

LEASE AGREEMENT – AIRPORT LANDS

THIS AGREEMENT dated for reference the ____ day of _____, 2016 is

BETWEEN:

CITY OF KELOWNA, 1435 Water Street, Kelowna, B.C. V1Y 1J4

(the “City”)

AND:

E & D AIRCRAFT SERVICES LTD., doing business as Okanagan Aero Engine, #1 – 5550 Aerospace Drive, Kelowna, B.C., V1V 1S1

(the “Tenant”)

WHEREAS:

- A. The City is the registered owner in fee simple of that parcel of land located at 5550 Aerospace Drive, Kelowna, B.C., V1V 1S1, legally described as:
- That part of Lot 18, Section 14, Township 23 and of District Lot 32, Osoyoos Division Yale District, Plan 1502 Except Plans H16596, KAP59550, KAP73205 and KAP84475 (the “Lands”);
- B. The City has agreed to lease to the Tenant that portion of the Lands having an area of approximately 2,620.085 square metres (the “Premises”), shown outlined in heavy black on the reference plan prepared by Runnalls Denby, B.C.L.S. and dated August 7, 2015, a reduced copy of which is attached as Schedule A, on the terms and conditions of this Agreement;
- C. In accordance with section 26 of the *Community Charter*, the City has posted and published notice of its intention to lease the Premises to the Tenant;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the rents, covenants, and agreements to be paid, observed, and performed by the Tenant, and other good and valuable consideration (the receipt and sufficiency of which are hereby expressly acknowledged) the City and the Tenant covenant and agree as follows:

Lease

1. The City leases the Premises to the Tenant for the Term, and the Tenant leases the Premises from the City for the Term, on and subject to the terms and conditions of this Agreement.

Term

2. The term of this Agreement (the "Term") shall commence on the date this Agreement is fully executed by the parties (the "Commencement Date") and shall expire on August 31, 2031.

Renewal

3. If the Tenant wishes to renew this Agreement, the Tenant may, by providing notice to the City no less than ninety (90) days before the end of the Term, request a renewal of this Agreement. If, upon receiving such request, the City wishes, in its sole discretion, to grant the requested renewal, the City shall provide notice of renewal to the Tenant and upon giving such notice this Agreement shall be renewed, on the same terms and conditions (excluding this renewal provision), for a further term of 1 year.

Rent

4. As required by City of Kelowna Airport Fees Bylaw No. 7982 (the "Bylaw"), the City has obtained an independent appraisal for the Premises, which appraisal has determined the rental rate for the initial year of the Term at \$0.371309 per square foot (\$10,511.41 per annum) (the "Rent"). The Tenant shall pay the Rent, including annual increases pursuant to the Bylaw, to the City in monthly instalments, payable on the first day of each month of the Term. The Rent does not include Goods and Services Tax ("GST") or any similar or replacement tax.

Purposes

5. The Tenant shall only use and occupy the Premises for aviation purposes and for no other purpose whatsoever.

Tenant's Covenants

6. The Tenant covenants and agrees with the City:
 - (a) to promptly pay when due, Rent and any other amounts required to be paid by it under this Agreement;
 - (b) no to do, suffer, or permit anything in, on, or from the Premises that may be or become a nuisance or annoyance to other occupiers or users of the Lands, or to the owners, occupiers, or users of other land or premises adjacent to or near the Premises, or to the public, including the accumulation of rubbish or unused personal property of any kind;
 - (c) not to do, suffer, or permit any act or neglect that may in any manner directly or indirectly cause injury to the Premises or to the Lands, and not to commit or permit waste to the Premises or to the Lands;

- (d) to keep and maintain the Premises, and all improvements constructed thereon, in a safe, tidy, and sanitary condition;
- (e) to take all reasonable precautions to ensure the safety of all persons using the Premises;
- (f) to keep the Premises free of any rubbish, litter, and debris and keep the areas adjacent to the Premises free of any rubbish, litter, and debris originating from the Premises;
- (g) not to construct, erect, place, install, or permit, on the outside of any building or structure or other exterior area of the Premises, any poster, advertising sign or display, electrical or otherwise, without first obtaining the written consent of the City;
- (h) to pay to the City all GST (or replacement tax) payable in respect of this Agreement;
- (i) to pay all costs and expenses of any kind whatsoever associated with and payable in respect of the Premises, the Tenant's improvements and trade fixtures, and all equipment, furniture and other personal property brought onto the Premises by the Tenant and any business or activity conducted on or from the Premises, including without limitation, all taxes (including property taxes), levies, charges and assessments, permit and license fees, strata fees and levies, repair and maintenance costs, administration and service fees, telephone, electrical, gas, water, sewage disposal and other utility charges and payments for work and materials;
- (j) to carry on and conduct its activities in, on, and from the Premises in compliance with any and all laws, statutes, enactments, bylaws, regulations, and orders from time to time in force, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on, or from the Premises in contravention thereof;
- (k) to promptly cause to be discharged any builder's lien which may be filed against the title to the Lands, and to comply at all times with the *Builders Lien Act* (British Columbia) in respect of any improvements, work, or other activities undertaken in, on, or to the Premises.

Net Lease

7. Without limiting any other provisions in this Agreement, the Tenant agrees that the lease granted herein is absolutely carefree net to the City, and the Tenant must promptly pay when due on its own account and without any variation, set-off, or deduction, all amounts, charges, costs, duties, expenses, fees, levies, rates, sums, taxes, and increases in any way relating to the Premises, including all penalties and interest thereon, whether or not referred to in this Agreement and, to the extent that any such amounts remain unpaid

after they come due, the City may pay such amounts on behalf of the Tenant and the amounts so paid by the City shall be immediately due from the Tenant to the City. Without limiting the foregoing, the City shall have no obligations whatsoever to the Tenant concerning the Premises except for the City's express obligations under this Agreement.

Quiet Possession

8. The City shall permit the Tenant, so long as the Tenant is not in default of the Tenant's obligations under this Agreement, to peaceably possess and enjoy the Premises for the Term, without interference or disturbance from the City or those claiming by, from or under the City, except for the City's express rights under this Agreement to enter upon and use the Premises or to permit others to do so.

