance, or, at the Regional District's option, certified copies of the policies shall be delivered by the Society to the Regional District forthwith upon request. If the Society fails to take out or to keep in force any insurance referred to in this Paragraph 14, or should such insurance not be approved by the Regional District, and should the Society not commence to diligently rectify the situation within 48 hours after being notified in writing of the deficiency in coverage or reason for non-approval, the Regional District has the right, without assuming any responsibility in connection therewith, to place such insurance at the sole cost of the Society, and all outlays by the Regional District shall be paid by the Society to the Regional District without prejudice to any other rights or remedies of the Regional District.
- 14.7 If any insurer under any insurance policy of the Society's covering any part of the Centre cancels or threatens to cancel its insurance policy, or reduces or threatens to reduce its coverages under its insurance policy by reason of the use of such facilities by the Society, or by any assignee, invitee or sub-tenant of the Society, or by any one permitted to be on such facilities by the Society, the Society shall remedy such condition within 48 hours after notice thereof by the Regional District.
- 14.8 The Regional District shall not be liable for any damage to property of the Society or others on the Centre from any cause. All property of the Society shall be at the sole risk of the Society.
- 14.9 The Regional District agrees to indemnify and save harmless the Society and its elected representatives, officers, authorized agents and employees against all liabilities, actions, damages, claims and costs, including costs of a solicitor and own client basis, arising out of or in any way connected with, and only to the extent of, the negligence of the Regional District.
15. RESOLUTION OF DISPUTES
- 15.1 Any problems, concerns or disputes between the Fire Department and the Society shall firstly be mediated by the Director of Engineering, the Director of Parks Services, the Fire Chief and the President. In event that a resolution is not agreed upon; then the Director of Engineering, and the Director of Parks Services, shall forward a joint report to the Chief Administrative Officer of the Regional District whose decision shall be final and binding upon the parties.
- 15.2 The President and the Director shall firstly mediate problems, concerns or disputes related to this Agreement. In the event the President and the Director are unable to resolve the issue it is agreed that the issue will be referred to the Board of Directors of the Society and the Regional District Board. If the Board of Directors of the Society and the Regional District Board are unable to resolve the issue, it is agreed that the issue will be referred to arbitration pursuant to the Commercial Arbitration Act of British Columbia for a final settlement which shall be final and binding upon the parties.

16. ASSIGNMENT

- 16.1 The Society is not permitted to assign or dispose of, in any manner whatsoever, their rights pursuant to this Agreement.

17. TERMINATION:

- 17.1 Either party may terminate this Agreement upon providing the other party with one (1) year's written notice.
- 17.2 If a party commits a Material Breach then the other party may provide written notice to the defaulting party detailing the Material Breach and demanding that the Material Breach be cured within twenty-one (21) days of receipt of such notice. In the event that the defaulting party does not cure the Material Breach within such twenty-one (21) day period, then the other party may immediately terminate this Agreement by a further written notice to the defaulting party.

18. COMMUNICATIONS

- 18.1 Unless otherwise expressly provided in this Agreement, any notice or other communication which may be, or is, required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission, addressed as follows:

For: Ellison Parks & Recreation Society  
To: 4411 Old Vernon Road  
Kelowna, B.C. V1X 7V6  
Attention: President

For: Regional District of Central Okanagan  
To: 1450 KLO Road  
Kelowna, B.C., V1W 3Z4  
Attention: Director of Parks Services

or to such other address of which notice has been given as provided in this section.

19. LIMIT OF RESPONSIBILITY

- 19.1 Whenever and to the extent that the Society or the Regional District shall be unable to fulfil, or shall be delayed or restricted in fulfilling their respective obligations regarding the supply or provision of any heating, service or utility or the doing of any work or the making of any repairs by any cause beyond its control (e.g. power outages, acts of God), the Society or the Regional District shall be relieved from its obligations with respect thereto during the period which it is unable to fulfil or is delayed or restricted in fulfilling its obligations.

