

AGREEMENT

THIS AGREEMENT is made as of the _____ day of _____, 2009

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
as represented by the MINISTER OF TOURISM, PARKS, AND
RECREATION
(hereafter the "Minister")

- and -

GREATER BRAGG CREEK TRAILS ASSOCIATION

a Society incorporated pursuant to the
Societies Act (Alberta) (hereafter the "Association")

WHEREAS the Minister has responsibility for certain parks, recreation and protected areas;

AND WHEREAS the Association desires to benefit the public in respect of West Bragg Creek Trails in Kananaskis Country (the "Site");

NOW THEREFORE in consideration of their mutual promises, the Association and the Minister agree as follows:

Article 1 - Term

1.1 The term of this Agreement (the "term") begins on the ___1st___ day of January, 2009 and expires at the close of the ___31st___ day of December, 2018.

Article 2 – Purposes of the Association

- 2.1 The Association shall partner with the Minister at the Site to pack and establish set ski tracks on designated trails and also assist with other aspects of trail maintenance, planning and development under the supervision of Kananaskis Country staff.
- 2.2 The Association is not an employee, agent or contractor of the Minister and is an independent organization.

- 2.3 The Association shall provide the Minister with copies of all information intended to be used by the Association at the Site and shall refrain from using any information to which the Minister objects.
- 2.4 With respect to the Association's activities at the Site, the Association agrees to consult with, advise, and accept decisions from the Minister's representatives in respect of the Association's activities at the Site, subject to the provisions of Clause 3.5. Activities of the Association at the Site are subject to the Minister's approval.
- 2.6 The Association shall ensure that its representatives (which term includes members, volunteers, employees, agents and contractors) at the Site provide a good quality of public service and refrain from anything that would negatively affect the reputation and enjoyment of the Site. The Association shall ensure that its representatives are knowledgeable about the Site and permitted conduct in respect of the Site.

Article 3 – Conduct of the Association

- 3.1 The Association shall maintain itself in good standing under the Alberta *Societies Act* and shall comply with all applicable statutes and regulations.
- 3.2 This Agreement is not intended to result in any private financial benefit for any member of the Alberta Public Service, any member of the Legislative Assembly of Alberta or any member of the Association.
- 3.3 The Minister shall designate a representative for the purposes of this Agreement. The Association shall deal directly with the representative of the Minister. The initial representative of the Minister is Conservation Officer, Bill O'Connor, E-mail at Bill.O'Connor@gov.ab.ca, or telephone at (403) 949-4941.
- 3.4 The Association shall designate an officer of the Association to represent the Association in its dealings with the Minister. The initial representative of the Association is Bruce Barker, Director E-mail at bruce@haywirecreative.ca, or telephone at (403) 949-0070.
- 3.5 If the Association disputes a decision or direction of the representative of the Minister, the Association shall promptly give the representative of the Minister written notice of the objection and detailed reasons for the objection. The representative of the Minister shall promptly respond in writing. The Association may appeal the decision of the representative of the Minister by giving prompt notice of the decision, the objection, the response of the representative of the Minister and detailed reasons for the appeal to the Area Manager. The Association agrees that the decision of the Area Manager is final.
- 3.6 Employees of the Department of Tourism, Parks and Recreation may be members of the Association, however employees who have direct employment responsibilities in respect of the Site, shall not serve as officer or directors of the Association; shall not negotiate or

execute contracts on behalf of the Association; shall not issue cheques or make payments on behalf of the Association; shall not be paid by the Association, and shall not serve as designates of the Association in dealings with the Minister.

Article 4 – Space for the Association at the Site

- 4.1 The Association agrees that the Minister is not responsible for property of the Association kept at the Site.

Article 5 – Hold Harmless and Insurance

- 5.1 The Association agrees to indemnify and hold harmless the Minister from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client basis) for which the Association is legally responsible, including those arising out of negligence or wilful acts by the Association or the Association's employees or agents.
- 5.2 The Minister agrees to indemnify and hold harmless the Association from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client basis) for which the Minister is legally responsible, including those arising out of negligence or wilful acts by the Minister or the Minister's employees or agents.
- 5.3 These hold harmless provisions shall survive this Agreement.
- 5.4 The Association shall
- a) at its own expense and without limiting its liabilities herein, insure its operations under a contract of General Liability Insurance, in accordance with the Alberta Insurance Act, in an amount not less than \$2,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss of use thereof. Such insurance shall include blanket contractual liability, non-owned automobile liability, employees and volunteers as additional insureds, and tenant's/occupier's legal liability in an amount suited to the Occupier's occupancy of the Site;
 - b) maintain Liability Insurance on all vehicles owned, operated or licensed in the name of the Association in an amount not less than \$1,000,000;
 - c) ensure that each policy of insurance required above is endorsed to provide the Minister with 30 day advance written notice of cancellation or material change restricting coverage; and
 - d) As evidence of all required insurance, certificates of insurance shall be provided to the Minister prior to the commencement of work under this Agreement, and

annually thereafter. Certified true copies of the policies shall be provided promptly upon request.