Security

9. The City shall have no responsibility whatsoever for the security of the Premises or the Tenant's property on the Premises, the sole responsibility for which rests with the Tenant, and the Tenant hereby releases the City from all claims, actions, damages, liabilities, losses, costs, and expenses whatsoever as may be suffered by the Tenant arising from or related to any lack of security at the Premises.

City Consent for New Improvements and Alterations

10. The Tenant shall not make any improvements or alterations to the Premises without the prior written consent of the City, which consent may be withheld in the sole discretion of the City.

Construction of Improvements

11. Prior to the commencement of any development on the Premises and as soon as is reasonably practical after the Commencement Date, the Tenant will:
 - (a) apply to the City of Kelowna for all permits necessary to construct the improvements listed in the letter dated January 12, 2015 and attached as Schedule B (the "Improvements"); and
 - (b) deliver to the City drawings, elevations (where applicable), specifications (including the materials to be used), location on the Premises, and exterior decoration and design of the Improvements for the City's consent and approval pursuant to section 10, which drawings and specifications, if required by the City, shall be prepared by and under seal of an appropriately qualified professional engineer or registered architect acceptable to the City.

Upon receipt of all necessary permits pursuant to (a) and written consent from the City pursuant to (b), the Tenant shall construct the Improvements expeditiously and in a good and workmanlike manner and in substantial accordance with the drawings, elevations, specifications (including materials to be used), location on the Premises, and exterior

decoration and design upon which issuance of the necessary permits and approvals are based.

Deadlines for Commencement and Completion of Construction

12. The Tenant covenants and agrees with the City that, subject always to section 10, the Tenant shall substantially complete the Improvements in accordance with the requirements of section 11 on or before April 30, 2017.
13. For the purposes of section 11(a), construction will be considered to have been commenced once a building permit or permits have been issued by the City of Kelowna for the Improvements, and the foundations and footings of the Improvements, if required, have been installed.
14. For the purposes of section 11(b), construction of the Improvements will be considered substantially complete when the architect or engineer of the Tenant has issued a certificate to the City, signed and sealed by the architect or engineer, certifying that:
 - (a) the Improvements are substantially complete in all material respects in a proper and workmanlike manner and in accordance with the applicable plans, specifications, and supporting documents submitted to and accepted by the City and upon which issuance of any permits for the Improvements have been based, except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;
 - (b) all building bylaws and regulations of the City of Kelowna have been complied with by the Tenant except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;
 - (c) all permits for occupancy that may be required by the City of Kelowna have been obtained; and
 - (d) the Premises is ready for occupancy.

Termination if Tenant Defaults in Commencement or Completion of Construction

15. If the Tenant does not substantially complete construction of the Improvements by the date specified in section 12, the City will have the right and option to terminate this Agreement and the lease granted herein, without any right on the part of the Tenant to seek compensation, and sections 38 through 44 of this Agreement will apply.

Minimum Work Standards

16. The Tenant shall ensure that any improvements to or work done with respect to the Premises, including any improvements or alterations approved by the City, done by or on behalf of the Tenant comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from time to time in force, including the applicable building code and

bylaws of the City of Kelowna.

Repair and Maintenance

17. The Tenant shall during the Term, at its cost, by itself or by the use of agents, put and keep in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Improvements or the foundation or structure of the Improvements) the Premises and the Improvements, and the appurtenances and equipment of them, both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, elevators (if any) and similar devices, heating and air-conditioning equipment, sidewalks, landscaping, yards and other like areas, water and sewer mains and connections, water, steam, gas, and electric pipes and conduits, and all other fixtures on the Premises and the Improvements and machinery and equipment used or required in the operation of them, whether or not enumerated in this Agreement, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacement, alterations, additions, changes, substitutions, and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Improvements and aforesaid fixtures, appurtenances, and equipment fully usable for all of the purposes for which the Improvements was erected and constructed and the specified fixtures, appurtenances, and equipment were supplied and installed. Such repairs will be in all respects to the standard at least substantially equal in quality of material and workmanship to the original work and material in the Improvements and aforesaid fixtures, appurtenances, and equipment.

City Not Obligated to Repair

18. The City is not obliged to furnish any services or facilities or to make any repairs or alterations in or to the Premises or the Improvements, and the Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance, and management of the Premises and the Improvements.

City May Repair

19. If at any time during the Term, the Tenant fails to maintain the Premises and the Improvements and the fixtures, appurtenances, and equipment of them, both inside and outside, in the condition required by the provisions of section 17, the City through its agents, servants, contractors, and subcontractors may, but will not be obliged to, enter upon those parts of the Premises and the Improvements required for the purpose of making the repairs required by section 17. The City may make such repairs only after giving the Tenant 30 days' written notice of its intention so to do, except in the case of an emergency when no notice to the Tenant is required. Any amounts paid by the City in making such repairs to the Premises or to the Improvements or any part or parts thereof, together with all costs and expenses of the City, will be reimbursed to the City by the Tenant on demand, plus a 15% administration fee together with interest at the rate specified in section 33.

Damage or Destruction

20. The partial destruction or damage or complete destruction by fire or other casualty of the Improvements will not terminate this Agreement or the lease granted hereunder, or entitle the Tenant to surrender possession of the Premises or the Improvements or to demand any abatement or reduction of the Rent or other charges payable under this Agreement, any law or statute now or in the future to the contrary.
21. The Tenant covenants and agrees with the City that, in the event of damage to or partial destruction of the Improvements, the Tenant, subject to the regulations and requirements of the City of Kelowna and any other government authority having jurisdiction, will repair, replace, or restore any part of the Improvements so destroyed.
22. The Tenant covenants and agrees with the City that, in the event of complete or substantially complete destruction of the Improvements, the Tenant, subject to the regulations and requirements of the City of Kelowna and any other government authority having jurisdiction, will reconstruct or replace the Improvements with a structure comparable to that being replaced.
23. Any replacement, repair, or reconstruction of the Improvements or any part of the Improvements pursuant to the provisions of sections 20 or 21 will be made or done in compliance with sections 10, 16, and 17 of this Agreement.

