



# Alberni-Clayoquot Regional District

## WEST COAST COMMITTEE MEETING WEDNESDAY, APRIL 10, 2013, 10:30 AM

Regional District Board Room, 3008 Fifth Avenue, Port Alberni, BC

### AGENDA

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- |  | PAGE #       |
|--|--------------|
| <b>1. <u>CALL TO ORDER</u></b>   |              |
| <b>2. <u>APPROVAL OF AGENDA</u></b><br><i>(motion to approve, including late items requires 2/3 majority vote)</i>   |              |
| <b>3. <u>ADOPTION OF MINUTES</u></b>   |              |
| a. <b>West Coast Committee Meeting held January 23, 2013</b>   | <b>3-7</b>   |
| <i>THAT the minutes of the West Coast Committee meeting held on January 23, 2013 be received.</i>  |              |
| <b>4. <u>REPORTS</u></b>   |              |
| a. <b>Long Beach Airport Update – A. Daniel (Verbal)</b>   |              |
| <i>THAT this verbal report be received.</i>  |              |
| b. <b>Administrative Memo</b>  | <b>8-43</b>  |
| <b>Re:    Water Landing Strip lease – Long Beach Airport</b>   |              |
| <i>THAT the West Coast Committee instruct staff to proceed with the notice of disposition for the water landing strip at the Long Beach Airport for a 3 year term.</i> |              |
| c. <b>Administrative Memo</b>  | <b>44-45</b> |
| <b>Options for Renting Out the Long Beach Airport Tractor</b>  |              |
| <i>THAT the West Coast Directors receive this report.</i>  |              |
| d. <b>West Coast Multiplex</b>   | <b>46</b>    |
| <b>Email from West Coast Multiplex Society requesting a Westcoast Multiplex meeting for early May and an update on financials.</b>                                     |              |
| <i>THAT the West Coast Directors direct staff to set up a West Coast Multiplex Advisory Committee meeting for early May.</i>   |              |
| <b>5. <u>LATE BUSINESS</u></b>   |              |

6. **IN-CAMERA**

*Motion to close the meeting to discuss matters relating to:*

- a. *negotiations and related discussions respecting the proposed provision of a Regional District service that are at their preliminary stages, disclosure of which the Board considers could reasonably be expected to harm the interests of the Regional District if they were held in public.*

7. **RECOMMENDATIONS TO THE BOARD FROM IN-CAMERA**

8. **ADJOURN**



# Alberni-Clayoquot Regional District

## MINUTES OF THE WEST COAST COMMITTEE – FINANCIAL PLANNING MEETING HELD ON WEDNESDAY, JANUARY 23, 2013

Regional District Board Room, 3008 Fifth Avenue, Port Alberni, BC

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- DIRECTORS** Tony Bennett, Chairperson, Electoral Area “C” (Long Beach)
- PRESENT:** Bill Irving, Mayor, District of Ucluelet  
Josie Osborne, Mayor, District of Tofino  
Alan McCarthy, Member of Legislature, Yuułuᑭitᑭatᑭ Government
- STAFF PRESENT:** Russell Dyson, Chief Administrative Officer  
Andy Daniel, Manager of Environmental Services  
Teri Fong, Manager of Finance  
Andrew McGifford, Assistant Accountant  
Wendy Thomson, Manager of Administrative Services  
Shelli Lyle, Administrative Assistant

### 1. CALL TO ORDER

The Chairperson called the meeting to order at 10:12 am.

The Chief Administrative Officer introduced the new Mayor of the District of Tofino Josie Osborne.

### 2. APPROVAL OF AGENDA

*MOVED: Director Irving*  
*SECONDED: Director McCarthy*

*THAT the agenda be approved as circulated with the addition of the following late item: Request from the West Coast Multiplex Society.*

**CARRIED**

### 3. ADOPTION OF MINUTES

a. **West Coast Committee Meeting – January 8, 2013.**

*MOVED: Director Irving*  
*SECONDED: Director McCarthy*

*THAT the minutes of the West Coast Committee Meeting held on January 8, 2013 be adopted.*

**CARRIED**

## 5. **CORRESPONDENCE**

### a. **West Coast Multiplex Society - email dated January 22, 2013**

R. Dyson reported on the West Coast Committee meeting with the West Coast Multiplex Advisory Committee on January 15, 2013. The West Coast Multiplex Society put forward their eight action items that they will be working on between now and the next meeting scheduled on Tuesday, March 5, 2013.

*MOVED: Director Irving*

*SECONDED: Director McCarthy*

*THAT the West Coast Committee agree in principle to a grant-in-aid in 2013 in amount of \$6000.00 (in-kind) to the West Coast Multiplex Society.*

**CARRIED**

*MOVED: Director Irving*

*SECONDED: Director McCarthy*

*THAT the West Coast Committee send a letter to the MLA and MP and appropriate Minister requesting support for the proposed Multiplex facility on the West Coast.*

**CARRIED**

## 6. **2013-2017 FINANCIAL PLAN – WEST COAST SERVICES**

### a. **Request for Decision regarding South Long Beach Multi-Purpose Path Contribution**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT staff be instructed to draft an amendment to the South Long Beach Multi-Purpose Path Bylaw increasing the contribution for the operation and maintenance of the path for consideration by the Alberni-Clayoquot Regional District Board.*

**CARRIED**

## 4. **PETITIONS, DELEGATIONS & PRESENTATIONS**

### a. **Ms. Jessica Hutchinson, Strawberry Isle Marine Research Society regarding update on activities (GIA Application)**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT Ms. Jessica Hutchinson, Strawberry Isle Marine Research Society be invited to address the West Coast Committee.*

**CARRIED**

Ms. Jessica Hutchinson provided Directors with an overview of the Strawberry Isle Marine Research Societies practices. The purpose of the society is to conduct primary research of the marine ecosystems of Clayoquot sound. Monitoring of killer whales, harbor seals, sea lions and harbor porpoises.

*MOVED: Director Irving*

*SECONDED: Director McCarthy*

*THAT the West Coast Committee support in principle a grant-in-aid in the amount of \$1,500.00 to the Strawberry Isle Marine Research Society.*

**CARRIED**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT Ms. Jessica Hutchinson, Central Westcoast Forest Society be invited to address the West Coast Committee.*

**CARRIED**

Ms. Jessica Hutchinson provided Directors with an overview of the Central Westcoast Forest Societies practices. The organization began in 1994 with a group of individuals who were concerned about forest practices on eco systems. The Societies mandate is to monitor and restore streams, trails and engage with the community.

## **6. 2013-2017 FINANCIAL PLAN – WEST COAST SERVICES**

### **b. Request for Decision regarding Long Beach Airport**

*MOVED: Director Irving*

*SECONDED: Director McCarthy*

*THAT the West Coast Committee approve the draft 2013-2017 Financial Plan for the Long Beach Airport and forward for consideration by the Board of Directors.*

**CARRIED**

### **c. Request for Decision regarding West Coast Waste Management.**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT the West Coast Committee approve the draft 2013–2017 Financial Plan for the West Coast Waste Management and forward for consideration by the Board of Directors.*

**CARRIED**

**7. REPORTS**

**8. UNFINISHED BUSINESS**

**9. LATE BUSINESS**

**10. IN-CAMERA**

*MOVED: Director McCarthy*

*SECONDED: Director Irving*

*THAT this meeting be closed to the public to discuss negotiations and related discussions respecting the proposed provision of a Regional District service that are at their preliminary stages, disclosure of which the Board considers could reasonably be expected to harm the interests of the Regional District if they were held in public.*

The meeting was closed to the public at 11:50 am.

The meeting re-opened to the public at 12:02 pm.

**11. RECOMMENDATIONS TO THE BOARD FROM IN-CAMERA**

**a. Memorandum - Long Beach Water Landing Strip Lease**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT the West Coast Committee instruct staff to proceed with the notice of disposition for the water landing strip at the Long Beach Airport for a 10 year term subject to determining fair market value rent for the lease area.*

**CARRIED**

**12. ADJOURN**

*MOVED: Director Irving*

*SECONDED: Director Osborne*

*THAT this meeting be adjourned at 12:05 pm.*

**CARRIED**

Certified Correct:

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Tony Bennett,  
Chairperson

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Russell Dyson,  
Chief Administrative Officer



## MEMORANDUM

**To:** West Coast Committee  
**From:** Andy Daniel, Manager of Environmental Services  
**Date:** April 8, 2013  
**Subject:** Water Landing Strip lease – Long Beach Airport

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### Recommendation:

That the West Coast Committee instruct staff to proceed with the notice of disposition for the water landing strip at the Long Beach Airport for a 3 year term.

### Background:

The water landing strip lease at the Long Beach Airport is up for renewal. At the January 23, 2013 West Coast Committee meeting, Staff requested to proceed with a notice of disposition for the water landing strip for a 10 year term. After discussions with the lawyers we have been advised to proceed with a 3 year term rather than the 10 year term, with plans to have the land at the Long Beach Airport go through the subdivision process, allowing us to enter into longer term leases. Longer term leases will enable the lessees to register with the Land Title Office, which will support them in obtaining financing for improvements and make capital expenditures to improve the lands.

A draft lease agreement is attached for your review.

Submitted by:

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Andy Daniel, Manager of Environmental Services

Approved by:

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Russell Dyson, CAO

**LEASE**

**THIS LEASE** made the 1<sup>st</sup> day of June, 2013.

BETWEEN:

**ALBERNI-CLAYOQUOT REGIONAL DISTRICT**

3008 Fifth Avenue  
Port Alberni, B.C.  
V9Y 2E3

(the "Landlord")

OF THE FIRST PART

AND:

(the "Tenant")

OF THE SECOND PART

**Article or Clause**

Schedule "A"

Civic Address of the Premises:  
N/A

1.1

Water Strip consisting of +/- 15,550 sq. metres as shown in cross-hatching on Schedule "A"

1.1 and 3

Term:  
Three (3) years

1.1

Commencement Date:  
June 1, 2013

1.1

Expiry Date:  
May 31, 2016

4.1(a)

Annual Basic Rent Commencing: June 1, 2013 and terminating: May 31, 2016 payable as follows:

<b>Period</b>	<b>Per Annum</b>	<b>Per Quarter</b>
June 1, 2013 to May 31, 2014	\$4,839.19 plus GST	\$1,209.80 plus GST
June 1, 2014 to May 31, 2015	Annual Basic Rent for Year One adjusted in accordance with CPI pursuant to	To Be Determined

the definition of Annual Basic Rent, plus GST

June 1, 2015 to May 31, 2016      Annual Basic Rent for Year      To Be Determined  
Two adjusted in accordance with CPI pursuant to the definition of Annual Basic Rent, plus GST

4.1(b)      Additional Rent commences June 1, 2013.

7.1      Use of Premises:  
For use as a water landing strip for the purposes of aircraft maintenance operations and for no other purpose.

15.4      Landlord's Address for Rent Payments and Notices:  
3008 Fifth Avenue, Port Alberni, B.C., V9Y 2E3  
Email:

15.4      Tenant's Address for Notices:  
\_\_\_\_\_  
Email:

Schedules:

Schedule "A" - Plan of Demised Premises

Schedule "B" – Safety Management System Deficiencies

The articles, clauses, and schedules of this Lease identified above are those articles, clauses, and schedules where references to particular Lease information initially appears. Each such reference will incorporate the applicable information from this Lease Summary.

