



## **AIRPORT LAND LEASE**

**BETWEEN:**

**CITY OF CAMPBELL RIVER**, a municipality duly incorporated pursuant to the laws of the Province of British Columbia, having a place of business at the City Hall, 301 St. Ann's Road, Campbell River, British Columbia, V9W 4C7 (the “**City**”)

**AND:**

\_\_\_\_\_  
(#####), a  
company duly incorporated pursuant to the laws of  
British Columbia, having a registered office at  
\_\_\_\_\_  
(the “**Tenant**”)

## Table of Contents

### **Parties and Leased Land**

#### **Article 1: Purpose**

1.01 Purpose

#### **Article 2: Term**

2.01 Length of Term  
2.02 Overholding Tenancy  
2.03 Cancellation Privilege  
2.04 Surrender of Premises  
2.05 Quiet Enjoyment

#### **Article 3: Rent**

3.01 Rent  
3.02 Payment of Rent  
3.03 Additional Rent  
3.04 Interest on Rent in Default

#### **Article 4: Leased Land, Services, and Improvements**

4.01 "As Is" Condition  
4.02 Access  
4.03 Maintenance of Premises  
4.04 Additional Rights of the City  
4.05 Utilities  
4.06 Temporary Suspension of Services  
4.07 Reasonable Use  
4.08 Nuisance  
4.09 Environmental Matters  
4.10 Police and Fire Protection  
4.11 Storage of Dangerous Goods  
4.12 Fire Prevention  
4.13 Advertising  
4.14 Drainage and Discharge of Material  
4.15 Interceptors  
4.16 Repair of Damage  
4.17 Erection and Maintenance of Buildings or Structures  
4.18 Vesting of Repairs, Alterations, Improvements or Replacements  
4.19 Compliance with Regulations  
4.20 Payment of Taxes  
4.21 Easement

#### **Article 5: Assignment**

5.01 Assignment

**Article 6: Liability and Indemnity**

- 6.01 Limitation of Liability and Release
- 6.02 Exclusion of Liability
- 6.03 Indemnity
- 6.04 Survival of Indemnity

**Article 7: Insurance**

- 7.01 Commercial General Liability Insurance
- 7.02 All Risk Property Insurance
- 7.03 General Insurance Requirements
- 7.04 Additional Insurance and Workers Compensation Coverage

**Article 8: Default and Re-Entry**

- 8.01 Default and Re-Entry

**Article 9: General**

- 9.01 Influence
- 9.02 Headings
- 9.03 Dispute Resolution
- 9.04 Effect of Lease
- 9.05 Provisions Separately Valid
- 9.06 Waiver Negated
- 9.07 No Implied Obligations
- 9.08 Entire Agreement
- 9.09 Registration

**Article 10: Notices**

- 10.01 Notices

**Execution of Lease**



## **2.02 OVERHOLDING TENANCY**

If the Tenant holds over after the expiration of the Term, and the City accepts rent, the new tenancy created shall be a tenancy at will and not a tenancy from year to year. The Tenant shall pay as rent during the time of such occupancy, a rent to be determined at the reasonable discretion of the City, but in no event less than the rent payable in the last year of the Term, and shall be subject to the covenants and conditions contained in this Lease so far as the same are applicable to a tenancy at will, with either party able to terminate such tenancy with ninety (90) days prior written notice to the other.

## **2.03 CANCELLATION PRIVILEGE**

If by reason of fire, flood, lightning, tempest, earthquake, impact of aircraft, explosion, or Acts of God, or war or civil disturbance the Premises, at any time during the Term or any renewal of the Term, is destroyed or so damaged as to render the Premises unfit for occupancy, the Tenant will then have a period of ninety (90) days after such damage or destruction within which to decide whether or not it will repair or rebuild the Premises. If the Tenant decides not to rebuild or repair, it may terminate this lease by notice, in writing, given to the City within the said ninety (90) day period; provided, that in the event of such notice being given to the City pursuant to this clause, the rent reserved to the City under this lease shall be due and payable up to the date of clearance and levelling of the Premises to the satisfaction of the City.