Unavoidable Delays

24. If, by reason of strike, lock-out, or other labour dispute, material or labour shortage not within the control of the Tenant, stop-work order issued by any court or tribunal of competent jurisdiction (providing that such order was not issued as the result of any act or fault of the Tenant or of anyone employed by it directly or indirectly), fire or explosion, flood, wind, water, earthquake, act of God, or other similar circumstances beyond the reasonable control of the Tenant and not avoidable by the exercise of reasonable efforts or foresight by the Tenant, the Tenant is, in good faith and without default or neglect on its part, prevented or delayed in the commencement or substantial completion of construction of the Improvements or repair of the Improvements or any part of it which under the terms of this Agreement the Tenant is required to do by a specified date or within a specified time or, if not specified, within a reasonable time, the date or period of time within which the work was to have been completed will be extended by the City by a reasonable period of time at least equal to that of such delay or prevention; and the Tenant will not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Agreement within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the City and the Tenant. For the purposes of this section 24, the inability of the Tenant to meet its financial obligations under this Agreement or otherwise will not be a circumstance beyond the reasonable control of the Tenant and not avoidable by the exercise of reasonable effort or foresight by the Tenant. The Tenant will act diligently and take all reasonable steps of a prudent owner to remove the cause or causes of delay in the

commencement or completion of construction of the Improvements.

Acknowledgments and Agreements of the Tenant

25. The Tenant acknowledges and agrees that:
- (a) the City has given no representations or warranties with respect to the Premises or the Lands, including with respect to the suitability of the Premises for the Tenant's intended use;
 - (b) the Tenant leases the Premises on an "as-is" basis and the City has not made any representations, warranties or agreements as to the condition of the Premises (including the subsurface nature or condition of any part of the Premises, or the environmental condition of the Premises);
 - (c) it is the sole responsibility of the Tenant to satisfy itself with respect to the condition of the Premises (including the subsurface nature or condition of the Premises and the environmental condition of the Premises), including by conducting any reports, tests, investigations, studies, audits and other inquiries as the Tenant, in its sole discretion, considers necessary in order to satisfy itself as to the condition of the Premises; and
 - (d) the City may register a *Builders Lien Act* "notice of interest" against title to the Lands in the land title office.

Insurance Requirements

26. The Tenant shall obtain and maintain during the Term insurance in accordance with the requirements of Schedule C. For clarity, the insurance requirements set out in Schedule C are minimum requirements and are not to be interpreted in a manner that limits the Tenant's obligations under this Agreement and the Tenant shall be responsible for obtaining and maintaining such additional insurance as would a prudent tenant having similar obligations and interests to those of the Tenant under the terms of this Agreement.

Insurance Certificates

27. The Tenant shall promptly, upon the City's request from time to time during the Term, provide the City with certificates of insurance confirming the placement and maintenance of the required insurance.

City May Insure

28. If the Tenant fails to insure as required, the City may, after 30 days' notice to the Tenant, effect the insurance in the name and at the expense of the Tenant and the Tenant shall repay the City all costs reasonably incurred by the City within 21 days of receipt of an invoice. For clarity, the City has no obligation to obtain any insurance required to be maintained by the Tenant under this Agreement.

Tenant Indemnity

29. The Tenant shall indemnify and save harmless the City, and its officers, employees, contractors, and agents, from and against all claims, actions, damages, liabilities, costs, and expenses in connection with loss of life, personal injury or damage to property arising from any occurrence on the Premises, or occupancy or use of the Premises, or caused by or arising from any an act or omission of the Tenant, its officers, employees, agents, customers, contractors, or other invitees. This indemnity shall survive the expiry or earlier termination of this Agreement.

City Right to Grant Further Interests

30. The City may, from time to time, grant licences, rights of way, easements and other rights and privileges to third parties on, over, under, through, above and across the Lands, provided that such privileges do not materially impair the Tenant's rights under this Agreement, and the Tenant agrees to execute such further instruments as may be necessary to give such rights and privileges priority over this Agreement.

Permission to Enter

31. The City, by its authorized representative, may enter the Premises at all reasonable times for the purpose of inspecting the Premises and the Tenant's compliance with this Agreement and for the purpose of exercising its other rights under this Agreement.

Payments Generally

32. All payments, including interest, required to be made by the Tenant to the City under the terms of this Agreement shall be:
- (a) payable in lawful money of Canada;
 - (b) paid to the City at the office of the City or at such other place as the City may designate from time to time in writing;
 - (c) made when due hereunder, without the need for prior demand and without any set-off, abatement or deduction;
 - (d) applied towards amounts outstanding in such a manner as the City sees fit; and
 - (e) deemed to be rent (if not Rent), in partial consideration for which this Agreement is entered into, and shall be payable and recoverable as rent, and the City shall have all of the rights and remedies against the Tenant for default in making any such payment which may not be expressly designated as rent, as the City has for a default in payment of Rent.

Interest

33. All payments due by the Tenant to the City under this Agreement shall bear interest at the rate of eighteen per cent (18%) per annum, calculated monthly not in advance from the date any such amount is due and payable until paid. In order to reflect prevailing interest rates the City may review and adjust the interest rate from time to time.

Workers Safety and Compensation

34. The Tenant shall, in its use of and activities on the Premises, comply with all statutes, regulations, and orders from time to time in force respecting worker safety and compensation, and, upon request from the City, shall provide evidence of any required registration under any statute, regulation, or order respecting worker safety and compensation.

Environmental Matters

35. In section 36, the following definitions apply:

(a) "Contaminants" means:

- (i) as defined in the *Environmental Management Act* (British Columbia): any biomedical waste, contamination, effluent, pollution, recyclable material, refuse, hazardous waste or waste;
- (ii) matter of any kind which is or may be harmful to safety or health or to the environment; or
- (iii) matter of any kind the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, release, remediation, mitigation or removal of which is now or is at any time required, prohibited, controlled, regulated or licensed under any Environmental Law;

(b) "Environmental Law" means any past, present or future common law, enactment, statute, regulation, order, bylaw or permit, and any requirement, standard or guideline of any federal, provincial or local government authority or agency having jurisdiction, relating to the environment, environmental protection, pollution or public or occupational safety or health.