**ALBERNI-CLAYOQUOT REGIONAL DISTRICT** by its authorized signatories: )

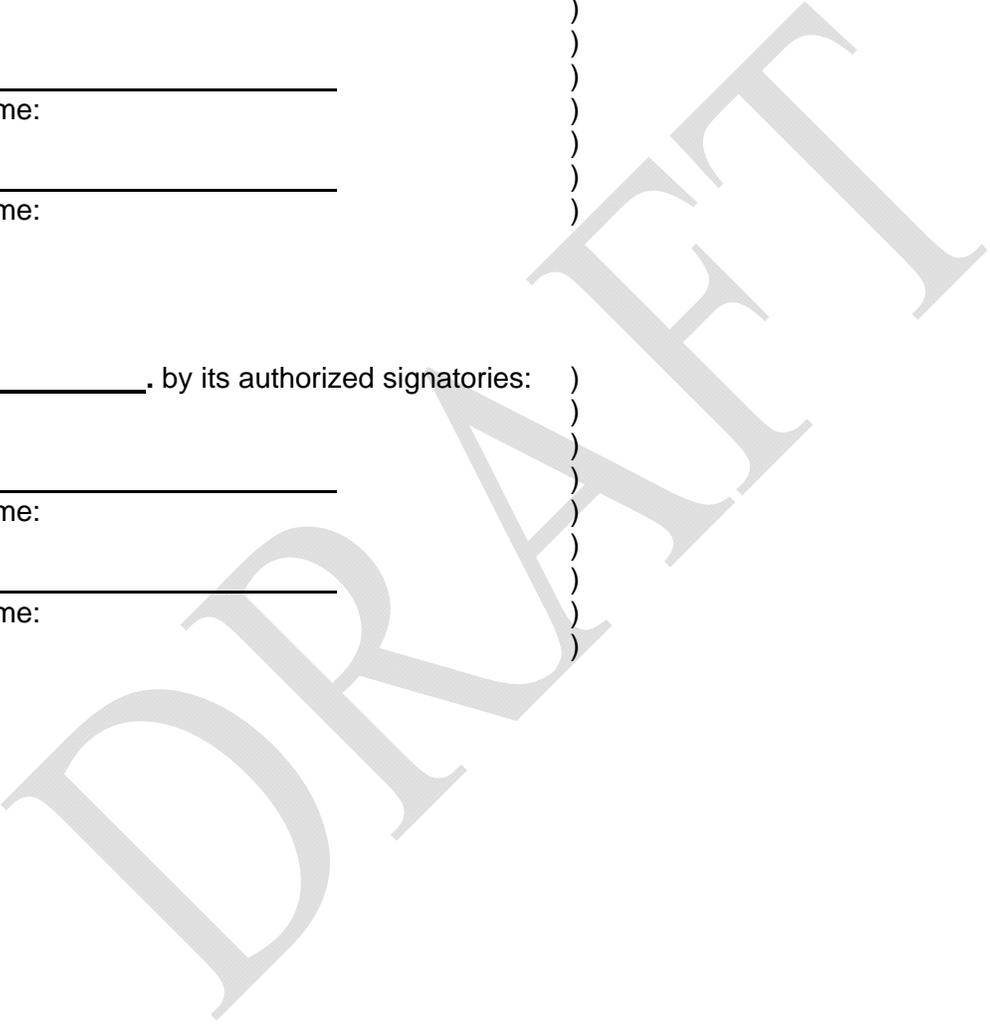
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Name: )

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Name: )



THIS LEASE made the 1<sup>st</sup> day of June, 2013.

BETWEEN:

**ALBERNI-CLAYOQUOT REGIONAL DISTRICT**

3008 Fifth Avenue  
Port Alberni, B.C.  
V9Y 2E3

(the “**Landlord**”)

OF THE FIRST PART

AND:

(the “**Tenant**”)

OF THE SECOND PART

**1. DEFINITIONS**

1.1 The Landlord and the Tenant hereby agree that in this Lease the following words or phrases will, unless there is something in the context inconsistent with them, have the following meanings:

(a) “**Additional Rent**” means:

- (i) to the extent they are not paid directly by the Tenant, the Utility Costs and Tenant’s Taxes;
- (ii) the Operating Expenses; and
- (iii) all other sums that may be payable to the Landlord or reimbursable to the Landlord, including, without limitation, all interest and penalties payable by the Tenant, whether or not such sums are referred to as Rent or Additional Rent or otherwise,

but Additional Rent does not include the Annual Basic Rent.

(b) “**Annual Basic Rent**” means, with respect to the first year of the Term, the sum of FOUR THOUSAND EIGHT HUNDRED THIRTY-NINE DOLLARS AND NINETEEN CENTS (\$4,839.19) plus GST. For the second year of the Term, the Annual Basic Rent shall increase by an amount equal to the percentage change in the Consumer Price Index – All Items Inventory for Victoria, British Columbia, published by Statistics Canada, over the most recent calendar year for which data is available as of the date of commencement of the second year of the Term, being April 1, 2014. For the third year of the Term, the Annual Basic Rent shall be the amount determined for the second year of the Term increased by an

amount equal to the percentage change in the Consumer Price Index – All Items Inventory for Victoria, British Columbia, published by Statistics Canada, over the most recent calendar year for which data is available as of the date of commencement of the third year of the Term, being April 1, 2015.

- (c) **“Area of the Premises”** means 15,550 square metres, more or less, as shown in cross-hatching and identified as “Water Strip” on the plan attached as Schedule “A”.
- (d) **“Commencement Date”** means the date specified as such in the Lease Summary.
- (e) **“Environmental Laws”** means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits, and other lawful requirements of any government authority having jurisdiction over the Premises now or hereafter in force relating in any way to the environment, health, occupational health and safety, or transportation of dangerous goods, including the principles of common law and equity.
- (f) **“Expiry Date”** means the date specified as such in the Lease Summary.
- (g) **“GST”** means the tax levied under Part IX of the *Excise Tax Act* (Canada) as that tax may be amended or substituted from time to time, whether characterized as “Harmonized Sales Tax”, “Goods and Services Tax”, or otherwise.
- (h) **“Hazardous Substance” or “Hazardous Substances”** means any pollutants, contaminants, deleterious substances, underground or above-ground tanks, asbestos materials, hazardous, corrosive, or toxic substances, special waste or waste of any kind, or any other substance that is now or hereafter prohibited, controlled, or regulated under Environmental Laws.
- (i) **“Insurance Costs”** means all premiums and other amounts the Landlord may expend in effecting or maintaining insurance coverage under the provisions of this Lease.
- (j) **“Land”** means all and singular those certain parcels or tracts of land forming part of Long Beach Airport and legally described as:
  - P.I.D. 009-392-351  
Lot 165, Clayoquot District, containing 152 acres, more or less, except parts in Plans 11182 and 1417RW
  - P.I.D. 010-322-451  
District Lot 167, Clayoquot District, containing 160 acres more or less
- (k) **“Landlord”** means the owner of the Premises.
- (l) **“Lease”** means this indenture together with the Lease Summary and all schedules attached to it.

- (m) **“Leasehold Improvements”** means all fixtures (other than the Tenant’s trade fixtures), improvements, additions, partitions, equipment, and alterations from time to time made to or installed in the Premises by any person, including without limitation the existing water landing strip, ramp, access gate, and floating dock.
- (n) **“Lease Summary”** means pages 1 - 3 attached to and forming part of this Lease and headed “Lease Summary”.
- (o) **“Mortgages”** means all mortgages, debentures, deeds of trust, and mortgages securing bonds and all instruments and indentures supplemental to them that may now or hereafter charge the Land, and all renewals, modifications, consolidations, replacements, and extensions of them.
- (p) **“Operating Expenses”** means all expenses in connection with the operation and maintenance of all or any portion of the Premises and, without restricting the generality of the foregoing, includes:
- (i) the Tenant’s Proportionate Share of the Taxes;
  - (ii) the Insurance Costs;
  - (iii) all charges for water, gas, electricity, and other utilities and services used on or in respect of any part of the Premises and all fittings, machines, apparatus, meters, and any other thing leased in respect of them, and all work and services performed by any corporation, authority, or commission in connection with such utilities, but excluding Utility Costs;
  - (iv) repairs and maintenance of all or any portion of the Premises;
  - (v) an amount equal to the difference between the proceeds of insurance payable to the Landlord in respect of the damage or destruction of the Leasehold Improvement and the costs and expenses to repair, rebuild, and make fit the Leasehold Improvements to the extent of any deductible contained in any insurance policy effected by the Landlord pursuant to its covenant to insure herein contained;
  - (vi) GST or other Sales Taxes on goods and services provided by or on behalf of the Landlord;
- but Operating Expenses does not include interest on the Landlord’s debt, capital retirement of the Landlord’s debt or costs incurred in leasing or procuring new tenants.
- (q) **“Operating Year”** means a 12-month period that is established by the Landlord from time to time, commencing on the first day of a month in any calendar year and ending on the last day of the 12th following month, provided that the first operating period will commence on the Commencement Date and end on the last day of the Landlord’s designated Operating Year next following and the last operating period will terminate to coincide with the Expiry Date.
- (r) **“Premises”** means the portion of the Land shown in cross-hatching and

identified as “Water Strip” on the plan attached to this Lease as Schedule “A”, together with the Leasehold Improvements.

- (s) **“Prime Rate”** means the rate of interest, expressed as an annual rate, at the relevant time or times, established by the Royal Bank of Canada at its main branch in Vancouver, British Columbia, as a reference rate for commercial loans in Canadian dollars to its best commercial customers and commonly referred to by the Royal Bank of Canada as its “prime rate”.
- (t) **“Relative Portion”** means, with respect to any amount payable under this Lease, that fraction having as its denominator the period of time expressed in days in respect of which an amount payable under this Lease is calculated and having as its numerator the number of days within the same calculation period, but which fall within the Term or any renewal period.
- (u) **“Release”** includes release, spill, leak, pump, pour, emit, discharge, eject, escape, leach, dispose, or dump.
- (v) **“Rent”** means the Annual Basic Rent and the Additional Rent.
- (w) **“Sales Taxes”** means any and all taxes, fees, levies, charges, assessments, rates, duties, and excises (whether characterized as sales taxes, purchase taxes, goods and services taxes, or any other form) that are imposed on the Landlord, that the Landlord is liable to pay or that the Landlord is liable to collect and remit, and that are levied, rated, or assessed on the act of entering into this Lease or otherwise on account of this Lease, on the use or the occupancy of the Premises or any portion of them, on the Rent payable under this Lease or any portion of it, or in connection with the business of renting the Premises or any portion of them, including, without limitation, GST.

