

NON-PROFIT LEASE¹

NAME OF FACILITY
ADDRESS OF FACILITY

THIS AGREEMENT is made as of the ____ day of _____, 20____,

BETWEEN:

CITY OF VANCOUVER, a municipal corporation with offices
at 453 West 12th Avenue, Vancouver, BC V5Y 1V4

(the “Landlord”)

AND:

<✂️ INSERT FULL LEGAL NAME IN CAPS > (Society No. **<✂️ >**),
a society formed under the laws of the Province of British Columbia,
with offices at **<✂️ address >**, Vancouver, BC, **<✂️ postal code >**

(the “Tenant”)

PREMISES:

Name of Facility: _____

Civic Address: _____, Vancouver, BC

Legal Description: _____

TERM: _____ years, commencing on ____, 20____

POSSESSION: _____, 20____

RENT: TEN DOLLARS (\$10.00) for the Term, payable in advance

OPTION(S) TO RENEW: _____ (_____) renewal terms for _____ (_____) years each

EARLY TERMINATION: See Sections 2.02 and 2.03

¹ If it is a Sublease or a Sub-sublease, use the appropriate term instead of ‘Lease’ throughout the document

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WITNESSES THAT WHEREAS:

- A. The Landlord is the owner of all and singular those lands and premises situate in the City of Vancouver, in the Province of British Columbia, having a civic address of _____, Vancouver, and legally described as:

Parcel Identifier Number: _____

which lands and premises are hereinafter called the “**Premises**”, as depicted on the plan attached hereto as Schedule “A”;

[NTD: Add a brief description of the project/development if the Premises are an ASP or a portion of a larger development]

- B. The Tenant has requested that the Landlord lease the Premises to the Tenant for use as a facility to [_____], and the Landlord has agreed to lease the Premises to the Tenant for such purposes;
- C. The Premises are subject to the liens, charges and encumbrances registered at the Land Title Office as shown on the title search attached hereto as Schedule “C”, all of which are collectively referred to as the “**Prior Encumbrances**”;
- D. The Vancouver City Council, by resolution made at its meeting the ____ day of _____, 20____, resolved to lease the Premises to the Tenant upon the terms and conditions hereinafter set out.

NOW THEREFORE in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease the Premises unto the Tenant and the Tenant does hereby take and rent the Premises upon and subject to the conditions set out hereunder.

**ARTICLE 1
DEFINITIONS & INTERPRETATION**

Section 1.01 Definitions

In this Agreement the following terms have the definitions now given:

- (a) “**Agreement**” means this lease and all schedules forming part of this lease;
- (b) “**Alterations**” means any additions, renovations, modifications, fixturing, improvements, upgrades and/or alterations to the Premises or redecoration of the Premises or erections on the Premises;
- (c) “**ASP Agreement**” means the legal agreement registered in the Land Title Office under numbers CA _____ to CA _____;

- (d) **“ASP Facilities”** means those facilities (which may include, but are not limited to, emergency pedestrian exit routes, pedestrian access routes, vehicular access routes, service rooms (including, without limitation, gas meter room), loading and unloading areas and landscape areas) located within portions of the Common Property, over which the Landlord, as owner of the Air Space Parcel, has easements pursuant to the ASP Agreement, as depicted on the plan(s) attached hereto as Schedule “B”;
- (e) **“Builders Lien Act”** means the *Builders Lien Act*, S.B.C. 1997, c. 45;
- (f) **“Canadian Environmental Protection Act”** means the *Canadian Environmental Protection Act*, S.C. 1999, c. 33;
- (g) **“Canadian Human Rights Act”** means the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6;
- (h) **“Commencement Date”** means the _____ day of _____, 20____;
- (i) **“Common Area Costs”** means the costs for the Premises and the Development otherwise attributable to the Landlord and defined as [“Shared Costs”] and costs for [“Shared Use Areas and Systems”] in the ASP Agreement;
- (j) **“Common Property”** means the common property of the Strata Plan, as defined in the *Strata Property Act*;
- (k) **“Development”** means [insert description of the larger development within which the Premises are situate];
- (l) **“Environment”** has the meaning given to it in the *Canadian Environmental Protection Act*;
- (m) **“Environmental Management Act”** means the *Environmental Management Act*, S.B.C. 2003, c. 53;
- (n) **“First Renewal Term”** has the meaning ascribed to such term in Section Section 19.01;
- (o) **“Hazardous Substances”** means any Substance capable of creating harm to people, property and/or the Environment including, without limitation, any flammable liquids, flammable or reactive solids, oxidizers, poisons, gases (compressed, liquefied or dissolved), explosives, radioactive materials, urea formaldehyde, asbestos-containing materials, above or underground storage tanks, compounds known as chlorobiphenyls, polychlorinated biphenyls (“PCBs”), PCB-containing equipment or materials, Pollutants, contaminants, hazardous, corrosive or toxic Substances, or Waste of any kind, including, without limitation, any Substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is prohibited, controlled, regulated or licensed by any federal, provincial or municipal authority;
- (p) **“Human Rights Code”** means the *Human Rights Code*, R.S.B.C. 1996, c. 210;

- (q) **“Landlord’s Personnel”** means all of the Landlord’s officials, officers, employees, agents, contractors, subcontractors, licensees and permittees;
- (r) **“Land Title Office”** means the Land Title Office for the jurisdiction in which the Premises are situate;
- (s) **“Medium”** means any land, water or air and includes the Premises;
- (t) **“MOE”** means the British Columbia Ministry of Environment;
- (u) **“Occasional Third Party Use Policy”** means the Landlord’s policy for third party uses of non-profit rental space in the form attached hereto as Schedule “F”, as may be amended from time to time;
- (v) **“Permitted Use”** means use as a facility to provide [_____] and other ancillary support uses in order to advance the Landlord’s priorities, in accordance with the Public Service Requirements, the Occasional Third Party Use Policy and the applicable zoning for the Premises;
- (w) **“Pollute”** is a verb which means to Release into or onto any Medium any Substance that:
 - (i) alters the physical, biological or chemical nature of that Medium;
 - (ii) alters the capacity of the Medium to support any living thing, whether animal or plant life;
 - (iii) injures or is capable of injuring the health or safety of a person in, on or near the Medium;
 - (iv) injures or is capable of injuring property or any life form in, on or near the Medium;
 - (v) interferes with or is capable of interfering with visibility or the dispersion of light or any photochemical activity within the Medium;
 - (vi) interferes with or is capable of interfering with the normal conduct of business in, on, near or from the Medium;
 - (vii) causes or is capable of causing physical discomfort to a person in, on or near the Medium;
 - (viii) damages or is capable of damaging the Environment; or
 - (ix) is Waste,

and “Polluted” is an adjective, and “Pollution” and “Pollutant” are nouns, which have meanings that correspond to the meaning contained in this paragraph;

- (x) **“Possession Date”** means the ____ day of _____, 20__;

- (y) **"prime rate"** means the floating annual percentage rate of interest established from time to time by the Bank of Montreal, 595 Burrard Street, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its prime rate; provided that if a court declares or holds the prime rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder shall be fourteen percent (14%) per annum calculated monthly not in advance from the date due until paid;
- (z) **"Prior Encumbrances"** has the meaning given in Recital C;
- (aa) **"Public Service Requirements"** means the Landlord's requirements for the public service to be provided by the Tenant in the Premises, in the form attached hereto as Schedule "E", as may be amended from time to time;
- (bb) **"Release"** includes release, spill, leak, pump, pour, dump, abandon, emit, empty, discharge, spray, inoculate, deposit, seep, throw, place, exhaust, inject, escape, leach, dispose, infuse or introduce;
- (cc) **"Remainder Parcel"** means _____;
- (dd) **"Rent"** and **"rent"** have the meanings given in Section 3.01;
- (ee) **"Second Renewal Term"** has the meaning ascribed to such term in Section 19.02;
- (ff) **"Service Level Agreement"** means the service level agreement attached hereto as Schedule "D", as the same may be amended from time to time;
- (gg) **"Strata Corporation"** means the strata corporation established upon the filing of the Strata Plan at the Land Title Office, which effected the strata subdivision of the Remainder Parcel;
- (hh) **"Strata Plan"** means Strata Plan _____;
- (ii) **"Strata Property Act"** means the *Strata Property Act*, R.S.B.C. 1998, c. 43;
- (jj) **"Substance"** has the meaning given to it in the *Canadian Environmental Protection Act*;
- (kk) **"Tenant's Personnel"** means all the Tenant's officers, employees, agents, contractors, subcontractors, licensees, permittees or their respective invitees;
- (ll) **"Term"** means the term of _____ (____) years commencing on the Commencement Date and ending at 11:59 p.m. on the _____ day of _____, 20____;
- (mm) **"Vancouver Charter"** means the *Vancouver Charter*, S.B.C. 1953, c.55; and
- (nn) **"Waste"** has the meaning given to it in the *Environmental Management Act* but if the *Environmental Management Act* is repealed, "Waste" has the meaning given to it on the day immediately preceding the repeal of that Act or if that Act is amended so that

the term "Waste" is no longer used in it, then "Waste" has the same meaning as the term which replaces it in that Act.

Section 1.02 Interpretation

- (a) The words "include" and "including" are to be construed as meaning "including, without limitation".
- (b) The division of this Agreement into Articles and Sections, and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles are to Articles of this Agreement.
- (c) Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and words incorporating persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.
- (d) This Agreement shall be governed by and in accordance with the laws of the Province of British Columbia.
- (e) Any reference to a statute is to the British Columbia statute and its regulations (unless specified to be a federal statute) in force on the date this Agreement is fully executed, and to subsequent amendments to or replacements of the statute or regulations.

ARTICLE 2 DEMISE, TERM AND EARLY TERMINATION

Section 2.01 Demise and Term

Subject to the Prior Encumbrances and in consideration of the rents, covenants and conditions herein on the part of the Tenant to be performed and observed, the Landlord hereby leases the Premises to the Tenant to have and to hold the same for and during the Term. PROVIDED that the Tenant will have possession of the Premises as and from the Possession Date and will observe and abide by all terms, covenants and conditions of this Agreement as and from the Possession Date (including the insurance requirements set out in Article 11) EXCEPT that the obligation to pay Rent as well as the rent referred to in Section 6.02 and Section 6.03 will not arise until the Commencement Date.

Section 2.02 Early Termination by Landlord

Not so as to limit the Landlord's abilities as specified elsewhere in this Agreement, the Landlord may terminate this Agreement without compensation to the Tenant:

- (a) at any time with the Tenant's consent;

- (b) upon giving the Tenant not less than ninety (90) days' written notice of such termination, if the Vancouver City Council is not satisfied with the Tenant's performance of its obligations under the Public Service Requirements or the Service Level Agreement, including, in respect of the latter, any payment obligations, and Vancouver City Council's dissatisfaction shall be expressed by a resolution approved by a simple majority of those hearing the issue;
- (c) if the Vancouver City Council resolves that the Premises should be redeveloped or put to a different use, then six (6) months following:
 - (i) issuance of a development permit if the City proposes to redevelop or implement such use directly; or
 - (ii) issuance of a development permit and entering into a contract for the sale or lease of the Premises to a third party,

and upon twenty-four (24) hours prior notice, the City and/or third parties authorized by the City may inspect the Premises and conduct tests to help decide upon a use or implement a redevelopment plan.

Section 2.03 Early Termination by Tenant

The Tenant may terminate this Agreement if the Tenant intends to or has ceased to use the Premises for the Permitted Use upon giving the Landlord ninety (90) days' prior written notice of such termination. The Tenant shall not pay to the Landlord any compensation due to such termination.

ARTICLE 3 RENT AND TAXES

Section 3.01 Rent

Yielding and paying therefor in advance Ten Dollars (\$10.00) plus GST (the "**Rent**") payable on the first day of the Term. The Rent together with any additional rent payable by the Tenant is referred to as "**rent**" in this Agreement.

Section 3.02 Net Lease

This Agreement shall be completely net to the Landlord in respect of the Premises, save and except for those certain capital and other costs which are the responsibility of the Landlord as provided in the Service Level Agreement.