20. WAIVER

- 20.1 An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of this breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

21. AUTHORITY

- 21.1 The Society represents and warrants that it has the authority and capacity to enter into this Agreement and perform its obligations hereunder. The Regional District represents and warrants that it has the authority and capacity to enter into this Agreement and perform its obligations hereunder.
- 21.2 Nothing in this Agreement shall constitute the parties as partners. Except as specifically provided herein, neither party shall be the agent of the other party or have any authority whatsoever to create obligations or bind the other party hereunder.

22. TIME OF THE ESSENCE

- 22.1 The parties agree that time shall be of the essence of this Agreement.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement in the presence of their duly authorized signing officers on the day and year first above written,

ELLISON PARKS & RECREATION  
SOCIETY  
by its authorized signatories:

REGIONAL DISTRICT OF  
CENTRAL OKANAGAN  
by its authorized signatories:

\_\_\_\_\_  
President  
Sylvia Fleming

\_\_\_\_\_  
Chair  
Gail Given

\_\_\_\_\_  
Director

\_\_\_\_\_  
Chief Administrative Officer  
Brian Reardon

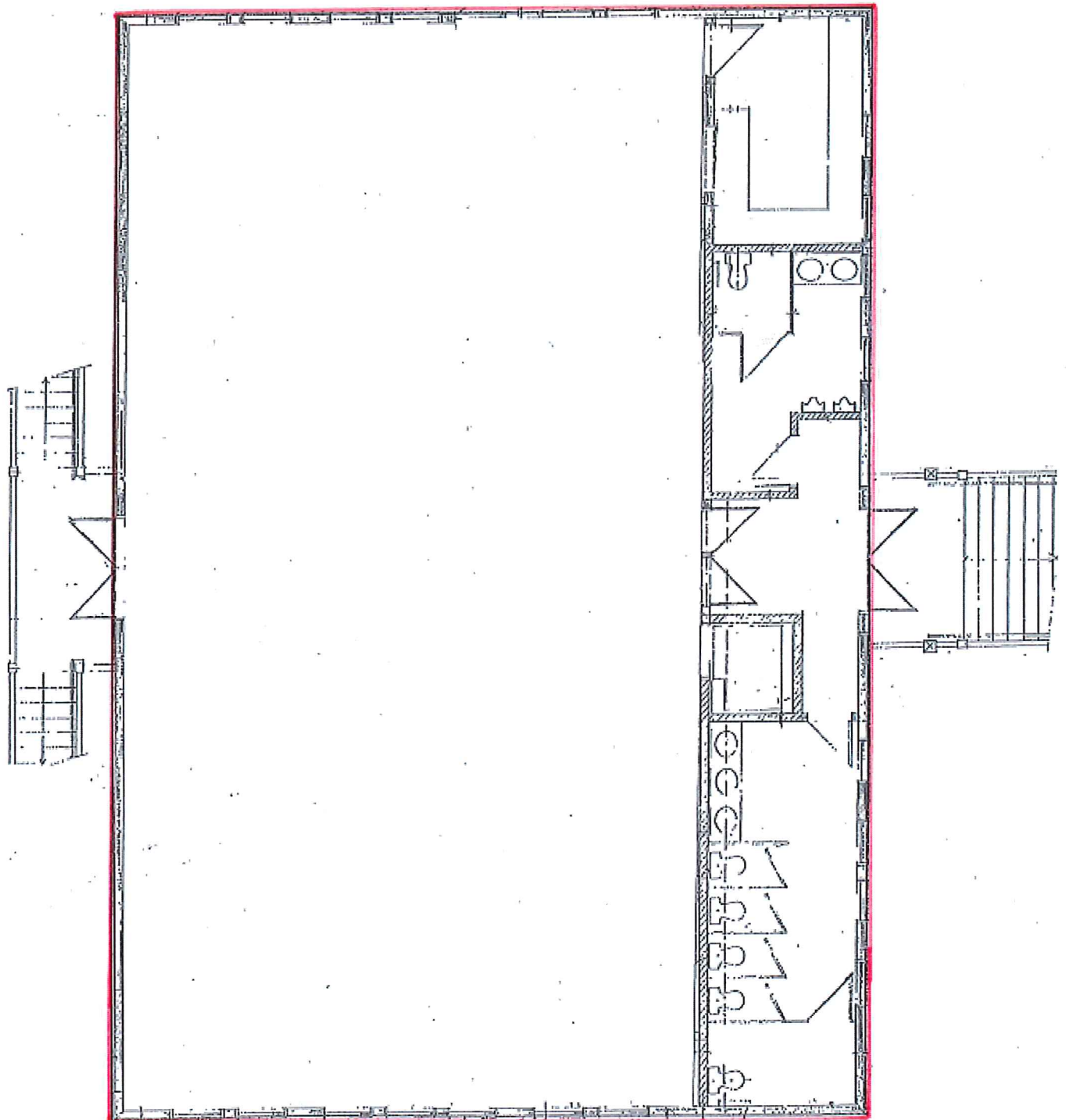
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Schedule A