## **2.04 SURRENDER OF PREMISES**

At the expiration or sooner determination of this lease, the Tenant shall peaceably surrender and yield to the City, in a condition satisfactory to the City, the Premises. The Tenant shall immediately remove from the Premises all chattels, goods, supplies, articles, equipment, materials, effects or things and shall also, to the satisfaction of the City, repair all damage and injury occasioned to the Premises by reason of the removal or in the performance of the removal, but the Tenant shall not, by reason of any action taken or things performed or required under this clause, be entitled to any compensation whatsoever. Unless removal is required by the City, no chattels, goods, supplies, articles, equipment, materials, effects or things shall be removed from the Premises until all rent due or to become due under this lease is fully paid. The City may, at its option, remove at the risk of and at the cost and expense of the Tenant, the chattels, goods, supplies, articles, equipment, materials, effects or things from the Premises and the Tenant shall reimburse the City immediately upon receipt of appropriate accounts for the removal and for any storage charges which may have been or will be incurred by the City as a result of such removal. Subject to section 4.14, where not removed by the Tenant, the City may consider the chattels, goods, supplies, articles, equipment, materials, effects, or things to be abandoned, and take title thereto in the name of the City. It is agreed between the parties, that, subject to section 4.18, six (6) months prior to the expiration of the Term, the Tenant shall inform the City of any improvements it wishes to remove from the site. Any such removal shall be done in accordance with this lease and at the sole cost of the Tenant.

## **2.05 QUIET ENJOYMENT**

The City covenants with the Tenant that the Tenant, paying the rent reserved in this lease, and performing the covenants of the Tenant under this lease, shall and may, subject to the terms of this lease, peaceably possess and enjoy the Premises for the Term, without any interruption or

disturbance from the City or any other person or persons lawfully claiming by, or under, the City.

### ARTICLE 3: RENT

#### 3.01 RENT

The Tenant shall pay during the first five (5) years of the Term to the City, in lawful money of Canada, the rent according to the following schedule:

	<b>From</b>	<b>To</b>	<b>Annual Rent</b>
a)	[Month] [Day], 20__	[Month] [Day], 20__	\$_____ + GST
b)	[Month] [Day], 20__	[Month] [Day], 20__	\$_____ + GST
c)	[Month] [Day], 20__	[Month] [Day], 20__	\$_____ + GST
d)	[Month] [Day], 20__	[Month] [Day], 20__	\$_____ + GST
e)	[Month] [Day], 20__	[Month] [Day], 20__	\$_____ + GST

#### 3.02 PAYMENT OF RENT

Rental rates for each subsequent five (5) year period during the term of the lease shall be established by an appraisal of market value conducted by a member of the Appraisal Institute of Canada on behalf of the City, in accordance with Appendix "E" of the City's Airport Operation, Management and Maintenance Bylaw No. 3211, 2005, as amended or replaced from time to time, provided that in no event shall the rent payable in any five (5) year period during the term of the lease be less than the rent payable during the preceding five (5) year period, despite any decrease in the appraised market value.

The Tenant shall pay all rent reserved at the time and in the manner set out in this lease, without any abatement or deduction whatsoever. The annual rent is due and payable, in advance, on [MONTH] [DAY], corresponding to the year in the Term for which the annual rent is due and owing. The Tenant shall pay annual rent to the City without prior demand by the City, and shall deliver the rent to the City at the following address, or such other address as the City may direct in writing from time to time:

City of Campbell River  
301 St. Ann's Road  
Campbell River, BC  
V9W 4C7

**Attention: Property Services Manager**

### **3.03 DEFAULT ON PAYMENT OF RENT**

If the Tenant defaults in the payment of any sums required to be paid by it pursuant to the terms of this lease, or fails to fulfill any of its obligations under this lease, the City may, at its option but without being obligated to do so, pay such sums or fulfill such obligations on behalf of the Tenant, and any losses, costs, charges and expenses suffered or incurred by the City as a result, including sums payable by way of indemnity, whether or not expressed in this lease to be rent, may at the option of the City be treated as and deemed to be additional rent, in which event the City will have all remedies for the collection of such sums, costs, expenses or other amounts when in arrears as are available to the City for the collection of rent in arrears.

### **3.04 INTEREST ON RENT IN DEFAULT**

Without waiving any other right of action of the City in the event of default of payment of rent under this lease, in the event that the Tenant is delinquent in making the payments required hereunder, the Tenant shall pay interest thereon at the rate of 1¾ percent per month (21 percent per annum), compounded monthly, from the date any such amount is due and payable until and including the date upon which it is paid.

## **ARTICLE 4: LEASED LAND, SERVICES, AND IMPROVEMENTS**

### **4.01 “AS IS” CONDITION**

The Tenant accepts the Premises in an “as is” condition and any improvements made to the Premises by the Tenant at any time during the Term, or at any prior time, to make the Premises suitable for the operations of the Tenant under this lease, shall be at the risk, cost and expense of the Tenant.