Provided however that Sales Taxes exclude all of the following:

- (i) income tax under Part I of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th supp.) as it existed on the Commencement Date;
  - (ii) the Tenant’s Taxes;
  - (iii) the Taxes; and
  - (iv) corporation capital tax.
- (x) **“Sign”** means any sign, picture, notice, lettering, direction, or other advertising or informational device of whatever nature.
  - (y) **“Taxes”** means all taxes, fees, levies, charges, assessments, rates, duties, and excises that are now or may hereafter be levied, imposed, rated, or assessed upon or with respect to the Land or any part of it or any personal property of the Landlord used for it, whether levied, imposed, rated, or assessed by the government of Canada, the government of British Columbia, or any political subdivision, political corporation, district, municipality, city, or other political or public entity, and whether or not now customary or in the contemplation of the

parties on the date of this Lease. Without restricting the generality of the foregoing, Taxes includes all:

- (i) real property taxes, general and special assessments, and capital taxes;
- (ii) taxes, fees, levies, charges, assessments, rates, duties, and excises for transit, housing, schools, police, fire, or other government services, or for purported benefits to the Land;
- (iii) local improvement taxes, service payments in lieu of taxes, and taxes, fees, levies, charges, assessments, rates, duties, and excises, however described, that may be levied, rated, or assessed as a substitute for, or as an addition to, in whole or in part, any property taxes or local improvement taxes; and
- (iv) costs and expenses, including legal and other professional fees and interest and penalties on deferred payments, incurred by the Landlord in contesting or appealing any taxes, assessments, rates, levies, duties, excises, charges, or other amounts as specified;

but Taxes excludes all of the following:

- (v) income tax under Part I of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th supp.) as it existed on the Commencement Date;
  - (vi) the Tenant's Taxes;
  - (vii) the Sales Taxes; and
  - (viii) corporation capital tax.
- (z) **“Tenant’s Proportionate Share of the Taxes”** means that portion of the Taxes allocated by the Landlord, acting reasonably, to that portion of the Land within the Premises in accordance with the values supplied by the assessor having jurisdiction.
- (aa) **“Tenant’s Taxes”** means all taxes, fees, levies, charges, assessments, rates, duties, and excises that are now or may hereafter be levied, imposed, rated, or assessed by any lawful authority relating to or in respect of the business of the Tenant or relating to or in respect of personal property and all business and trade fixtures, machinery and equipment, cabinet work, furniture, and movable partitions owned or installed by the Tenant at the expense of the Tenant or being the property of the Tenant, or relating to or in respect of the Leasehold Improvements or other improvements to the Premises built, made, or installed by the Tenant, on behalf of the Tenant or at the Tenant’s request, whether any such amounts are included by the taxing authority in the Taxes.
- (bb) **“Term”** means the term specified in the Lease Summary.
- (cc) **“Transfer”** means any transfer, assignment, charge, mortgage, sublease, licence, sharing of possession, parting with possession, or any other disposition

of this Lease or any estate or interest in it or the Premises or any part of them, including without limitation a transfer by operation of law.

- (dd) **“Transferee”** means any person to whom a Transfer is made or intended to be made.
- (ee) **“Utility Costs”** means all charges for water, gas, telephone, electric light and power, cable and other telecommunications, and all other utilities and services used on or in respect of the Premises or any part of them, whether separately metered to the Premises or as allocated by the Landlord, acting reasonably, to the Premises together with all costs and charges for all fittings, machines, apparatus, meters, and any other thing leased or supplied in respect of them and all costs and charges for all work and services performed by any corporation, authority, or commission in connection with such utilities and services in respect of the Premises, whether separately charged to the Premises or allocated by the Landlord, acting reasonably, to the Premises.

## **2. THE DEMISE**

### **2.1 Demise Of Premises**

In consideration of the rents, covenants, conditions, and agreements in this Lease, the Landlord hereby leases to the Tenant the Premises, subject to the easements and rights-of-way now registered against the title to the Land and any future easements and rights-of-way that may be registered against title to the Land in accordance with clause 7.2.

### **2.2 Third Party Landing Rights**

The Tenant must, at the reasonable request of other users of the Long Beach Airport, permit such other users of the airport to use the Premises as a water landing strip for the purposes of aircraft maintenance operations, and the Tenant may charge such other users a reasonable fee for doing so.

## **3. TERM**

The Tenant will have and hold the Premises, subject to the rents, covenants, conditions, and agreements in this Lease, for the Term from and including the Commencement Date until and including the Expiry Date.

## **4. RENT**

### **4.1 Annual Basic Rent and Additional Rent**

The Tenant will pay to the Landlord during the Term the following Rent payable at the Landlord’s address specified in the Lease Summary or at such other place as the Landlord may from time to time designate in writing, in the following installments:

- (a) the Annual Basic Rent (plus applicable GST) payable in advance in consecutive quarterly installments on the first day of every third month in each and every year of the Term, commencing on the Commencement Date and continuing until and

including the first day of the last month in which advance quarterly Annual Basic Rent falls due prior to the Expiry Date; and

- (b) the Additional Rent payable in advance in consecutive quarterly installments on the first day of every third month in each and every year of the Term, commencing on the Commencement Date and continuing until and including the first day of the last month in which advance quarterly Additional Rent falls due prior to the Expiry Date, unless indicated otherwise in this Lease.

#### **4.2 To Pay**

The Tenant will pay the Annual Basic Rent and Additional Rent when due in accordance with the provisions of this Lease.

#### **4.3 No Abatement**

The Tenant covenants and agrees with the Landlord that all of the Rent payable under this Lease will be paid by the Tenant without demand, deduction, set-off, or abatement whatsoever. The Tenant covenants and agrees that the Landlord may at its option apply all sums received from or due to the Tenant against any amounts due and payable under the Lease in such manner as the Landlord may see fit, regardless of any designation or instructions by the Tenant to the contrary.

#### **4.4 Post-dated Cheques**

The Tenant covenants and agrees that the Tenant will deliver to the Landlord prior to the commencement of each Operating Year a series of post-dated cheques each in the amount of the monthly installments of the Annual Basic Rent (plus applicable GST) and the Additional Rent for that Operating Year.

#### **4.5 Adjustment**

If the Term commences or ceases on a day other than the commencement of or the end of any period of time in respect to which any amount payable under this Lease is calculated, then the Tenant will pay to the Landlord its Relative Portion of such amount for such period of time. Without limiting the generality of the foregoing, if the Term does not subsist during the whole of any calendar year, the Tenant will pay the Relative Portion of the estimated and actual Operating Expenses for such Operating Year.

#### **4.6 Accrual of Annual Basic Rent**

The Annual Basic Rent will accrue from day to day. Where the calculation of any Additional Rent is not made until the termination or expiry of this Lease, the obligation of the Tenant to pay such Additional Rent will survive the termination or expiry of this Lease and such amounts will be payable by the Tenant upon demand by the Landlord.

#### **4.7 Net Lease**

It is the intention of the parties that this Lease will be a net lease and that the Annual Basic Rent provided to be paid to the Landlord under this Lease will be net to the Landlord and will yield to the Landlord the entire such rental during the Term and any

renewal of it without abatement for any cause whatsoever. Except as specifically provided in this Lease, all costs, expenses, and obligations of every kind and nature whatsoever relating to the Premises, whether or not referred to in this Lease and whether or not of a kind now existing or within the contemplation of the parties, will be paid by the Tenant.

#### **4.8 Sales Taxes**

The Landlord will, acting reasonably, estimate the amount of Sales Taxes to be paid in advance with monthly payments of Rent for the period to which the estimate applies; and any necessary adjustment will be made in the same manner as set out in clause 5.2. Amounts payable by the Tenant as Sales Taxes will not be deemed to be Rent or Additional Rent, but the Landlord will have the same rights and remedies for non-payment of Sales Taxes as it has for non-payment of Rent.

### **5. ADDITIONAL RENT**

#### **5.1 Estimated Expenses**

The Landlord will have the right to make reasonable estimates of the amount of the Additional Rent for each Operating Year during the Term.

#### **5.2 Payment of Additional Rent**

The Tenant will pay to the Landlord, in equal monthly installments on the first day of each month during each Operating Year, the Additional Rent or any portion of it as estimated by the Landlord for the Operating Year that falls in whole or in part within the respective Operating Year.

#### **5.3 Payment of Tenant's Proportionate Share of the Taxes**

As an exception to section 5.2, the Tenant will pay to the Landlord, on or before June 30 in each Operating Year, the entire amount of the Tenant's Proportionate Share of the Taxes in respect of the Operating Year, except that where the Expiry Date falls upon a date that is earlier than June 30 in an Operating Year, the Tenant will pay to the Landlord the entire amount of the Tenant's Proportionate Share of the Taxes in respect of the Operating Year on or before the Expiry Date.

#### **5.4 Adjustment**

If the Tenant makes any overpayment to the Landlord on account of any Additional Rent payable under this Article 5 during any Operating Year, the Tenant will be entitled to a credit or a refund, at the Landlord's option, to the Tenant's account in respect of the payment of such item of Additional Rent for the next succeeding Operating Year. Upon the expiry of the Term and any renewal of it and the fulfillment by the Tenant of all of its obligations under this Lease, any remaining credit will be refunded to the Tenant. If the Tenant makes any underpayment to the Landlord on account of any Additional Rent payable under this Article 5 during any Operating Year, the Tenant will pay the amount of any shortfall to the Landlord within thirty (30) days of being invoiced by the Landlord for such amount.

### 5.5 **Landlord's Certificate**

A certificate of an officer of the Landlord as to the actual Additional Rent or any portion of it for any Operating Year will be final and binding upon the Tenant and the Landlord.

## 6. **TENANT'S TAXES AND UTILITY COSTS**

### 6.1 **Payment**

The Tenant will promptly pay to the applicable authorities the Tenant's Taxes and the Utility Costs as they become due.

### 6.2 **Evidence of Payment**

The Tenant will provide to the Landlord, when and if requested by the Landlord, receipts for payments made by the Tenant in respect of the Tenant's Taxes and the Utility Costs.

## 7. **USE OF PREMISES**

### 7.1 **Use of Premises**

The Tenant will not use the Premises or allow the Premises to be used for any purpose other than that specified in the Lease Summary, or in any manner inconsistent with such use and occupation, and the Tenant will not, at any time during the Term or any renewal of it, commit or permit to be committed any waste upon the Premises, nor will the Tenant use, exercise, carry on, or permit to be used, exercised, or carried on, in or on the Premises or the Land, or any part of them, any noxious, noisome, or offensive art, trade, business, or occupation, or keep, sell, use, handle, or dispose of any merchandise, goods, or things that are objectionable, or by which the Premises or the Land or any part of them may be damaged or injuriously affected, and no act, matter, or thing whatsoever will, at any time during the Term or any renewal of it, be done in or on the Premises or the Land or any part of them that may result in annoyance, nuisance, grievance, damage, or disturbance to other tenants or occupiers of the Land or to the occupiers or owners of any other lands or premises or to the holders of any registered easement, right-of-way, or other encumbrance charging the whole or part of the Land. The Tenant will use its best efforts to prevent anything being done on the Premises or the Land that may result in any premises other than the Premises being picketed or otherwise subjected to industrial action or demonstrations. The Tenant will promptly take all action and proceedings reasonably necessary to cause such picketing, industrial action, and demonstrations to cease without delay. The Tenant will not place in the Premises any heavy machinery or equipment without first obtaining the consent, in writing, of the Landlord. The Tenant will immediately advise the Landlord of the presence of, and will do all things necessary to remove, any dangerous condition from time to time existing on the Premises, or the Land, and arising as a result of the act or omission of the Tenant or any person for whom the Tenant is, at law, responsible.

### 7.2 **Landlord's Reservation of Rights**

- (a) It is understood and agreed that notwithstanding anything in this Lease to the contrary, the Landlord will have the right at all times and from time to time throughout the Term and renewal to:

- (i) construct other buildings, structures, or improvements on the Land and make alterations or re-arrangements of them, additions to them;
- (ii) add additional lands to the Land; and
- (iii) grant new easements and rights-of-way in favour of other tenants or others;

provided however that the Landlord will not unreasonably interfere with the use and enjoyment of the Premises beyond the extent necessarily incidental to such changes, additions, and installations, and will make good any physical damage to the Premises arising in the course of such changes, additions, and installations. The Landlord agrees to use its reasonable efforts to complete all construction, alterations, maintenance, and repairs as expeditiously as possible under the circumstances.