36. The Tenant covenants and agrees with the City to:

- (a) carry on and conduct its activities in, on, and from the Premises in compliance with all Environmental Laws;
- (b) not permit the storage, use, handling, manufacture, unloading, loading, treatment, disposal or introduction into the environment of any Contaminants in, on, under or from the Premises, except in compliance with all Environmental Laws;

- (c) immediately notify the City of the occurrence of any of the following and provide the City with copies of all relevant documentation in connection therewith:
 - (i) a release of Contaminants in, on or about the Premises, or any adjacent land; or
 - (ii) the receipt of any citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication from any person that is related to any Environmental Law;
- (d) promptly provide to the City a copy of any environmental site assessment, audit, report or test results relating to the Premises conducted at any time by or for the Tenant;
- (e) if the City suspects that the Tenant has not complied with its obligations under this section, obtain from an independent environmental consultant approved by the City an environmental site assessment, audit, report or testing of the Premises and conduct or cause to be conducted any additional investigations that the environmental consultant may recommend, all in order to determine compliance of the Premises with Environmental Laws; and
- (f) promptly remove any Contaminants arising from the Tenant's use or occupation of the Premises in a manner that conforms to Environmental Laws governing their removal.

No Assignment or Sublease

37. The Tenant may not assign this Agreement or the benefit of this Agreement, or sublet the Premises or any part of the Premises, without the prior written consent of the City, nor may the Tenant charge, mortgage, or encumber, or purport to charge, mortgage, or encumber the Tenant's interest in the Premises or this Agreement without the prior written consent of the City. The City may withhold such consents at its sole discretion and without reason.

Termination Due to Default

38. If and whenever:
- (a) the Tenant fails to pay any rent or other amount owing under this Agreement when due, whether or not demanded by the City;
 - (b) the Tenant fails to observe or perform any of its obligations under this Agreement and the Tenant has not, within 7 days after notice from the City specifying the default, cured the default, or if the cure reasonably requires a longer period, the Tenant has not commenced to cure the default within the 7-day period and thereafter does not diligently pursue the cure of such default;

- (c) re-entry is permitted under other terms of this Agreement;
- (d) without the consent of the City, the Premises are vacant or the Tenant fails to operate its business within the Premises for 10 days or more;
- (e) a receiver is appointed to control the conduct of the business of the Tenant on or from the Premises;
- (f) the Tenant becomes bankrupt or insolvent or takes the benefit of any legislation in force for bankrupt or insolvent debtors;
- (g) proceedings are instituted for the winding-up or termination of the corporate existence of the Tenant;
- (h) without the consent of the City, the Tenant abandons or attempts to abandon the Premises or disposes of the bulk of its goods and chattels on the Premises;
- (i) the Term or any of the goods or chattels on the Premises are at any time seized or taken in execution or attachment by any creditor of the Tenant or under bill of sale or chattel mortgage; or
- (j) the Tenant permits a builders' lien to arise in respect of the Lands and to remain registered against title to the Lands for more than 60 days,

then the City may re-enter and take possession of the Premises as though the Tenant or other occupant was holding over after the expiration of the Term and this Agreement may, at the City's option, be immediately terminated by notice left at the Premises.

Right to Relet

39. If the City re-enters the Premises, it may, at its option and without terminating the Tenant's rights, make alterations and repairs to facilitate reletting and relet the Premises, or any part, as the Tenant's agent for such period of time and at such rent and on such other terms and the City wishes. Upon reletting, all rent and monies received by the City shall be applied, first, to the payment of indebtedness other than Rent due from the Tenant to the City, second to the payment of costs and expenses of the reletting including brokerage, legal and repair expenses, and third to the payment of Rent due and unpaid under this Agreement. The residue, if any, shall be applied to the payment of future rent as it becomes due and payable. If at any time the rent received from the reletting is less than the Rent, the Tenant shall pay the deficiency to the City to be calculated and paid monthly.

Re-entry

40. No re-entry or entry shall be construed as an election by the City to terminate this Agreement unless a written notice of intention to terminate is given to the Tenant (which may be given by way of notice left at the Premises). Despite a reletting without termination, the City may elect at any time to terminate this Agreement for a previous

breach.

Distress

41. If and whenever the Tenant is in default of the payment of any money, including rent, whether expressly reserved by this Agreement or deemed as rent, the City may without notice or any form of legal process whatsoever, enter the Premises and seize, remove and sell the Tenant's goods, chattels and equipment and seize, remove, and sell any goods, chattels and equipment at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained on the Premises, notwithstanding any rule of law or equity to the contrary, and the Tenant hereby waives and renounces the benefit of any present or future statute or law limiting or eliminating the City's right of distress.

State of Premises at Termination

42. Upon the expiry or earlier termination of this Agreement, the Tenant shall leave the Premises in a good, neat and tidy condition and otherwise in the condition they are required to be kept by the Tenant during the Term under the provisions of this Agreement. If the Tenant does not do so, the City may do so on behalf of the Tenant and any amounts paid by the City in putting the Premises into the condition required, together with all costs and expenses of the City, will be reimbursed to the City by the Tenant on demand, plus a 15% administration fee together with interest at the rate specified in section 33. The City's rights and the Tenant's obligations under this section shall survive the expiry or earlier termination of this Agreement.

Ownership of Improvements during Term and at Termination

43. The City and the Tenant agree that the title to and ownership of all buildings, structures, and improvements on the Premises, including the Improvements, and all alterations, additions, changes, substitutions, or improvements thereto will at all times during the Term be vested in the Tenant, notwithstanding any rule or law as to the immediate vesting of the title to and ownership of them in the owner of the freehold. Upon the expiry or earlier termination of this Agreement, all buildings, structures, and improvements on the Premises, and all alterations, additions, changes, substitutions, or improvements thereto, shall, without compensation to the Tenant, become the permanent property of the City, though the City shall have the option of requiring or compelling the Tenant to remove the improvements in accordance with section 44 of this Agreement.