Section 3.03 Payments Generally

All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Agreement shall be:

- (a) paid to the Landlord by the Tenant in lawful currency of Canada;

- (b) made when due hereunder, without prior demand therefor and without any setoff, compensation or deduction whatsoever at the office of the Landlord's Director of Real Estate Services specified in Section 22.01(b) or such other place as the Landlord may designate from time to time in writing to the Tenant;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Landlord may see fit; and
- (d) deemed to be rent, in partial consideration for which this Agreement has been entered into, and shall be payable and recoverable as rent, such that the Landlord shall have all rights and remedies against the Tenant for default in making any such payment which may not be expressly designated as rent as the Landlord has for default in payment of rent.

Section 3.04 Interest on Arrears

Whenever and so long as the rent or any other amounts payable hereunder by the Tenant to the Landlord shall be in arrears, such amounts shall bear interest at the rate of three percent (3%) per annum above the prime rate, per annum calculated monthly not in advance, from the date due until paid irrespective of whether or not the Landlord has demanded payment. The Landlord shall have all the remedies for the collection of such interest as in the case of rent in arrears, but this provision for interest shall not prejudice or affect any other remedy of the Landlord under this Agreement. The Tenant shall also pay the Landlord's standard charge levied on N.S.F. cheques.

Section 3.05 User and Consumption Taxes

The Tenant shall pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments which are from time to time payable by the Tenant or the Landlord as a result of or that would not be payable but for the rights and obligations contained in this Agreement, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Tenant to the Landlord. Any loss, costs, charges and expenses which relate to such taxes, rates, levies and assessments suffered by the Landlord may be collected by the Landlord as additional rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

Section 3.06 Property Taxes

Should the Premises or any portion thereof or any trade fixtures or chattels therein or any activities of the Tenant for any reason be or become subject to any property, school, local improvement or other charges or taxes, or any charges or taxes levied under or by virtue of the *Hospital District Finance Act*, R.S.B.C. 1996, c. 203, the *Municipal Finance Authority Act*, R.S.B.C., 1996, c. 325, or any and all other statutes, laws, enactments, regulations and ordinances of the federal or provincial governments or other competent authority which are in the ordinary course lawfully imposed against the Premises or any portion thereof or any trade fixtures or chattels therein or any activities of the Tenant, then the Tenant shall pay all such charges and taxes promptly when due and provide proof of such payment to the Landlord upon request.

**ARTICLE 4
PREMISES**

Section 4.01 Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or its officers, employees or agents as to:

- (a) the state of repair of the Premises;
- (b) the suitability of the Premises for any business, activity or purpose whatever; or
- (c) the suitability of the Premises for use by the Tenant.

Section 4.02 Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such walk-throughs, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the state of repair of the Premises; and
- (b) the suitability of the Premises for use by the Tenant;

and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

Section 4.03 Use of Premises

The Tenant shall not use or occupy, nor suffer or permit the use of the Premises or any part thereof for any purpose other than the Permitted Use.

Without limiting the generality of the foregoing, the Tenant shall not at any time suffer, permit or allow any person to occupy the Premises for residential purposes.

The Tenant shall not use, or suffer or permit the use of, any part of the Premises in such a manner as to cause, suffer or permit any annoying noises or offensive odours to emanate from any part of the Premises.

The Tenant shall obtain, at its sole expense, any and all permits, approvals, authorizations and licences from any governmental authority, including the City of Vancouver, which may be required for the Tenant to occupy the Premises and use the Premises for the Permitted Use.

By leasing the Premises to the Tenant for the Permitted Use, the Landlord is agreeing as the owner of the Premises only and is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Permitted Use is a permitted use under the City of Vancouver Zoning and Development By-law No. 3575 or any

other applicable by-laws. Nothing in Section 4.03 affects the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 15.01 of this Agreement.

ARTICLE 5 SERVICE LEVEL AGREEMENT

Section 5.01 Service Level Agreement

The Landlord and the Tenant acknowledge their respective obligations for performance of and payment of costs associated with the matters set out in the Service Level Agreement and hereby agree to perform their respective obligations and to pay their respective costs as set out therein.

ARTICLE 6 UTILITIES, SERVICES AND OPERATING COSTS

Section 6.01 Utilities and Services

As of the Possession Date [or, if no Possession Date, then as of the Commencement Date], the Tenant shall pay, immediately when due, all charges, rates, fees and levies on account of utilities and other services provided to the Premises, including, without limitation, any neighbourhood energy utility, heat, hydro, sewer, communications (including internet, cable and telephone), electricity, gas, water, garbage, recycling and all costs associated with monitoring/servicing security and all other expenses and outgoings relating to utilities and services provided to the Premises. The Tenant shall provide the Landlord with receipts evidencing such payments upon request.

The City of Vancouver collects some utility charges, rates, fees and levies by inserting them in the real property tax roll, such charges, rates, fees and levies include those for water supply, water meter rental, water meter shutoff, air conditioning, fire line, fire line shutoff, sewer, recycling pickup and dumping, recycling cart rental, recycling cart carryout, recycling cart storage, yard waste pickup, yard waste cart rental, garbage pickup and dumping, garbage cart rental and stopping garbage pickup. Notwithstanding that the Premises are currently exempt from taxation, if such charges, rates and levies are inserted in the tax roll for the Premises, the Tenant shall pay 100% of same upon receiving the Landlord's invoice therefor as if the Premises were not exempt from taxation.

Section 6.02 Operating Costs

Notwithstanding any other provision of this Agreement, the Tenant shall be responsible for payment of all operating costs for the Premises allocated to the Tenant under the terms of the Service Level Agreement.

The Landlord, acting reasonably, may, at its option, estimate a portion of the operating costs that may be billed directly to the Landlord for each calendar year of the Term and the Tenant shall pay to the Landlord monthly in advance on the first day of each calendar month an amount equal to one-twelfth (1/12th) of that estimate. Within ninety (90) days of the end of each such year, the Landlord will deliver to the Tenant a statement of the actual amount of the operating costs, and any excess amount due to the Tenant shall be reimbursed by the

Landlord and any shortfall due to the Landlord shall promptly be paid to the Landlord by the Tenant.

Section 6.03 Common Area Costs

[NTD: Only include this section if the Premises are within a larger development (eg. an ASP) and will be required to pay a portion of the common operating costs for the development]

The Tenant shall be responsible to pay its proportionate share of Common Area Costs as set out in the Service Level Agreement.

The Landlord, acting reasonably, may estimate the Tenant's proportionate share of Common Area Costs for each calendar year of the Term and the Tenant shall pay to the Landlord monthly in advance on the first day of each calendar month an amount equal to one-twelfth (1/12th) of that estimate. Within a reasonable time after determining the actual Common Area Costs, the Landlord will deliver to the Tenant a statement setting out the Common Area Costs and the Tenant's proportionate share thereof, and any excess amount due to the Tenant shall be reimbursed by the Landlord and any shortfall due to the Landlord shall be paid within 30 days to the Landlord by the Tenant.

ARTICLE 7 MAINTENANCE, REPAIRS AND ALTERATIONS

Section 7.01 Janitorial, Maintenance and Repairs

The arrangements concerning the janitorial, maintenance and repairs for the Premises as of the date of this Agreement are contained in the Service Level Agreement.

Notwithstanding any other provision in this Agreement, but subject to the Service Level Agreement, the Tenant shall keep and maintain the Premises in good repair as would a reasonable and prudent owner of similar premises, reasonable wear and tear and structural elements or defects excepted and in a sanitary, neat, tidy and safe condition and free from nuisance at all times.

Section 7.02 No Damage

The Tenant shall not suffer, cause nor permit any damage or injury to the Premises other than reasonable wear and tear.

Section 7.03 Access for Inspection

The Landlord shall have access to the Premises upon not less than 24 hours advance notice in order to inspect them during normal business hours (except in the case of an emergency, in which case, no advance notice shall be required and inspection may be carried out at any time). The Landlord shall provide the Tenant with written notice of any repairs which, in accordance with the Service Level Agreement, the Landlord requires the Tenant to make to the Premises. The Tenant shall make such repairs in accordance with such notice. If the Tenant fails, in the opinion of the Landlord, to commence repairs within a reasonable period of time and diligently prosecute same to completion after receipt of notice from the Landlord requiring repairs, then the Landlord may carry out or cause to be carried out such repairs on

the provision of reasonable notice to the Tenant in a manner so as to cause the least reasonably possible disruption to the Tenant, the costs of which shall be payable by the Tenant, and the Landlord and the Landlord's Personnel shall not be liable to the Tenant for any inconvenience, annoyance, disruption, loss of income or liability suffered or incurred by the Tenant by reason of the Landlord effecting such repairs unless caused by the gross negligence or wrongful intentional acts of the Landlord or those for whom the Landlord is responsible in law.

Section 7.04 Snow off Sidewalks

The Tenant is responsible for such snow and ice removal as stated in the Service Level Agreement and on sidewalks fronting the Premises if required by any City of Vancouver Bylaws.

Section 7.05 Alterations

The Tenant shall not carry out or cause to be carried out any Alterations without the Landlord's prior written consent and in the giving of such consent the Landlord may attach whatever conditions, directions, stipulations, prohibitions or deadlines as it deems appropriate and the same shall be conditions of this Agreement. All such works shall be wholly at the Tenant's expense but shall be the Landlord's absolute property except to the extent that the same may be reasonably categorized as trade fixtures.

The Tenant will obtain, at its sole expense, any and all permits, approvals and authorizations from any governmental authority having jurisdiction, including the City of Vancouver, and abide by all requirements established by such authority, which may be required to undertake the Alterations. As part of the foregoing, the Tenant will be required to abide by and comply with the Tenant Improvement Checklist, the Notice to Tenants of City Owned Buildings and the Building By-law "Lessee's Undertaking for Tenant Improvements" attached hereto as Schedule "G".

For any Alterations, the Tenant will ensure that the "prime contractor" responsibility per the WorksSafe BC Occupational Health and Safety (OHS) Regulation as adopted under the *Workers Compensation Act*, and more specifically as defined under section 118 of Part 3 of the *Workers Compensation Act*, is duly assigned to a singular contractor, failing which the Tenant will be the "prime contractor".

The Tenant shall be solely responsible for all claims and/or liabilities arising from or relating to any bodily injury or death, property damage or other loss or damage arising from the Alterations.

By consenting to any Alterations, the Landlord is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Alterations are permitted under the City of Vancouver Zoning and Development By-law No. 3575, the City of Vancouver Building By-law No. 6134 or any other applicable by-laws. No consent given by the Landlord (and no failure to enforce this section of this Agreement) will affect the Tenant's obligations to comply at its sole expense with all such by-laws.

Section 7.06 Liens and Encumbrances

In connection with all labour performed in, or materials supplied for, the making, erection, installation or alteration of any work or installations made by or for the Tenant in the Premises, the Tenant will comply with all the provisions of the *Builders Lien Act* and other statutes from time to time applicable thereto, including any provision requiring or enabling the retention of any sum as a holdback.

The Tenant will not create any mortgage, security agreement or other encumbrance in respect of any of its leasehold improvements or trade fixtures or permit any such mortgage, security agreement or other encumbrance to attach to the Premises.

If and whenever any builders lien or other lien for work, labour, services or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable, or claims therefor arise or are filed or any such mortgage, security agreement or other encumbrance attaches to the title to the Premises, the Tenant will, within fifteen (15) days after receipt of notice thereof, procure the discharge thereof, including any certificate of pending litigation or other notation or charge registered in respect of any lien, by payment or giving security or in such other manner as may be required or permitted by law. Provided however, that in the event of a bona fide dispute by the Tenant of the validity or correctness of any claim for any such lien, the Tenant will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct. This section shall not prevent the Tenant mortgaging or encumbering its chattels, inventory, trade fixtures or equipment which are not fixtures.

Pursuant to Section 3(2) of the *Builders Lien Act*, the Landlord may file in the Land Title Office notice of its fee simple interest in the Premises, as is permitted by law to ensure that the Landlord's title does not become charged with liens related to this Agreement.

ARTICLE 8 LICENCE TO USE ASP FACILITIES

[NTD: If the Premises are not an ASP, but are still part of a larger development, this Article may be modified to reflect any necessary licenses for the Premises to operate.]