Ellison Heritage Community Centre

Main Level

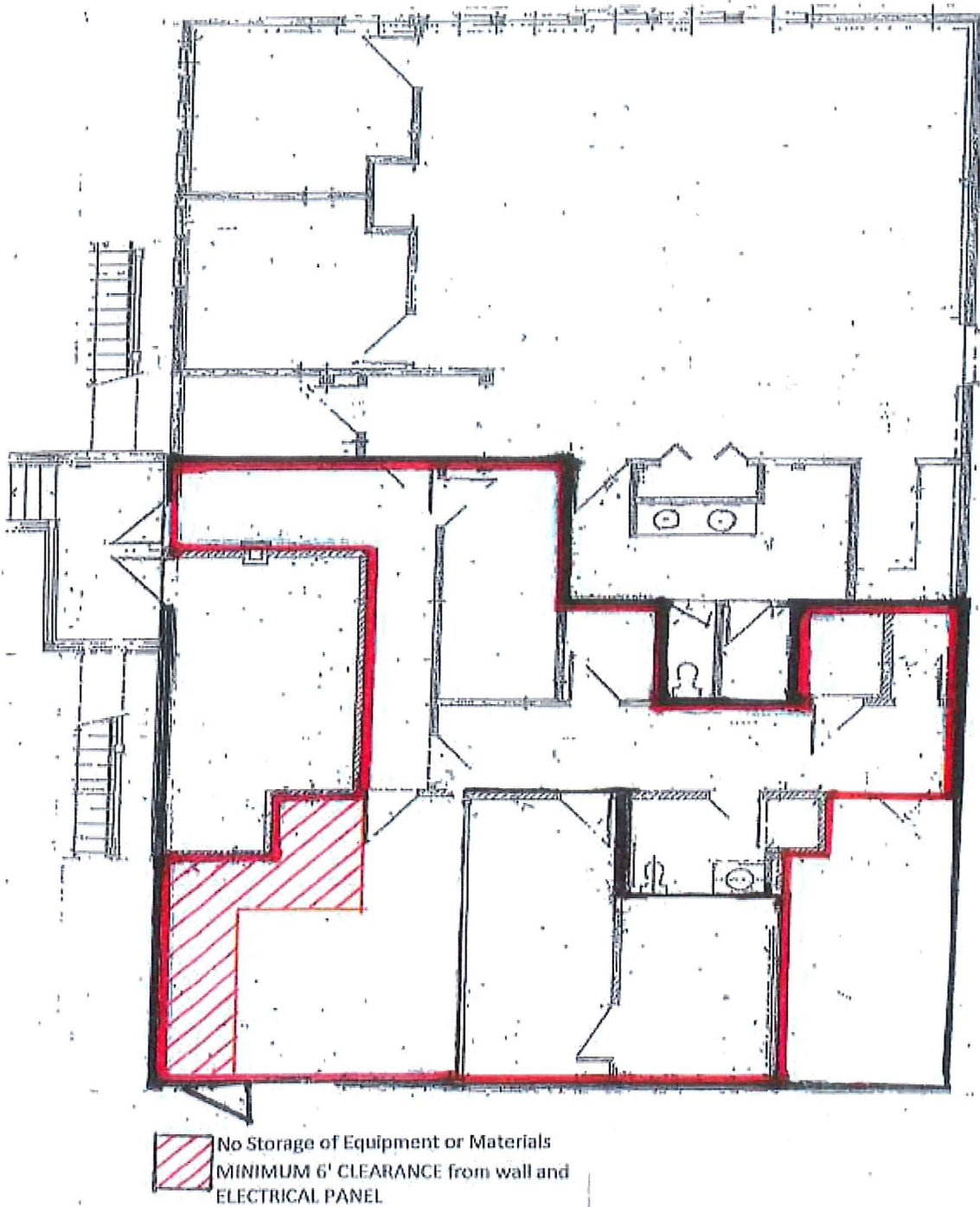




Schedule A

Ellison Heritage Community Centre

Lower Level



## Schedule B

### **MAINTENANCE AND REPAIR**

The Society will be responsible for but not limited to maintain the following:

#### Building Maintenance and Cleaning

- Cleaning Contractor
- Cleaning Supplies
- Floor Maintenance
- Snow removal from entrance area and sidewalk
- Ensuring that all fire exits are in proper working order and clear of all obstructions, both on the interior and exterior of the doors.

#### 1) GENERAL CLEANING

##### a) Glass

- i) To be cleaned three (3) times yearly, except in those areas subject to heavy traffic i.e. all entrances and all glass doors. These areas will require cleaning on a "when required" basis. Cleaning will include dusting and wiping of frames and sills, including cobwebs. All stains or marks on exterior building surface resulting from window washing to be removed immediately.

##### b) Doors

- i) Refers to all doors other than glass. Doors and door frames shall be regularly spot cleaned and wiped in a method to ensure cleanliness and good appearance at all times.

##### c) Walls

- i) Walls are to be completely cleaned twice yearly. The Society will be required to spot clean soiled areas as part of the daily routine. Washroom walls are to be thoroughly and completely cleaned weekly.

##### d) Floor Maintenance

- i) Maintain all floors, both resilient tile and other types in the best manner suited to the floor manufacturer's specifications, such specifications are attached hereto and form part of Schedule B, "Maintaining the Quality of Your Floor Finish".
- ii) Carpets are to be shampooed as directed.

##### e) Garbage

- i) The Society Contractor will be required to remove and dispose of all garbage and waste from the building and Premises.
- ii) All recyclable "blue box" materials are to be deposited into the special bins provided by the Regional District.

##### f) General Cleaning

- i) General cleaning as required:
