

**LICENCE OF OCCUPATION AGREEMENT**

**THIS AGREEMENT** dated for reference the \_\_\_\_ day of \_\_\_\_\_, 2024

**BETWEEN:**

**REGIONAL DISTRICT OF NANAIMO**

6300 Hammond Bay Road  
Nanaimo, BC V9T 6N2

(the “**Regional District**”)

**AND:**

**ARROWSMITH AGRICULTURAL ASSOCIATION**

1014 Ford Road  
Coombs, BC V0R 1M0

(the “**Association**”)

**WHEREAS:**

- A.** The Association is the registered owner of those lands with a civic address of 992 Ford Road, Coombs, British Columbia and legally described as:

PID: 029-078-288

LOT 1 SALVATION ARMY LOT 15 NANOOSE DISTRICT PLAN EPP30236

(the “**Lands**”);

- B.** Since 1966, the Regional District has occupied a fire hall located on the Lands for the various purposes relating to fire suppression, fire prevention, emergency responses and related activities to support effective delivery of fire services to the community,
- C.** The Regional District wishes to use and occupy part of the Lands for the operation of the Coombs-Hilliers Volunteer Fire Department Firehall #1;
- D.** The Association has agreed to grant to the Regional District an exclusive Licence over that portion of the Lands outlined in bold on the sketch plans attached as Schedule “A” and containing approximately 520.53 square meters square feet and including the buildings, structures, and improvements thereon (the “**Licensed Area**”) strictly in accordance with the terms and subject to the conditions set out herein;

**NOW THEREFORE** in consideration of the fee payable by the Regional District to the Association set out in this Agreement and the mutual covenants set out herein, the parties agree as follows:

1. **Grant of Licence** – The Association, on the terms and conditions set forth herein, grants to the Regional District and its permitted assigns and their employees, contractors, servants, agents, and invitees, the exclusive right and licence (the “**Licence**”) to enter onto, use, and occupy the Licenced Area, and any buildings, structures, and improvements thereon, at all times by day or night, with or without vehicles and equipment, for the purposes of operating the Coombs-Hilliers Volunteer Fire Department, including housing fire apparatus, supplies and related equipment on the Licenced Area, providing fire suppression, fire prevention, emergency response services, and any incidental activities necessary or convenient to supporting effective delivery of these services to the community (the “**Permitted Use**”).
2. **Access** – For the purposes of the Licence, the Regional District and its employees, contractors, servants, agents, and invitees shall have the right to:
  - (a) have unobstructed access to and from the Licenced Area at any and all times; and
  - (b) clear the Licenced Area and keep it clear of anything which might in the opinion of the Regional District constitute an obstruction to the Regional District’s use and occupancy of the Licenced Area under the Licence.
3. **Term** – The Licence shall be for a period two (2) years which shall commence on \_\_\_\_\_, 2024 (the “**Commencement Date**”) and end on \_\_\_\_\_, 2026, unless extended or terminated in accordance with this Agreement (the “**Term**”).
4. **Extension** – The Regional District may extend the Term for three (3) additional periods of two (2) years each by giving notice to the Association no less than three (3) months before the end of the Term under the same, or different mutually agreed upon terms and conditions as outlined in this Agreement.
5. **Termination** – Either party may terminate this Agreement by giving the other party six (6) months’ advance notice of its intention to terminate, such notice to be given in writing on the last day of any month.
6. **Licence Fee** — The Regional District shall pay a monthly fee of \$500.00 to the Association, payable on or before the Commencement Date and thereafter on or before the first day of each month of the Term (the “**Licence Fee**”). This fee may increase, decrease, or remain unchanged at the renewal of the agreement as mutually agreed upon.
7. **The Regional District’s Covenants** – The Regional District covenants with the Association that it will:
  - (a) pay all charges for water supply, sewage disposal, garbage removal, gas, heating fuel, telephone service, cablevision, electricity, power or other utility or communication service rendered in respect of the Licenced Area;
  - (b) provide, at its cost, the insurance provided for in section 8;
  - (c) maintain the Licenced Area in a good condition in accordance with all applicable

laws, and promptly complete all repairs required to maintain the Licenced Area in such condition;

- (d) not carry out any activities in the Licenced Area other than for the Permitted Use and as otherwise provided for in this Agreement;
- (e) observe, abide by, and comply with all laws, by-laws, orders, directions, ordinances, and regulations of any competent governmental authority in any way affecting the Licenced Area, to the extent applicable to the Regional District or its activities in the Licenced Area; and
- (f) not construct or place any building, structure, or improvement on the Licenced Area without the Association's prior written consent.

## 8. **The Regional District's Insurance**

- (a) The Regional District shall, during the whole of the Term, take out and maintain the following insurance, in such form and with such companies as the Association may reasonably approve:
  - (i) commercial general liability insurance in an amount of not less than \$2,000,000.00 inclusive per occurrence, insuring against liability for personal injury, bodily injury (including death), property damage, and loss arising out of the use or occupation of the Licenced Area; and
  - (ii) all risks property insurance on all buildings, structures, and improvements on the Licenced Area subject to the exclusions named in the policy;
- (b) The policies of insurance referred to in this section shall contain provisions that:
  - (i) the Association is protected notwithstanding any act, neglect, or misrepresentation of the Regional District which might otherwise result in the avoidance of a claim under such policies and that such policies shall not be affected or invalidated by any act, omission, or negligence of any third party which is not within the knowledge or control of the Association;
  - (ii) provide thirty (30) days advance notice to the Association of material change or cancellation;
  - (iii) include the Association as additional insured and exclude any rights of cross claim against the Association or any rights of the insurer or insurers, whether by subrogation or otherwise, against the Association; and
  - (iv) such policies and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by the Association and that any coverage carried by the Association shall be excess coverage.