Section 8.01 Licence to use ASP Facilities

Subject always to the limitations set out in the ASP Agreement, the Landlord hereby grants to the Tenant and the Tenant's Personnel, the right and licence to exercise its rights under the ASP Agreement to access and use, throughout the Term and any renewals or extensions thereof, the ASP Facilities.

Section 8.02 Provisions Applicable to Exercise of Licences

The Tenant's rights and obligations in respect of the licence contained in Section 8.01 are subject to, and conditional upon, compliance with the following terms and conditions:

- (a) the Tenant shall, in its use of the ASP Facilities, conduct itself in a reasonable manner and not treat such facilities in a manner that would leave them in an unclean, untidy or unsanitary condition;

- (b) the Tenant shall:
- (c) if so reasonably requested by the Landlord, abide by and comply with the Landlord's obligations (as the owner of the Air Space Parcel under the ASP Agreement) with respect to the use of the ASP Facilities; and
- (d) be limited in the exercise of rights under this Agreement to the rights of the Landlord under the ASP Agreement and, if applicable, its obligations and rights in respect of any reasonable rules and regulations promulgated under any parking management agreement that may be entered into with respect to the parkade; and
- (e) the Tenant shall cause the Tenant's Personnel to observe and abide by the Tenant's usage restrictions and rights set forth above in this Section 8.02.

ARTICLE 9 LIABILITY, RELEASE AND INDEMNITY

Section 9.01 Limitation of Liability

The Landlord and the Landlord's Personnel shall not, under any circumstances, be liable or responsible in any way for:

- (a) any personal injury, bodily injury, death or consequential damage of any nature whatsoever, however caused, that may be suffered or sustained by the Tenant or the Tenant's Personnel or by any other person who may be in or about the Premises; or
- (b) any loss or damage of any nature whatsoever, however caused, to the Premises, any property belonging to the Tenant, the Tenant's Personnel, or to any other person while such property is in or about the Premises,

whether in the course of the performance of the Landlord's obligations under this Agreement or otherwise, unless resulting from the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 9.02 Exclusion of Liability

The Landlord and the Landlord's Personnel shall not under any circumstances be liable or responsible in any way for:

- (a) any personal injury, bodily injury, death or consequential damage of any nature whatsoever, that may be suffered or sustained by the Tenant or the Tenant's Personnel or any other person who may be in or about the Premises, or any loss or damage of any nature whatsoever to the Premises or to any property belonging to the Tenant, the Tenant's Personnel or to any other person while such property is in or about the Premises:
 - (i) caused by failure, by reason of breakdown or other cause, to supply adequate drainage, or by interruptions of any utility or other services, or by steam, water, rain, snow, or other substances leaking, entering, issuing or flowing onto or into any part of the Premises; or

- (ii) however caused, if the Landlord or Landlord's Personnel enter upon the Premises in the case of an emergency;
- (b) any loss or damage of any nature whatsoever, however caused, to books, records, files, money, securities, negotiable instruments, papers or other valuables of the Tenant or its officers, employees or agents;
- (c) any business, economic or indirect loss or damage suffered or sustained by the Tenant or the Tenant's Personnel of any nature whatsoever, however caused; or
- (d) any loss which the Tenant is obligated to insure against hereunder or has insured against.

Section 9.03 Indemnification

The Tenant shall indemnify and save harmless the Landlord and the Landlord's Personnel in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by, or any act or omission of, or relating to or arising from the occupation, use and/or possession of the Premises and/or other Landlord property by the Tenant and/or the Tenant's Personnel and/or from any Alterations, and in respect of all costs, expenses and liabilities incurred by the Landlord and the Landlord's Personnel in connection with or arising out of all such claims, including the expenses of any action or legal proceeding pertaining thereto and the liabilities or obligations incurred or sustained by or imposed upon the Landlord and the Landlord's Personnel in respect of any loss, cost, expense or damage suffered or incurred by the Landlord and the Landlord's Personnel arising from any breach by the Tenant of any of its covenants and obligations under this Agreement.

Without limiting anything else contained in this Agreement, the Tenant shall at all times be liable to the Landlord for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord and/or the Landlord's Personnel sustain any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord's satisfaction and shall indemnify the Landlord and the Landlord's Personnel for any loss they might sustain due in whole or part to such actions, except where such damage or loss was caused by or contributed to by the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 9.04 Notice of Liability Concerns

Forthwith after becoming aware of significant liability concerns regarding the operation of the Premises or any matter relating to the Premises or the use of the Premises, the Tenant shall notify the Landlord in accordance with Section 22.01(b) of this Agreement.

ARTICLE 10 ENVIRONMENTAL MATTERS

Section 10.01 Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or its officers, employees or agents as to:

- (a) the existence, nature or extent of any Pollution on or off the Premises; or
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises.

Section 10.02 Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such audits, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the existence, nature or extent of any Pollution on the Premises; and
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises;

and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

The Tenant hereby assumes any and all duties, obligations or liabilities under any law applicable to the Premises, the Tenant and the operations carried out at the Premises by the Tenant, the Tenant's Personnel, anyone for whom the Tenant is responsible at law or any subtenant of the Tenant, including but not limited to, any costs, expenses or liabilities for any remedial action or other liabilities arising in respect of any Pollution of the Premises caused by or at the request of the Tenant, the Tenant's Personnel, anyone for whom the Tenant is responsible at law or any subtenant of the Tenant during the Term, including migration thereof and all liabilities and obligations resulting from the remediation process.

Section 10.03 Release and Indemnification

The Tenant hereby releases the Landlord and the Landlord's Personnel from any and all costs, expenses, damages, losses or liabilities that may be incurred or suffered by the Tenant by reason of or resulting from or in connection with or arising in any manner whatsoever out of:

- (a) the Premises not being suitable for use by the Tenant;
- (b) the Premises being, or being found to be at any time, Polluted; or
- (c) the need to take any remedial action and the taking of such action as a result of such Pollution on or off the Premises.

The Tenant shall indemnify, defend and save harmless the Landlord in respect of all claims for bodily injury (including death), property damage or other loss or damage, including damage to property outside the Premises, arising out of or in any way connected with the

manufacture, storage, transportation, handling and discharge of Hazardous Substances on or from the Premises by the Tenant or any one for whom the Tenant is responsible in law.

Section 10.04 Removal of Hazardous Substances

The Tenant shall not bring upon the Premises or any part thereof, or cause or suffer the bringing upon the Premises or any part thereof, any Hazardous Substances and if at any time there shall be any Hazardous Substances upon the Premises or a part thereof as a result of the breach of this covenant, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Article;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord verification of the complete and proper removal of the Hazardous Substances from the Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with the foregoing provisions of this Section 10.04; and
- (d) if requested by the Landlord, obtain at the Tenant's cost and expense a Certificate of Compliance for the Premises from the MOE in respect of the removal of the Hazardous Substances. Such Certificate of Compliance shall be to a standard acceptable to the Landlord, acting reasonably.

Section 10.05 Breach of Laws Relating to Hazardous Substances

Without limiting the generality of Section 10.04, the Tenant shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence under or a breach of any statutes, by-laws, regulations or orders from time to time enforced relating to Hazardous Substances, and at its own cost and expense, comply with all laws, bylaws, environmental guidelines and regulations in effect from time to time relating to the Tenant, the activities carried out on the Premises relating to Hazardous Substances and the protection of the Environment. If the Tenant, the Tenant's Personnel, those for whom the Tenant is at law responsible or any subtenant of the Tenant causes or suffers the happening of such an event, the Tenant shall, at its own expense, comply with the terms of Section 10.04.

The Tenant shall, at its own expense, remedy any damage to the Premises caused by such event within the Premises or by the performance of the Tenant's obligations under this Section 10.05 as a result of such occurrence.

Section 10.06 Remediation

If the Landlord or any governmental authority having jurisdiction shall require the cleanup of any Hazardous Substances held, Released, spilled, abandoned or placed upon the Premises or Released into the Environment from the Premises during the Term, then the Tenant shall, at

its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work to remediate the Premises and complete the proper removal of the Hazardous Substances from the Premises and, if required by the Landlord, obtain a Certificate of Compliance from the MOE evidencing the remediation of the Premises to a standard acceptable to the Landlord, acting reasonably. The Tenant shall keep the Landlord fully informed and provide to the Landlord full information with respect to proposed plans and comply with the Landlord's requirements with respect to such plans and the remediation of the Premises. The Tenant agrees that if the Landlord determines, in its sole discretion, that the Landlord, its property or its reputation is placed in any jeopardy by the requirement for any such work, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant.

Section 10.07 Enquiries Pertaining to Hazardous Substances

The Tenant hereby authorizes the Landlord to make enquiries from time to time of any government or governmental agency with respect to the Tenant's compliance with any and all laws and regulations pertaining to the Tenant, the Tenant's activities on the Premises and the Premises including without limitation laws and regulations pertaining to Hazardous Substances and the protection of the Environment; and the Tenant covenants and agrees that the Tenant will from time to time provide to the Landlord such written authorization as the Landlord may require in order to facilitate the obtaining of such information.

Section 10.08 Landlord's Inspection of Goods

The Landlord may at any time and from time to time inspect the Tenant's goods upon the Premises and the Tenant's records relating thereto for the purpose of identifying the nature of the goods and the existence or absence of any Hazardous Substances and the Tenant shall assist the Landlord in so doing.

Section 10.09 Ownership Remains with Tenant

If the Tenant shall bring or create upon the Premises any Hazardous Substances or suffer the bringing or creation upon the Premises of any Hazardous Substances or if the conduct of the Tenant's business shall cause there to be any Hazardous Substance upon the Premises then, notwithstanding any rule of law or equity to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord and notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Premises and notwithstanding the expiry or earlier termination of this Agreement.

Section 10.10 Environmental Covenants Survive Termination

The obligations of the Tenant in this Article 10 shall survive the expiry or earlier termination of this Agreement save only that, to the extent that the performance of those obligations requires access to or entry upon the Premises or any part thereof the Tenant shall have such entry and access only at such times and upon such terms and conditions as the Landlord may from time to time specify; and the Landlord may, at the Tenant's cost and expense, undertake the performance of any necessary work in order to complete such obligations of

the Tenant; but having commenced such work, the Landlord shall have no obligation to the Tenant to complete such work.

ARTICLE 11 INSURANCE

Section 11.01 Landlord's Insurance

The Landlord shall insure the Premises, including, without limitation, the fixtures other than trade fixtures, against fire, vandalism and such other perils as the Landlord decides, from time to time. In its sole discretion, the Landlord may elect to self-insure for all or any of the perils referred to in this Section 11.01.

[NTD: Or, if the Premises are part of a larger Development, include:

Subject to the responsibilities of the [Remainder Owner] pursuant to the ASP Agreement with respect to building shell insurance, the Landlord shall obtain insurance as required by the ASP Agreement in a manner determined from time to time by the Landlord's Chief Risk Officer in his or her sole discretion. The Tenant shall be responsible to pay, as part of the Common Area Costs, its proportionate share of the cost of this insurance.]