- (b) The Tenant will not have any right to object to or any right to any claim of damages, compensation, or other sums whatsoever, or any right of set-off or reduction of the Rent as a result of or on account of any exercise of the Landlord's rights under subclause 7.2 (a). It is further understood and agreed that the exercise by the Landlord of its rights under subclause 7.2 (a) will not be deemed to be constructive or actual eviction of the Tenant, or a breach of any covenant of quiet enjoyment or other covenant contained in this Lease.

### 7.3 Compliance with Laws

The Tenant will do, observe, and perform all of its obligations and all matters and things necessary or expedient to be done, observed, or performed by the Tenant by virtue of any law, statute, bylaw, ordinance, regulation, or lawful requirements of any government authority or any public utility lawfully acting under statutory authority, including without limitation all requirements of the *Aeronautics Act* and regulations thereunder, and all demands and notices in pursuance of them whether given to the Tenant or the Landlord and in any manner or degree affecting the exercise or fulfillment of any right or obligation arising under or as a result of this Lease and affecting the Premises and the use of them by the Tenant. If any such demand or notice is given, lawfully requiring the execution of works by reason of anything done, omitted, or permitted by the Tenant, then:

- (a) if such notice is given to the Tenant, the Tenant will promptly deliver it or a true copy of it to the Landlord and the Tenant will promptly execute, at its own expense, to the satisfaction of the Landlord and the person giving such notice, all such works as the Landlord may approve in writing in order to comply with the requirements of that notice; and
- (b) if such notice is given to the Landlord, the Landlord will notify the Tenant and thereupon the Tenant will promptly execute, at its own expense, to the satisfaction of the Landlord and the person giving such notice, all such works as the Landlord and the person giving such notice may require in order to comply with the requirements of the notice.

Notwithstanding the foregoing, the Landlord will have the right to execute any such works and the Tenant will give to the Landlord all necessary access to the Premises and

other facilities for such purpose and the Tenant will, on demand by the Landlord, pay to the Landlord all costs and expenses incurred by the Landlord in executing and performing any and all such works.

## **8. INDEMNITY AND INSURANCE**

### **8.1 Tenant's Insurance**

- (a) The Tenant will, at its sole cost and expense during the Term and during such other period of time that the Tenant occupies the Premises, take out and maintain in full force and effect, the following:
- (i) "all risks" insurance upon all merchandise, stock-in-trade, furniture, fixtures, equipment, Leasehold Improvements, and other property of every kind and description located at the Premises, owned by, or made or installed by or on behalf of the Tenant and any sub-tenant or licensee or for which the Tenant is responsible or legally liable, in an amount at least equal to the full insurable value of them, calculated on a stated amount co-insurance and replacement cost basis;
  - (ii) automobile liability insurance to a limit of liability of not less than \$2,000,000 in any one accident, covering all licensed motor vehicles owned by the Tenant and used in connection with its and its licensee's or sub-tenant's business carried on from the Premises;
  - (iii) commercial (comprehensive) general liability insurance applying to the operations of the Tenant and its licensee or sub-tenant carried on from the Premises and that will include, without limitation, personal injury liability, product liability, contractual liability, non-owned automobile liability, and protective liability coverage with respect to the occupancy of the Premises by the Tenant; and such insurance will be written for an amount of not less than FIVE MILLION DOLLARS (\$5,000,000.00) per occurrence, or such higher amount as the Landlord may from time to time reasonably require;
  - (iv) tenant's all-risks legal liability insurance in an amount not less than the replacement cost of the Premises;
  - (v) broad form comprehensive boiler and machinery insurance on all machinery, boilers, electrical systems and pressure vessels in the Premises;
  - (vi) business interruption insurance in such amounts as will reimburse the Tenant for direct or indirect loss of earnings attributable to all perils required to be insured against by the Tenant under this Lease; and
  - (vii) any other form or forms of insurance as the Landlord may reasonably require from time to time in amounts and for perils against which a prudent tenant acting reasonably would protect itself in similar circumstances.

- (b) All policies of insurance referred to in this clause 8.1 will include the following provisions:
- (i) the policies will not be affected or invalidated by any act, omission, or negligence of any person that is not within the knowledge or control of the insured under this Lease;
  - (ii) all property damage policies written on behalf of the Tenant will contain a waiver of any subrogation rights that the Tenant's insurers may have against the Landlord and against those for whom the Landlord is, in law, responsible, whether any insured loss or damage is caused by the act, omission, or negligence of the Landlord, or by those for whose acts the Landlord is, in law, responsible, or otherwise;
  - (iii) all policies of liability insurance will include the Landlord and any persons, firms, or corporations affiliated with the Landlord and designated by the Landlord as additional insureds and will provide that each person, firm, or corporation insured under such policies will be insured in the same manner and to the same extent as if separate policies had been issued to each; and
  - (iv) all policies will contain an undertaking by the insurers to give the Landlord not less than 30 days' prior written notice of any cancellation or other termination of it, or any change that restricts or reduces the coverage afforded by it.
- (c) The Tenant agrees that certificates of insurance or, if required by the Landlord, certified copies of each policy will be delivered to the Landlord as soon as is practicable after the placing of them. The Tenant will, when required by the Landlord, promptly provide to the Landlord evidence that all premiums for all insurance policies have been paid.
- (d) For good and valuable consideration, and subject to clause 8.4, the Tenant hereby releases and relieves the Landlord and those persons for whom the Landlord is, in law, responsible, from liability and responsibility for, and waives its entire claim for recovery of any loss or damage whatsoever arising out of or incident to, the occurrence of any of the perils covered by, or that would be covered by, the insurance policies that the Tenant is obligated to obtain and maintain in force under the terms of this Lease.
- (e) The Tenant will not do or permit anything to be done upon the Premises whereby any policy of insurance against loss or damage to the Premises or against legal liability for damage to persons or property caused by the ownership, maintenance, use, or occupancy of the Premises or the Land, or by reasons of the conduct of any business carried on by them, may be invalidated; and for such purpose, upon receipt of notice in writing from any insurer of the Premises or the Land, requiring the execution of works or a discontinuance of any operations in order to correct such situation, the Tenant will comply with it.
- (f) The Tenant agrees that if the Tenant fails to take out or keep in force any insurance coverage referred to in this clause 8.1, or if any such insurance is not

approved by the Landlord, and the Tenant does not rectify the situation within 72 hours after written notice by the Landlord to the Tenant specifying the Landlord's objections, then the Landlord will have the right, without assuming any obligation in connection with it, to effect such insurance coverage and will have the right to recover all costs and premiums incurred in effecting such insurance coverage from the Tenant pursuant to clause 8.1.

## 8.2 Indemnify Landlord

The Tenant will indemnify and save harmless the Landlord from and against any and all manner of actions or causes of action, damages, costs, loss, or expenses of whatever kind (including without limitation legal fees on a solicitor and client basis) that the Landlord may sustain, incur, or be put to by reason of or arising out of any act or omission of the Tenant or any persons for whom the Tenant is, at law, responsible, or from the use or occupation of the Premises or the Land, in whole or in part and, without limiting the generality of the foregoing, from the non-observance or non-performance by the Tenant or any persons for whom the Tenant is, at law, responsible of any of the obligations imposed under the provisions of any laws, ordinances, regulations, or requirements of any federal, provincial, municipal, or other authority, or any of the covenants, agreements, terms, conditions, and provisos contained in this Lease to be observed and performed by the Tenant; and such liability to indemnify and save harmless will survive any termination of this Lease and the expiry of the Term or any renewal of it, anything in this Lease to the contrary notwithstanding.

## 8.3 Limitation of Liability of Landlord

- (a) The Landlord will not be liable for any personal injury, death, or property loss or damage sustained by the Tenant or its employees, agents, sublessees, licensees, or those doing business with it on the Premises, or on the Land, no matter how caused, except to the extent caused by the negligence of the Landlord or those persons for whom the Landlord is, in law, responsible; and the Tenant:
- (i) will indemnify the Landlord against all actions or liabilities arising out of such personal injury, death, or property damage or loss, except to the extent caused by the negligence of the Landlord or those persons for whom the Landlord is, in law, responsible; and
  - (ii) hereby releases the Landlord and its officers, agents, and employees from all claims for damages or other expenses arising out of such personal injury, death, or property loss or damage, except to the extent caused by the negligence of the Landlord or those persons for whom the Landlord is, in law, responsible.
- (b) Without limiting the foregoing, the Landlord will not be liable for any personal injury, death, or property loss or damage sustained by the Tenant or its employees, agents, sublessees, licensees, or invitees on the Premises, or on the Land caused by theft or breakage or by steam, water, rain, snow, radioactive materials, microwaves, deleterious substances, gases, pollutants, or any other materials or substances that may leak into, or issue or flow from any neighbouring lands or adjacent premises, or from the water, steam, or drainage

pipes or plumbing works of the same or from any place, or any loss or damage caused by or attributable to the condition or arrangements of any electric or other wiring, or any damage caused or anything done or omitted to be done by any other tenant or occupant of the Land except to the extent caused by the negligence of the Landlord or by those persons for whom the Landlord is, in law, responsible; and the Tenant:

- (i) will indemnify the Landlord against all actions or liabilities arising out of such personal injury, death, or property damage or loss except to the extent caused by the negligence of the Landlord or those persons for whom the Landlord is, in law, responsible; and
- (ii) hereby releases the Landlord and its officers, agents, and employees from all claims for damages or other expenses arising out of such personal injury, death, or property loss or damage, except to the extent caused by the negligence of the Landlord or those persons for whom the Landlord is, in law, responsible.

## **9. MAINTENANCE, REPAIRS, AND ALTERATIONS**

### **9.1 Repair by Tenant**

The Tenant will, at all times during the Term and any renewal of it and at its own expense, promptly repair, clean, renew, and maintain the Premises in a reasonable operating condition. The Tenant will give notice to the Landlord of any accidents, damage, nuisance, obstructions, or required repairs in and to the Premises. At the end or sooner termination of the Term the Tenant will yield up to the Landlord, without notice from the Landlord, the Premises including all fixtures, repaired, cleaned, renewed, and maintained in the condition required under this Lease.

### **9.2 Repair on Notice**

- (a) The Tenant will permit the Landlord and its duly authorized agents or nominees, with or without workers and others, at all reasonable times to enter upon the Premises for the purpose of examining the state of repair, condition, and use of them, and to permit such entry after the Landlord has given 24 hours' notice in writing to the Tenant of such intended entry and examination, or without notice in the event of an emergency or a perceived emergency, and in every case the Tenant will give the Landlord all aid and facilities in such entry and examination, and upon notice in writing of defect or want of repair being given by the Landlord to the Tenant, to cause them to be repaired, as required by clause 9.1, within 30 days from the date of the giving of such notice by the Landlord. If the Tenant at any time defaults in the performance or observance of any of the covenants in this Lease for or relating to the repair, maintenance, cleaning or renewal of the Premises or any part of them and such default continues for 30 days after notice in writing from the Landlord of default in respect of repair, maintenance, cleaning or renewal of the Premises, then the Tenant will permit the Landlord and its duly authorized agents and nominees, with or without workers and others, and without prejudice to the Landlord's right of re-entry, to enter into and upon the Premises and repair, clean, renew, and maintain them at the expense of the Tenant; and the Tenant will give the Landlord all aid and facilities in doing or causing them to

be done and will repay to the Landlord on demand all costs and expenses in respect of such repairs, maintenance, cleaning, and renewal as provided.