  - Damp mop floors; vacuum all carpets and remove spots and stains as required.
  - Mop or vacuum all stairs and landings.
  - Empty and clean waste baskets
  - Sweep outside entrances.

## Schedule B

- Clean and disinfect toilets and urinals.
- Clean sinks and counter tops, splashboards, soap receptacles in washrooms.
- Refill paper and soap containers.
- Polish mirrors and all chrome fixtures.
- Clean drinking fountains.
- Empty and clean waste receptacles including napkin disposal bin.
- Clean all glass as necessary.
- Clean all counters.
- Dust and wipe thoroughly all furniture, fixtures, windowsills and railings including such items as lamps, telephones and penholders on top of desks.
- Resilient floors to be clean-water washed using a cleaner approved for the particular flooring.
- Protective coating to be renewed or replaced as recommended by manufacturers.
- Spot clean all walls as required.

### g) Janitorial Rooms

- i) The Regional District will provide the Society with a locked janitor room(s) for the storage of equipment and supplies. These areas must be kept clean and tidy at all times.

### h) Condition of Equipment

- i) Janitorial equipment must be kept in good operating condition at all times. The appearance, cleanliness and suitability of all equipment shall be subject to the approval of the Regional District.

### i) Time of Work

- i) The Society will be required to perform the work at a time that does not conflict with the public use of the building

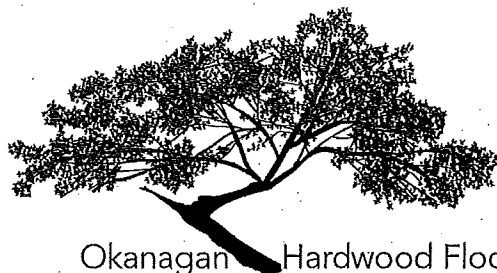
### j) Materials and Equipment

- i) All MSDS (Material Safety Data Sheets) must be supplied, on hand and accessible as reference and in case of emergency.
- ii) A list of all materials to be used shall be submitted to the Manager of Parks and Facilities for prior approval before use. The Regional District encourages and requests the use of Environmentally Friendly cleaning products. Supplies shall be purchased whenever possible from suppliers who can provide local advisory service.