Section 11.02 Tenant's Insurance

The Tenant shall, without limiting any of its obligations or liabilities under this Agreement, purchase and maintain from the Possession Date until the expiry or earlier termination of this Agreement, at its own expense and cost, insurance coverage as follows:

- (a) Commercial General Liability insurance with limits of five Million Dollars (\$5,000,000) per occurrence or such higher limit of coverage as the Landlord may require from time to time and the policy shall:
 - (i) indemnify and protect the Tenant and the Tenant's Personnel against all claims for loss, damage, injury or death to any person or persons and for loss of or damage to the Premises or to any public or private property occurring within or about the Premises or arising by virtue of the Tenant's occupation or possession of the Premises, including that caused by any third party permitted to use the Premises;
 - (ii) name the Landlord, its officials, officers, employees and agents [and the Strata Corporation] as additional insureds;
 - (iii) include a cross-liability or severability of interest clause insuring the Tenant, the Landlord, the Landlord's Personnel and the Tenant's Personnel in the same manner and to the same extent as if separate policies had been issued to each and apply with respect to any action brought against one party by the other or by any officer, employee or agent of one party and any breach of a condition of the policy by any party or by any officer, employee or agent of one party shall not affect the protection given by the policy to any other party or to any officer, employee or agent of any party;

- (iv) include tenant's legal liability coverage for an amount equal to the actual cash value of the Premises, such coverage to include the activities and operations conducted by the Tenant and third parties in the Premises;
 - (v) include blanket contractual liability covering liability arising directly or indirectly out of the performance of this Agreement;
 - (vi) include non-owned auto liability coverage;
 - (vii) include personal injury and advertising liability coverage;
 - (viii) include products and completed operations coverage;
 - (ix) provide for a limit of deductibility not greater than Five Thousand Dollars (\$5,000) or other such amount as the Landlord may approve from time to time; and
 - (x) without limiting anything else contained in this Agreement, adequately protect the Tenant from the actions of the third parties that the Tenant permits to occupy all or a portion of the Premises.
- (b) All Risk (Broad Form) insurance on property of every description and kind owned by the Tenant or for which the Tenant is legally liable or provided by or on behalf of the Tenant (and which is located in the Premises), including, without limitation, furniture, computers, equipment, toys, supplies, appliances, trade fixtures and any display model, project, prototype, tool, instrument and/or device within the Premises in an amount not less than ninety percent (90%) of the full replacement cost thereof. This policy shall include a waiver of subrogation clause in favour of the Landlord. The Landlord shall be added as additional insured and loss payee with respect to its insurable interest, if any.
- (c) Automobile Liability insurance on all licensed vehicles owned or leased to the Tenant with a limit of not less than Five Million (\$5,000,000) per occurrence or other such amount as the Landlord may approve from time to time protecting against damages arising from bodily injury, death and from claims for property damage arising from the operations of the Tenant or the Tenant's Personnel.
- (d) Directors and Officers liability insurance providing ONE MILLION DOLLARS (\$1,000,000) coverage per claim and TWO MILLION DOLLARS (\$2,000,000) coverage in the aggregate.

Section 11.03 General Requirements of Insurance

The following shall apply to all insurance policies:

- (a) the policies shall be with insurers authorized to carry on business in the Province of British Columbia, on terms satisfactory to the Landlord, acting reasonably;
- (b) the policies shall be primary insurance with respect to all claims arising out of the Tenant, and any insurance or self-insurance maintained by or on behalf of the

Landlord or the Landlord's Personnel will be in excess of this insurance and will not contribute to such policies;

- (c) the policies shall not be cancelled or endorsed to reduce the limits of liability without the insurer or its authorized representative giving the Landlord at least thirty (30) days' written notice. Should the policy be endorsed to restrict coverage midterm, written notice of such restriction will be sent to the Landlord no later than the effective date change; the exception is cancellation for non-payment of premium in which case the applicable statutory conditions will apply. Notice to the Landlord must identify the name of the Tenant as set out in this Agreement and the location or address of the Premises;
- (d) neither the providing of insurance by the Tenant in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing shall be held to relieve the Tenant from any other provisions of this Agreement with respect to liability of the Tenant or otherwise; and
- (e) subject to the provisions of this Article 11, the Tenant shall purchase and maintain at its own cost any additional insurance which the Tenant is required by law to obtain, or other lines of insurance coverages, endorsements or increased limits of insurance as deemed necessary by the Landlord and as a reasonable and prudent tenant would require to protect its occupation or possession of the Premises.

Section 11.04 Evidence of Insurance

Prior to the commencement of the Term, and upon the annual renewal of the Tenant's insurance policies required under this Agreement, the Tenant will provide the Landlord's Director of Real Estate Services with evidence of all required insurance to be taken out in the form of one or more certificate(s) of insurance, satisfactory to the Landlord. Upon request of the Landlord, the Tenant shall deliver to the Landlord a certified copy of the policy(ies) of insurance required under this Agreement. If the Tenant fails to deliver to the Landlord any such certificate or policy of insurance within the stipulated time, the Landlord may obtain such insurance, and the Tenant will pay to the Landlord the cost of the premiums on demand by the Landlord from time to time.

ARTICLE 12 DAMAGE AND DESTRUCTION

Section 12.01 Termination on Damage or Destruction

If the Premises are substantially damaged or destroyed to the extent that the Premises or a substantial area of the Premises are rendered unusable by the Tenant or convenient access to the Premises cannot be had, all as determined by the Landlord in its sole discretion, the Landlord may, at its option, elect to not rebuild or repair the Premises and may terminate this Agreement and the Tenant's liability for rent will end as of the date of such damage or destruction but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 12.02 Repair of Damage or Destruction

If the Landlord elects to rebuild or repair the Premises, the Landlord will commence rebuilding or repairing within 120 calendar days of the occurrence of the damage or destruction. If the Landlord does not initiate the rebuilding or repairing within such time period or, having commenced rebuilding or repairing, does not prosecute same to completion with reasonable dispatch, then the Tenant may give the Landlord fourteen (14) calendar days' notice of the termination of this Agreement but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 12.03 Abatement of Rent

In the event of damage or destruction to the Premises to the extent that the Premises or part of the Premises are rendered unusable or convenient access to the Premises cannot be had, which in either case is not caused by the default or negligence of the Tenant or those for whom it is responsible in law, the rent will abate in the same proportion that the area of which the Tenant is deprived bears to the total area as determined in the opinion of the Landlord and such abatement will continue only so long as the Landlord determines its continuance to be reasonable.

ARTICLE 13 ASSIGNMENT AND SUBLETTING

Section 13.01 Assignment

The Tenant shall not assign its interest in the Premises or any portion thereof save and except with the prior written consent of the Landlord, such consent not to be unreasonably withheld. If there are personal covenants herein on the part of the Tenant which, in the opinion of the Landlord's solicitors will not run with this Agreement, then the Landlord may withhold its consent to assignment unless the prospective assignee covenants with the Landlord to be bound by such personal covenants as if such covenants had been made between the Landlord and the prospective assignee. In no way will such consent release the Tenant of its personal covenants under this Agreement.

Any amalgamation of the Tenant with any other party, and any change of effective control of the Tenant, will constitute an assignment of the Tenant's interest under this Agreement and will be subject to all of the provisions of this Section 13.01. Change of effective control of the Tenant includes any transfer, voluntary or involuntary, direct or indirect, which results in a change in the person or persons exercising or who might exercise effective control of the Tenant or the business required to be carried on in the Premises.

Section 13.02 Excess Rent

Subject to the Occasional Third Party Use Policy, but notwithstanding any other provision in this Agreement, and at the Landlord's option, if as a result of any assignment, sublease, setting over or otherwise parting with possession of the Premises or letting any third party into possession of the Premises, the Tenant directly or indirectly receives from the assignee, subtenant or occupant (collectively referred to herein as the "**Transferee**") any payment, fee or any other consideration, whether in the form of cash, negotiable instrument, goods, services or in any other form whatsoever (the "**Consideration**") which is in excess of the Rent or any other amount payable by the Tenant to the Landlord under this Agreement, then such

Consideration will be deemed to be and will be rent payable to the Landlord under this Agreement, payable at the same time as such Consideration is payable by the Transferee to the Tenant.

Section 13.03 Subleasing

Other than as permitted by the Occasional Third Party Use Policy, the Tenant shall not sublease, licence, set over or otherwise part with possession of the Premises or any portion thereof or let any third party into possession of the Premises or any portion thereof save and except with the prior written consent of the Landlord, which consent the Landlord may unreasonably withhold. For greater certainty, the Tenant will be permitted to licence space within the Premises to third parties in accordance with the Occasional Third Party Use Policy for less than 60 days without the prior consent of the Landlord; however, licences for more than 60 days will require the Landlord's prior written consent. The Landlord confirms that the Occasional Third Party Use Policy applies regardless of whether the Tenant charges a licence fee and whether or not the licensee is a community group, non-profit or other entity. The Rental Agreement contemplated by the Occasional Third Party Use Policy may be in a very brief one-page form provided that it includes all of the elements required by the Occasional Third Party Use Policy to be included.

Section 13.04 Assignment of Sublease Rent

Notwithstanding Section 13.03 hereof, the Tenant hereby assigns to the Landlord all rents and fees payable to the Tenant under any sublease, licence or occupation agreement with any third party, which assignment shall supersede any provisions regarding the Tenant in bankruptcy and any claims of the creditors of the Tenant whether by execution, attachment, garnishing order or otherwise PROVIDED HOWEVER the Landlord agrees to refrain from enforcing the said assignment so long as the Tenant shall not be in default in the payment of rent or the performance or observance of its covenants hereunder. Upon the Tenant falling into default in the payment of its rent or the performance or observance of its other covenants hereunder, the Landlord may forthwith direct the sublessee, licensee or such other third party to pay to the Landlord the sublease rent, licence fees or other monies as would otherwise be owing to the Tenant from time to time and the payment of such monies to the Landlord shall pro tanto discharge the sublessee's, licensee's or other third party's obligations to the Tenant and the Landlord shall apply such monies to the rent and the performance and observance of the Tenant's covenants hereunder notwithstanding any claims on the part of the Tenant's trustee in bankruptcy or the Tenant's creditors, whether by execution, attachment, garnishing order or otherwise. If the sublessee, licensee or other third party fails to abide by the Landlord's directions in this behalf then, at the Landlord's election, the sublease, licence or other third party agreement shall cease and determine and the Landlord may forthwith re-enter the subleased, licensed or occupied portion of the Premises and arrange for new occupants thereof whose occupation shall be subject to the provisions of this paragraph.

Section 13.05 Mortgage of Lease

Except as otherwise set out in this Agreement, under no circumstances whatsoever may this Agreement or the Tenant's interest in the Premises be mortgaged or otherwise encumbered by way of sublease, assignment or otherwise.

Section 13.06 Management Agreement

Subject to Section 13.01, under no circumstances whatsoever may the Tenant enter into any management agreement or other agreement with another party which licenses, transfers or assigns, temporarily or otherwise, the Tenant's rights and obligations in this Agreement without the Landlord's prior written consent.

Section 13.07 Naming Rights

The Tenant shall, effective from the date hereof:

- (a) not sell, transfer, assign or otherwise permit the naming of the Premises or any portion thereof without the Landlord's prior written approval, which approval may be arbitrarily withheld;
- (b) if the Landlord permits the naming of the Premises or any portion thereof, the Tenant shall comply with any policy adopted by the Vancouver City Council relating to the naming of and signage for (including flags and banners) all or any portions of the Premises in force at the time of the proposed naming.

ARTICLE 14 BANKRUPTCY

Section 14.01 Bankruptcy

If the Term or any of the goods or chattels of the Tenant are at any time seized or taken in execution by any creditor of the Tenant, or if the Tenant makes a general assignment for the benefit of creditors, or if the Tenant institutes proceedings to have the Tenant adjudicated as bankrupt or insolvent, or if the Tenant becomes the subject of bankruptcy or insolvency proceedings, or if a judgment, decree or order be entered by a court of competent jurisdiction adjudging the Tenant bankrupt or insolvent, or if the Tenant is unable to meet all debts as they fall due for a period of not less than three (3) months, or if the Tenant or its directors shall pass any resolution authorizing the dissolution or winding-up of the Tenant, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any part of the Tenant's property shall be appointed or applied for by the Tenant or by one or more of the Tenant's creditors, then the Landlord shall be so notified and the then current rent plus an additional three (3) months' current rent shall immediately become due and be paid and the Landlord may immediately claim the same together with any arrears of rent and, at the option of the Landlord, the Term is subject to termination forthwith. If the Tenant becomes defunct or amalgamates with any other body without obtaining the prior written consent of the Landlord then at the option of the Landlord the Term shall forthwith terminate. If the Tenant surrenders up its certificate of incorporation or otherwise ceases to exist the Term terminates as of such surrender or dissolution.