- (b) The Tenant will pay to the Landlord administration charges of the Landlord in the sum of 15% of the total cost of any work specifically completed by the Landlord on behalf of the Tenant, such work being deemed to be the responsibility of the Tenant.

### 9.3 Business and Trade Fixtures

The Tenant may install its usual business and trade fixtures in the usual manner in the Premises, provided such installation does not damage the Premises and provided further that, if requested by the Landlord, the Tenant has submitted to the Landlord plans and specifications for such business and trade fixtures and obtained the prior written consent of the Landlord to them, which consent will not be unreasonably withheld. The Tenant will not mortgage, charge, encumber, or grant a security interest in its business and trade fixtures installed in or on the Premises without the prior written consent of the Landlord, which consent may not be unreasonably withheld. All business and trade fixtures owned or installed by the Tenant in or on the Premises will remain the property of the Tenant and will be removed by the Tenant at the expiration of the Term or any renewal of it or at the sooner termination of it, provided that the Tenant at its expense will repair any damage to the Premises caused by such removal. Such removal by the Tenant will be permitted provided that the Tenant is not in default under any covenant or agreement in this Lease at the time of such removal; and if in default, the Landlord will have a lien on the Tenant's business and trade fixtures as security against loss or damage resulting from any such default by the Tenant, and the Tenant's business and trade fixtures will not be removed by the Tenant until such default is cured, unless otherwise directed by the Landlord. The Landlord may elect to require the Tenant to remove all or any part of the business and trade fixtures owned or installed by or on behalf of the Tenant at the expiration or termination of the Term or any renewal of it, in which event such removal will be done at the Tenant's expense and the Tenant will, at its expense, repair any damage to the Premises caused by such removal. If the Tenant does not remove its business and trade fixtures promptly after written demand by the Landlord, such property will, if the Landlord elects, be deemed to become the Landlord's property or the Landlord may remove it at the expense of the Tenant and the cost of such removal will be paid by the Tenant promptly to the Landlord on written demand, and the Landlord will not be responsible for any loss or damage to such property as a result of such removal.

### 9.4 Alterations and Additions

The Tenant will not remove, alter, or change the position or style of, or add to, the Premises or any part of them, or make any excavations on the Land, without in any and every such case having first submitted plans and specifications of the proposal to the Landlord and having obtained the prior written consent of the Landlord to it, and, unless otherwise provided by such consent, all such alterations, additions, erections, or excavations will be done either by or under the direction of the Landlord, as the Landlord may determine, but at the cost of the Tenant. All work will be done in a good and workmanlike manner by contractors or trades people approved in writing by the Landlord. The Tenant will pay to and reimburse the Landlord promptly on demand for all costs and expenses incurred by the Landlord in the review and approval of any plans

and specifications by the Landlord's architects and engineers. The Tenant will obtain and pay for all required building and occupancy permits in respect of its work as aforesaid. The Tenant will, at its own cost and expense, take out or cause to be taken out any additional insurance coverage reasonably required by the Landlord to protect the respective interests of the Landlord and the Tenant during all periods when any such work is being performed.

#### **9.5 Leasehold Improvements**

Any and all Leasehold Improvements, but not the Tenant's business and trade fixtures in or upon the Premises, whether placed there by the Tenant or the Landlord or a previous occupant of the Premises, will immediately upon such placement become, and will thereafter remain, the property of the Landlord without compensation to the Tenant. Notwithstanding anything in this Lease, the Landlord will be under no obligation to repair, maintain, replace, or insure the Leasehold Improvements. The Landlord may elect that any or all Leasehold Improvements made or installed by or on behalf of the Tenant under this Lease, or under the provisions of any previous lease to the Tenant, be removed at the expiry or earlier termination of the Term or any renewal of it, and it will be the Tenant's obligation to restore the Premises to the condition in which they were prior to the installation of the Leasehold Improvements. Such removal and restoration will be at the sole expense of the Tenant. The Tenant will not mortgage, charge, encumber, or grant any security interest in any Leasehold Improvements made or installed by or on behalf of the Tenant.

#### **9.6 Correction of Deficiencies**

Without limiting any other provision of this Lease, it is a condition of the granting of this Lease by the Landlord to the Tenant that the Tenant carry out, at its own expense and to the satisfaction of the Landlord, acting reasonably, all of the work described in Schedule "B" by no later than January 1, 2015.

### **10. DAMAGE, DESTRUCTION, OR EXPROPRIATION OF THE PREMISES**

#### **10.1 Rent Not to Abate**

The partial destruction or damage or complete destruction by fire or other casualty of the Premises will not terminate this Lease or entitle the Tenant to surrender possession of the Premises or to demand any abatement or reduction of the Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary.

#### **10.2 Tenant's Obligations When the Premises Are Damaged or Partially Destroyed**

The Tenant covenants and agrees with the Landlord that in the event of damage to or partial destruction of the Premises, the Tenant, subject to the regulations and requirements of any government authority having jurisdiction, will repair, replace, or restore any part of the Premises so destroyed.

#### **10.3 Tenant's Obligations When the Premises Are Completely or Substantially Destroyed**

The Tenant covenants and agrees with the Landlord that in the event of complete or substantially complete destruction of the Premises, the Tenant, subject to the regulations and requirements of any government authority having jurisdiction, will reconstruct or replace the Premises with structures comparable to those being replaced.

#### **10.4 Replacement, Repair or Reconstruction Under Clauses 10.2 or 10.3 to Be Carried Out in Compliance with Clauses 9.1 and 9.4**

Any replacement, repair, or reconstruction of the Buildings or any part of the Buildings pursuant to the provision of Clauses 10.2 or 10.3 will be made or done in compliance with the provisions of clauses 9.1 and 9.4.

#### **10.5 Expropriation**

If the whole of the Premises is acquired or condemned by an authority having the power for such acquisition or condemnation then the Term and any renewal of it shall cease from the date of entry by such authority. Nothing in this Lease will prevent the Landlord or the Tenant or both from recovering damages from such authority for the value of their respective interests or for such other damages and expenses allowed by law.

### **11. ASSIGNMENT AND SUBLETTING**

#### **11.1 Assignment and Subletting**

- (a) The Tenant will not make, grant, execute, enter into, consent to, or permit any Transfer without the prior written consent of the Landlord, such consent not to be unreasonably withheld. In the event that the Tenant desires to make, grant, execute, enter into, consent to, or permit any Transfer then the Tenant will give prior written notice to the Landlord of such desire, specifying in the notice the proposed Transferee and providing to the Landlord such information on the nature of the business of the proposed Transferee, together with its financial responsibility and standing, as the Landlord may reasonably require, together with the terms and conditions of the proposed Transfer. The Tenant will also deliver to the Landlord a copy of the Transfer intended to be executed by the Tenant and the Transferee, together with the Landlord's required administration fee. The Landlord will, within 10 business days thereafter, notify the Tenant in writing that:
- (i) it consents to such Transfer, or
  - (ii) that it does not consent to such Transfer, in which event the Landlord must advise the Tenant of its reason for not consenting, or
  - (iii) that it has elected to terminate the Lease as provided in subclause 11.1(f).
- (b) Provided always and notwithstanding subclause 11.1(a), the Landlord's consent to a Transfer does not constitute a waiver of the necessity for the Tenant to obtain the prior written consent of the Landlord to any subsequent Transfer, and no Transfer will in any manner release the Tenant from its obligations for the payment of the Rent and the observance and performance of the covenants,

terms, and conditions provided in this Lease during the Term and any renewal of the Term.

- (c) Upon the initial request for a Transfer together with receipt from the Tenant of the administration fee and undertaking required in subclause 11.1(d), and provided that the Landlord does not withhold its consent to such Transfer, the Landlord will provide to the Tenant its standard-form written agreement pertaining to Transfers. The Tenant will require each Transferee, at the time of any Transfer, to execute and deliver the Landlord's standard-form written agreement between the Tenant, the Landlord, and the Transferee wherein the Transferee agrees to observe and perform all of the covenants, agreements, provisos, terms, and conditions of this Lease, and wherein the Tenant acknowledges and agrees that it will continue to be liable under this Lease during the Term and any renewal of the Term. If either the Tenant or the Transferee fails to execute and deliver the standard-form written agreement then the Landlord will have the right to refuse to grant its consent to such Transfer, or, where such consent is not required, the Transfer will not be effective until the standard-form written agreement is executed and delivered by the Tenant and the Transferee. Without in any way restricting the generality of the Landlord's right to refuse consent to any Transfer, the Landlord will have the right to refuse to consent to any Transfer if the Lease is not in good standing.
- (d) The Tenant will, together with its initial request to the Landlord for consent to any Transfer, pay to the Landlord an administration fee of a minimum of \$200 or such other greater fee as the Landlord may reasonably charge from time to time, and the Tenant will also undertake to reimburse to the Landlord any solicitors' fees and any other costs, charges, and expenses that may be incurred by the Landlord in connection with the Tenant's request for consent to any Transfer.
- (e) If the Tenant is a corporation or if the Transferee is a corporation, and, at any time during the Term or any renewal of it, any or all of the corporate shares or voting rights of shareholders of the Tenant or the Transferee are transferred by sale, assignment, bequest, inheritance, trust, operation of law, or other disposition, or treasury shares be issued, so as to result in the control of the Tenant or the Transferee having changed from one person or group of persons to another person or group of persons without the prior written consent of the Landlord, which consent will not be unreasonably withheld, then, and so often as such a change of control occurs, the Landlord will have the right to terminate this Lease at any time after such change of control by giving the Tenant 60 days' prior written notice of such termination. The Tenant will, upon request by the Landlord, make available to the Landlord from time to time for inspection and copying all books and records of the Tenant that alone or with other data show the applicability or otherwise of this subclause. This subclause will not be applicable to any transfer of shares that are listed on a security exchange regulated by government authority.
- (f) Provided further that after receiving any request for a Transfer, the Landlord will have the right, at its option and despite any provision of this Lease or any statutory provision or other law to the contrary, to terminate this Lease by giving, within 10 days after receiving the required information, notice that the Lease will be terminated effective as of the commencement date of the proposed Transfer,

or earlier if mutually agreed to by the Landlord and the Tenant. In the event of such termination the Rent and other payments required to be made by the Tenant under this Lease will be adjusted to the date of termination.

## **12. DEFAULT**

### **12.1 Payments by Landlord Regarded as Rent**

If the Tenant fails to observe or perform any of the covenants or obligations of the Tenant under or in respect of this Lease, the Landlord may from time to time at its discretion perform or cause to be performed any of such covenants or obligations or any part of them, and for such purpose may do such things as may be required, and may enter upon the Premises to do such things; and all costs and expenses incurred and expenditures made by or on behalf of the Landlord will be paid promptly by the Tenant to the Landlord. If the Tenant fails to pay, the Landlord may add the costs and expenses to the Rent and recover them by all remedies available to the Landlord for the recovery of Rent in arrears. Nothing in this clause 12.1 will require the Landlord to directly or indirectly commence or complete such performance of the Tenant's covenants or obligations. If the Landlord incurs any damage, loss, cost, or expense whatsoever for which the Tenant is in any way liable under this Lease, by reason of any failure of the Tenant to observe or comply with any of the covenants or agreements of the Tenant in this Lease, then in every such case the amount of any such damage, loss, cost, or expense will be due and payable by the Tenant to the Landlord on demand by the Landlord and the Landlord will have the right at its option to add the cost or amount of any such damage, loss, cost, or expense to the Rent, and any such amount will immediately be due and payable as Rent and recoverable by the Landlord by all remedies available to the Landlord for the recovery of Rent in arrears.