## 2) WORKMANSHIP

In all cases, where new materials are being applied, or repair work is being carried out, the installation of such materials and/or any repair work shall be carried out in a good workman-like manner by qualified tradespeople and finished to standard acceptable to the Regional District Building Inspector.

## Schedule B



Okanagan Hardwood Flooring

suppliers - installers - sanders - finishers

464 Adams Road, Kelowna, B.C. V1X 7S1  
Tel (250) 765-2610 Fax (250) 765-8002

### **MAINTAINING THE QUALITY OF YOUR FLOOR FINISH**

#### **What to do:**

1. Sweep and vacuum floors regularly. Do not let sand and grit build up.
2. Place protectors on the feet of all furniture.
3. Support heavy furniture and appliances with wide-bearing glides. Never try to roll or slide heavy appliances across your floor, an air sled or glide should be used.
4. Remove spills promptly and wipe the area using Okanagan Hardwood Floor Cleaner and a soft cloth.
5. Use door mats at all exterior entrances to trap sand and grit before it enters the house.
6. You should allow three to four weeks before putting rugs on a hardwood floor. Use area rugs on high traffic pathways and especially on pivot areas such as the ends of steps and in doorways. Rugs should allow the floor to "breathe". Avoid rugs with rubber backing or other non-ventilating material.
7. Keep pet claws trimmed.
8. Rearrange rugs and furniture periodically so the floor ages evenly. UV sunlight will soften the tone of different species of hardwood to varying degrees.
9. Maintain normal interior humidity levels (for this area 45-50%). Relative humidity should never fall below 30% or exceed 60%.
10. Check for wear periodically and call Okanagan Hardwood Flooring Co. Ltd. for any of your refinishing needs.

#### **What NOT to do:**

1. Oil soaps and other cleaners can damage wood floor finishes. Please use a Hardwood Floor Cleaner as recommended.
2. Never damp mop a wood floor with water.
3. Avoid walking on your floor in high heels. They can severely damage wood floors. Keep heels in good repair.
4. Do not use wax, oil or other household cleaners on your wood floor. The use of these products can dull today's floor finishes and make refinishing more difficult.
5. Rubber feet (such as those under TV's stereos, appliances, etc.) will leave marks on the floor. Floor protectors should be used.
6. Do not over-water plants. Soils, fertilizers and plant foods may have chemicals in them that could damage your finish.

## Schedule B

2

7. Do not wait until the finish has worn off. Call your professional flooring contractor to restore the luster and extend the wear of wood floors.

# Schedule C

## ELLISON HERITAGE SCHOOL COMMUNITY CENTRE

### RENTAL AGREEMENT

FOB #: \_\_\_\_\_

*Number*

**Ellison Parks & Recreation Society**  
4411 Old Vernon Road  
Kelowna, BC V1X 5V6

**Hall Administrator:**  
Phone: 250-768-7121

IN ACCOUNT WITH: Organization/Individual: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Secondary Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Part/Cell: \_\_\_\_\_

E-mail: \_\_\_\_\_

Event Date: \_\_\_\_\_

Event Time: In \_\_\_\_\_ Out \_\_\_\_\_

Event Date: \_\_\_\_\_

Event Time: In \_\_\_\_\_ Out \_\_\_\_\_

Event Date: \_\_\_\_\_

Event Time: In \_\_\_\_\_ Out \_\_\_\_\_

Description of Event: \_\_\_\_\_

Number of people: \_\_\_\_\_

Kitchen/bar to be used? Y N Tables/Chairs? Y N

Comments: \_\_\_\_\_

#### Fees:

#### Payments:

		Date	Cash/Cheq #	Amount
Hall Rental Fees:	\$			
Additional Fees:	\$	20% deposit		\$
Additional Fees:	\$	Balance Due		\$
Additional Fees:	\$	Payment		\$
Liability Insurance Fees:	\$	Balance Due		\$
SOCAN Music Fees:	\$	Payment		\$
Total Rental Fees:	\$	Balance Due		\$
Damage Deposit (Refundable):	\$	Damage deposit refund		\$
<b>GRAND TOTAL:</b>	<b>\$</b>			