ARTICLE 15 COMPLIANCE WITH LAWS

Section 15.01 Statutes and By-laws

The Tenant covenants to promptly and faithfully observe and comply with:

- (a) all federal, provincial or civic statutes, by-laws, regulations and orders now or hereafter which are in force and in effect which touch and concern the Premises or the Tenant's activities within the Premises, including, without limitation, any applicable environmental guidelines which deal with environmental protection and safety and/or Hazardous Substances. If any such statutes, by-laws, regulations, orders or guidelines are directed at owners, the Tenant shall perform and observe same at its own expense in the place and stead of the Landlord; and
- (b) without limiting the generality of the foregoing, the Human Rights Code, which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 15.01.

Section 15.02 WorkSafeBC Coverage

Not so as to restrict the generality of Section 15.01 of this Agreement, the Tenant shall comply with all applicable requirements of WorkSafeBC ("WCB") including, without limitation, any requirement to procure and carry or cause to be procured and carried and paid for, at its own expense, full WCB coverage for itself and for all workers, employees, contractors, subcontractors, agents, licensees, permittees, and all others engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises. The Landlord shall have the unfettered right to set off the amounts of the unpaid premiums and assessments for such WCB coverage against any monies owing by the Landlord to the Tenant pursuant to any grant application or otherwise. The Landlord shall have the right to withhold payment of any such monies until the WCB premiums, assessments and/or penalties in respect of the work done and/or services performed have been paid in full.

The Tenant confirms that it is registered and in good standing with the WCB and all assessments have been paid in full as of the date of this Agreement and that it shall throughout the Term continue to be registered and in good standing with the WCB and pay all assessments in full. If requested by the Landlord, the Tenant shall provide the Landlord with the Tenant's WCB registration number and a letter from the WCB confirming that the Tenant is registered in good standing with the WCB and that all assessments have been paid to the date thereof. The Tenant shall indemnify the Landlord and hold harmless the Landlord from all manner of claims, demands, costs, losses, sanctions and penalties and proceedings arising out of or in any way related to unpaid WCB assessments owing from any person or corporation engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the WCB, including penalties levied by the WCB.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 15.02.

ARTICLE 16
DEFAULT AND REMEDIES

Section 16.01 Breach of Covenants

If and whenever:

- (a) any Rent payment or any part thereof is not made by the Tenant on the day appointed for payment thereof; or
- (b) the Tenant is in default in the payment of any money, other than Rent, required to be paid by the Tenant under the terms of this Agreement and such default continues for ten (10) days following any specific due date on which the Tenant is to make such payment or, in the absence of such specific due date, for ten (10) days following notice requiring the Tenant to pay the same; or
- (c) the Tenant defaults in performing or observing any of the provisions of this Agreement other than those requiring payment of money to the Landlord including, without limiting the generality of the foregoing, failure by the Tenant to comply with any statutes, bylaws, regulations or orders relating to its operation of the Premises, and such default continues for a period of twenty (20) days after notice thereof to the Tenant, except for a default which to be cured with all due diligence would require a longer period, then after such longer period, or if the Tenant fails to proceed promptly and diligently and continuously after the service of such notice to cure same; or
- (d) the Premises are vacated or unoccupied for ten (10) or more consecutive days while the Premises can be used for the Permitted Use, without the consent of the Landlord; or
- (e) the Premises are abandoned by the Tenant; or
- (f) this Agreement is terminated;

then and in every such case, it shall be lawful for the Landlord at any time thereafter without notice or demand, with or without process of law and by forcible entry if necessary, upon the expiration of the notice period under the applicable termination notice or default notice, to re-enter into and upon the Premises, and to terminate this Agreement by leaving upon the Premises notice in writing of such termination. If the Landlord terminates this Agreement pursuant to this section, or otherwise as a result of default of the Tenant, there shall immediately become due and owing to the Landlord, in addition to any other sums payable to the Landlord hereunder as damages suffered by the Landlord as a result of the Tenant's breach, the then current month's rent, together with the rent accruing for the remainder of the Term. This provision for notice and termination shall not be construed so as to delay or supersede any specific remedy to which the Landlord may have recourse in this Agreement.

Section 16.02 Distraint

The Tenant waives and renounces the benefit of any present or future law taking away or limiting the Landlord's rights against the property of the Tenant and, notwithstanding any

such law, provided the Tenant is in default and all curative periods have expired, the Landlord may seize and sell all the Tenant's goods and property, whether within the Premises or not, and apply the proceeds of such sale towards any arrears of rent (including amounts deemed to be rent under this Agreement) and the costs of the seizure and sale. The Tenant further agrees that if it abandons the Premises and any arrears of rent remain unpaid, the Landlord, in addition to any remedy otherwise provided by law, may seize and sell those goods and property of the Tenant that were previously upon the Premises at any place to which the Tenant or any other person may have removed them from the Premises, in the same manner as if such goods and property had remained in, about or upon the Premises.

Section 16.03 Right to Re-let

If the Landlord becomes entitled to re-enter the Premises the Landlord shall have the right, if it thinks fit, to enter the Premises as the agent of the Tenant either by force or otherwise without being liable for any prosecution therefor, and as agent of the Tenant to re-let the Premises or any part or parts thereof at the risk of the Tenant and, as agent for the Tenant, to receive the rent therefor and, as agent for the Tenant, to take possession of any furniture, equipment and other property therein and sell the same at public or private sale without notice. Such rent and proceeds from the sale of the furniture, equipment and other properties shall be allocated first to the Landlord's cost of so entering and re-letting, then to interest on amounts due by the Tenant to the Landlord hereunder and unpaid, and then to the payment of such unpaid sums. The balance of such rent and proceeds, if any, may be applied by the Landlord on account of the rent due hereunder to the Landlord.

Section 16.04 Forfeiture

The Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event the Tenant shall be evicted or dispossessed from the Premises for any cause, statutory or otherwise, or if the Landlord re-enters the Premises following the occurrence of any default by the Tenant hereunder, or if this Agreement is terminated before the expiration date thereof originally fixed herein.

Section 16.05 Remedies Generally

Mention in this Agreement of any particular right or remedy of the Landlord in respect of the default by the Tenant shall not preclude the Landlord from any other right or remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No right or remedy shall be exclusive or dependent upon any one or more of such rights or remedies independently or in combination, such rights or remedies being cumulative and not alternative. Whenever the Tenant seeks a remedy in order to enforce the observance or performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed or performed, the Tenant's only remedy (except where another remedy is expressly provided herein, in which event the Tenant shall be restricted to that remedy) shall be for such damages as the Tenant shall be able to prove in a court of competent jurisdiction that the Tenant has suffered as a result of a breach (if established) by the Landlord in the observance and performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed and performed. The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Landlord and the

Tenant created hereby, the Tenant's use or occupancy of the Premises or any claim for any injury. In the event of any breach or threatened breach by the Tenant of any of the terms and provisions of this Agreement, the Landlord shall have the right to injunctive relief as if no other remedies were provided herein for such breach. The Tenant hereby expressly waives any right to assert a defence based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein shall bar the Landlord from bringing any subsequent action or proceeding from time to time. If the Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Agreement, whether by a renewal or extension option herein contained or by separate agreement, the Landlord may cancel such option or agreement for renewal or extension of this Agreement, upon written notice to the Tenant.

Section 16.06 Expenses

If any legal proceeding is brought for recovery of possession of the Premises, for the recovery of rent or because of the breach of any other terms, covenants or conditions herein contained on the part of the Tenant to be kept or performed, the Tenant shall pay to the Landlord as additional rent, upon demand, all costs and expenses incurred therefor (including without limitation, all professional and consultant fees, and all legal fees on a solicitor and his own client basis, disbursements, and all court costs and expenses of any legal proceeding; and the term "proceeding" shall include, without limitation, any arbitration, administrative, governmental, quasi-governmental or any other mediation proceeding and the term "costs" shall include the pro-rata portion of the wages, salaries and all other remuneration of the Landlord's officers and employees reasonably attributed to the matter).

Without limiting the generality of the immediately preceding paragraph or any other provisions of this Agreement, the Tenant shall pay to the Landlord, as additional rent upon demand, all costs and expenses (including, without limitation, those fees, disbursements, costs and expenses set out in the bracketed insert in the immediately preceding paragraph of this Section 16.06) which the Landlord may incur or pay out by reason of, or in connection with:

- (a) any proceeding by the Landlord to terminate this Agreement or for the recovery of possession of the Premises or for the recovery of rent;
- (b) any other proceeding by the Landlord against the Tenant;
- (c) any distress levied by the Landlord against the Tenant's goods, chattels and inventory or any of them on the Premises for the recovery of rent;
- (d) any default by the Tenant in the observance or performance of any obligations of the Tenant under this Agreement whether or not the Landlord commences any proceeding against the Tenant or any indemnitor;
- (e) any proceeding brought by the Tenant against the Landlord (or any officer, employee or agent of the Landlord) in which the Tenant fails to secure a final judgment against the Landlord;

- (f) any other appearance by the Landlord or Landlord's Personnel as a witness or otherwise in any proceeding whatsoever involving or affecting the Landlord, the Tenant, this Agreement, the indemnity agreement (if any) or the Premises;
- (g) any amendment, modification or change in any of the terms of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such amendment, modification or change is finally agreed on);
- (h) any renewal, extension, surrender, or release of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such renewal, extension, surrender or release becomes effective);
- (i) any transfer of this Agreement (and any request or negotiations pertaining thereto, whether or not such transfer is approved and finally agreed on); and
- (j) any Alterations of or to the Premises (and any request or negotiations pertaining thereto, whether or not such Alterations are approved and finally agreed on).

The Tenant's obligations under this Section 16.06 shall survive the expiration or earlier termination of this Agreement.

Section 16.07 Landlord May Remedy Tenant's Default

If the Tenant fails to pay, when due, any amount required to be paid by the Tenant pursuant to this Agreement, the Landlord, after giving ten (10) days' notice in writing to the Tenant, may, but shall not be obligated to, pay all or any part of it. If the Tenant is in default in the performance of any of its covenants or obligations hereunder (other than the payment of rent required to be paid by the Tenant pursuant to this Agreement), the Landlord may from time to time after giving such notice as it considers sufficient (or without notice in the case of an emergency) having regard to the circumstances applicable, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including, without limitation, entering upon the Premises and doing such things upon or in respect of the Premises or any part thereof as the Landlord considers requisite or necessary. All expenses incurred and expenditures attributable to or made (including all employee, overhead and other internal costs) pursuant to this Section 16.07, shall be paid by the Tenant to the Landlord as additional rent upon demand. The Landlord shall have no liability to the Tenant or any other person for any claims resulting from any such action, entry or performance of any work by the Landlord upon the Premises.

ARTICLE 17 END OF LEASE

Section 17.01 Vacant Possession

Upon termination of the Term, whether by the passage of time or otherwise, the Tenant shall deliver up vacant possession of the Premises and shall leave the Premises in a sanitary, neat, tidy, safe and empty condition free from all nuisance, debris, rubbish and stock-in-trade and shall ensure that the Premises are to the standard of repair and decoration required of the Tenant pursuant to Article 7 hereof.

Section 17.02 Trade Fixtures and Ownership

- (a) If the Tenant is not in default hereunder at the expiration of the Term, the Tenant shall have the right to remove its trade fixtures from the Premises but shall make good any damage caused to the Premises resulting from the installation or removal thereof.
- (b) If the Tenant fails to remove any of its trade fixtures and restore the Premises as provided in Section 17.02(a), all such trade fixtures shall become the property of the Landlord except to the extent that the Landlord requires removal thereof pursuant to Section 17.02(d).
- (c) If the Tenant abandons the Premises or this Agreement is terminated before the proper expiration of the Term due to a default on the part of the Tenant, as of the moment of such default by the Tenant, all trade fixtures and furnishings of the Tenant (whether or not attached in any manner to the Premises) shall, except to the extent the Landlord requires the removal thereof pursuant to Section 17.02(d) become and be deemed to be the property of the Landlord, without compensation to the Tenant but without prejudice to any other right or remedy of the Landlord at law or in equity.
- (d) Notwithstanding that any trade fixture is or may become the property of the Landlord, the Tenant shall forthwith remove all or part of the same and shall make good any damage caused to the Premises resulting from the installation or removal thereof, all at the Tenant's expense, should the Landlord so require by notice to the Tenant.
- (e) If the Tenant, after receipt of a notice from the Landlord pursuant to Section 17.02(d), fails to promptly remove any trade fixture in accordance with such notice, the Landlord may enter into the Premises and remove therefrom all or part of such trade fixture and make good any damage caused to the Premises resulting from the installation or removal thereof, without any liability accruing against the Landlord and at the expense of the Tenant, which expense shall forthwith be paid by the Tenant to the Landlord.