### **12.2 Re-entry on Default**

The Tenant further covenants with the Landlord that in the event of the breach, non-observance, or non-performance of any covenant, agreement, stipulation, proviso, condition, rule, or regulation required by the Tenant to be kept, performed, or observed under this Lease, and any such breach, non-observance, or non-performance continues for seven days after written notice of it to the Tenant by the Landlord, or, notwithstanding the foregoing, if any payments of the Rent or any part of them, whether they are demanded or not, are not paid when they become due, or in case the Term will be taken in execution or attachment for any cause whatsoever, then and in any such case the Landlord, in addition to any other remedy now or hereafter provided, may without notice or legal process re-enter and take possession immediately of the Premises or any part of them in the name of the whole, and may use such reasonable force and assistance in making such removal as the Landlord may deem advisable to recover at once full and exclusive possession of the Premises and the Term or any renewal thereof shall, at the option of the Landlord, be immediately forfeited and void; and such re-entry will not operate as a waiver or satisfaction in whole or in part of any right, claim, or demand arising out of or connected with any breach, non-observance, or non-performance of any covenant or agreement of the Tenant.

### **12.3 Bankruptcy or Insolvency of Tenant**

- (a) If, during the Term or any renewal of it, any of the goods and chattels of the

Tenant are seized or taken in attachment by any creditor of the Tenant, or if a writ of execution, sequestration, or extent issues against the goods and chattels of the Tenant, or if any petition or other application is presented to any court of competent jurisdiction for the dissolution, liquidation, or winding-up of the Tenant or for the appointment of a receiver or receiver and manager, or if the Tenant becomes bankrupt or insolvent or takes the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors, or if the Premises are used for any purpose other than permitted by clause 7.1 without the prior written consent of the Landlord, or if the Tenant makes an assignment for the benefit of creditors or makes any sale or other disposition of all or substantially all of its goods and chattels (except incidental to its amalgamation with any other company), then and in every case the Tenant will be, and be deemed to be, in default under this Lease; the then-current and the next ensuing three months' Annual Basic Rent and Additional Rent (to be determined for the current year at rates estimated by the Landlord acting reasonably) and any additional money owing under this Lease will immediately become due and payable; the Landlord may re-enter and take possession of the Premises or any part of them in the name of the whole, and have again, repossess, and enjoy the Premises in its former estate, anything in this Lease to the contrary notwithstanding, as though the Tenant were holding over after the expiration of the Term; and the Term and any renewal of it will, at the option of the Landlord, immediately become forfeited and determined and the then-current and the next ensuing three months' Annual Basic Rent, the Additional Rent (to be determined for the current year at rates estimated by the Landlord acting reasonably) and any additional money owing under this Lease will be recoverable by the Landlord as if it were Rent in arrears, but the Tenant will remain liable under this Lease.

- (b) The Tenant acknowledges and agrees that under no circumstances will it file any notice of termination, repudiation, rescission, or disclaimer seeking to take advantage of s. 65.2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended from time to time and hereby waives any and all rights to do so. The Tenant agrees that if, in breach of this subclause, it files such a notice, the Landlord may, in addition to all of its other remedies, produce and rely on this subclause in challenging the validity of the notice in the court proceedings contemplated by s. 65.2 of the *Bankruptcy and Insolvency Act*; and the Landlord may, in those or any other proceedings, apply for injunctive relief or other relief against the Tenant filing the notice.

#### 12.4 **Sale and Reletting**

The Tenant further covenants and agrees that upon the Landlord becoming entitled to re-enter upon the Premises under any of the provisions of this Lease, the Landlord, in addition to all other rights and remedies, will have the right to enter the Premises as the agent of the Tenant either by reasonable force or otherwise without being liable for any prosecution, and to relet the Premises as the agent of the Tenant, and to receive all rent for them, and as agent of the Tenant to take possession of any business and trade fixtures of the Tenant and any goods and property whatsoever on the Premises, and to sell the same at public or private sale without notice, and to apply the proceeds of such sale and any rent derived from reletting the Premises in payment of the Rent due under this Lease, after deducting its costs of conducting such sale and its costs of reletting; and the Tenant will be liable to the Landlord for any deficiency.

## 12.5 Termination

The Tenant further covenants and agrees that upon the Landlord becoming entitled to re-enter upon the Premises under any of the provisions of this Lease, the Landlord, in addition to all other rights and remedies, will have the right to immediately terminate this Lease and the Term or any renewal of it and all of the rights of the Tenant under this Lease by giving notice in writing addressed to the Tenant of its intention so to do, and any other payments for which the Tenant is liable under this Lease will be paid and the Tenant will immediately deliver up possession of the Premises to the Landlord, and the Landlord may re-enter and take possession of the Premises without limitation to its right to claim damages arising from the Tenant's breach.

## 12.6 Distress

At any time that the Landlord is entitled to levy distress against the goods and chattels of the Tenant, it may use such reasonable force as it may deem necessary for the purpose of gaining admission to the Premises without being liable for any action or for any loss or damage occasioned thereby, and the Tenant hereby expressly releases the Landlord from all actions, proceedings, claims, or demands whatsoever for or on account of or in respect of any such forcible entry or any loss or damage sustained by the Tenant in connection with it. The Tenant waives and renounces the benefit of any present or future statute taking away or limiting the Landlord's right of distress, and covenants and agrees that, notwithstanding any such statute, none of the goods and chattels of the Tenant on the Premises at any time during the Term or any renewal of it will be exempt from levy by distress for Rent in arrears. The Tenant covenants and agrees to indemnify and save harmless the Landlord from and against any and all manner of actions or causes of action, damages, costs, loss, or expenses of whatever kind that the Landlord may sustain, incur, or be put to by reason of or arising out of the distress, seizure, or the levy of distress against any goods or chattels on or in the Premises, whether owned by the Tenant or any other person, and such liability to indemnify and save harmless will survive any termination of this Lease and the expiry of the Term or any renewal of it, anything in this Lease to the contrary notwithstanding.

## 12.7 Landlord's Expenses Enforcing Lease

If it is necessary for the Landlord to retain the services of any person for the purpose of assisting the Landlord in enforcing any of its rights under this Lease or otherwise available at law, the Landlord will be entitled to collect from the Tenant the cost of all such services including, but not limited to, all charges by any bailiff effecting a distress and all legal fees and disbursements incurred in enforcing the Landlord's rights under this Lease and in connection with all necessary court proceedings at trial or on appeal on a solicitor-and-own-client basis, as if they were Rent reserved and in arrears under this Lease.

## 12.8 Remedies Cumulative

No remedy conferred upon or reserved to the Landlord under this Lease, by statute or otherwise, will be considered exclusive of any other remedy, but the remedy will be cumulative and in addition to every other remedy available to the Landlord and all such remedies and powers of the Landlord may be exercised concurrently and from time to

time and as often as the Landlord deems expedient.

### **13. QUIET ENJOYMENT**

The Landlord covenants with the Tenant for quiet enjoyment, subject to the provisions in Article 2 and subject to any rights of entry by the Landlord as provided in this Lease.

### **14. MISCELLANEOUS COVENANTS**

#### **14.1 Signs**

The Tenant will not, at any time, affix or exhibit or permit to be affixed or exhibited upon any part of the Premises, any Sign, unless such Sign is first approved in writing by the Landlord and such Sign complies at all times with the requirements of any lawful authority having jurisdiction over it. If any Sign no longer complies with the terms of the consent given by the Landlord or the requirements of any lawful authority having jurisdiction over it, then the Landlord, after giving the Tenant 30 days' notice, will have the right at any time to remove any such Sign at the Tenant's expense; and the costs, charges, and expenses of such removal will promptly be paid by the Tenant to the Landlord. The repair provisions of clauses 9.1 and 9.2 will also apply to the Signs.

#### **14.2 Garbage**

The Tenant will keep the Premises clean and tidy and in good order.

#### **14.3 Abate Nuisance**

Upon written notice to the Tenant from the Landlord or from any lawful authority having jurisdiction, the Tenant will immediately, at its sole expense, abate any nuisance caused by vibration, noise, or offensive smell, or by any undue emission of smoke, vapour, or dust caused by the Tenant or arising directly or indirectly out of the operations carried on upon the Premises.

#### **14.4 Hazardous Substances**

The Tenant will:

- (a) not use or permit to be used all or any part of the Premises for the sale, storage, manufacture, disposal, use, or any other dealing with any Hazardous Substances, without the prior written consent of the Landlord, which may be unreasonably withheld;
- (b) 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) promptly provide to the Landlord a copy of any environmental site assessment, audit, or report relating to the Premises conducted by or for the Tenant at any time;
- (d) promptly notify the Landlord in writing of any release of a Hazardous Substance or Hazardous Substances or any other occurrence or condition at the Premises

or any adjacent property that would contaminate the Premises or subject the Landlord or the Tenant to any fines, penalties, orders, investigations, or proceedings under Environmental Laws;

- (e) on the expiry or earlier termination of this Lease, or at any time if requested by the Landlord or required by any government authority pursuant to Environmental Laws, remove from the Premises all Hazardous Substances and remediate any contamination of the Premises or any adjacent property resulting from Hazardous Substances, 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 will perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Hazardous Substances will remain the property of the Tenant, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding the degree of their affixation to the Premises;
- (f) Indemnify the Landlord and its directors, officers, employees, agents, successors, and assigns from any and all liabilities, actions, damages, claims, losses, costs, fines, penalties, and expenses whatsoever (including all legal and consultants' fees and expenses 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 clause 14.4 by the Tenant; or
  - (ii) any release or alleged release of any Hazardous Substance or Hazardous Substances 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 clause 14.4 will survive the expiry or earlier termination of this Lease.

#### 14.5 **No Excavation**

The Tenant will not excavate, dig, or extract any sand, gravel, earth, or minerals of any description out of the Land without prior approval from the Landlord.

#### 14.6 **Easements**

The Tenant will not, without the prior written consent of the Landlord, permit any encroachment, right-of-way, easement, or other encumbrance to be made or entered into, against, or upon the Premises or the Land or any part of them.

#### 14.7 **Liens**

The Tenant will use its best efforts to ensure that no claim of lien will be filed in respect of any work that may be carried out by it or on its behalf on the Land, and if a claim of lien is filed in respect of any such work the Tenant will take all necessary steps to have the claim of lien cancelled and discharged from the Land within 15 days of the date the Tenant has knowledge of such filing, and the Tenant will indemnify and save harmless

the Landlord from any and all loss, cost, expense, damage, and liability in respect of such claim of lien. The Landlord, in addition to any right or remedy, will have the right, but will not be obliged, to discharge any claim of lien from the Land by paying the amount claimed to be due or by procuring a discharge of such liens by deposit in the appropriate court, and in any such event the Landlord will be entitled, if it so acts, to expedite the prosecution of any action for the enforcement of such claim of lien by the lien claimant and to pay the amount of the judgment, if any, in favour of the lien claimant with interest and costs. In any such event the Tenant will promptly pay to and reimburse the Landlord for all money expended by the Landlord and all costs and expenses incurred by the Landlord.