Required Improvement Removal

44. Notwithstanding anything to the contrary in this Agreement, the City may, by providing written notice to the Tenant within 21 days following termination or expiry of this Agreement, require that the Tenant remove any or all improvements done by or on behalf of the Tenant during the Term. Upon such notice, the specified improvements shall become the property of the Tenant and the Tenant shall remove such improvements

within 21 days of receipt of such notice, failing which the City may, without notice or compensation to the Tenant, dispose of such improvements as it sees fit and the Tenant shall reimburse the City for its costs of doing so (including a 15% administration fee) within 21 days of receipt of an invoice from the City. The City's rights and the Tenant's obligations under this section shall survive the expiry or earlier termination of this Agreement.

Remedies Cumulative

45. No reference to or exercise of any specific right or remedy by the City shall prejudice or preclude the City from exercising any other right or remedy, whether allowed at law or in equity or expressly provided for in this Agreement, and no such right or remedy is exclusive or dependent upon any other such remedy and the City may from time to time exercise any one or more of such remedies independently or in combination. Without limiting the generality of the foregoing, the City is entitled to commence and maintain an action against the Tenant to collect any Rent not paid when due, without exercising the option to terminate this Agreement.

Holding Over

46. If the Tenant continues to occupy the Premises after the expiration of the Term, then, without any further written agreement, the Tenant shall be a monthly lessee paying monthly rent in an amount determined by the City and subject always to the other provisions in this Agreement insofar as the same are applicable to a month-to-month tenancy and nothing shall preclude the City from taking action for recovery of possession of the Premises.

Lease Not in Registrable Form

47. The City is under no obligation to at any time deliver this Agreement or any instrument creating this Agreement to the Tenant in a form registrable under the *Land Title Act* (British Columbia).

Waiver or Non-Action

48. Waiver by the City of any breach by the Tenant of any of its obligations under this Agreement shall not be considered to be a waiver of any subsequent default or continuing default by the Tenant. Failure by the City to take any action in respect of any breach of any Tenant obligation under this Agreement by the Tenant shall not be considered to be a waiver of such obligation.

Conditions

49. All of the Tenant's obligations under this Agreement shall be deemed and construed to be both conditions and covenants as though the words specifically expressing covenants or conditions or used in each separate provision respecting each such obligation.

No Joint Venture

50. Nothing contained in this Agreement creates the relationship of principal and agent or of partnership, joint venture or business enterprise or entity between the parties or gives the Tenant any power or authority to bind the City in any way.

Interpretation

51. In this Agreement:

- (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
- (b) a particular numbered section or lettered Schedule is a reference to the correspondingly numbered section or lettered Schedule of this Agreement;
- (c) an "enactment" is a reference to an enactment as that term is defined in the *Interpretation Act* (British Columbia) on the day this Agreement is made;
- (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
- (e) section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
- (f) a "party" is a reference to a party to this Agreement;
- (g) time is of the essence; and
- (h) where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including".

Notices

52. Where any notice, request, direction or other communication (any of which is a "Notice") is to be given or made by a party under the Agreement, it shall be in writing and is effective if delivered in person or sent by mail to the address above. A Notice is deemed given if delivered in person, when delivered or if by mail, 5 days following deposit with Canada Post. A party may change its address or fax number by giving notice to the other party under this section.

City Discretion

53. Wherever in this Agreement the approval or consent of the City is required, some act or thing is to be done to the City's satisfaction, the City is entitled to form an opinion, or the City is given the sole discretion:

- (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, consent, opinion or expression of satisfaction is in writing signed by the City or its authorized representative;
- (b) the approval, consent, opinion or satisfaction is in the discretion of the City, acting reasonably;
- (c) sole discretion is deemed to be the sole, absolute and unfettered discretion of the City; and
- (d) no public law duty of procedural fairness or principle of natural justice shall have any application to such approval, consent, opinion, satisfaction or discretion.

No Effect on Laws or Powers

54. Nothing contained or implied herein prejudices or affects the City's rights and powers in the exercise of its functions under the *Community Charter* (British Columbia), the *Local Government Act* (British Columbia), or any other enactment to the extent the same are applicable to the Premises, all of which may be fully and effectively exercised in relation to the Premises as if this Agreement had not been fully executed and delivered.

Severance

55. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

Binding on Successors

56. This Agreement enures to the benefit of and is binding upon the parties and their respective successors and assigns, notwithstanding any rule of law or equity to the contrary.

Law of British Columbia

57. This Agreement shall be construed according to the laws of the Province of British Columbia.

Counterparts

58. This Agreement may be executed by the parties in counterpart, and the counterparts may be delivered in facsimile.

Schedules

59. The following are the Schedules to this agreement and form an integral part of this Agreement:

Schedule A – Reduced Copy of Reference Plan
Schedule B – Copy of Tenant’s letter dated January 12, 2015
Schedule C - Insurance Requirements

Entire Agreement

60. The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement.

As evidence of their agreement to be bound by the above terms, the City and the Tenant have each executed this Agreement below on the respective dates written below:

CITY OF KELOWNA by its authorized signatories:

Mayor:


Clerk:

Date: _____

E & D AIRCRAFT SERVICES LTD., dba Okanagan Aero Engine
by its authorized signatories:



Name:



Name:

Date: July 4/16

SCHEDULE A

Reduced Copy of Reference Plan

**SURVEY PLAN CERTIFICATION
PROVINCE OF BRITISH COLUMBIA**

Schedule A

By incorporating your electronic signature into this form you are also incorporating your electronic signature into the attached plan and you

(a) represent that you are a subscriber and that you have incorporated your electronic signature to the attached electronic plan in accordance with section 168.73 (3) of the Land Title Act, RSBC 1996 c.250; and

(b) certify the matters set out in section 168.73 (4) of the Land Title Act, Each term used in this representation and certification is to be given the meaning ascribed to it in part 10.1 of the Land Title Act.