Section 17.03 Overholding

If the Tenant continues to occupy the Premises after the expiration of the Term, and the Landlord shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one month's prior notice in writing.

ARTICLE 18 ACCESS TO PREMISES

Section 18.01 Landlord's Access to Premises For Showings/Inspection

The Landlord or Landlord's Personnel shall have the right to enter the Premises at any reasonable time (and upon twenty-four (24) hours prior written notice to the Tenant) to examine them or to show them to prospective purchasers, tenants or mortgagees, and to enter the Premises at such other times as mutually agreed between the Landlord and the Tenant (or on reasonable prior notice) to make such repairs as the Landlord may deem

necessary or desirable and the Landlord will be allowed to take all required material into and upon the Premises without such entry constituting an eviction of the Tenant in whole or in part nor a breach of the Landlord's obligations. Whenever the Landlord enters the Premises, it shall take reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 18.02 Landlord's Access to Records

The Landlord may at any reasonable time and upon twenty-four (24) hours written notice to the Tenant enter (or permit governmental authorities to enter) the Premises or any other office of the Tenant's for the purpose of ensuring the Tenant's compliance with this Agreement, including without limitation, by auditing the Tenant's environmental records and by conducting soil, water and other tests, provided that the Landlord takes reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 18.03 "For Lease/Sale" Signs

During the six (6) months prior to the expiration of the Term, the Landlord may place upon the Premises the usual notices "For Lease" or "For Sale" and the Tenant will permit the notices to remain without interference or interruption. The Landlord may at any time within six (6) months before the end of the Term enter the Premises and bring others at all reasonable hours for the purposes of showing the Premises to prospective tenants or purchasers.

Section 18.04 Emergency Access

If and when for any reason an emergency will exist or be contemplated, the Landlord or its agents may enter the Premises by a master key, or may forcibly enter them, provided reasonable care is exercised, without rendering the Landlord or such agent liable, and without in any manner affecting the Tenant's obligations under this Agreement. However, despite the above, the Landlord has no obligation, responsibility or liability, for the care, maintenance or repair of the Premises except as otherwise specifically provided.

ARTICLE 19 OPTIONS TO RENEW

Section 19.01 First Option to Renew

If:

- (a) the Tenant pays the rent as and when due and punctually observes and performs the terms, covenants and conditions to be observed and performed by it in accordance with the terms of this Agreement;
- (b) the Landlord is satisfied, in its discretion, that the Tenant has the financial and organizational capacity to operate, maintain and program the Premises in accordance with the terms of this Agreement and the Public Service Requirements for the First Renewal Term; and

- (c) the Tenant gives the Landlord not less than six (6) months and not more than twelve (12) months written notice prior to the expiration of the Term of the Tenant's exercise of this option to renew,

then the Landlord shall grant to the Tenant a renewal lease upon the expiration of the Term for a period of five (5) years (the **"First Renewal Term"**) on the same terms and conditions as set out in this Agreement except that:

- (d) all references to "Term" will be deemed to be references to the First Renewal Term, as applicable;
- (e) the Landlord shall have no obligation to pay or provide to the Tenant any allowance, concession or inducement of any nature, or provide any free rent or discounted rent of any nature, or provide any fixturing period, or do or perform any Landlord's work, in, on, to or for the Premises; and
- (f) there shall be only one (1) further right to renew,

and by written notice, the Landlord may confirm the renewal lease for the First Renewal Term; provided that such notice by the Landlord is not a requirement to the valid exercise by the Tenant of such option to renew.

Section 19.02 Second Option to Renew

If:

- (a) the Tenant pays the rent as and when due and punctually observes and performs the terms, covenants and conditions to be observed and performed by it in accordance with the terms of this Agreement;
- (b) the Landlord is satisfied, in its discretion, that the Tenant has the financial and organizational capacity to operate, maintain and program the Premises in accordance with the terms of this Agreement and the Public Service Requirements for the Second Renewal Term; and
- (c) the Tenant gives the Landlord not less than six (6) months and not more than twelve (12) months written notice prior to the expiration of the Term of the Tenant's exercise of this option to renew;

then the Landlord shall grant to the Tenant a renewal lease upon the expiration of the First Renewal Term for a period of five (5) years (the **"Second Renewal Term"**) on the same terms and conditions as set out in this Agreement except that:

- (d) all references to "Term" will be deemed to be references to the Second Renewal Term, as applicable;
- (e) the Landlord shall have no obligation to pay or provide to the Tenant any allowance, concession or inducement of any nature, or provide any free rent or discounted rent of any nature, or provide any fixturing period, or do or perform any Landlord's work, in, on, to or for the Premises; and

(f) there shall be no further rights to renew,

and by written notice, the Landlord may confirm the renewal lease for the Second Renewal Term; provided that such notice by the Landlord is not a requirement to the valid exercise by the Tenant of such option to renew.

ARTICLE 20 TRANSFER OF LANDLORD'S INTEREST

Section 20.01 Landlord Released

In the event of the sale or lease by the Landlord of the Premises or the assignment by the Landlord of its interest in this Agreement, the Landlord will without further written agreement be released and relieved of and from such liabilities and obligations.

Section 20.02 Tenant's Covenant

The Landlord may sell, transfer or otherwise dispose of the Premises, or any portion thereof, to any party and upon the conveyance to such party of the Premises or any portion thereof, the Tenant will attorn to and become the Tenant of such party under the terms of this Agreement and the Tenant will provide such party with an acknowledgment in writing binding upon the Tenant that it will perform the obligations and satisfy the liabilities of the Tenant.

Section 20.03 Status Statement

The Tenant will provide within ten (10) days of the request of the Landlord a status statement for the Landlord, addressed to the Landlord and any potential buyer or mortgagee, binding upon the Tenant, confirming:

- (a) that the Tenant has accepted possession of the Premises;
- (b) whether or not the Landlord has carried out all of its obligations pursuant to this Agreement;
- (c) that this Agreement constitutes the whole of the agreement between the parties (or setting out such other agreements);
- (d) that this Agreement is in full force and effect and that there are no defences or set offs which the Tenant claims against the Landlord (or setting out any such claims); and
- (e) such other matters as may be reasonably required by the Landlord or any potential or actual purchaser of the Premises.

ARTICLE 21 TENANT'S COVENANTS

Section 21.01 Performance of Obligations

The Tenant covenants with the Landlord to faithfully and promptly pay the rent and perform and observe its obligations herein.

Section 21.02 No Registration of Lease

The Landlord is not obligated to deliver this Agreement in registrable form. The Tenant shall not register this Agreement in the Land Title Office.

Section 21.03 Compliance with Head Lease

[NTD: this section may be included if this is a Sublease or Sub-sublease. "Head Lease" will need to be described in the Recitals and defined, and specific rights and/or obligations may need to be incorporated elsewhere in this document as appropriate]

The Tenant acknowledges having received and read a copy of the Head Lease and covenants and agrees with the Landlord:

- (a) not to do or omit to do any act in or around the Premises that would cause a breach of the Landlord's obligations as tenant under the Head Lease;
- (b) to be bound by the terms of the Head Lease in each case as they relate to the Premises; and
- (c) that it has no greater interest in the Premises than the Landlord as tenant under the Head Lease, and to the extent that any right or benefit conferred by this Sublease contravenes or is incompatible with the Head Lease, such right or benefit will be amended or modified so as not to contravene or be incompatible with the Head Lease.

ARTICLE 22 GENERAL PROVISIONS

Section 22.01 Delivery of Notices

Any notice required to be given hereunder must be in writing and the sender must deliver it by hand, by fax, by email or by mail to the party to which it is to be given, as follows:

- (a) to the Tenant:

Attention: _____
Fax: _____
Email: _____

and

- (b) to the Landlord:

City of Vancouver
c/o Director of Real Estate Services
453 West 12th Avenue

Vancouver, British Columbia
V5Y 1V4

Attention: Non-Profit Negotiator
Fax: 604-873-7064
Email: _____

or to such other address, email address or fax number as the party may designate and will be deemed to have been received on the day of delivery, emailing or faxing if within business hours on a business day and otherwise on the next succeeding business day and, if mailed, the fifth (5th) day after mailing, provided that if there is between the time of mailing and the actual receipt of the notice a mail strike, slow-down or other labour dispute which might affect delivery of such notice then such notice shall only be effective if actually delivered.

Section 22.02 Administration of Agreement

Where this Agreement requires or permits on the part of the Landlord any authority, reservation, discretion, disallowance, approval or other act of supervision or the giving of any notice, such act or action shall be well and truly performed on the part of the Landlord when performed by the Landlord's Director of Real Estate Services or his or her nominee.

Section 22.03 Covenants Survive Termination

The covenants herein on the part of the Landlord and the Tenant which, as of termination of this Agreement or the Term whether by passage of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary.

Section 22.04 Quiet Enjoyment

Subject to the provisions of this Agreement and subject to the provision that nothing contained or implied herein shall prejudice or affect the Landlord's rights and powers in the exercise of its functions pursuant to the Vancouver Charter and the rights and powers of the Landlord under all of its public and private statutes, by-laws and regulations, all of which may be as fully and effectively exercised in relation to the Premises as if this Agreement had not been executed and delivered by the Landlord and the Tenant, the Landlord covenants with the Tenant for quiet enjoyment.

Section 22.05 Time is of the Essence

Time shall be of the essence of this Agreement, save as herein otherwise specified.

Section 22.06 Joint and Several

Any covenant, agreement, condition or proviso made by two or more persons shall be construed as several as well as joint.

Section 22.07 Waiver

No waiver of or neglect to enforce this Agreement upon a default by the Tenant will be deemed to be a waiver of any such right upon any subsequent similar default. Without limiting the generality of this Section 22.07, the acceptance by the Landlord of part payment of any sums, including rent, required to be paid under this Agreement will not constitute a waiver or release of the Landlord's right to payment in full of such sums.

Section 22.08 Entire Agreement

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, terms or conditions expressed or implied relating to this Agreement or the Premises except as expressly set out in this Agreement, and that this Agreement may not be modified except by an agreement in writing executed by both the Landlord and the Tenant.

Section 22.09 Severability

If any provision or provisions of this Agreement are determined by a court to be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and the remaining provisions of this Agreement shall remain in full force and be binding upon the parties.

Section 22.10 Relationship between Landlord and Tenant

Nothing contained in this Agreement nor any acts of the Landlord or the Tenant will be deemed to create any relationship between the Landlord and the Tenant other than the relationship of landlord and tenant.

Except for the purpose of acknowledging the financial or in-kind support provided by the City of Vancouver to its organization, the Tenant shall not promote its relationship with the Landlord in any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials in a manner which could suggest or create an association, express or implied, between the Tenant and the Landlord without the express prior written consent of the Landlord, which may be arbitrarily withheld.

Section 22.11 Force Majeure

Despite anything contained in this Agreement to the contrary, if the Landlord or the Tenant is, in good faith, delayed or prevented from doing anything required by this Agreement because of a strike, labour trouble, inability to get materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or any other similar reason, that is not the fault of the party delayed or of its officers, employees or agents, the doing of the thing is excused for the period of the delay and the party delayed will promptly do what was delayed or prevented within the appropriate period after the delay. The preceding sentence does not excuse the Tenant from payment of rent or the Landlord from payment of amounts, if any, that it is required to pay, in the amounts and at the time specified in this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF VANCOUVER

by its authorized signatory:

Signature

Print Name and Title

[INSERT TENANT'S NAME]

by its authorized signatories:

Signature

Print Name and Title

Signature

Print Name and Title

Approved by resolution of Vancouver City Council on _____, 20__.

This is the signature page of a Lease between the City of Vancouver, as Landlord, and **[INSERT TENANT'S NAME]**, as Tenant, concerning **[INSERT ADDRESS AND NAME OF FACILITY]** (the Premises).