#### **14.8 Registered Charges**

The Tenant will pay all money owed by it under any security interest or other charge registered or filed against the Land, and immediately upon all of the payments having been made, the Tenant will obtain a memorandum of satisfaction or other appropriate document of discharge and will register the same at its own expense in the proper land title office or other appropriate office of public record as the Landlord may require to discharge the same from the title to the Land.

#### **14.9 Exhibit Premises**

The Landlord will have the right to exhibit the Premises to prospective tenants or subtenants during the nine-month period prior to the Expiry Date or the date of expiration of and any renewal of the Term and for such purposes the Landlord may place upon the Premises a sign or notice stating that the Premises are for rent or for sale, and the Landlord will have the right of entry to the Premises at any reasonable time, and the Tenant at its option may have a servant or agent present at the time of such entry.

#### **14.10 No Auctions**

The Tenant will not permit any sale by auction or any fire sale, bankruptcy sale, moving sale, going-out-of-business sale, or bulk sale to be held upon the Premises or the Land or any part of them.

#### **14.11 Entry onto Premises**

The Tenant will permit the Landlord, its agents, workers, and other persons authorized by the Landlord, and the tenants of any adjoining or neighbouring premises and their respective agents and workers, to enter upon the Premises at all reasonable times so far as may be necessary or useful in order to construct, examine, repair, or rebuild any adjoining or neighbouring premises or for any other reasonable purpose, including inspection of the Premises by the Landlord, pursuant to clause 9.2, provided that the Landlord will make good all damage occasioned by the exercise of such rights by the Landlord, its agents, workers, and any other persons authorized by the Landlord. Insofar as any tenant of any adjoining or neighbouring premises and its respective agents and workers are concerned, no such rights will be exercisable until such tenant and its agents and workers have covenanted with the Tenant to make good all damage occasioned by the exercise of such rights by that tenant and its respective agents and workers. A representative of the Tenant will be entitled to accompany any person entering upon the Premises pursuant to this clause.

## 15. MISCELLANEOUS

### 15.1 Registration of Lease

The Landlord will have no obligation to execute and deliver this Lease in registrable form, provided however that if the Tenant pays all costs, expenses, fees, and taxes in connection with the registration of this Lease in the appropriate land title office and the costs of any plans required for such registration, the Landlord will execute and deliver this Lease in registrable form.

### 15.2 No Warranties or Collateral Agreements

The Tenant acknowledges and agrees that no representations, warranties, agreements, covenants or conditions, express or implied, have been made other than those expressed in this Lease, and that no agreement collateral to or otherwise forming part of or in any way affecting this Lease will be binding upon the Landlord unless it be made in writing and duly executed on behalf of the Landlord. The Tenant waives the right to a site profile under the provisions of the *Environmental Management Act*. Without limiting the foregoing, the Tenant acknowledges and agrees that it leases the Premises on an "as is where is" basis, and the Tenant has and will continue to use its own due diligence, resources and independent investigations to satisfy itself on every aspect, thing and matter relating to or in connection with the Premises and neighbouring properties.

### 15.3 No Waiver

- (a) The failure of the Landlord to exercise any right or option in connection with any breach or violation of any term, covenant, or condition to this Lease will not be deemed to be a waiver or relinquishment of such term, covenant, or condition nor of any subsequent breach of it or any other term, covenant, or condition in this Lease. The subsequent acceptance of the Rent or any portion under this Lease by the Landlord will not be deemed to be a waiver of a preceding breach by the Tenant of any term, covenant, or condition of this Lease.
- (b) The acceptance of any of the Rent from, or the performance of any obligation under this Lease by, a person other than the Tenant will not be construed as an admission by the Landlord of any rights, title, or interest of such person as a Transferee or otherwise in the place of the Tenant.
- (c) The acceptance by the Landlord of a part payment of any money required to be paid under this Lease will not constitute waiver or release of the right of the Landlord to payment in full of such money.

### 15.4 Notices

All notices, demands, and requests that may be or are required to be given pursuant to this Lease will be in writing and will be sufficiently given if delivered personally to the party or an officer of the party for whom it is intended, or faxed with a confirmation copy mailed, or mailed prepaid and registered to the respective addresses specified in the Lease Summary or such other addresses as the parties may from time to time advise by

notice in writing. The Tenant will require each Transferee to supply its respective mailing address to the Landlord. The date of receipt of any such notice, demand, or request will be deemed to be the date of delivery of such notice, demand, or request if delivered or if faxed as specified it will be deemed to be received on the next day following the date of transmission (excluding Saturdays, Sundays, and statutory holidays in British Columbia), or if mailed as specified it will be deemed to be received on the third day next following the date of such mailing (excluding Saturdays, Sundays, and statutory holidays in British Columbia), unless there is between the date of mailing and actual receipt a mail strike or other labour dispute that adversely affects mail service in British Columbia, in which case the party giving the notice, demand, or request will deliver such notice, demand, or request by an alternative method.

### **15.5 Peaceful Surrender**

The Tenant will, at the expiration or sooner determination of the Term, immediately peacefully surrender and yield up unto the Landlord the Premises and its appurtenances, together with all fixtures or improvements that at any time during the Term are made in or on the Premises, in the state of repair required to be maintained by the Tenant under this Lease, without notice from the Landlord; and will deliver to the Landlord all keys to the Premises that the Tenant has in its possession.

### **15.6 Holding Over**

If the Tenant holds over with the Landlord's written consent after the expiration of the Term or any renewal of it, and the Landlord accepts the new Rent or any portion of it, the new tenancy thereby created will be deemed to be a monthly tenancy and not a yearly tenancy and will be subject to the covenants and conditions in this Lease insofar as they are applicable to a tenancy from month to month, except that if the Tenant remains in possession without the Landlord's written consent, the monthly installments of Annual Basic Rent will be two times the monthly instalments of Annual Basic Rent payable for the last month of the later of the Term or any renewal of it, pro-rated on a daily basis for each day that the Tenant remains in possession, and in addition the Tenant will be liable for all costs, expenses, losses, and damages resulting or arising from the failure of the Tenant to deliver up possession of the Premises to the Landlord.

### **15.7 Inability to Perform**

Whenever and to the extent that the Landlord is unable to fulfill, or is delayed or restricted in the fulfillment of any obligation under this Lease by reason of being unable to obtain the material, goods, equipment, service, utility, or labour required to enable it to fulfill any such obligation, or by reason of any statute, law, or order-in-council or any regulation or order passed or made pursuant under such statute or law, or by reason of the order or direction of any administrator, controller, or board, or any government department or officer or other authority, or by act of God, or by reason of not being able to obtain any permission or authority required thereby, or by reason of strikes, lockouts, or other industrial disturbances, explosion, breakage or accident to machinery, or by reason of any other cause beyond its control whether of the foregoing character or not, the Landlord will be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay or restriction, and the Tenant will not be entitled to compensation for any inconvenience, nuisance, discomfort, or damage thereby occasioned, and will not be entitled to cancel or terminate this Lease.

### 15.8 Interest

Interest on any money due to the Landlord under this Lease will be paid by the Tenant and will accrue on a daily basis at the Prime Rate plus 3% per annum, such rate of interest to be calculated and compounded monthly, not in advance, from the respective date upon which any such money becomes due to the Landlord.

### 15.9 Governing Law

This Lease will be construed in accordance with, and governed by, the laws of the province of British Columbia.

### 15.10 Number and Gender

Where required the singular number will be deemed to include the plural and the neuter gender the masculine or feminine.

### 15.11 Covenants

The Landlord and the Tenant agree that all of the provisions of this Lease are to be construed as covenants and agreements as though the words imparting such covenants and agreements were used in each separate provision of it. Should any provision or provisions of this Lease be illegal or not enforceable, it or they will be considered separate and severable from this Lease and its remaining provisions will remain in force and be binding upon the parties as though the illegal or unenforceable provision or provisions had never been included.

### 15.12 Time of the Essence

Time is of the essence of this Lease, except as specified otherwise in this Lease.

### 15.13 Headings

Any captions, headings, and marginal notes throughout this Lease are for convenience and reference only and the words and phrases contained in them will in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction, or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

### 15.14 Enurement

This Lease will extend to, be binding upon, and enure to the benefit of the Landlord and the Tenant and their respective heirs, executors, administrators, successors, and permitted assigns.

### 15.15 Continuation of Obligations

This Lease and the obligations of the Tenant under it will continue in full force and effect notwithstanding any change in the person or persons comprising the Landlord.

### 15.16 Landlord's Limit of Liability

The term "Landlord" as used in this Lease so far as covenants or obligations of the Landlord are concerned will be limited to mean the Landlord as described in the Lease Summary, while it retains its interest in the Premises, but upon a sale, transfer, or other disposition of that interest, the Landlord will be automatically and immediately relieved from all liability arising out of the requirement for performance of any obligations of the Landlord in this Lease, it being understood and agreed that the obligations of the Landlord in this Lease will be binding upon the Landlord, its successors, and assigns, only during and in respect of the respective successive periods of its interest in the Premises. The Tenant agrees to attorn to a purchaser, transferee, or person acquiring the interest of the Landlord in the Premises, such attornment to be effective and self-operative without the necessity of the execution of any further instrument on the part of the Landlord, the Tenant, or any other person.

### 15.17 Consents

Wherever and whenever the approval or consent of the Landlord is required to be obtained, such approval or consent may be given by such officers, agents, committee, person, or persons as may from time to time be nominated or appointed in writing by the Landlord for such purpose, and any such power of nomination or appointment may be delegated by the Landlord. Subject to the terms of this Lease, such nominees, appointees, or delegates will have the right to withhold approval of or consent to, and may reject, any matter or thing submitted for approval or consent, and every such approval or consent given will be in writing and may contain such conditions and stipulations as the Landlord may deem fit.

### 15.18 Amendments

This Lease will constitute the entire agreement between the parties with respect to the subject matter of it and will not be modified, amended, or waived except by an instrument in writing duly executed and delivered by the parties or by their successors and permitted assigns.

### 15.19 Schedules

The Schedules attached to this Lease are hereby incorporated and form part of this Lease.

### 15.20 Arbitration

Any dispute arising out of or in connection with this Lease may, by mutual agreement of the Landlord and Tenant, be submitted to arbitration pursuant to the *Commercial Arbitration Act*.

### 15.21 No Derogation from Statutory Powers

Nothing in this Lease shall be interpreted as prejudicing or impairing the Landlord in the exercise of any statutory legislative powers under the *Local Government Act*, the *Community Charter* or any other enactment all of which may be exercised as if this Lease had not been executed. Provided that the foregoing shall not restrict or limit the

rights and remedies of the Tenant resulting or arising from a breach or non-performance of the terms of this Lease by the Landlord.

**IN WITNESS WHEREOF** the parties have duly executed and delivered this Lease as of the day and year first above written.