### **4.02 ACCESS**

The City, its officers, employees, agents or contractors, shall have full and free access for inspection purposes during normal business hours and in the presence of the Tenant or a representative of the Tenant to any and every part of the Premises, it being expressly understood and agreed that in cases of emergency, as determined by the City, the City, its officers, employees, agents or contractors shall at all times and for all purposes have full and free access to the Premises, and the exercise of such rights of access shall not constitute a breach of this lease or any covenant in it including, without limitation, the covenant for quiet enjoyment.

### **4.03 MAINTENANCE OF PREMISES**

The Tenant shall, at the cost and expense of the Tenant, maintain in good order the landscaping and paved areas on the Premises and shall keep the Premises free of debris and neat and tidy at all times, all to the satisfaction of the City. Without limiting the foregoing, the Tenant shall, at its sole cost, provide complete and proper arrangements for the adequate sanitary handling and disposal away from the Premises and the Airport of all trash, garbage and other refuse on or in connection with the Tenant’s operations under this lease, all to the satisfaction of the City. Piling of crates, cartons, barrels, or other similar items is not permitted in any public area at the Airport.

#### **4.04 ADDITIONAL RIGHTS OF THE CITY**

The City reserves the right to grant rights of way to others on, over, under, through, or across the Premises, provided that such rights of way do not interfere with the rights granted in this lease. The Tenant shall not unreasonably withhold or delay its consent to the granting of such rights of way.

#### **4.05 UTILITIES**

The Tenant shall, at the cost and expense of the Tenant, be responsible for the installation and maintenance of the connecting system to the City's water, sanitary sewage and storm sewage system, and to any third party's hydroelectric, gas, telecommunications or other utility system, where available at the Airport, to the point of connection at the boundary of the Premises. The City shall approve the plans and specifications for connecting to such services, in writing, before work is commenced and the work shall be performed under the supervision of a designated officer of the City. Where applicable, a water meter shall be installed by the City to measure the Tenant's water consumption and the Tenant will be charged a separate rate based on cost recovery of the water consumed for domestic purposes.

The Tenant shall pay as they become due all charges for utilities used on the Premises, including without limitation charges for all water, gas, electricity and telecommunications used on the Premises.

#### **4.06 TEMPORARY SUSPENSION OF SERVICES**

Without limiting section 6.01 of this lease, the Tenant shall not have nor make any claim or demand, nor bring any action or suit or petition, against the City for any damage which the Tenant may sustain by reason of any temporary suspension, interruption or discontinuance lasting less than six (6) months, in whole or in part, from any cause whatsoever, arising in the operations of the Airport or any services supplied by the City under this Lease. Any suspension, interruption or discontinuance greater than six (6) months shall entitle the Tenant to a rebate of rent for the period of suspension, interruption or discontinuance beyond six (6) months.

#### **4.07 REASONABLE USE**

The Tenant shall not during the term of this lease, do, suffer nor permit to be done any act or thing which may impair, damage or injure the Premises, or any part thereof, beyond reasonable wear and tear, and shall, at the cost and expense of the Tenant, repair and renew in a good, sufficient and workmanlike manner all portions of the Premises which may at any time by the Tenant be damaged (reasonable wear and tear only excepted), and in the event of the failure on the part of the Tenant to so repair and renew, the City may at its option, repair such damage or injury and the Tenant shall indemnify and save harmless the City from all damages, cost and expenses suffered or incurred by the City by reason of such impairment, damage or injury to the Premises, or by reason of the City carrying out repairs, and the Tenant shall pay such damages, costs and expenses to the City upon demand.

#### **4.08 NUISANCE**

The Tenant shall not do, suffer nor permit to be done any act or thing upon or above the Premises which is or would constitute a nuisance to the occupiers of any leased lands or premises adjoining or in the vicinity of the Premises, or to the public.

#### 4.09 ENVIRONMENTAL MATTERS

Definitions for the purposes of this section:

- a) “**Contaminants**” means any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or regulated under Environmental Laws; and
- b) “**Environmental Laws**” means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any governmental authority having jurisdiction over the Premises now or hereafter in force relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, including the principle of common law and equity.