SCHEDULE A
PLAN OF PREMISES

SCHEDULE B
PLAN OF ASP FACILITIES

[if applicable]

SCHEDULE C
PRIOR ENCUMBRANCES

[NTD: attach a current title search]

**SCHEDULE D
SERVICE LEVEL AGREEMENT**

[NTD: posted as a separate attachment to VanApply and [RFP website](#)]

**SCHEDULE E
PUBLIC SERVICE REQUIREMENTS**

[NTD: also posted as a separate attachment to VanApply and [RFP website](#)]

This Schedule ____ forms part of the **Agreement** made as of _____ 20__, between the City of Vancouver (the “City”) and _____ (the “Society”). A breach of the requirements of this Schedule will constitute a breach under Section ____ of the Agreement.

1. City’s Requirements:

The City requires that the Premises be used and occupied in accordance with the following:

- (a) in a manner that is consistent with the City of Vancouver’s policy objectives set out as follows in Council Report RTS _____, (approved <date> _____, 20__):

Specifically, the following public benefits must be provided by the Society in the Premises:

- (b) in a manner that is consistent with the City of Vancouver’s Spaces to Thrive Vancouver’s Social Infrastructure Strategy policy. For greater certainty, if such policy changes, the Society will be required to adapt its operation to align with such new or revised policy.
- (c) in a manner that is consistent with, and upholds the following principles to the satisfaction of the City of Vancouver’s Managing Director of Social Policy and Projects:
- i) Alignment of Programing: the Society will demonstrate that the social services provided align with current community needs and relevant City of Vancouver priorities.

- ii) Equity, Accessibility, and Inclusion: the Society's policies, professional development, and programming will aim to address community needs and be culturally responsive to those who have historically and persistently faced barriers. The Society will strive to demonstrate equity, accessibility, intersectionality and openness to people of all ages, abilities, sexual orientations, gender identities (including trans*, gender-variant, and two-spirit people), ethnicities, cultural backgrounds, religions, languages, and socio-economic conditions. Exclusion of some groups should only be considered when necessary to effectively support another group, with particular care taken to uphold the specific rights and needs of Indigenous peoples as distinct from general equity-seeking categories.
- iii) Cultural Safety, UNDRIP, Decolonization, and Anti-Racism: The Society will work towards delivering policies, professional development and programming in ways that address systemic discrimination and advance cultural safety, decolonization, and anti-racism, with a focus on x^wməθk^wəyəm (Musqueam), Skwxwú7mesh (Squamish), and səliłwəta?+/ səliłwitulh (Tsleil-Waututh) Nations, Urban Indigenous, First Nations, Métis, and Inuit communities, and in ways that address the distinct nature of Indigenous rights (see the "Distinctions Based Approach" included in the City of Vancouver's United Nations Declaration on the Rights of Indigenous Peoples Action Plan).
- iv) Financial Management: the Society will demonstrate sound financial planning and management practices to sustain current and longer-term programming and operation of the Premises.
- v) Governance: the Society will have an engaged board of directors capable of ensuring and supporting the Society's use, Mission, Vision and Mandate. The board of directors must function in a governance role, be active in setting direction, policy and long-term planning, and fulfill their legal and fiduciary responsibilities, as required under the Societies Act (British Columbia).
- vi) Use of the Premises: the Society will maximize the use of the Premises and deliver services in ways that best meet the needs of the community. The Society will make every effort to optimize the use of the Premises by permitting under-utilized space in the Premises, both during and outside of the Society's operating hours, to be used by other third parties, all in accordance with the requirements under the Agreement, so services to the community are maximized. Such third parties shall be predominantly not-for-profit and/or community-serving groups and the Society shall charge such third parties a nominal amount or an amount on a cost-recovery basis.
- vii) Alignment with the City of Vancouver's Mission and Values: the Society's use of the Premises must align with the City of Vancouver's Mission and Values, as set out below:

The City of Vancouver's Mission: to create a great city of communities that cares about its people, its environment, and its opportunities to live, work, and prosper.

The City of Vancouver's Values: being responsive to the needs of citizens and colleagues, striving for the best results, approaching work with unbiased judgement and sensitivity, being open and honest, and honouring commitments; setting examples that others will choose to follow, and being a learning organization that grows through its experiences.

The City of Vancouver is committed to A Healthy City for All – a city where everyone can create and continually improve the conditions that enable the highest level of health and well-being possible.

The foregoing principles may be amended from time to time by the City and if so amended, the City will notify the Society in writing of such amendments and will include a copy of same and the Society will abide by such amended principles as though they were originally contained herein;

(d) only for the purpose set out in Section _____ of the Agreement and specifically:

(collectively, the "City's Requirements").

2. Society's Acknowledgement, Representations and Covenants

(a) Acknowledgement: the Society acknowledges that the City has been authorized by Vancouver City Council to lease the Premises, for the public benefit, to the Society in its capacity as a non-profit public-service organization that meets the City's Requirements, and that the City has relied on the Society's representations and covenants hereinafter set out, in determining that the Society is an appropriate tenant for the Premises.

(b) Representations: the Society represents that its Mission, Vision and Mandate are as follows:

Mission:

Vision:

Mandate:

The City acknowledges that the Society's organization may evolve, expand, contract, diversify or specialize over time (for example, by offering new types of services to meet emerging community needs), and that such changes may necessitate revisions to the Society's Mission, Vision and Mandate from time to time. The Society will notify the City immediately of any such revisions, and such revisions will be permissible, PROVIDED that the Society, in the City's sole discretion, continues to be a non-profit, public-service organization, and the Society's use of the Premises continues to be a Permitted Use that meets the City's Requirements.

- (c) Covenants: throughout the Term of the Agreement, the Society covenants that it will consistently, actively and rigorously implement, promote, advance and fulfil the City's Requirements and its Mission, Vision and Mandate through its use of the Premises.

The Society will fulfill its Mission in the following way(s):

The Society will fulfill its Vision in the following ways(s):

The Society will fulfill its Mandate in the following way(s):

3. Reporting and Monitoring

The Society will report to the City about its use and operation of the Premises on an annual basis, by no later than December 31st, or as frequently as may otherwise be reasonably required by the City. Reports must be made in a form and manner that satisfy the City's reporting requirements in effect from time to time. The City will notify the Society in writing of any changes to its reporting requirements, and the Society will abide by such amended reporting requirements as though they were originally contained herein.

The City's reporting requirements will align with any applicable annual grant timelines and application materials in order to simplify the Society's reporting requirements.

The Landlord's current reporting requirements are as follows:

ANNUAL REPORTING:

- (a) the name and contact information of the key persons for the Society at the Premises;
- (b) a current list of directors and officers of the Society including their terms, positions and affiliations;
- (c) financial statements of the Society, including at a minimum a statement of income and expenses for the Premises, for the most recently available fiscal year independently prepared at the Society's expense by an accounting professional (review engagement or audit) OR financial statements, including at a minimum a statement of income and expenses for the Premises, endorsed by two signing officers of the Board of Directors, if independently prepared or audited statements are not available;
- (d) a proposed annual budget for the Premises with an estimate of all revenues and expenditures as well as a maintenance reserve sufficient to meet the Society's

obligations under the Agreement, in a form acceptable to the City, which must have first been approved by the directors of the Society;

- (e) a summary of activities for the past fiscal year demonstrating how the Society has implemented its Mission, Vision and Mandate through its use of the Premises and complied with the City's Requirements;
- (f) a summary of activities at the Premises for the past fiscal year demonstrating how the Society has complied with the Service Level Agreement requirements;
- (g) a summary of activities at the Premises planned for the coming fiscal year;
- (h) a summary (including users, dates, rental fees, and memoranda or agreements if any) of third party and community uses at the Premises and rental rates charged.
- (i) information that addresses hours of operation, community involvement, equity and accessibility, staff training, population(s) served, and governance policies.

OTHER REPORTING:

The Society must provide evidence of good standing as a not-for-profit or charity (submit a current Corporate Registry Search from BC Registry Services) every five years of the Term or Renewal Term(s).

In advance of granting any renewal of the Agreement, the City will review whether the Society has met the City's Requirements and may require additional information, including, for example, the Society's strategic plan and governance policies, or more detailed information about its programming and partnerships.

From time to time, the Society may be asked to participate in processes that contribute to measuring the impact of the City of Vancouver's social infrastructure program. This may include answering surveys, participating in focus groups, or interviews. This may also require the collection of additional information not listed in this Schedule.

4. Failure to Comply

If there is non-compliance by the Society with the requirements set out in this Schedule ____, the Landlord may, in its sole discretion:

- i. require the Society to adjust its operations to be in compliance with this Schedule ____ including without limitation, complete further training and develop new policies; and/or
- ii. terminate the Agreement in accordance with Section 2.2(b)(iii) thereof.

5. Amendments

The Society shall not make any changes to this schedule without the prior written approval of the City of Vancouver's Managing Director of Social Policy and Projects.

**SCHEDULE F
OCCASIONAL THIRD PARTY USE POLICY**

[NTD: Please note that this Schedule can be subject to substantive change or removal from the agreement depending on the tenant]

This Occasional Third Party Use Policy (the “Policy”) forms part of the Agreement made as of _____, 20____ between the CITY OF VANCOUVER, as landlord, and _____, as tenant, concerning *{insert name of facility if applicable, and address}* (the “Premises”).

[NTD: use the same terms throughout this Schedule as in the agreement - ie, Agreement/Lease/Sublease/Sub-sublease; Landlord/Sub-landlord/Sub-sublandlord; Tenant/Subtenant/Sub-subtenant; Premises/Leased Premises; etc]

1. Purpose of Policy

The purpose of this Policy is to provide for occasional use of the Premises by third parties at various times in order to generate earned revenues which will assist the Tenant in supporting its operations.

2. Amendments

This Policy shall not be amended unless the Landlord and the Tenant agree to any amendment in writing.

3. Tenant Liable for Actions of Third Parties

Without limiting anything else contained in the Agreement, the Tenant shall at all times be fully responsible for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord sustains any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord’s satisfaction and shall indemnify the Landlord for any loss it might sustain due in whole or in part to such actions.

The Tenant shall ensure that the Tenant’s insurance is adequate to protect the Tenant for the actions of third parties.

4. Use by Third Parties

Any use by third parties of all or any portion of the Premises shall:

- (a) not be a subletting but shall only be a license to use on the terms set out in the Rental Agreement (hereinafter defined);
- (b) be appropriate to and support and not detract from the Public Service Requirements; and
- (c) be no longer than sixty (60) consecutive days, except with the prior approval of the Landlord, not to be unreasonably withheld except that the Landlord may

arbitrarily withhold consent if the use is to be longer than one hundred and twenty (120) consecutive days.

5. Rental Agreement

Before the Tenant permits a third party to use all or any portion of the Premises, the Tenant shall enter into a written agreement with the third party (the “**Rental Agreement**”). The Tenant will, upon request by the Landlord, promptly provide all Rental Agreements entered into or previously entered into with respect to the Premises. At a minimum the Rental Agreement shall contain the following information and requirements:

- (a) the full and correct legal name, address, contact name and telephone number of the third party;
- (b) identification of which area(s) of the Premises is/are to be used by the third party;
- (c) the purpose for which the area(s) is/are to be used by the third party;
- (d) the amount of the fee being paid by the third party including the amount of the deposit, if any;
- (e) the duration of the Rental Agreement;
- (f) proposed additional janitorial and security arrangements if such additional arrangements seem reasonably necessary in view of the proposed use; and
- (g) an obligation on the third party to comply with all federal, provincial or civic statutes, by-laws, regulations and orders in force at the time of execution of the Rental Agreement or thereafter relating to the Premises and the third party's use of the Premises.

6. No Occupation by Third Party Until Certain Conditions Met

The Tenant shall not permit any third party to occupy all or any portion of the Premises unless:

- (a) the third party has executed the Rental Agreement; and
- (b) the third party has satisfied all the preconditions set out in the Rental Agreement.

7. Policy Part of Agreement

As this Policy forms part of the Agreement, default by the Tenant in its obligations enumerated in this Policy is default under the Agreement.