Final Payment Due No Later Than: \_\_\_\_\_  
*Strictly Enforced*

The Applicant warrants and represents that if he/she executes this Application on behalf of a Group or Organization that the applicant has sufficient power, authority and capacity to bind the group or organization with his/her signature.

The licensee, in consideration of being granted permission to use the Premises agrees to be bound by the Terms and Regulations attached and if the Applicant represents a Group or Organization, the Applicant agrees to inform all responsible officials associated with the Group or Organization of the Terms and Regulations and Waiver and Indemnity Clause.

X \_\_\_\_\_  
Agent of the Ellison Parks and Recreation Society

X \_\_\_\_\_  
Licensee or Agent / Officer of the Group

Date: \_\_\_\_\_



## Schedule C

### Ellison Community Centre Rental Terms & Regulations

#### The Renter will:

Not permit any other group or organization not named in this rental agreement to use the rented premises without the authorization of the Hall Administrator.

Advise all attendees and ensure that all attendees adhere to all regulations.

Be responsible for their own set up and clean up within the scheduled rental times.

Pay 50% of the total due at the time of signing the rental agreement and will pay the balance 21 days prior to the scheduled rental.

Provide the Hall Administrator with a copy of a Certificate of Insurance satisfactory to EPRS and the Regional District, 21 days prior to the scheduled rental if not purchasing insurance at the time of signing the rental agreement.

Provide the Hall Administrator with a copy of their liquor license 21 days prior to the scheduled rental.

Contact the Hall Administrator and follow up in writing to cancel any rental agreement a minimum of 60 days prior to the scheduled rental. The rental deposit will be reimbursed in full (less \$30 administration charge) if cancelled prior to 60 days. The renter understands and agrees that the rental agreement may be cancelled at any time with or without cause. The EPRS will make every reasonable attempt to provide a minimum 48 hours notice of a cancellation to the renter.

Receive a refund of their damage deposit within 21 business days of the rental date.

Ensure all music and bar sales END at 1:00 a.m. The facility must be cleaned and VACATED by 2:00 a.m.

Before vacating the building ensure that all windows and doors are closed and locked, the keys have been deposited in the designated location and building is fully secured by setting the alarm.

Exercise the greatest care in the use of the rental facility and adjacent premises and be responsible for any damage incurred. All damages must be reported to the Hall Administrator within 24 hours of the event.

Must advise all attendees at a function where alcohol is served that there is a "Designated Driver Program" in effect. This includes an announcement to the attendees encouraging the use of a designated driver or alternate transportation. Designated Driver information must be posted prominently at each station where alcohol is served and at each table where guests are seated.

Ensure NO VEHICLES or HEAVY EQUIPMENT are permitted on paving bricks or grassy areas.

Ensure NO TAPE, TACKS, NAILS or STAPLES are used on walls, floors, ceilings, tables or chairs.

Ensure the TABLES are covered while being used.

Ensure NO ROLLER BLADE SHOES (HEELIES) are used within the premises.

Ensure NO CONFETTI, RICE, SILLY STRING or DANCE WAX is used on or around the premises.

Ensure NO LIGHTS or DECORATIONS are hung from the ceiling unless prior permission is granted by the Hall Administrator.

Ensure there is NO OPEN BURNING OF CANDLES in or around the premises. Floating candles and enclosed candles where the flame is contained (ie: Hurricanes) may be used inside the premises.

Ensure that there is NO SMOKING in the facility and that smoking is permitted only in outside designated locations.

Ensure that NO ALCOHOL is permitted in or around the premises unless a valid liquor license is in effect.