- (c) A certificate of insurance shall be provided to the Association of all such policies of insurance upon request.
9. **The Association's Covenants** – The Association covenants with the Regional District that it will:
- (a) pay all taxes, charges, levies, and other fees which may be payable in respect of the Lands including the Licenced Area;
  - (b) not interfere with, interrupt, or impair the Regional District's use or occupancy of the Licenced Area; or
  - (c) knowingly allow another party to interfere with, interrupt, or impair the Regional District's use or occupancy of the Licenced Area
10. **The Association's Representations and Warranties** – The Association represents and warrants to the Regional District that:
- (a) the Association is a duly organized and validly existing BC society;
  - (b) the Association has the capacity, power, and authority to enter into, execute, and comply with every term and condition in this Agreement;
  - (c) the person(s) executing and delivering this Agreement on behalf of the Association have the power and authority to do so;
  - (d) this Agreement constitutes a legally binding obligation of the Association, enforceable against it in accordance with its terms and conditions; and
  - (e) the execution and delivery of and compliance with this Agreement by the Association will not constitute a violation of or breach or default under the Association's constating documents or any contract or agreement to which the Association is a party.
11. **Quiet Enjoyment** – Subject to the observance and performance by the Association of its obligations under this Agreement, the Regional District may use and occupy the Licenced Area in accordance with the provisions of this Agreement without interference by the Association or any party claiming through the Licensor.
12. **Assignment** – Except as expressly set out herein, the rights granted to the Regional District under this Agreement may not be sublicensed, assigned, or otherwise transferred.
13. **Notices** – Any notice or other writing required or permitted to be given to any party shall be sufficiently given if delivered by hand or if sent by prepaid courier to such party:

in the case of a notice to the Regional District, at:

Regional District of Nanaimo

6300 Hammond Bay Road  
Nanaimo, British Columbia V0R 1M0

Email: \_\_\_\_\_

in the case of a notice to the Association, at:

Arrowsmith Agricultural Association  
1014 Ford Road  
Coombs, British Columbia V0R 1M0

Email: \_\_\_\_\_

or at such other address or addresses as the party to whom such notice or other writing is to be given shall have last notified the party giving the notice in the manner provided in this section. Any notice or other writing sent in compliance with this section shall be deemed to have been given and received (a) two (2) business days after mailing, or (b) in the case of delivery in person, courier or email, on the date of delivery unless that day is not a business day, in which case the notice shall be deemed to have been given and received on the next day that is a business day.

14. **Freedom of Information** – The Association acknowledges that the Regional District is subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia) and that this Agreement may be disclosed or the Regional District may be required to disclose this Agreement pursuant to that Act.
15. **No Fettering of Board’s Discretion** – Nothing contained or implied in this Agreement shall fetter in any way the discretion of the Regional District or the Board of the Regional District of Nanaimo. Further, nothing contained or implied in this Agreement shall derogate from the obligation of the Association under any other agreement with the Regional District or, if the Regional District so elects, prejudice or affect the Regional District’s rights, powers, duties or obligation in the exercise of its functions pursuant to the *Community Charter* (British Columbia) or the *Local Government Act* (British Columbia), as amended or replaced from time to time, or act to fetter or otherwise affect the Regional District’s discretion, and the rights, powers, duties and obligations of the Regional District’s under all public and private statutes, by-laws, orders and regulations, which may be, if the Regional District’s so elects, fully and effectively exercised in relation to the Lands.
16. **No Partnership** – The Association does not in any way or for any purpose become a partner of, or joint venturer or a member of a joint enterprise of the Regional District. No provision of the Licence is intended to create a relationship between the parties other than that of licensor and licensee.

17. **General**

- (a) This Agreement will enure to the benefit of and be binding upon the Regional District and its successors, administrators, and approved assigns and upon the Association and its successors, administrators, and assigns.
- (b) Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, servants, employees, agents, contractors, officers, and invitees of such party, wherever the context so requires or permits.
- (c) Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
- (d) The Schedules attached to this Agreement form part of this Agreement.
- (e) This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement, and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- (f) Time is of the essence of this Agreement.
- (g) The section headings have been inserted for reference only and do not define, limit, alter, or enlarge the meaning of any provision of this Agreement.
- (h) The Regional District's use and occupancy of the Licenced Area will, under all circumstances, be viewed as a licence only and will not create nor be deemed to create any property interest in favour of the Regional District in the Licenced Area.
- (i) If any section, subsection, sentence, clause, or phrase in this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion is to be severed and the decision that it is invalid does not affect the validity of the remainder of this Agreement, the parties hereby agreeing that they would have entered into the Agreement without the severed portion.
- (j) The parties hereto shall execute and do all such further deeds, acts, things, and assurances that may be reasonably required to carry out the intent of this Agreement.
- (k) This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.
- (l) This Agreement may be executed in counterparts and when each party has executed a counterpart each of the counterparts will be deemed to be an original and all of the counterparts when taken together will constitute one and the same agreement.

- (m) This Agreement or a counterpart thereof may be executed by a party and transmitted by facsimile or electronic transmission and if so executed and transmitted this Agreement will be for all purposes as effective and binding upon the party as if the party had delivered an originally executed document.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

**REGIONAL DISTRICT OF** )  
**NANAIMO**, by its authorized signatories: )

\_\_\_\_\_) )  
Name: )

\_\_\_\_\_) )  
Name: )

**ARROWSMITH AGRICULTURAL** )  
**ASSOCIATION**, by its authorized )  
signatories )

\_\_\_\_\_) )  
Authorized Signatory )

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Authorized Signatory )

**SCHEDULE A  
LICENCED AREA**