The Tenant covenants and agrees as follows:

- a) not to use or permit to be used all or any part of the Premises for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with any Contaminants, without the prior written consent of the City, which may not be unreasonably withheld. Without limiting the generality of the foregoing, the Tenant shall in no event use, and warrants and represents that it does not plan or intend to use, the Premises to dispose of, handle or treat any Contaminants in a manner that, in whole or part, would cause the Premises, or any adjacent property to become a contaminated site under Environmental Laws;
- b) to strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Premises;
- c) to promptly provide to the City a copy of any environmental site investigation, assessment, audit or report relating to the Premises conducted by or for the Tenant at any time before, during or after the Term (or any renewal thereof). The Tenant shall, at its own cost at the City’s request from time to time but no more than once every three (3) years, obtain from an independent environmental consultant approved by the City an environmental site investigation of the Premises or an environmental audit of the operations at the Premises, the scope of which shall be satisfactory to the City and shall include any additional investigations that the environmental consultant may recommend.
- d) to maintain all environmental site investigations, assessments, audits and reports relating to the Premises in strict confidence and not to disclose their terms or existence to any third party (including without limitation, any governmental authority) except as required by law, to the Tenant’s professional advisers and lenders on a need to know basis or with the prior written consent of the City, which consent may be unreasonably withheld;
- e) to promptly provide to the City on request such written authorizations as the City may require from time to time to make inquiries of any governmental authorities regarding the Tenant’s compliance with Environmental Laws;
- f) to promptly notify the City in writing of any release of a Contaminant or any other occurrence or condition at the Premises or any adjacent property which could contaminate the Premises or subject the City to any fines, penalties, orders, investigations

or proceedings under Environmental Laws;

- g) on the expiry or earlier termination of this lease or at any time if requested by the City or required by any governmental authority pursuant to Environmental Laws, to remove from the Premises all Contaminants, and to remediate any contamination of the Premises or adjacent property resulting from Contaminants, in either case brought onto, used at or released from the Premises by the Tenant or any person for whom it is in law responsible. The Tenant shall perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants remain the property of the Tenant, notwithstanding any rule of law or other provisions of this lease to the contrary and notwithstanding the degree of their affixation to the Premises; and
- h) to indemnify the City, its elected and appointed officials, officers, employees, agents, contractors, successors and assigns, from any and all liabilities, actions, damages, claims remediation cost recovery claims, losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis) and the cost of remediation of the Premises and any adjacent property arising from or in connection with:
  - i. any breach of or non-compliance with the provisions of this section by the Tenant; or
  - ii. any release or alleged release of any Contaminants at or from the Premises related to or as a result of the use and occupation of the Premises or any act or omission of the Tenant or any person for whom it is in law responsible.

The obligations of the Tenant under this section shall survive the expiry or earlier termination of this lease. The obligations of the Tenant under this section are in addition to, and shall not limit, the obligations of the Tenant contained in other provisions of this Lease.

#### **4.10 POLICE AND FIRE PROTECTION**

The City shall not be responsible for providing fire protection to nor policing of, the Premises, the Building and any improvements.

#### **4.11 STORAGE OF DANGEROUS GOODS**

No goods or equipment of an explosive, dangerous, inflammable or noxious nature or character shall be stored by the Tenant in or upon the Premises or any building on the Premises except with the prior written consent of the City. It shall be a condition of any such consent that the Tenant, at its sole cost, obtain the necessary insurance for the storage of such goods, which must include the City as an additional insured.

#### **4.12 FIRE PREVENTION**

The Tenant shall, at its own expense, take all precautions to prevent fire from occurring in or about the Premises, and shall observe and comply with all laws and regulations in force respecting fires at the Airport, and with all instructions given from time to time by the City with respect to fires and extinguishing of fires. The Tenant agrees that the Premises shall be deemed to be zoned Commercial/Industrial within the City of Campbell River for the purpose of determining the necessary standard for a sprinkler system required for any buildings erected on the Premises pursuant to the City's Building Bylaw. The cost of the sprinkler system, if required, shall be at the Tenant's sole expense.

#### **4.13 ADVERTISING**

The Tenant shall not construct, erect, place or install on the Premises any poster, advertising sign or display, electrical or otherwise, without the prior written consent of the City.

#### **4.14 DRAINAGE AND DISCHARGE OF MATERIAL**

Storm water drainage from the Premises to public highways must be carried out by the Tenant in accordance with all applicable bylaws of the City. If the Tenant wishes to drain storm water to lands within the Airport, the Tenant must, at its sole cost, prior to any such drainage or the installation of any works for that purpose, prepare plans for the proposed storm water drainage system that are compatible with the existing storm drainage facilities at the Airport, and must obtain approval from the City for the Tenant's storm water drainage plans.