**ALBERNI-CLAYOQUOT REGIONAL DISTRICT** by its authorized signatories: )

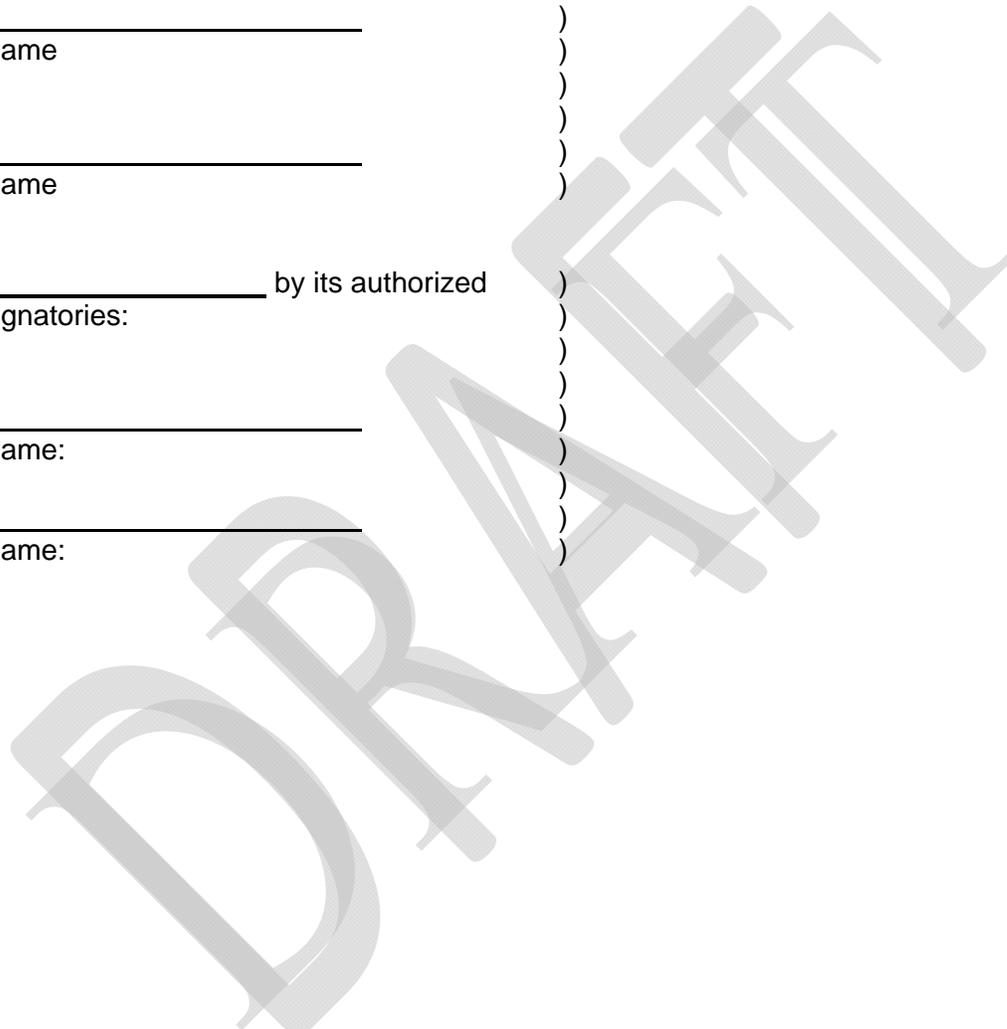
\_\_\_\_\_  
Name )

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

\_\_\_\_\_ by its authorized signatories: )

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Name: )

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Name: )



**SCHEDULE "A"**

Civic Address: Airport Road, Tofino, B.C.

Legal Description: those certain parcels or tracts of land forming part of Tofino Air Port and legally described as:

P.I.D. 009-392-351

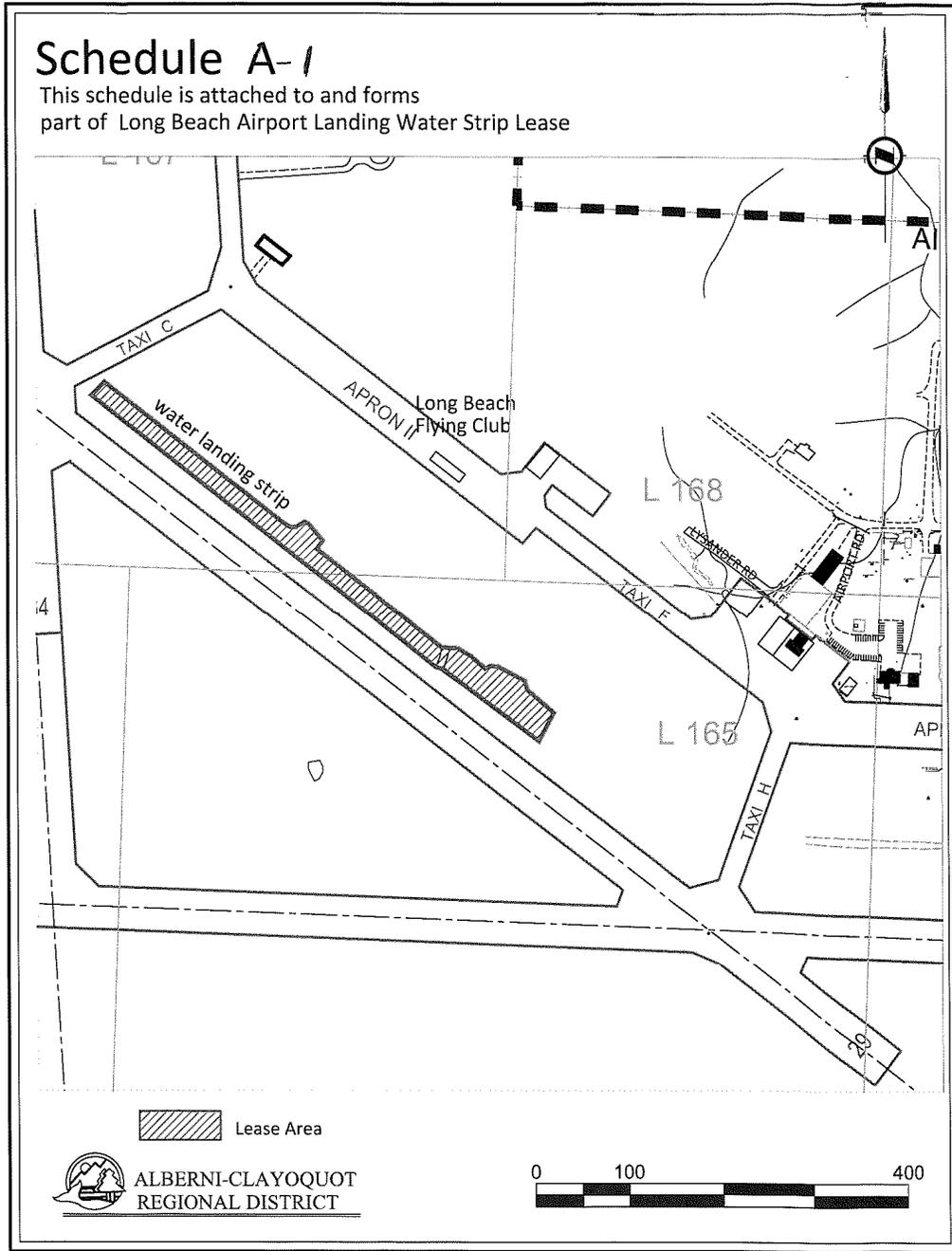
Lot 165, Clayoquot District, containing 152 acres, more or less, except parts in Plans 11182 and 1417RW

P.I.D. 010-322-451

District Lot 167, Clayoquot District, containing 160 acres more or less

Plan of Premises: Attached as Schedule "A-1"

DRAFT



**SCHEDULE "B"**

**SAFETY MANAGEMENT SYSTEM DEFICIENCIES**

1. The Tenant will secure access to the Premises by locking the gate when it is not in use and provide signage identifying private premises.
2. The Tenant will correct and maintain the slope of the water strip edges and OLS clearance to meet or exceed TP312 standards.
3. The Tenant must promote responsible stewardship with regard to birds or small mammals which are attracted to the water strip.

DRAFT



## MEMORANDUM

**To:** West Coast Committee

**From:** John Thomas, Environmental Services Technician

**Date:** April 8, 2013

**Subject:** Options for Renting out the LBA Tractor

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### **Background:**

The Alberni Clayoquot Regional District has purchased a Kubota Tractor to provide regular maintenance for the Long Beach Airport (LBA). This equipment is primarily used to mow the grassed areas around the runways and taxiways to satisfy the standards of a certified airport. To effectively provide a mowing service to the LBA and the West Coast Communities a rotary head mower with a boom has been budgeted for 2013. The purchase price of a 2012 Diamond Boom Mower supplied by PrairieCoast Equipment Inc. is estimated at a cost of \$42,000.

This equipment could be utilized in other communities when it is not required on the airport property which could subsidize the tractor costs. An investigation has shown there is interest for this equipment.

It is estimated that Salmon Beach grounds maintenance would use approximately \$5,000 per year of tractor time. The District of Ucluelet has shown an interest in using the tractor to mow the bike path as well as side roads for approximately \$4000 per year of tractor time. This value is roughly estimated and the actual value and tractor time will need to be determined.

The District of Tofino recently purchased a small tractor with a 12 foot boom mower to work on their multi use path and will not require our services in the short term.

Other communities or property owners may also be interested in using this mowing service.

**Financial:**

It is estimated that the rental rate of the tractor with an operator will be approximately \$110 per hour. The cost of operating the tractor is estimated as follows:

Fuel burn 20L per hour	\$25.20 per hour
Tractor fluid reserve	\$4.00 per hour (Oil and filter change)
Tractor mechanical reserve	\$10.00 per hour (misc. tractor parts)
Operator	\$60.00 per hour (Tofino Airlines Rate)

Mower mechanical reserve	\$10-\$15 per hour
<u>Total Approximate Cost</u>	<u>\$110</u>

**Summary:**

In order to increase revenue opportunities at the Long Beach Airport, other equipment options may be available as outlined. This asset can be utilised and marketed off site for approximately \$9,000 in revenue per year.

**Submitted by:**



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John Thomas, Environmental Services Technician

**Reviewed by:**



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Andy Daniel, Manager of Environmental Services

## Wendy Thomson

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**From:** Russell Dyson  
**Sent:** Monday, April 08, 2013 10:28 AM  
**To:** Wendy Thomson  
**Subject:** FW: Westcoast Multiplex

For info

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**From:** West Coast Multiplex Society [<mailto:info@westcoastmultiplex.org>]  
**Sent:** Friday, April 05, 2013 3:45 PM  
**To:** Russell Dyson  
**Subject:** Re: Westcoast Multiplex

Hi Russell,

Thank-you for keeping us posted. Is it possible to set up another advisory meeting before the West Coast Directors meeting in early May?

Also, I am developing a preliminary grid for financing, should we approach it that we need to raise 4million or 12 million from the private sector when developing a fundraising strategy?

Feel free to call my cell at 250-266-3555 to discuss.

Have a great weekend.

Gord

Gord Johns  
Tofino-Long Beach  
Chamber of Commerce

Tel: 250-725-3153  
[www.tofinochamber.org](http://www.tofinochamber.org)

Sent from my iPhone

On 2013-04-04, at 3:06 PM, Russell Dyson <[rdyson@acrd.bc.ca](mailto:rdyson@acrd.bc.ca)> wrote:

Great to get these responses now Tracy, thanks to your follow up. Please send any additional responses to Gord at email address "cc'd". I have copied the two received today.

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**From:** Tracy Bond  
**Sent:** Thursday, April 04, 2013 2:54 PM  
**To:** Russell Dyson  
**Subject:** FW: Westcoast Multiplex