Neil Denby N6CHUM	Digitally signed by Neil Denby
	N6CHUM
	DN: c=CA, cn=Neil Denby N6CHUM, o=BC Land Surveyor, ou=Verify ID at www.juricert.com/LKUP.cfm?id=N6CHUM
	Date: 2016.05.11 10:06:02 -07'00'

1. BC LAND SURVEYOR: (Name, address, phone number)

Neil Raymond Denby
259A Lawrence Avenue

Telephone 250 763 7322
Fax 250 763 4413
neil@runnallsdenby.com

Kelowna BC V1Y 6L2

Surveyor General Certification [For Surveyor General Use Only]

2. PLAN IDENTIFICATION:

Plan Number: EPP55104

Control Number: 146-350-9792

3. CERTIFICATION:

Form 9 Explanatory Plan Form 9A

I am a British Columbia land surveyor and certify that I was present at and personally superintended this survey and that the survey and plan are correct.

The field survey was completed on:	2015	August	07	(YYYY/Month/DD)	The checklist was filed under ECR#:
The plan was completed and checked on:	2015	August	29	(YYYY/Month/DD)	178066

None Strata Form S

None Strata Form U1 Strata Form U1/U2

Arterial Highway

4. ALTERATION:

**REFERENCE PLAN TO ACCOMPANY A LEASE OF PART OF LOT 18,
SECTION 14, TOWNSHIP 23 AND OF DISTRICT LOT 32,
OSOYOOS DIVISION YALE DISTRICT, PLAN 1502,
EXCEPT PLANS H16596, KAP59550, KAP73205 AND
KAP84475 AND APPROVAL OF THE APPROVING
OFFICER TO EXPIRE AUGUST 31, 2031**

PURSUANT TO SECTION 99(1)(k) OF THE LAND TITLE ACT
FOR LEASEHOLD PURPOSES

BCGS 82E.094



The intended plot size of this plan is 500mm in width by
700mm in height (C size) when plotted at a scale of 1:750
(All distances are in metres)

LEGEND.

- Denotes Standard Iron post (Type 5) found
- Denotes Standard Iron post (Type 6) found
- ⊙ Denotes Control Monument found
- NF Denotes nothing found

Integrated Survey Area No. 4, City of Kelowna, NAD83 (CSRS)

Grid bearings are derived from observations between
geodetic control monuments 96H2112 and 96H2113.

The UTM coordinates and estimated horizontal positional
accuracy are derived from conventional survey line to
geodetic control monuments 96H2112 and 96H2113.

This plan shows horizontal ground-level distances unless
otherwise specified. To compute grid distances, multiply
ground distances by the average combined factor
of 0.9998968. Distances are derived from geodetic
control monuments 96H2112 and 96H2113.

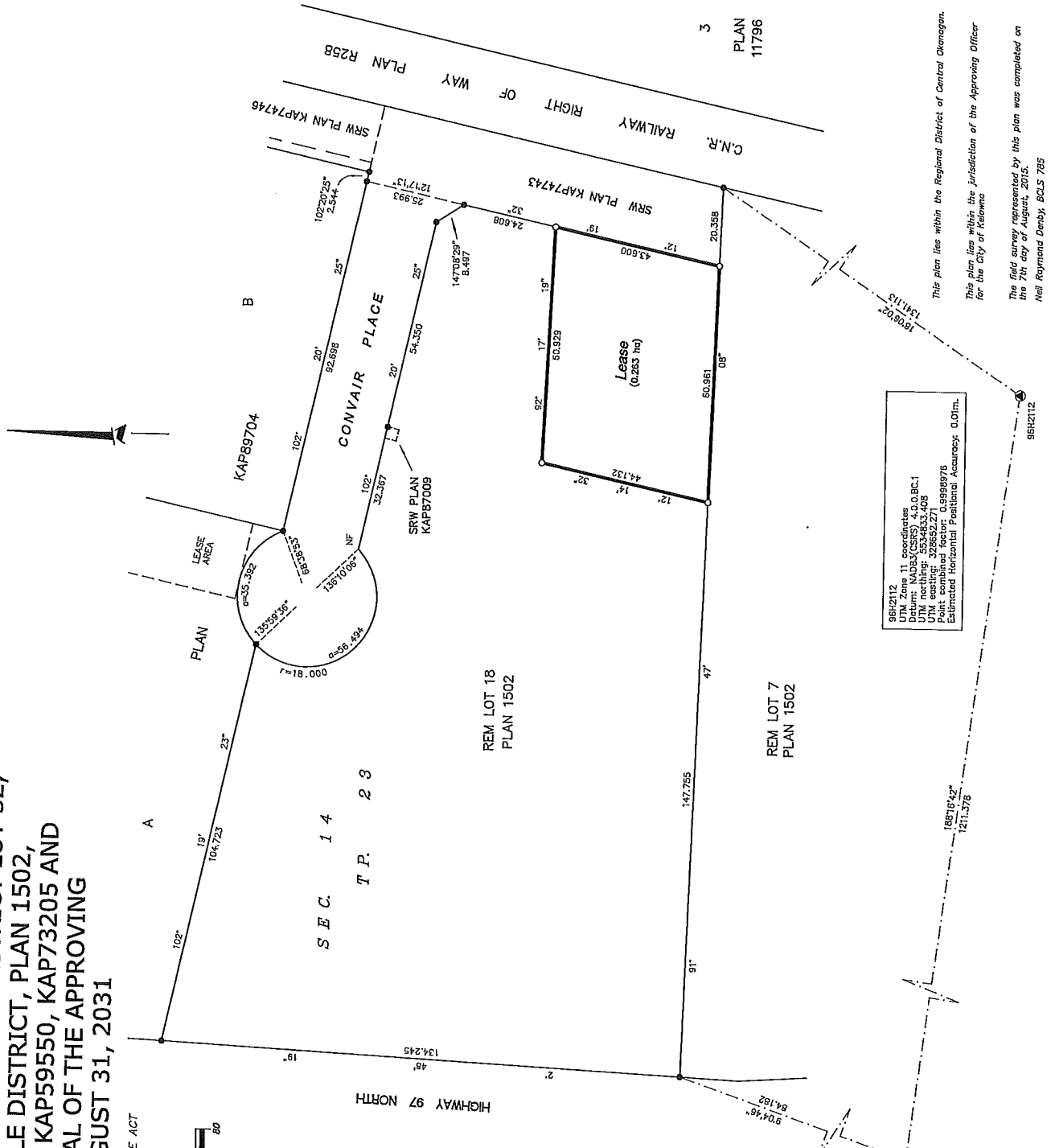
96H2113
UTM Zone 11 coordinates
Datum: NAD83(CSRS) 4.0.0.BC.1
UTM northing: 5536322.040
UTM easting: 485527.0998976
Point combined factor: 0.9998960
Estimated Horizontal Positional Accuracy: 0.01m.