The Tenant shall not discharge, cause or permit to be discharged or howsoever to pass into the sewer systems, storm drains or surface drainage facilities at the Airport or elsewhere any deleterious material, noxious, contaminated or poisonous substances, all as determined by the City, whose decision shall be final and conclusive. In the event of a discharge or escape of such deleterious material, noxious, contaminated, or poisonous substances in and under the control of the Tenant, the Tenant must at its sole cost and expense clean up such material or substances and remediate the affected lands to the satisfaction of the City, and if the Tenant fails to do so, the City may at its option, carry out such clean up and remediation, and all costs and expenses incurred by the City shall constitute a debt due from the Tenant to the City, and may be added to the rent.

#### **4.15 INTERCEPTORS**

If required by the City, grease, oil and sand/silt interceptors (catch basins) shall be provided on the Premises by the Tenant at its cost. All interceptors shall be of a type and capacity approved by the City and shall be readily accessible for cleaning and inspection. Such interceptors shall be maintained by the Tenant, at the expense of the Tenant, in continuous, efficient operation at all times.

#### **4.16 REPAIR OF DAMAGE**

If, at any time or times hereafter, any damage or injury (reasonable wear and tear only excepted) should be occasioned to the Premises, or any part thereof, or to any works of the City on the Airport by reason of or on account of the operations of the Tenant under this lease, or any action taken or things done or maintained by virtue thereof, then, and in every such case, the Tenant shall, within a reasonable time upon notice from the City given in writing, repair, rebuild and restore the same in good, sufficient and workmanlike manner. In the event of failure on the part of the Tenant to so repair the City may at its option, repair such damage or injury, in which case the Tenant shall repay and reimburse the City for all costs and expenses connected there within or incidental thereto to the extent the Tenant is liable for the same in law plus such additional charge as may be applicable in accordance with the policies of the City for administration and overhead immediately upon receipt by the Tenant of the accounts of the City.

#### **4.17 ERECTION AND MAINTENANCE OF BUILDINGS OR STRUCTURES**

The Tenant shall not construct or erect any building or other improvements on the Premises without first obtaining a building permit and all necessary inspections from the authority having jurisdiction, and the prior written approval of the City in its capacity as landlord, of plans

showing the design and nature of construction of building or improvements and their proposed location, and all such buildings or improvements shall be constructed and thereafter maintained, by and at the cost and expense of the Tenant, to the satisfaction of the City.

The Tenant shall not make any alterations to the Premises, including any improvements, or services connected therewith or add any facilities or services, without first obtaining a building permit and all necessary inspections from the authority having jurisdiction and the prior written approval of the City in its capacity as landlord. Upon receipt of the approval of the City, the Tenant agrees to make the alterations at the Tenant's cost, in accordance with the requirements, terms and conditions specified, and thereafter maintain the alterations at the cost of the Tenant and to the satisfaction of the City.

If, at any time during the term of this lease, the Tenant defaults in its obligation of maintaining the Premises, in accordance with the requirements of this lease, the City may give written notice, specifying in what manner the maintenance is deficient, to the Tenant. If, within thirty (30) days from the giving of such notice the default specified in such notice has not been remedied or (if the nature of such default reasonably requires more than thirty (30) days to remedy and make right) the Tenant has not commenced, or, having commenced, is not diligently completing the remedying of such default, or if such maintenance is not of a type satisfactory to the City, the City may enter upon the Premises and perform such maintenance, at the cost and expense of the Tenant, plus such additional charge as may then be applicable, in accordance with the policies of the City for administration and overhead, it being expressly understood and agreed that the City shall not be under any obligation to perform any maintenance during the term of this lease.

#### **4.18 VESTING OF REPAIRS, ALTERATIONS, IMPROVEMENTS OR REPLACEMENTS**

Any repairs, alterations, improvements or replacements made by the Tenant to or upon the Premises or any building or structure on the Premises which by their nature are determined to be fixtures shall upon termination of this lease, except and subject as in this lease otherwise specifically provided, be vested in title to the City without any payment of compensation to the Tenant in respect of the repairs, alterations, improvements or replacements; nevertheless, the City shall have the option of requiring or compelling the Tenant upon written notice, to remove such repairs, alterations, improvements or replacements, and the Tenant shall be so bound to remove and shall restore the Premises to its original condition at its sole cost and without any right on the part of the Tenant to seek compensation for any reason whatsoever.

Notwithstanding the above, and provided the Tenant is not in default under this Lease, the Tenant may opt, by providing notice no later than six (6) months prior to the expiry of the term, of its intent to remove one or more buildings on the Premises. Such work to be done at the Tenant's sole cost and in accordance with the Lease.