SCHEDULE G
TENANT IMPROVEMENT CHECKLIST, NOTICE TO TENANTS OF CITY OWNED BUILDINGS,
BUILDING BY-LAW “LESSEE’S UNDERTAKING FOR TENANT IMPROVEMENTS”



REAL ESTATE & FACILITIES MANAGEMENT
 Facilities Planning & Development (FPD)

Tenant Improvement Checklist (To be completed by Tenant & submitted to FPD)

PROJECT NAME & ADDRESS:

Pre-approval Phase (items required prior to City issue of Owner's Undertaking)	
<input type="checkbox"/>	Received and reviewed "City of Vancouver: Notice to Tenants of City Owned Buildings"
<input type="checkbox"/>	Submitted all design drawings of proposed tenant improvements including but not limited to architectural/interior design as required of the City of Vancouver development permit review branch, for review and approval, to City of Vancouver Facilities Planning and Development (FPD) prior to submission for development permit.
<input type="checkbox"/>	Submitted all drawings of proposed tenant improvements including but not limited to architectural/interior design, structural, mechanical and electrical to show new and changes/alterations to building systems such as HVAC, plumbing, fire protection sprinkler system, and power, for review and approval, to FPD prior to submission for building permit.
<input type="checkbox"/>	Submitted construction details for building envelope work including penetrations through the roof and exterior walls to FPD for review prior to submission for building permit.
<input type="checkbox"/>	Submitted Schedule E-3, Building By-law "Lessee's Undertaking for Tenant Improvements" to FPD. (required prior to City's issue of Schedule E-2, Building By-law "Owner's Undertaking for Tenant Improvements")
<input type="checkbox"/>	Completed and submitted the attached TI Contact List to FPD, and notably to include name of the "Prime Contractor" responsible for construction safety, and the "Field Safety Representative" (FSR) as required of the BC Safety Authority for electrical safety when contact information is available. Provide updated list as required.
Pre-construction Phase (items required prior to Construction)	
<input type="checkbox"/>	Received Tenant Improvement (TI) Review Letter from City of Vancouver Facilities Planning and Development to proceed with development permit application and/or building permit application for construction.
<input type="checkbox"/>	Submitted drawings/documents on any changes to scope of work not outlined in the TI Review Letter to FPD for approval.
<input type="checkbox"/>	Obtained building permit from the City Building Review Branch prior to construction.
<input type="checkbox"/>	Received and reviewed hazardous materials reports, if applicable, from City of Vancouver Environmental Services (attached to TI Review Letter).
<input type="checkbox"/>	If hazardous materials are present in the project area, retained the services of an environmental consultant and/or hazardous material abatement contractor from the approved lists provided by the City of Vancouver Environmental Services to perform the abatement work. Submitted names to FPD.
<input type="checkbox"/>	For hazardous materials on site, received approval of WorkSafeBC procedures from City of Vancouver Environmental Services prior to commencing construction.
<input type="checkbox"/>	Submitted a copy of the construction schedule to FPD.
Construction Phase	
<input type="checkbox"/>	Submitted a letter, signed by the General Contractor or other party responsible to be the "Prime Contractor" for the project, declaring qualifications and responsibility for construction safety.
<input type="checkbox"/>	Submitted copies of letters of assurance from certified registered professionals as required of the City of Vancouver Building Review Branch to FPD.
<input type="checkbox"/>	Submitted a copy of the Building Permit and all trade (including electrical and plumbing) permits to FPD.
<input type="checkbox"/>	Submitted a copy of the fire alarm verification report if applicable to FPD.
<input type="checkbox"/>	Submitted a copy of the Occupancy Permit to FPD.
Post-Construction Phase	
<input type="checkbox"/>	Submitted record drawings of as-builts in the form of a CAD file and pdf to FPD.

453 West 12th Avenue, Vancouver, British Columbia V5Y 1V4 Canada
 tel: 3-1-1, Outside Vancouver 604.873.7000 fax: 604.873.7419
 website: vancouver.ca

Update_22-Aug-17



REAL ESTATE & FACILITIES MANAGEMENT
Facilities Planning & Development

Tenant Improvement Contact List

PROJECT NAME & ADDRESS:

Name & Organization			
Lessee (tenant)		Address	
		Tel/Cell	
		Email	
"Prime Contractor" (as defined in BC Workers Compensation Act)		Address	
		Tel/Cell	
		Email	
General Contractor		Address	
		Tel/Cell	
		Email	
Field Safety Representative (as defined by the BC Safety Authority)		Address	
		Tel/Cell	
		Email	
Architect/Design Professional		Address	
		Tel/Cell	
		Email	

TI Review Contact List_Issued 07-21-17.docx

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4 Canada
tel: 3-1-1, Outside Vancouver 604.873.7000 fax: 604.873.7419
website: vancouver.ca



PROJECT NAME & ADDRESS:

	Name & Organization	
Coordinating Certified Professional (as defined in the Vancouver Building By-law)		Address
		Tel/Cell
		Email
Structural Engineer		Address
		Tel/Cell
		Email
Mechanical Engineer		Address
		Tel/Cell
		Email
Electrical Engineer		Address
		Tel/Cell
		Email
Building Envelope Consultant		Address
		Tel/Cell
		Email
Other		Address
		Tel/Cell
		Email



23 June 2015

NOTICE TO TENANTS OF CITY OWNED BUILDINGS

FROM: City of Vancouver Real Estate and Facilities Management Department

SUBJECT: Tenant Improvements and Hazardous Material in City of Vancouver Buildings

As a tenant in a building owned by the City of Vancouver acting as landlord (the "City"), we understand that from time to time you may want to make minor or major alterations to your leased premises.

Please be advised that unless otherwise set out in your lease, *any* proposed alteration that will disturb, remove, cover, attach to, or penetrate existing finishes or assemblies is required to be reviewed and approved *in advance* by the City. This requirement applies to modifications or repairs on any scale, even those that do not require regulatory approval, such as a development, building, or trade permits. Such work may include the installation of fixed millwork or shelving, flooring application, fixture replacement, removal of any fixed elements, or any cosmetic work involving sanding or scraping.

Some City-owned buildings contain hazardous materials (e.g., asbestos, lead-based coatings, silica) and while these materials in finishes or assemblies pose little risk when they are not disturbed, they create a risk to you and your space and a compliance issue with WorkSafeBC if they are disturbed.

If you are planning to make alterations on any scale, please submit a written request describing the scope of work to the City via your City contact, who will review the affected areas with the City's Hazardous Materials Team ("HMT"). The HMT will confirm whether any hazardous materials are present.

If hazardous materials are present in the area(s) of work and you wish to proceed with the work, you will be required to abate these materials in order to proceed with tenant improvement work, in accordance with the terms and conditions attached as Appendix A. Again, these requirements apply even for work that does not require formal regulatory approval (for example, in the form of a development, building, demolition or trade permits).

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4 Canada
tel: 3-1-1, Outside Vancouver 604.873.7000 fax: n/a
website: vancouver.ca



Work that does require formal regulatory approval will also require an Owner's Undertaking to be completed by the City as a condition of permit application. You are required to submit full drawings and specifications for the proposed work to your City contact for review in advance of your permit submission and allow for the City to review and approve the work prior to release of the Owner's Undertaking letter.

Please note that for all tenant improvement work that you undertake, you are an "owner" as defined under the British Columbia *Workers' Compensation Act*. You are strongly advised to designate, in writing, that your (general) contractor is the "prime contractor" for the improvement work to protect yourself and the Landlord.

Please do not hesitate to contact your City contact if you have any questions about the contents of this letter.

**APPENDIX A
REQUIREMENTS WHERE HAZARDOUS MATERIALS ARE PRESENT**

If hazardous materials are found present in the area of work for any proposed alterations, the Tenant must abate the hazardous materials on the following terms and conditions:

- work begins after assessment, specification review and approval from the HMT;
- the full cost of the abatement work must be covered by the Tenant;
- the Tenant (or their prime contractor) is responsible to submit a Notice of Project to WorkSafeBC with a copy to their City contact;
- the abatement work must be performed by a qualified abatement contractor selected by the Tenant from the City's list of qualified hazardous materials contractors following specifications reviewed and approved by the HMT;
- the abatement work must be monitored by a qualified consultant selected by the Tenant from the City's list of pre-qualified hazardous materials consultants;
- the Tenant must advise their City contact in advance of dates when abatement work is scheduled to commence and to be completed; and
- the Tenant must submit to the HMT a copy of all assessment, abatement, inspection and clearance reports.

SCHEDULE E-3

Note: To be submitted with the application for a Building Permit



**BUILDING BY-LAW
"LESSEE'S UNDERTAKING FOR TENANT
IMPROVEMENTS"**

The Chief Building Official
City of Vancouver
453 West 12th Avenue
Vancouver, B.C.
V5Y 1V4

Date (Month Day Year)

Dear Sir:

RE: Property Address _____
Building Permit Application No. _____

In consideration of the City accepting and processing the above application for a building permit, and as required by the Building By-law, the following representations, warranties and indemnities are given to the City.

1. (a) If an individual is the lessee:
() That I am the lessee of the above property, or
(b) If a corporation is the lessee of the property,
() That _____ is the lessee of the above property.
(Name of Corporation)
2. The lessee will comply with, and cause those employed for this project to comply with all applicable by-laws of the City of Vancouver and other statutes and regulations in force in the City of Vancouver relating to the development, work, undertaking or permission in respect of which this application is made.
3. The lessee fully understands the requirements herein, and acknowledges full responsibility for carrying out the work, or gives assurance that the work be carried out, in accordance with all by-laws governing the construction of the building. The lessee understands and acknowledges that the issuance of any permit, including an Occupancy Permit, or the inspection or approval or passage of work by the City is not a representation or warranty that any by-law has been complied with and the Lessee remains responsible at all times to assure compliance. The lessee has read and understands Article 1.3.2.1. and Article 1.4.1.5. of Division C Book I and Book II of the Building By-law which are set out on the reverse side hereof.
4. The lessee hereby agrees to indemnify and save harmless the City of Vancouver and its employees from all claims, liability, judgments, costs and expenses of every kind including negligence which may result from the failure to comply fully with all by-laws, statutes and regulations relating to any work or undertaking in respect of which this application is made.
5. Where used herein the words "work" or "undertaking" in respect of which this application is made, the lessee understands this to include all electrical, plumbing, mechanical, gas and other works necessary to complete the contemplated construction.

Building Permit Application No. _____

1. Where lessee is an individual:
- Lessee's Signature _____
- Lessee's Name _____ (PRINT)
- Signed and delivered in the presence of:
- Witness's Signature _____
- Witness's Name _____ (PRINT)
- Witness's Address _____

2. Where lessee is a corporation: Signed, sealed and delivered in the presence of:
- | | |
|---------------------------------|---------------------------|
| Name of Corporation _____ | Witness's Signature _____ |
| Per: Authorized Signatory _____ | Witness's Name _____ |
| Name _____ | (PRINT) |
| (PRINT) | Witness's Address _____ |

1) This By-Law sets standards in the general public interest. It is enacted and retained on the understanding and specifically expressed condition that it creates no duty whatsoever on the city, the Chief Building Official or any employee of the city to enforce its provisions, and on the further condition that a failure to administer or enforce its provisions, or the incomplete or inadequate administration or enforcement of its provisions, shall not give rise to a cause of action in favour of any person whatsoever. The issuance of any permit, including an occupancy permit, is not a representation, warranty or statement that this By-Law or any other enactment has been complied with, and the issuance thereof in error shall not give rise to a cause of action. Accordingly, words in this By-law defining the responsibilities and authority of the Chief Building Official shall be construed as internal administrative directions which do not create a duty.

- 1) The owner shall comply with this By-law and all other applicable enactments.
- 2) The owner shall ensure that all work, construction, or occupancy is carried out in accordance with this By-law and all other applicable enactments.
- 3) The owner shall ensure that the occupancy of a building or part of a building complies with the occupancy permit.
- 4) The issuance of a permit, the acceptance of plans and supporting documents submitted for a permit, or the making of inspections by the Chief Building Official shall not relieve the owner of a building from the full responsibility for carrying out the work or having the work carried out in accordance with this By-law and all other applicable enactments.