Clean all tables and chairs and store them away properly. Any damaged items must be left out and brought to the attention of the Hall Administrator within 24 hours of the event.

Sweep floors, mopping up any spills.

Clean and put away any dishes used.

Remove any food from the fridge, oven or freezer and wipe down the kitchen.

Remove all inside garbage and outdoor litter to outside bins.

Must abide by ALL GENERAL REGULATIONS and may refer to RDCO Bylaw #1107 for further information.

Failure to adhere to ALL the regulations could result in this permit being revoked or the retention of the damage deposit or a portion thereof.

I have reviewed all of the above terms and regulations and hereby agree to abide by all terms and regulations.

\_\_\_\_\_  
Signature of Applicant / Date

\_\_\_\_\_  
Signature of Hall Administrator / Date

April 2011

Operating Measures

Hall Use Report

Date: \_\_\_\_\_  
Reporting Period: \_\_\_\_\_

Booking Name / Event	Date	# of Attendees	Hours of Hall Use	Program Fee Charged (\$)	Rental Fee Charged (Y/N)	Target Demographic	Comments (special events, vandalism...)
Family Party							
Yoga							

Target Age Demographics: (1) Children / Youth 0 -15 (2) Adult 16+ (3) Family



## Schedule D

### **PROGRAM AGREEMENT**

BETWEEN:

Ellison Parks & Recreation Society  
4411 Old Vernon Road  
Kelowna, BC V1X 7V6

(herein called the "Society")

AND

Contractor :  
Contact Information

(herein called the "Contract Instructor")

In consideration of payment hereafter provided, the Society and the Contract Instructor agree to fulfill all conditions listed below:

### **CONDITIONS**

1. The Contract Instructor shall conduct a program on the days and times in the Ellison Heritage School Community Centre and for those purposes described in Program Information below.
2. The Contract Instructor shall: be present at the program location when the program is being conducted throughout the full period of time for each session; submit Contracted Hours of Work (CHOW) record or invoice for services; and when requested by the Recreation Coordinator complete participant and instructor evaluation forms.
3. All Contract Instructors working with children or vulnerable populations, are required to obtain a Criminal Record check and if applicable bear costs associated with this procedure.
4. A substitute instructor may be used with the prior approval of the Recreation Coordinator.
5. Liability coverage for Contract Instructors is provided through the Society's liability policy. The Society/ Insurer have the right to file an alternate suit against the Contract Instructor if gross negligence is alleged. The Contract Instructor must report any injury they sustain while instructing and/or supervising the program immediately.
6. The Society reserves the right to:
  - 6.1 Alter or change the space or time allotted.
  - 6.2 Set a minimum of the number of participants required for the program and cancel program(s) should the minimum number not be reached 48 hrs prior to the start of the program(s) or cancel program(s) for any reasonable or just cause in the opinion of the Society with no compensation to instructor.
  - 6.3 Judge whether or not the program is being conducted as identified in Program Information.
  - 6.4 Alter program(s) for any reasonable or just cause in the opinion of the Society.
7. The Society requires 7 days notice from the Contract Instructor to cancel this contract.
8. The Society reserves the right to cancel this contract with 7 days notice for any reasonable or just cause in the opinion of the Society.
9. The Society and/or Contract Instructor shall collect and account for fees according to the established accounting procedures adopted by the Society.

## Schedule D

The term of this contract is from \_\_\_\_\_ to \_\_\_\_\_ subject to the conditions outlined herein.

### PROGRAM INFORMATION

Program Name:

Location:

Days & Times:

Course Mins:

Max attendance:

Start Date:

End Date:

Total # of Classes:

Special Conditions:

**Hourly Rate: \$**

**Total Billable Hours per class:**

By signing, I acknowledge I agree to the terms noted above.

\_\_\_\_\_  
Contract Instructor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recreation Coordinator

\_\_\_\_\_  
Date

# EPRS Community Centre Usage Report

Reporting Period: \_\_\_\_\_

[illegible]

## Schedule E

**Submit User Group Report Quarterly with the payment for Insurance Collected to RDCO, Parks Services.**

## USER GROUP REPORTING FORM

[illegible]

Doc/for/user group reporting form