#### **4.19 COMPLIANCE WITH REGULATIONS**

Without limiting any other provision in this lease, the Tenant shall in all respects abide by and comply with all applicable laws, rules, regulations and bylaws of the Government of Canada, the Government of British Columbia, the City of Campbell River, Strathcona Regional District, or any other governing body whatsoever and with all local police, health, or fire regulations or bylaws, in any manner affecting the Premises or the Tenant's use of the Premises. The Tenant hereby irrevocably attorns to the jurisdiction of the City in respect of all matters concerning the

use and occupation of the Premises by the Tenant, including all bylaws of the City whether relating to building, subdivision, utilities, works, services, taxation or otherwise, notwithstanding that the Premises are used for purposes of aeronautics.

The Tenant shall abide by and comply with all regulations and directives of the City regarding traffic control, airport security, sanitation and all other regulations and directives relative to the management and operation of the Airport.

#### **4.20 PAYMENT OF TAXES**

The Tenant shall pay or cause to be paid all rates, taxes, assessments and charges of whatsoever description, that may at any time during the existence of this lease be lawfully imposed, and become due and payable, upon, or in respect of the Premises, a building or structure on the Premises, or any part of the Premises, a building or structure.

The Tenant shall pay any business tax, value-added tax, multi-stage sales tax, sales tax, goods and services tax or any other tax lawfully imposed on any rent receivable by the City hereunder by any governmental or other taxing authority having jurisdiction, whether known as business transfer tax, value added tax, goods and services, or by any other name.

#### **4.21 EASEMENT**

The City hereby grants to the Tenant a non-exclusive easement, appurtenant to and for the benefit of the Premises, during the subsisting term of this lease and any renewal of it, in common with all others so entitled, to pass and re-pass over that part of Lot A, Sections 7, 8 and 18, Township 1, and Sections 13 and 24, Township 2, Comox District, Plan VIP74726 shown as "Area \_\_\_\_" on Plan EPP35390 with or without vehicles and equipment.

### **ARTICLE 5: ASSIGNMENT**

#### **5.01 ASSIGNMENT**

The Tenant shall not make any assignment of this lease, nor any transfer or sublease of the whole or any portion of the Premises, without obtaining the prior written consent of the City to such assignment, transfer or sublease, which consent may be withheld in the City's absolute discretion.

### **ARTICLE 6: LIABILITY AND INDEMNITY**

#### **6.01 LIMITATION OF LIABILITY AND RELEASE**

The City, its elected officials, officers, employees, agents and contractors shall not be liable for, and the Tenant hereby releases the City, its elected officials, officers, employees, agents and contractors from all liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, professional and other fees and disbursements (including legal fees on a solicitor and own client basis), and costs whatsoever resulting or arising from:

- (a) any bodily injury or death, however caused, suffered or sustained in or about the Premises; or

- (b) any property damage or other loss or damage of any nature whatsoever, however caused, to the Premises, or to any property belonging to the Tenant or to any other person on or about the Premises, including without limitation any structures, erections, aircraft, equipment, materials, supplies, motor or other vehicles, fixtures and articles, effects and things erected, brought, placed, made or being on or about the Premises;

unless arising or resulting directly from the negligence of the City, its officers, employees, agents or contractors.

## **6.02 EXCLUSION OF LIABILITY**

Despite section 6.01, the City, its elected officials, officers, employees, agents and contractors will not be liable for the following:

- (a) consequential, indirect, punitive, aggravated, economic or business loss or damage of any nature whatsoever, however caused, which may be suffered or sustained by the Tenant or any other person who may be in or about the Premises;
- (b) any loss or damage against which the Tenant is obligated to insure or has insured.

## **6.03 INDEMNITY**

The Tenant shall at all times indemnify and save harmless the City, its elected officials, officers, employees, agents and contractors from and against all liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, professional and other fees and disbursements (including legal fees on a solicitor and own client basis), and costs whatsoever which the City, its elected officials, officers, employees, agents or contractors may suffer or incur arising out of or in connection with, or that would not or could not be made or incurred but for this lease, except to the extent that such liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, professional and other fees and disbursements (including legal fees on a solicitor and own client basis), and costs arise or result directly from the negligence of the City, its elected officials, officers, employees, agents and contractors while acting in the course of their duties. Without limiting the foregoing, the Tenant shall at all times indemnify and save harmless the City, its elected officials, officers, employees, agents and contractors from and against all liabilities, actions, statutory or other proceedings, judgments, investigations, claims, losses, damages, orders, fines, penalties, expenses, professional and other fees and disbursements (including legal fees on a solicitor and own client basis), and costs whatsoever:

- (a) as a result of bodily injury or death, property damage or other damage arising from the conduct of any work by or any act or omission of or relating to or arising from the occupation or possession of the Premises by the Tenant, its directors, officers, employees, agents, contractors, invitees, subtenants or assignees; or
- (b) suffered or incurred by the City, its elected officials, officers, employees, agents and contractors that arise, directly or indirectly, from any breach by the Tenant, its directors, officers, employees, agents, contractors, invitees, subtenants or assignees, or any other person for whom the Tenant is responsible in law, of any of its covenants and obligations under this lease.