Article 6 – Operations and Safety

- 6.1 The Association is responsible for recruiting and coordinating volunteers in support of grooming and maintenance of cross country ski trails at the Site.
- 6.2 During work operations at the Site, volunteers are under the supervision and direction of Kananaskis Country staff. Volunteers are required to have a completed and signed Volunteer Agreement with the Ministry, prior to any work commencement. The term of these Volunteer Agreements with the Ministry will normally be for a one year period renewed annually.
- 6.3 All signed Volunteer Agreements with the Ministry, shall be forwarded to the Friends of Kananaskis Country for central record keeping and reporting. A complete and up-to-date record is to be kept of all volunteer trail activities (see Schedule A Record Form) by the Association and a copy provided annually at the end of the ski season to the Friends of Kananaskis Country.
- 6.4 The Association will provide, operate and insure at its own expense, a suitable snowmobile complete with groomer and associated equipment (e.g. helmets) necessary for safe and effective operation by volunteers.
- 6.5 The Association shall keep any equipment, materials, supplies and tools of the Minister, that are in the custody of the Association, in secure storage when not in use and shall ensure that the items are used only for the purposes for which the items are designed or intended and that the items are properly maintained.
- 6.6 All volunteers who operate a snowmobile within Kananaskis Country are required to possess a valid Snowmobile Operators Certificate. Kananaskis Country staff will facilitate up to four (4) volunteers annually to take the Snowmobile Operators course.
- 6.7 Kananaskis Country staff will lead all Occupational Health and Safety compliance components for volunteer involvement in grooming and maintenance activities at the Site. These efforts will be reviewed and updated annually by Kananaskis Country staff in consultation with the Association and volunteers. Kananaskis Country will supply volunteers appropriate emergency communication devices for use during operations.
- 6.8 A member of the Association will act as the operational contact person for the volunteers and will ensure that good communication is maintained between the volunteers and Kananaskis Country maintenance staff at the Elbow Field Office (403-949-4941).

- 6.9 Prior to work commencement, upon completion and in compliance with Kananaskis Country Working Alone guidelines, volunteers will contact the Elbow staff to inform them of their work status, trail conditions and other general observations.
- 6.10 Elbow staff will advise the volunteer operational contact person whenever they are grooming the West Bragg Trails.
- 6.11 There will be at least one annual meeting between Kananaskis Country staff and Association volunteers, normally held in late October. This meeting will be to review roles, expectations and requirements for the upcoming season, to discuss any issues or concerns relating to trails management in this vicinity and to ensure good communication with all concerned. Any required amendments to this Agreement can also be discussed at this time. Additional either party can request a meeting at any time during the season, if required.
- 6.12 Kananaskis Country staff has the authority and responsibility for public safety at the Site may occasionally have to close the parking lot, trails or portions of the trails until the danger or threat have passed. (E.g. temporary fire hazard or flood damage).
- 6.13 The Association shall immediately inform the Minister of accidents and unsafe conditions or activities at the Site that come to the Association's attention.
- 6.14 The Association, the Minister, Alberta Sustainable Resource Development (ASRD) and other interested stakeholders will develop a long term plan for the West Bragg Creek Trail System for all season non-motorized use.
- 6.15 The Association will obtain a valid Temporary Field Authorization from ASRD for the operation of motorized vehicles on trails on Public Land within the site. It is understood that ASRD will grant this authorization with appropriate conditions, annually, for the term of this Agreement.

Article 7 General Provisions

- 7.1 Either Party may terminate this Agreement by giving the other Party not less than 90 days prior written notice.
- 7.2 Nothing in this Agreement requires the Minister to keep the Site open or to operate the Site in a particular way.
- 7.3 The Association acknowledges that the Government of Alberta has passed the *Freedom of Information and Protection of Privacy Act* (the "Act"). All documents submitted by the Association to the Minister under this Agreement become the property of the Minister and subject to the provisions of the Act.

- 7.4 a) Except for negligence of the Minister causing direct loss, the Minister is not liable for any damage, expense or loss of the Association from any cause including strikes, acts of God, vandalism or other interference with the Association, the Association's assets or the Site.
- b) If, in the opinion of the Minister, temporary closure of the Site is advisable for any reason including concerns in respect of wind, flood, fire hazard, pollution or public safety then the Association shall promptly co-operate in the closure of the Site and the Minister shall not be liable for any damage, expense or loss of the Association as a result of the closure.
- 7.5 No waiver by the Minister of any breach of this Agreement is binding unless given in writing. No waiver of any breach of this Agreement shall constitute a waiver of any further breach.
- 7.6 The Association shall not assign, transfer, mortgage, sublicense or grant any of its rights under this Agreement without the prior written consent of the Minister, which consent may be withheld for any reason.
- 7.7 In this Agreement, unless the context requires otherwise, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter genders and vice versa.
- 7.8 The captions and headings in this Agreement are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions of this Agreement.
- 7.9 This Agreement shall be interpreted according to the laws of the Province of Alberta.
- 7.10 Wherever this Agreement refers to legislation, that reference includes any subsequent legislation.
- 7.11 If any part of this Agreement is found to be unenforceable, that part shall be considered separate and severable and the other parts shall remain enforceable to the fullest extent permitted by law.

Article 8 – Notice

8.1 Any notice, direction, consent or request given by the Association or the Minister shall be in writing and delivered to the address noted below or the address in Alberta substituted by written notice.

a) TO THE MINISTER

Dave Nielsen, Director

Kananaskis Country
201 – 800 Railway Avenue
Canmore, AB
T1W 1P1

b) TO THE ASSOCIATION

Bruce Barker
Greater Bragg Creek Trail Association
P.O. Box 1379
Bragg Creek, AB
T0L 0K0

- 8.2 Notwithstanding any other provision of this Agreement, any notice, direction, consent or request to be given by the Minister to the Association is properly given if it is given to the Association's designated contact person or posted in a conspicuous place on the Site or attached to space occupied by the Association at the Site.

IN WITNESS WHEREOF the Minister and the Association have executed this Agreement as of the date first above written.

Signed on behalf of Her Majesty the Queen in Right of the Province of Alberta by an authorized representative of the Minister of Tourism, Parks and Recreation.

Witness Signature

Minister's Representative

Witness - Print Name

Print Name

Date

SIGNED by a duly authorized signatory of

Print Name of Association

Witness Signature

Authorized Signatory

Witness - Print Name

Print Name and Position

Date