RUNNALLS DENBY

british columbia land surveyors
2564 Lawrence Avenue
Kelowna B.C.
V1Y 8L2
Phone: (250)763-7322
Fax: (250)763-4415
Email: rdn@runnallsdenby.com
FILE: 14327

DWG. No.: 14327 LEASE

PLAN EPP55104



96H2112
UTM Zone 11 coordinates
Datum: NAD83(CSRS) 4.0.0.BC.1
UTM northing: 5534533.408
UTM easting: 485527.0998976
Point combined factor: 0.9998976
Estimated Horizontal Positional Accuracy: 0.01m.

This plan lies within the jurisdiction of the Regional District of Central Okanagan.
This plan lies within the jurisdiction of the Approving Officer
for the City of Kelowna

The field survey represented by this plan was completed on
the 7th day of August, 2016.
Neil Raymond Denby, BCLS 785

SCHEDULE B

Copy of Tenant's Letter dated January 12, 2015

E & D AIRCRAFT SERVICES LTD.

#1 - 5550 Aerospace Drive Kelowna, B.C. V1V 1S1

Phone: (250) 765-9718 Fax: (250) 765-8322

SCHEDULE "B"

January 12, 2015

City of Kelowna
#1, 5533 Airport Way
Kelowna, BC
V1V 1S1

Delivered By Hand

Attention: Sam Samaddar, Airport Director

Dear Sir,

Re: Renewal of Lease

As requested please find attached schematic drawings for the interior and baffling improvements for Okanagan Aero Engine (1999) Ltd. We are encouraged by your positive comments regarding our artist's renderings and believe our new look will enhance the esthetics at the airport.

We estimate our total investment will be \$750,000 which will include:

1. Complete building facade improvements as per renderings
2. Interior improvements including flooring, painting and decor. Also electrical and plumbing to be brought to current code standards as well as upgrading to high efficiency lighting through out the building
3. Upgrade to high efficiency heating and air conditioning
4. Asphalt resurfacing with special detail given to drainage requirements

-
5. Baffling structure built to significantly reduce engine noise, where the noise from the engine testing area will be directed away from the rental car building. The baffle system will direct the air up and north of the building greatly reducing the noise and complying with the Canadian Centre for Occupational Health and Safety, copy attached. We have also included information on the acoustic material to be used
 6. Xeriscape landscaping
 7. Dedicated parking stalls
 8. 6 foot high chain link fenced storage yard with privacy slats to be located between the south overhead door and baffling structure
 9. Complete new torch on fiberglass roof
 10. New 450L double wall above ground fuel tank complete with vacuum monitoring and spill containment box. Feed and return lines are double walled plastic and run through a 4" duct underground to engine test stand, including a positive shut down valve on tank feed. Piping used meets UL 971 code and is rated for this product. Installation meets or exceeds fuel system requirements including a building permit, copy attached
 11. Major equipment purchase of Magnaflux DR100, 5,000amp A/C wet bench machine

We look forward to continuing our harmonious relationship with Kelowna International Airport.

Respectfully submitted,

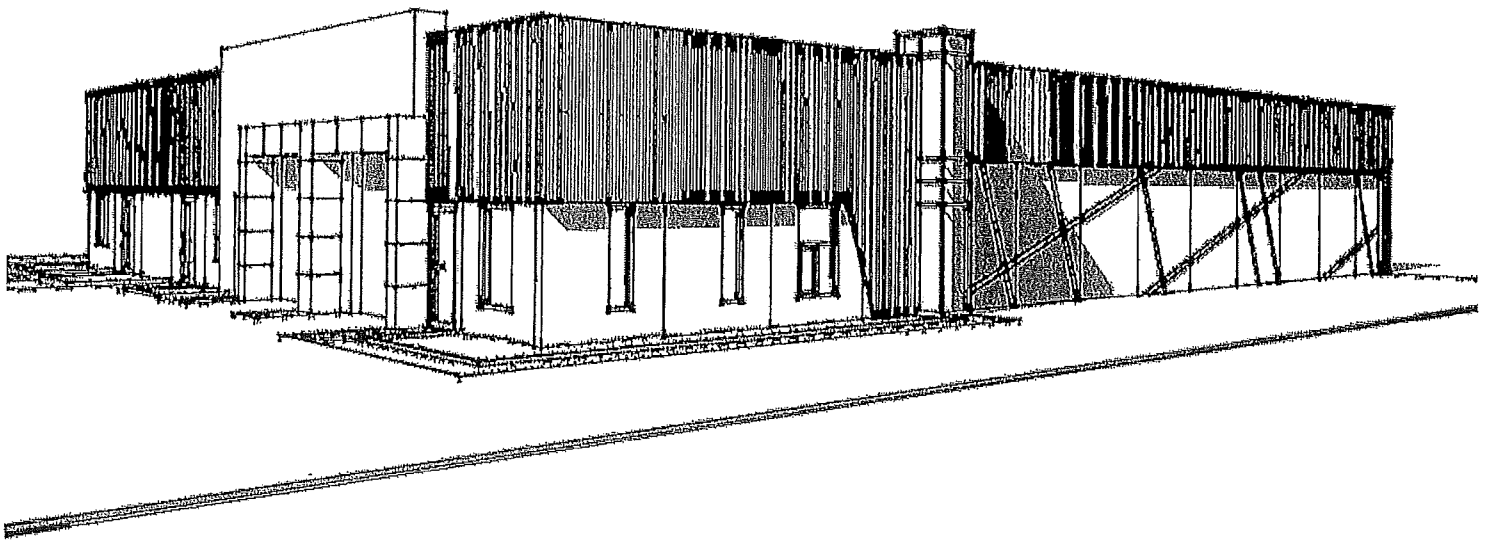
E & D Aircraft Services Ltd.

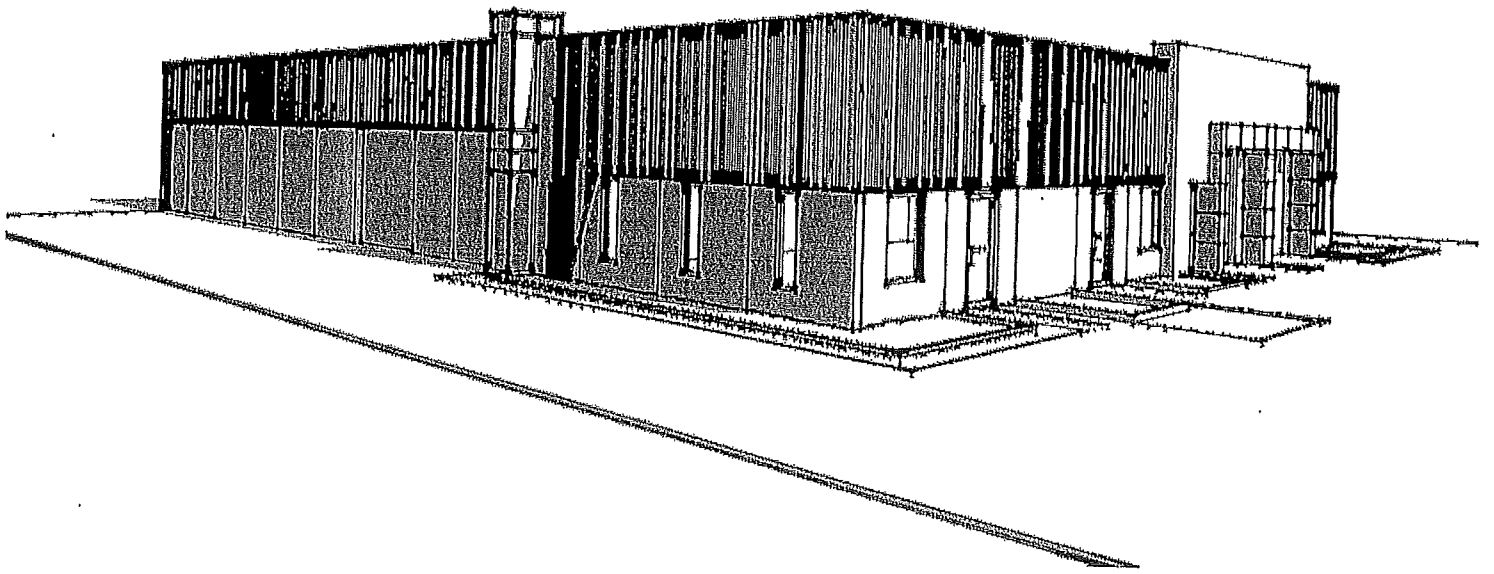


Fred Haasdyk

FAH/sh

Enclosures





SCHEDULE C

Insurance Requirements

1. Tenant To Provide

The Tenant shall procure and maintain, at its own expense and cost, the insurance policies listed in Article 10, with limits no less than those shown in the respective items, unless the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of the Sublease Agreement or such longer period as may be specified by the City.

2. Insurance

As a minimum, the Tenant shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

2.1 Comprehensive General Liability Insurance

- (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Tenant shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident in connection with the Tenant's technical and building services and maintenance operations;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Tenant's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgement made against any other Insured.

2.3 Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Tenant directly or indirectly in connection with the Tenant's commercial operation. The Limit of Liability shall not be less than \$2,000,000 inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.

2.4 Tenant's All Risk property insurance, providing for Tenant's legal liability, providing for an inclusive limit of not less than the value of the Premises and all leasehold improvements.

3. The City Named As Additional Insured

The policies required by sections 2.2 and 2.3 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

4. Tenant's Contractor and Agents

The Tenant shall require each of its contractor's and agent's that make use of the Premises or provide services to the Tenant at the Premises provide comparable insurance to that set forth under section 2.

5. Certificates of Insurance

The Tenant agrees to submit Certificates of Insurance, in the form of Appendix B-1, attached hereto and made a part hereof, for itself and for all of its Subcontractors to the Risk Management Department of the City prior to the effective date of this Agreement. Such Certificates shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellations of any such policy or policies.

6. Other Insurance

After reviewing the Tenant's Certificates of Insurance, the City may require other insurance or alterations to any applicable insurance policies in force during the period of this Sublease Agreement and will give notifications of such requirement. Where other insurances or alterations to any insurance policies in force are required by the City and result in increased insurance premium, such increased premium shall be at the Tenant's expense.

7. Additional Insurance

The Tenant may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

8. Insurance Companies

All insurance, which the Tenant is required to obtain with respect to this Sublease Agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

9. Failure to Provide

If the Tenant fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Tenant. The Tenant

expressly authorizes the City to deduct from any monies owing the Tenant, any monies owing by the Tenant to the City.

10. Nonpayment of Losses

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Tenant shall not be held to waive or release the Tenant or from any of the provisions of the Insurance Requirements or this Sublease Agreement, with respect to the liability of the Tenant otherwise. Any insurance deductible maintained by the Tenant under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Tenant as stated in section 9.