#### **6.04 SURVIVAL OF INDEMNITY**

The obligations of the Tenant under this lease to indemnify the City, its elected officials, officer, employees, agents and contractors shall survive the expiry or sooner determination of this lease.

### **ARTICLE 7: INSURANCE**

#### **7.01 COMMERCIAL GENERAL LIABILITY INSURANCE**

Without limiting any of the Tenant's obligations or liabilities under this lease, the Tenant shall at its expense and throughout the Term secure, maintain and pay for a policy of commercial general liability insurance covering the use and occupation of the Premises by the Tenant and all activities and operations necessary or incidental to the performance of the Tenant's obligations under this lease or the exercise by the Tenant of any of its rights under this lease, on the following terms:

- (a) a limit of not less than THREE MILLION (\$3,000,000.00) DOLLARS inclusive per occurrence for bodily injury, death and property damage;
- (b) a provision naming the City as an additional insured;
- (c) a provision requiring the insurer to give the City thirty (30) days written notice prior to any material change or cancellation of the policy;
- (d) a cross liability clause and waiver of subrogation clause in favour of the City;
- (e) a clause providing that the policy is primary and non-contributing with respect to any policy or self-insurance fund held or established by the City.

#### **7.02 ALL RISK PROPERTY INSURANCE**

Without limiting any of the Tenant's obligations or liabilities under this lease, the Tenant shall at its expense and throughout the Term secure, maintain and pay for a policy of property insurance insuring any fixtures on the Premises to their full replacement value, protecting them against all risks of loss or damage including, without limitation, fire, flood, sewer backup and earthquake.

#### **7.03 GENERAL INSURANCE REQUIREMENTS**

The following provisions apply to all insurance required of the Tenant under this lease:

- (a) all policies of insurance must be underwritten by a responsible insurance company or companies licensed to do business in the province of British Columbia;
- (b) prior to commencement of the Term, and at any time thereafter promptly upon demand, the Tenant must deliver to the City a detailed certificate or certificates of insurance, in form and content satisfactory to the City, as evidence that such insurance is in force, including evidence of any insurance renewal policy or policies, and every certificate or certificates of insurance shall include certification by the insurer that the certificate or certificates of insurance specifically conform to all of the applicable requirements set out in this lease;
- (c) promptly upon demand at any time during the Term, the Tenant must deliver to the City a certified and complete copy of any insurance policy required under this lease.

#### **7.04 ADDITIONAL INSURANCE AND WORKERS COMPENSATION COVERAGE**

The Tenant is solely responsible to determine its own additional insurance coverage, if any, including without limitation Workers Compensation coverage, contents insurance, tenant's legal liability insurance and aviation insurance, that may be necessary or advisable for its own protection or to fulfill its obligations under this lease. Any such additional insurance or coverage shall be provided and maintained by the Tenant at its own expense. None of the insurance required of the Tenant under this lease shall be construed as a representation by the City that the types and amounts of such insurance are sufficient to protect the interests of the Tenant.

### **ARTICLE 8: DEFAULT AND RE-ENTRY**

#### **8.01 DEFAULT AND RE-ENTRY**

If:

- (a) the Tenant is in default in the payment of rent or amounts payable as rent under this lease, and such default continues for a period of thirty (30) days after the rent has become due and payable; or
- (b) the Tenant is in default of any of its covenants or agreements under this lease (other than its covenant to pay rent or amounts payable as rent) and such default continues for a period of thirty (30) days (or such longer period as may be reasonably necessary to cure such default considering its nature) after notice by the City to the Tenant specifying with reasonable particularity the nature of such default and requiring the same to be remedied; or
- (c) the default set out in the notice given to the Tenant by the City under subsection (b) reasonably requires more time to cure than the thirty (30) day period referred to in that subsection and the Tenant has not commenced remedying or curing the same within the thirty (30) day period or, in the opinion of the City fails to diligently complete the same within a reasonable time;

then the balance of rent owing under this lease shall immediately become due and payable, and at the option of the City the Term shall become forfeited and void, and the City may forthwith re-enter upon the Premises or any part thereof in the name of the whole and repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding.

Forfeiture of this lease by the Tenant shall be wholly without prejudice to the right of the City to recover arrears of rent or damages for any antecedent breach of covenant on the part of the Tenant.

### **ARTICLE 9: GENERAL**

#### **9.01 INFLUENCE**

The Tenant hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of the City for or with a view to obtaining this lease any

bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure this lease upon any agreement for a commission, percentage, brokerage or contingent fee.

## **9.02 HEADINGS**

Any note appearing as a heading in this lease has been inserted for convenience and reference only, and of itself shall not define, limit, or expand the scope or meaning of the present lease or any of its provisions.

## **9.03 DISPUTE RESOLUTION**

All disputes arising between the City and the Tenant in any matter connected with or arising out of this lease whether as to interpretation or otherwise, shall be determined by arbitration pursuant to the *Arbitration Act* of British Columbia.

## **9.04 EFFECT OF LEASE**

This lease and everything herein contained shall enure to the benefit of and be binding upon the parties to this lease, their successors and assigns, as the case may be, subject to granting of consent by the City as provided in this lease to any assignment, transfer or sublease of this lease, and where there is a male, female or corporate party, the provisions of this lease shall be read with all grammatical changes to gender and number required by the context, and where the Tenant consists of more than one person, all covenants and obligations of the Tenant under this lease shall be deemed joint and several.

## **9.05 PROVISIONS SEPARATELY VALID**

If any covenant, obligation, agreement, term or condition of this lease shall, to any extent, be invalid or unenforceable, the remainder of this lease or the application of such covenant, obligation, agreement, term or condition to any persons or circumstances other than those in respect of which it is held invalid or unenforceable, shall not be affected and each covenant, obligation, agreement, term or condition of this lease shall be separately valid and enforceable to the fullest extent permitted by law.

## **9.06 WAIVER NEGATED**

The failure by the City or its authorized representative, as the case may be, to require the fulfillment of the obligations, or to exercise any rights herein contained shall not constitute a waiver, a renunciation or a surrender of those obligations or rights.

## **9.07 NO IMPLIED OBLIGATIONS**

No implied terms or obligations of any kind by or on behalf of the City shall arise from anything in this lease and the express covenants and agreements contained in this Agreement and made by the City are the only covenants and agreements upon which any rights against the City may be founded.

## **9.08 ENTIRE AGREEMENT**

This lease shall be deemed to constitute the entire agreement between the City and the Tenant with respect to the subject matter of this lease and shall supersede all previous negotiations, representations, and documents made by any party to this lease.

**9.09 REGISTRATION**

This lease shall run with the land and the Tenant will be responsible, upon execution, for ensuring this lease is registered in the Victoria Land Title Office at the Tenant’s expense.

**ARTICLE 10: NOTICES**

**10.01 NOTICES**

Whenever in this lease it is required or permitted that notice or demand be given or served by either party of this lease to or on the other, such notice or demand will be in writing and will be validly given or sufficiently communicated if forwarded by registered mail, priority post mail, or facsimile as follows:

To the City:                   City of Campbell River  
                                      301 St. Ann’s Road  
                                      Campbell River, BC  
                                      V9W 4C7

**Attention: Property Services Manager**  
Facsimile: (250) 286-5741

To the Tenant:               [Company Name]  
                                      [Address Line 1]  
                                      [Address Line 2]

**Attention:** \_\_\_\_\_  
Facsimile: (250) \_\_\_\_\_

Such addresses may be changed from time to time by either party giving written notice as above provided. If any question arises as to whether any notice was or was not communicated by one party to the other, it shall be deemed to have been effectively communicated or given on the day received or on the fifth day after it was mailed, faxed or otherwise sent, whichever is the earlier.

**IN WITNESS WHEREOF** the parties hereto have executed this lease the day and year first above written.

SIGNED ON BEHALF OF  
THE CITY OF CAMPBELL RIVER  
Under authority of "Officer's and Employee's Bylaw No. 3224, 2006"

**City**

\_\_\_\_\_  
General Manager of  
Facilities and Supply Management                      Date:

\_\_\_\_\_  
Witness Signature    Date:

**Tenant**

\_\_\_\_\_  
Authorized Signatory    Date:

\_\_\_\_\_  
Witness Signature    Date: