

Lease and Operating Agreement Between City of Kelowna and Kelowna Museums Society

March 2022

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Lease and Operating Agreement

THIS AGREEMENT made as of the _____ day of _____, 2022

BETWEEN:

CITY OF KELOWNA, a municipality incorporated under the laws of the Province of British Columbia, having an office at 1435 Water Street, Kelowna, British Columbia, V1Y 1J4

(the "City")

AND:

KELOWNA MUSEUMS SOCIETY (Inc. No. S- 4018), a society duly registered pursuant to the Societies Act of the Province of British Columbia, having its offices at 470 Queensway Avenue, Kelowna, B.C. V1Y 6S7

(the "Society")

WHEREAS:

A. The City is the registered owner in fee simple of the lands in the City of Kelowna, British Columbia, legally described as:

- PID: 010-322-060
Lot A, District Lot 139, Osoyoos Division, Yale District, Plan KAP5438
(the "Okanagan Heritage Museum");
- PID: 015-664-392
Lot 1, District Lot 139, Osoyoos Division, Yale District, Plan KAP42511
(the "Laurel Packinghouse");
- Parcel Identifier: 010-322-060
Lot A, District Lot 139 Osoyoos Division, Yale District Plan KAP5438
a portion of which is used for the Okanagan Military Museum
(the "Okanagan Military Museum");

(collectively, the ("Lands")) and the City owns the buildings located on the Lands (the "Buildings");

B. The City wishes to provide venues for the preservation and interpretation of human and natural history artefacts for the City and region and its residents and visitors;

C. The City wishes to contract with an organization that can manage and operate the venues as an anchor cultural institution in the Cultural District of downtown Kelowna specifically and throughout the community in general, and to facilitate the preservation, documentation, exhibition, and interpretation of historical artefacts and natural history specimens in the venues for the residents and visitors of the City;

- D. In addition to the preservation, documentation, exhibition, and interpretation of historical artefacts and natural history specimens, the Society wishes to operate a Sports Hall of Fame that highlights athletic achievements across the Central Okanagan;
- E. The Society wishes to cooperate and collaborate with the City in furthering the appreciation of human and natural history in Kelowna and the region surrounding Kelowna;
- F. The City recognizes the valuable contribution that the Society provides to the Cultural District specifically and the City as a whole;
- G. In accordance with section 24 and 26 of the Community Charter, the City has published notice in a newspaper of its intention to enter into this Agreement and lease the Buildings to the Society for less than market value.

NOW THEREFORE THIS AGREEMENT is evidence that in consideration of the mutual promises and payments provided for in this Agreement and the payment of one dollar (\$1.00) from the Society to the City and other good and valuable consideration (the receipt and sufficiency of which the City hereby acknowledges) the parties covenant and agree as follows:

1. OBJECTIVES

Through this Agreement, the City and the Society seek to achieve the following shared objectives:

- a) Provision of a wide range of programs and services described in Schedule "A" ('Administration and Programming'), which enables the preservation and interpretation of human and natural history artefacts for the City and region and its residents and visitors.
- b) cost-effective, viable, and prudent long-term tenure, operation and maintenance of City-owned lands and buildings;
- c) increased leverage of City resources through development of community partnerships and diverse funding sources including donations, sponsorship, grants, and fees; and
- d) contributing to the appreciation of human and natural history in Kelowna and the region surrounding Kelowna.

2. GENERAL DUTIES AND OBLIGATIONS

2.1 Society

In addition to the other covenants and obligations to be performed by the Society under this Agreement, the Society covenants and agrees that it will, at all times:

- a) continue to be a registered charity and in good standing in the Government of Canada;
- b) perform promptly and safely all its obligations under this Agreement;
- c) be just and faithful in the performance of its obligations under this Agreement and in its dealing with the City under this Agreement;
- d) maintain Bylaws that permit all residents of the city of Kelowna to become members of the Society;
- e) abide by the purposes identified in its member-approved Constitution and Bylaws;
- f) be solely responsible for determining the themes and content of all exhibitions, programs, special events, and their related initiatives in the Buildings;
- g) permit a City designate to attend all meetings of the KMS' Board of Directors for liaison purposes. This person shall act as the City Liaison for matters between the City and KMS and should be the first point of contact for inquiries;
- h) be responsive to the changing community needs and evolving practices with regards to the interpretation of human and natural artefacts; and
- i) not make substantive changes to its name and/or purposes in its constitution without the express written consent of the City; such consent not to be unreasonably withheld.

3. TERM

3.1 Term

The term of this Agreement shall be for five (5) years commencing on March 1, 2022 (the "Commencement Date") and expiring on Feb 27, 2027 (the "Term"), subject to earlier termination as provided herein (the "Term").

4. PREVIOUS AGREEMENTS

This Agreement replaces any and all previous agreements, whether written or not, between the City and the Society and the parties agree that any and all previous agreements shall be terminated and be of no further force and effect as of the Commencement Date.

5. USE AND OCCUPATION OF BUILDINGS

5.1 Grant of Leases

The City hereby leases all of the Buildings to the Society (the "Lease") for the Term on the terms and conditions of this Agreement and for the purposes set out in this Agreement. The Society acknowledges that this Agreement is subject to the legal notations and charges registered against the title to the Lands as per Schedule C.

5.2 Licenses

The City hereby grants to the Society a non-exclusive right and license to enter onto and use the Lands surrounding the Buildings for the sole purposes of accessing the Buildings, for the Term, including, without limitation, the outdoor steps, patios, walkways, pathways, loading areas, roofs, adjacent areas necessary for pedestrian and vehicle access and appropriate exhibit and programming functions related to the Buildings Schedules "B-1", "B-2" and "B-3" (collectively, the "License Areas");

5.3 Permitted Uses

The Society will only use and occupy the Buildings and the License Areas for the purposes of providing the services outlined below:

- a) Acquisition, conservation, research, communication and exhibition of the tangible and intangible heritage of humanity, with a focus on Kelowna and its environment, for the education, study and enjoyment of residents and visitors;
- b) Providing inclusive spaces for critical dialogue about the pasts and the futures;
- c) Acknowledging and addressing the conflicts and challenges of the present, holding artefacts and specimens in trust for society, safeguarding diverse memories for future generations and guaranteeing equal rights and equal access to heritage for all people;
- d) Working in active partnership with and for diverse communities to collect, preserve, research, interpret, exhibit, and enhance understandings of Kelowna and the world, aiming to contribute to human dignity and social injustice, equality and wellbeing;
- e) The operation of gift shops, rental venues and revenue centres, with proceeds dedicated to the support of mission-related activity; and
- f) Providing meaningful and memorable public access.

5.4 Accessibility of the Buildings

The Society shall operate the Buildings so that it is open to the public during ordinary hours of operation and so that its programs are available to the public and so that the Buildings are fixtured and maintained to be accessible to persons with diverse abilities. The Society and the City will work in cooperation should significant improvements to the Buildings be required to improve access.

5.5 Smoking

The Society shall operate the Buildings as non-smoking buildings.

5.6 Acknowledgement and Agreements of the Society

The Society acknowledges and agrees that:

- a) the Society leases the Buildings and licenses the License Areas on an "as is" basis and the City has not made any representations, warranties or agreements as to the environmental condition of the Buildings or the Lands;
- b) it is the sole responsibility of the Society to satisfy itself with respect to the environmental conditions of the Buildings and the Lands, including, without limitation, by conducting any reports, inspections, tests, investigations, studies, audits, surveys and other inquiries as the Society, in its sole discretion, considers necessary in order to satisfy itself as to the environmental condition of the Buildings and the Lands; and
- c) the City has made no representations or warranties with respect to the Lands and the Buildings including, without limitation, with respect to the condition or suitability of the Lands and the Buildings for the Society's intended use; and
- d) by entering into this Agreement, it is satisfied that the Buildings and License Areas are suitable for the Society's purposes.

5.7 Covenant to Operate

The Society shall ensure that, unless prevented by applicable regulatory authorities or for reasons of repair or maintenance, the Buildings and License Areas shall remain open to and accessible by the public throughout the Term, subject to the Society's right to close one or more of the Buildings and License Areas at the Society's discretion in accordance with the Society's published schedules and as the parties otherwise agree in writing.

5.8 Compliance with Laws

The Society shall carry on and conduct its activities on the Lands and in, on and from the Buildings in compliance with any and all statutes, laws, regulations enactments, bylaws and orders from time to time in force, to comply with the terms of any charges registered against title the Lands, and to obtain all required approvals and permits thereunder and not to do or omit to do anything in, on or from the Buildings or on or from the Lands in contravention thereof. The Society shall carry on and conduct its activities in compliance with any applicable Goods and Services Tax ("GST"), Provincial Sales Tax and other taxes as the statutes, laws and regulations in force dictate.

5.9 Public Safety

The Society shall take all reasonable precautions to ensure the safety of all persons using the Buildings.

5.10 No Waste or Nuisance

The Society shall not:

- a) commit, suffer or permit any wilful or voluntary waste, spoil or destruction of the Buildings or the License Areas; or
- b) do or permit to be done anything that may be or become a nuisance or annoyance in on or from the Buildings, License Areas, or on or from the Lands to the owners, occupiers or users of other parts of the Lands, adjoining lands or to the public, including the accumulation of rubbish or unused personal property of any kind.

5.11 Furniture and Equipment

The Society shall provide and purchase, repair and replace, at its sole expense, all furnishings and equipment that the Society considers necessary or desirable for using the Buildings and the License Areas for the purposes of this Agreement, without limitation, computers and licensed computer software.

5.12 Right to Inspect

The City or its authorized representative may enter the Buildings at all reasonable times for the purposes of inspection of the Building.

5.13 Emergency Use

The Society shall make all or part of the Buildings and the License Area available for use in the event of a community emergency, as determined by the City in accordance with applicable

enactments. The City shall solely be responsible for determining whether the Buildings and the License Area can safely be at the time of the emergency, and shall:

- a) be responsible for any direct expense incurred or damage caused to the Buildings and the License Area as a result of such use;
- b) be responsible for any and all liabilities, costs, expenses, suits, or claims arising as a result of such use;
- c) compensate the Society for all increased operating costs incurred during such use by the City; and
- d) compensate the Society for uninsured business losses arising out of such use, provided that the Society must act reasonably in re-arranging bookings and events to minimize the extent of any business losses during such use.

5.14 Vacant Building

If directed to cease services and operations by an applicable regulatory authority for public safety reasons such as natural disaster, pandemic, or other significant public concern, the Society shall continue to maintain responsibility of the Buildings and endeavour to take the necessary steps to ensure the Buildings are kept safe. This may include, but is not limited to, routine internal and external inspections of the Buildings. The Society may seek direction and support from the City as required.

5.15 Access for Telecommunication Antenna Systems

Upon request from the City, the Society shall grant access to the Buildings and the License Area for the installation and maintenance of Telecommunication Antenna Systems.

6. FEES AND EXPENSES FOR USE OF BUILDINGS

6.1 Rent

The Society shall pay to the City:

- a) annual rent in the amount of \$1.00, plus any and all applicable taxes, payable on the first day of the Term and each anniversary thereafter (the "Base Rent"); and
- b) all sums of money to be paid by the Society to the City under this Agreement (the "Additional Rent"),

(collectively, the "Rent"). The Society shall pay Additional Rent monthly, plus any and all applicable taxes, within 15 days of the Society's receipt of an invoice from the City.

6.2 Contributions to Reserve Fund

In addition to the Rent, the Society shall make monthly contributions to a building contingency reserve fund (the "Reserve Fund") in the amount of \$1,500 (\$18,000/year), plus any and all applicable taxes, to be adjusted annually starting January 1, 2023 by the BC CPI Annual average for the prior year. In any calendar year, should the CPI be a negative, no change shall occur (the "Reserve Fund Contribution"). The Reserve Fund Contribution will be held by the City in a reserve account and collected monthly from the Society using Pre-Authorized Debit (PAD)

The Reserve Fund will be used only by the City to fulfill its responsibility as a Landlord to perform capital improvements and maintain the building envelope.

6.3 No Deductions

The Society shall pay the Base Rent, the Reserve Fund Contribution and the Additional Rent without deduction, abatement, set-off or withholding whatsoever, despite any law or statute now or in the future to the contrary. The Society's obligation to pay the Base Rent, the Reserve Fund Contribution and the Additional Rent survives the expiry or earlier termination of this Agreement.

6.4 Payment of Taxes, Utilities and other Expenses

The Society covenants and agrees with the City to pay all charges, costs, duties, expenses, rates, sums, assessments, taxes (including property taxes), telephone, electrical, gas water, sewage and garbage disposal and other utility charges and payments for work and materials in any way relating to the Buildings and the License Areas (with the exception of the Okanagan Military Museum) and that to the extent of any such amounts remain unpaid after they come due, such amounts shall be deemed as Additional Rent and may be collected by the City as Rent. In addition, the Society agrees to pay the City any and all applicable taxes in respect of Base Rent, Additional Rent or any other services that may be paid from time to time.

The Society shall pay the City \$300/month, plus any and all applicable taxes, for utilities at the Okanagan Military Museum. This cost will be adjusted annually at the same rate as the BC All Items Consumer Price Index (CPI) starting on January 1, 2023. In any year, should the CPI be negative, no change shall occur.

7. OBLIGATIONS OF THE CITY

The City shall:

- a) provide storage at no cost to the Society for the Bennet Cadillac for three (3) years at which time it will be removed by the Society at their expense. The insurance for this artefact will be maintained by the Society. Should the vehicle not be move after three (3) years, the City will charge the \$500/month, plus any and all applicable taxes, for storage.

8. FINANCIAL AND REPORTING OBLIGATIONS

8.1 Operating Grant from the City

The City shall provide support to the Society in three parts described below:

- a) The City will pay to the Society during the Term an annual operating grant of \$675,000 to be adjusted annually starting January 1, 2023 by the BC CPI Annual average for the prior calendar year (the "Operating Grant"). In any calendar year, should the CPI be a negative, no adjustment will occur. The Operating Grant will be payable in semi-annual instalments: March 1st and October 1st. The City and the Society acknowledge and agree that the Operating Grant is provided to support the Society's programs and services and facility maintenance, which are delivered for a public purpose and the public good as set out in this Agreement.
- b) Fleet Vehicle & Parking Stall - The City shall provide the Society use of a vehicle for the purpose of conducting outreach and maintenance including such activities as pop-up museums, community displays and moving artefacts. The vehicle shall be operated by a licensed Society staff person and shall not be used to transport the general public. Where required, the City shall provide the Society with a parking stall and/ or parking pass for the safe storage of a vehicle while it is not in use. The City shall be responsible for licensing, insurance, inspections and maintenance of the vehicle. The Society is required to follow all policies related to the operation of fleet vehicles and it remains their responsibility to make themselves aware of such policies. The City reserves the right, at its sole discretion, to limit a driver(s) based on their driving record or history of incidence that is not acceptable to the City of Kelowna.
- c) Reimbursement for use of washrooms - The City shall provide an additional \$4,000 (plus applicable taxes) per year for public access to the washrooms at the Okanagan Heritage Museum washroom to be utilized by the transit drivers and general public. Should the City no longer require this service, this portion of support may be cancelled prior to the end of this agreement. This funding shall not be subject to the annual BC CPI increase.

8.2 Additional Funds

The Society will not seek or request additional operating grant funds from the City, except in accordance with Section 8.3, or in the case of unanticipated exceptional need or emergency the reason for which is to be fully stated. The Society is not precluded from applying for other City grants through established programs, provided that it meets program eligibility requirements.

8.3 Funding Increases Through Annual Budget Process

Through submission of a business case, the Society may seek from the City supplemental operating grant funds, in addition to the Operating Grant, for the purpose of delivering the Core Programs and Services. The City will, at its sole discretion, consider the business case in support of the supplemental funding request as part of its annual financial planning process for the following calendar year. The City has no obligation to approve the request for supplemental funds and approval of the request is at the sole discretion of City Council.

8.4 Annual Reporting – Format & Content

By March 31 of each year during the Term, the Society will provide to the City an annual report, in the City's prescribed format, which includes (but is not limited to) the following information relating to the prior calendar year (the "Annual Report"). The City will provide to the Society the prescribed format of the Annual Report no later than January 31.

- a) Professionally prepared audited annual financial statements, approved by the Society's Board of Directors, for the most recent fiscal year end.
- b) Proof of insurance as specified in Section 12;
- c) Current year operating and capital budget, as approved by the Society's Board of Directors, with actuals or forecast to March 31;
- d) Program information, in a form acceptable to the City which includes;
 - List of City of Kelowna locations and programs and services
 - Statistical summary of people served by the Society in the prior year which may take the form of registration, attendance, visitation, participation, membership or a combination thereof
 - Highlights of particular achievements and successes in the prior calendar year with a focus on the impact of the Society's programs in the community
 - Identification of active partnerships or collaborations, and the beneficial outcomes of same
- e) Governance and planning information which includes:
 - A list of the Society's directors
 - An organizational chart indicating key management and staff roles and staffing levels
 - Objectives for the current calendar year
 - A realistic self-assessment, including identification of areas where improvements can be made in the areas of programming, organization governance and financial oversight, along with strategies and processes to achieve improvements. This may be in the form of a strategic plan, program

evaluation, or consultant's report and may include information about trends, external threats or other factors which influence the Society's planning and results.

f) For each of the Buildings, provide a:

- Summary of operational expenses for gas, water and electrical utility data (as applicable) indicating consumption and costs;
- Summary of janitorial costs;
- List of maintenance and repair tasks carried out by the Society with costs and contractors/trades identified;
- Inspection reports as listed in Section 9.4 along with upcoming capital expenses/projects that the Society intends to undertake in the coming year; and
- Inspection reports as listed in Schedule "D1" and "D2".

g) any other information as requested.

The City may request, at its sole discretion, that the Society provide a public-in-attendance report to the City's Council in a prescribed format, which will reflect the reporting information listed in this section.

8.5 City Feedback on Reporting

Upon reviewing the Annual Report, in each calendar year the City may, at its sole discretion, make specific recommendations and requests to be fulfilled by the Society, which the Society shall implement within a reasonable period of time, upon receipt of such recommendations and requests. The City's feedback is intended to be constructive and offered in the spirit of learning and improvement. In the event the Society does not implement the said recommendations and requests, the City may at its sole discretion adjust any payments owed to the Society, including the Operating Fund, or terminate this Agreement in accordance with Section 14.

Recommendations and requests made by the City under this section or during the course of other discussions, meetings or communications between the Society staff, officers or board members and the City do not constitute direction or instructions by the City staff, agents or council. The Society is responsible for the direction and governance of all its operations.

8.6 Accounts

The Society shall, at all times during the Term:

- a) keep or cause to be kept true and accurate records and accounts regarding management and operation of the Buildings, including without limitation:

- Core Programs and Services records: financial reports and records, (in accordance with generally accepted accounting principles), accident and incident reports, and program registration reports, customer comments; and
 - Buildings record: any WorkSafeBC safety inspection records, energy consumption logs, emergency lighting inspection records, annual building inspection reports, health department inspections and reports, preventative maintenance records, fire and emergency drill records or other such similar records that the Society may acquire from time to time.
- b) on 72 hours' notice, permit the City, its accountants and other representatives, at the City's expense and at all reasonable times, to examine and make copies of any and all documents listed in this section, and any other documents under the control of the Society that relate to the Buildings and to audit the same; and
- c) upon termination or expiration of this Agreement and within the limitations of privacy legislation, surrender all records, except those relating to the Society's staff, to the City.

9. REPAIRS, MAINTENANCE AND CHANGES TO BUILDINGS

9.1 Routine Maintenance and Repairs

Throughout the Term, the Society shall, at its sole expense, clean, maintain and keep the Buildings and the License Areas, and all fixtures and appurtenances thereon, in good repair consistent with standards of repair generally accepted in British Columbia with respect to comparable premises.

Routine maintenance means any action taken that can prolong the life expectancy of facility equipment, including plumbing and electrical, and prevents premature operations failures.

Repair costs are defined as the costs incurred to bring an asset back to an earlier condition or to keep the asset operating at its present condition. Any individual repair that costs more than the residual value should result in a replacement as opposed to repair.

The Society is responsible for and must complete all routine maintenance, inspections and repairs according to Schedule D 1 and D2, and adhere to all Technical Safety BC regulations, with respect to the Buildings and the License Areas necessary for the Society's use, occupation and operation of the Buildings and the License Areas.

The Society must make such repairs within a timely manner. If the Society fails to fulfil its maintenance responsibilities in accordance with any provision in this Agreement, the City may, at its sole discretion declare the Society to be in default of this Agreement. At the end of the Term, the Society must surrender the Buildings and the License Areas to the City in good repair, excepting reasonable wear and tear.

9.2 Society Maintenance Limit

For electrical, plumbing and building fabric, the Society is responsible for the repairs and maintenance up to the amount specified below for each event, (the "Society Maintenance Limit"). Costs over and above the Society Maintenance Limit are the responsibility of the City. For clarity, in 2022 the Society would be responsible for the first \$1,500 of an electrical repair, the City would be responsible for the remainder of the expense.

Year	Society Maintenance Limit per event
2022	\$1,500
2023	\$1,550
2024	\$1,600
2025	\$1,650
2026	\$1,700

a) Electrical

Electrical maintenance and repairs including the replacement of all light bulbs, fixtures, fuses, circuit breakers, switches and related electrical control components.

b) Plumbing

Plumbing maintenance, repair and replacement.

c) Building Fabric

Building fabric repair and replacement, including all interior doors, interior windows & glass, floor, fixtures, walls, ceilings, building infrastructure and all related hardware that control entry or exit from all internal areas.

9.3 Substantial Maintenance and Repairs

The City, in consultation with the Society, will maintain and repair the Buildings' structural members, foundations, roofs, external facades, and windows using funds from the Reserve Fund described in Section 6.2 at the time of the proposed maintenance or repair.

9.4 Inspections Performed by the Society

The Society covenants and agrees to conduct, at a minimum, the inspections for the Buildings as outlined below:

a) Electrical

The Society's contractor shall act as the Field Safety Representative (FSR) for the Laurel Packing House and Okanagan Heritage Museum and the Society shall provide the City with an annual inspection report from the FSR, as defined in Section 9.5, as part of the annual reporting process. The report should document the observed status of the

electrical system, confirmation of completed preventative maintenance, and any recommended capital repairs. This inspection is not required for the Okanagan Military Museum facility.

b) Plumbing

The Society shall provide an annual inspection report from a contractor, as defined in Section 9.5, documenting the observed status of the plumbing systems, confirmation of completed preventative maintenance, and any recommended capital repairs. This inspection is not required for the Okanagan Military Museum facility.

All completed inspection reports under this section must be submitted to the City upon receipt by the Society and are also required to be submitted as part of the annual reporting process.

9.5 Contractors

For all maintenance and repair work completed on the Buildings and License Areas must be performed by qualified contractors as defined in this section, not volunteers.

For work on electrical and plumbing components and systems, the Society commits to engaging contractors that have been selected by the City. The City will provide an update list of the selected contractors annually.

Other building contractors must be approved by the City and:

- a) be qualified to perform such work;
- b) carry a minimum of two million dollars of commercial liability insurance; and
- c) act as the Prime Contractor for all work to be done.

9.6 Restoration Work / Non-Fire Building Emergencies

The Society agrees to contact the City regarding a building emergency, for example, but not limited to, flooding or structural concerns. A City representative can be reached by calling the non-emergency line at fire department 250-469-8577, 24 hours a day, 7 days a week.

9.7 Minimum Work Standards

The Society must ensure that any repairs or work with respect to the Buildings and the License Areas done by or on behalf of the Society:

- a) do not affect any structural or foundation elements of the Buildings and the License Areas;
- b) meet or exceed the standards of material and construction employed in the original construction of the Buildings and the License Areas; and

- c) comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from to time in force, including the applicable building code and bylaws of the City of Kelowna.

9.8 Annual Onsite Meeting

The Society and the City shall meet annually to conduct an onsite walk through of each of the Buildings to identify items that require maintenance and future capital replacement.

The walk through will be organized by the City, and meeting minutes and action items will be distributed to all attendees. The Society covenants to complete the noted items as per a mutually agreed upon time frame. If the Society fails to complete the noted items, any contingent damage as a result of the deferred repairs is a responsibility of the Society.

9.9 Keys and Access

The Society is to provide the City access to each Building upon request within a reasonable time frame. The Society is to also provide the City with master key(s) and necessary security information for each Building.

If in the City's sole opinion, the Society does not provide adequate Building access, the City reserves the right to take over the management of the keys and access to the Buildings. Should the City take over the management of the Building keys, the Society covenants that it will not change the locks on the building, copy the keys or hand them out. The City will maintain a record of the keys and who they have been issued to. If the locks need repair or replacement, the Society will inform the City.

9.10 Environmental Stewardship and Sustainability

The Society must strive to operate the building in an environmentally sensitive manner and implemented "green" initiatives and programs as expected by a reputable Society.

The Society covenants with the City:

- a) That the Society will co-operate with the City in the conservation of all forms of energy in the Buildings;
- b) that the Society will comply with all laws, bylaws, regulations and orders relating to the conservation of energy and affecting the Buildings; and
- c) that the Society will at its own cost comply with reasonable requests and demands of the City made with a view of such energy conservation.

9.11 Energy Expense Reporting

The Society agrees to grant permission to the utility providers (ie FortisBC) to provide the City with all utility billing reporting information pertaining to the Buildings that are being managed by the Society under this agreement.

9.12 Video Monitoring and Security

The Society is solely responsible for the installation and ongoing operations and maintenance of all video monitoring and security systems. Installation requires City consultation with regards to penetrating the building envelope. The Society shall take all reasonable steps to ensure that the Buildings, the Collections, staff, volunteers and visitors are secure at all times, with the use of a monitored alarm system, security guards when appropriate and other measures the Society considers necessary. Further, it is the responsibility of the Society to ensure all video monitoring and security systems consider all the appropriate legislation governing their use. The Society shall grant the City access to the security footage upon request.

9.13 Laurel Square – Shared Responsibilities

The Laurel Square was a joint capital initiative undertaken in 2018-19 involving the City and the Society. As the components of this project go above what is typically found in a City of Kelowna urban space, it is a requirement for this project that the Society supplement the standard maintenance performed by the City.

Maintenance responsibilities are outlined for each party:

- a) City of Kelowna will conduct regular inspections of the following site and building improvements, keep them clean and in good repair, and manage inappropriate use:
 - external decks,
 - stairs and railings,
 - plant and tree maintenance,
 - irrigation system maintenance,
 - drainage system maintenance,
 - standard park signage maintenance,
 - lighting/electrical maintenance,
 - litter control and trash removal, and
 - snow and ice control (limited – no snow clearing on decks and stairs).
- b) The Society will conduct regular inspections, manage inappropriate use and keep the following interpretive elements and historical displays clean and in good repair:
 - irrigation flume feature,
 - Apple Box feature,
 - stage and game feature,

- interpretive historical panels and signage,
- insect hotel, and
- shunting truck.

9.14 Capital Improvements and Use of the Reserve Fund

The Society and the City agree that the Reserve Fund may be used for capital improvements including maintenance or repair costs incurred by the City. The City agrees that it is obligated to consult with the Society for use of the Reserve Fund for the following purposes:

- a) any substantial maintenance or repair to the Buildings to be performed by the City under Section 9.3;
- b) and any landlord responsibilities.

9.15 Society's Construction of Buildings, Structures and Other Improvements

The Society must not construct, erect or install or cause to be constructed, erected or installed any buildings, structures, improvements, extensions, installations, alterations, additions, renovations or other constructions in, on, over, under, around and to the Buildings or the License Areas, or alter the existing state of the Buildings in any way, without the prior written consent of the City, which consent may be withheld for any reason at the City's sole discretion. If the City gives such consent, the Society must obtain the City's prior approval of drawings and specifications for such work, must do such work strictly in accordance with the approved drawings and specifications and must comply with any conditions the City imposes with that approval. The Society is responsible for applying for the required permits and requesting the necessary construction inspections, including the final sign off. The cost of construction and design of the improvements are solely the Society's.

9.16 Ownership of Improvements at Termination

At the expiry of the Term or earlier termination of this Agreement, any improvements, extensions, installations, alterations, renovations or additions to the Buildings, and the License Areas, whether done by or on behalf of the Society or not, are forfeited to and become the permanent property of the City.

9.17 Builders Liens

The Society shall promptly discharge any builders' lien or other lien or claim of lien which may be filed against title to the Lands relating to any improvements, work or construction that the Society undertakes on the Lands and to comply at all times with the Builders Lien Act (British Columbia) in respect of any improvements, work or construction undertaken on the Lands.

9.18 Capital Expenditures

The City acknowledges a responsibility for long-term operational effectiveness of the Buildings.

- a) The City will include appropriate funding in the City's capital planning consistent with other City of Kelowna public buildings over the life of this Agreement. Future capital expansion, renovation and Building development not identified in this Agreement will be cooperatively and collaboratively discussed and be facilitated by the City and the Society.
- b) The Society shall not make any application for grant funding for capital expansion or renovation of the Buildings without first receiving the express written approval from the City.

9.19 Future Plans For the Buildings

- a) The parties acknowledge and agree that the City's future plans for the Buildings may require the demolition of one or more facility or portion thereof and the repurposing of the site(s), which may or may not include construction of new buildings.
- b) The Society hereby acknowledges and agrees that at any time during the Term, the City may, in its sole discretion and upon providing at least twelve (12) months written notice to the Society, demolish any building and/or structure on the Lands notwithstanding any other provision of this Agreement.
- c) If the City exercises its right to demolish in accordance with this section:
 - the City will work collaboratively with the Society to review options for alternative locations but is under no obligation to provide the Society with alternative space;
 - within twelve (12) months upon receiving the notice under 7.9(b), the Society will fully vacate and cease occupation of the facility to be demolished;
 - this Agreement will automatically be amended by deleting all references to the demolished facility, thereby terminating associated rights and obligations relating to the demolished facility, and provision of programs in the demolished facility; and
 - all other terms and conditions of this Agreement shall remain in force and binding on the parties.

9.20 City's Construction of Buildings, Structures and Other Improvements

The Society acknowledges and agrees that the City may, in consultation with the Society, construct or cause to be constructed certain leasehold improvements in, on, over, under, around or to the Buildings ("Future Construction"), the design, construction and performance

of which is in the sole discretion of the City. If the City undertakes any Future Construction, the Society:

- a) acknowledges and agrees that the Future Construction may be performed during the Term;
- b) shall grant full access to the Buildings to the City and its elected officials, officers, employees, contractors, agents and others for purposes relating to the Future Construction; and
- c) acknowledges and agrees that the Future Construction may result in the temporary closure, in whole or in part, of one or more of the Buildings and/or the License Areas and may require the interruption, disruption, rescheduling or cancellation of regularly scheduled programs and services offered at the Buildings.

9.21 Damage or Destruction of the Buildings

If during the Term one or more of the Buildings shall be damaged or destroyed by any cause whatsoever or if a major building system in one or more of the Building fails such that in the opinion of the City one or more of the Buildings is rendered unfit for use by the Society, the City may or may not, in its sole discretion, repair, rebuild or replace the building system or Buildings. If the City chooses not to repair, rebuild or replace the building system or Buildings then the City will work collaboratively with the Society to review options for alternative locations. If the City and the Society cannot come to an agreement regarding an alternative location, then the City may, in its sole discretion:

- a) provide three (3) months written notice to the Society that this Agreement is terminated, and the Society shall vacate all the Buildings as if this Agreement had expired or been terminated for cause; or
- b) negotiate the continuation of this Agreement deleting all references and obligations related to one or more of the destroyed Buildings and program provision.

9.22 Expropriation

If an authority with expropriation power expropriates all or a material part of the Buildings, the City may give reasonable notice to the Society, but in no case less than 30 days, and the Society shall have no claim for compensation against the City or the expropriating authority for any interest in land except that where compensation is available for disturbance, the Society may make such claim to the expropriating authority.

9.23 No Capital Liabilities

Despite any other provision of this Agreement, nothing in this Agreement obligates the City to make any expenditure of a capital nature and nothing in this Agreement shall be interpreted in a manner that results in the City having expressly or implicitly incurred a 'liability of a capital nature' as that phrase is used in the Municipal Liabilities Regulation, B.C. Reg. 254/2004.

10. ENVIRONMENTAL MATTERS

10.1 Definitions

In Section 10, the following terms shall have the following meanings:

- a) **"Contaminants"** means
 - as defined in the Environmental Management Act: any biomedical waste, contamination, effluent, pollution, recyclable material, refuse, hazardous waste or waste and any radioactive materials, asbestos materials, urea formaldehyde, underground or above ground tanks, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is now or hereafter prohibited, controlled or regulated under Environmental Laws;
- b) **"Environment"** includes the air (including all layers of the atmosphere), land (including soil, sediment deposited on land, fill and lands submerged under water) and water (including oceans, lakes, rivers, streams, ground water and surface water);
- c) **"Environmental Laws"** means any past, present or future common laws, enactments, statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction relating in any way to the Environment, environmental protection, health, occupational health and safety, product liability or transportation of dangerous goods, including the principles of common law and equity; and
- d) **"Release"** includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, migration, disposal or dumping.

10.2 Society's Representations and Warranties

The Society represents and warrants to the City, and acknowledges that the City is relying on such representations and warranties in entering into this Agreement, that as of the date of this Agreement:

- a) except as disclosed to the City in writing, the Society is not, and has never been, subject to any charge, conviction, notice of defect or non-compliance, work order, pollution abatement order, remediation order or any other proceeding under any Environmental Laws; and
- b) except as disclosed to and approved in writing by the City, the Society's business at the Buildings, the License Areas or the Lands does not involve the sale, storage, manufacture, disposal, handling, treatment, generation, use, transport, refinement, processing, production, remediation, Release into the Environment of, or any other dealing with any Contaminants.
- c) that all resolutions and other corporate prerequisites for this Agreement have been duly passed and the persons executing this Agreement on its behalf are authorized to do so.

If any of the representations and warranties contained in this section are untrue or incorrect in any material respect, the same shall constitute a breach of this Agreement by the Society and shall be subject to the provisions of Section 14 of this Agreement.

10.3 Condition of Buildings

The Society acknowledges and agrees that the City has made no representations or warranties with respect to the environmental condition of the Buildings, the License Areas or the Lands and is leasing the Buildings to the Society under this Agreement on an "as is, where is" basis with respect to their environmental condition. Prior to taking possession of the Buildings under this Agreement, the Society has performed such investigations of the Buildings, the License Areas and the Lands as it considered appropriate and is satisfied as to their environmental condition.

10.4 Compliance with Environmental Laws and Use of Contaminants

The Society covenants and agrees with the City to:

- a) carry on and conduct its activities in, on and from the Buildings, the License Areas and the Lands 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 Buildings, the License Areas or the Lands, 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:

- a release of Contaminants in, on or about the Buildings, the License Areas, the Lands or any adjacent land; or
 - 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 Buildings, the License Areas or the Lands conducted at any time by or for the Society;
- e) if the City suspects that the Society 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 Buildings or the License Areas and conduct or cause to be conducted any additional investigations that the environmental consultant may recommend all in order to determine compliance of the Buildings, the License Areas or the Lands with Environmental Laws; and
- f) promptly remove any Contaminants arising from the Society's use or occupation of the Buildings, the License Areas or the Lands in a manner that conforms to Environmental Laws governing their removal.

10.5 Confidentiality of Environmental Reports

The Society shall maintain all environmental site investigations, assessments, audits and reports relating to the Buildings, the License Areas or the Lands in strict confidence and shall not disclose their terms or existence to any third party (including without limitation, any governmental authority) except as required by law, to the Society's professional advisers and lenders on a need-to-know basis or with the prior written consent of the City, which consent may be unreasonably withheld.

10.6 Authorizations

The Society shall promptly provide to the City on request such written authorizations as the City may require from time to time to make inquiries of any governmental authorities regarding the Society's compliance with Environmental Laws.

10.7 Ownership of Contaminants

Notwithstanding any rule of law to the contrary, any Contaminants or leasehold improvements or goods containing Contaminants brought onto, used at, or Released from, the Buildings, the License Areas or the Lands by the Society or any person for whom it is in law responsible shall be and remain the sole and exclusive property of the Society and shall not become the property

of the City, notwithstanding the degree of their affixation to the Buildings, the License Areas or the Lands and notwithstanding the expiry or earlier termination of this Agreement. This section supersedes any other provision of this Agreement to the contrary.

10.8 Survival of Society's Obligations

The obligations of the Society under this Section 10 (including, without limitation, the Society's indemnity, its obligation to remove and remediate Contaminants and its covenant of confidentiality) shall survive the expiry or earlier termination of this Agreement.

11. MANAGEMENT OF BUILDINGS AND PROVISION OF SERVICES

11.1 No Discrimination

The Society acknowledges and agrees that it is in the community's best interest that community services be provided in a non-discriminatory and inclusive manner. The Society hereby covenants and agrees to provide the programs and services and other services offered at the Buildings in accordance with the Human Rights Code (British Columbia) and best practices related to equity and inclusion.

11.2 Employee Standards

The Society shall hire, train, supervise and remunerate or cause to be hired, trained, supervised and remunerated, all employees, contractors and volunteers required for the provision of the programs and services. .

11.3 WorkSafe BC Coverage

The Society shall, in its use of and activities on the Buildings and the Lands, comply with the Workers Compensation Act (British Columbia) and all regulations and orders from time to time in force thereunder, including Occupational Health and Safety Regulations, and, upon request from the City, provide evidence of any required registration under that Act and evidence of compliance with any requirement under that Act to make any payments or pay assessments. In addition, the Society shall be the "prime contractor" for the Buildings under the Workers Compensation Act (British Columbia) and fulfill all of the "prime contractor's" obligations under that Act, including by ensuring that the activities of any employers, workers and other persons on the Buildings relating to occupational health and safety are coordinated and by doing everything that is reasonably possible to establish and maintain a process that shall ensure compliance with that Act and regulations thereunder, including the Occupational Health and Safety Regulations.

11.4 Incidental Rights

The Society may:

- a) offer programs and services at the Buildings in addition to the programs and services to reflect community needs or respond to unique market opportunities;
- b) not rent rooms within the Buildings for periods in excess of seven (7) consecutive days only with the prior written consent of the City;
- c) enter into sponsorship, media or advertising agreements ("Endorsements") involving the Buildings or the programs and services provided that the Endorsements are:
 - appropriate for families and children;
 - consistent with the parties' joint values of equality, accessibility, health, respect and the dignity of the individual;
 - respectful of the neighbourhoods surrounding the Buildings and all scheduled programs and services at the Buildings;
 - appropriate to the aesthetics of the Buildings; and
 - the Society is required to consult with the City and adhere to the requirements of Council Policy 376 – Corporate Sponsorship and Advertising and Council Policy 343 – Civic Community Facility Naming Policy, as amended from time to time, prior to entering into any naming agreement for any portion of any Buildings. This requirement does not apply to any interior room in any facility which was named prior to execution of this Agreement.
- d) undertake fundraising activities at the Buildings for the Society's benefit; and
- e) use the Buildings for the Society's Kelowna office and headquarters during the Term.

11.5 City Acknowledgement

The Society will acknowledge the facility and/or operating support of the City based on the following:

- a) **Building contribution:** The City's contributions to the Buildings or ownership of the Buildings as an asset will be acknowledged in the form of an external plaque or signage as determined and produced by the City. All costs associated with production and placement of external recognition signage is to be incurred by the City.
- b) **Operational grant contribution:** Financial contributions from the City funding operational needs of the Society (i.e. Operating Grants) should be recognized at a consistent level with all other major funding contributors on any internal collateral that is used to recognize financial contributors (i.e. donor wall, plaque or signage at information desk). The City can also work with the Society and discuss what is

appropriate based on funding levels and available space within the each of the Buildings.

Example: The _____ gratefully acknowledges the financial assistance of City of Kelowna.

In addition, operational funding contributions from the City should be recognized on the organization's primary website as well as principal collateral (such as the organization's annual report, main brochure and any materials that would not otherwise be produced without the City's funding).

- c) **Project or program grant contribution:** Financial contributions from the City funding specific programs or projects (i.e. Project Grants) should be recognized at a consistent level with all other project or program funding contributors.

This includes City recognition on any materials that are exclusively or primarily produced because of the funding that the City provides.

Example: This program/project is made possible from financial support from the City of Kelowna.

12. SOCIETY INSURANCE

12.1 Society to Provide

The Society shall procure and maintain during the Term, at its own expense and cost, the insurance policies listed in Section 12.2 of this Lease. For clarity, the insurance requirements set out in Section 12.2 are minimum requirements and are not to be interpreted in a manner that limits the Society's obligations under this Agreement and the Society shall be responsible for obtaining and maintaining such additional insurance as would a prudent tenant having similar obligations to those of the Society under the terms of this Agreement. Further, all insurance policies held pursuant to this Agreement shall contain an undertaking by the insurer to notify the City in writing not less than 30 days before any material change, cancellation, or termination.

12.2 Society's Insurance Obligations

As a minimum, the Society 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:

- a) Directors and Officers Liability Insurance
- b) Comprehensive General Liability Insurance
 - providing for an inclusive limit of not less than \$5,000,000.00 for each occurrence or accident;

- providing for all sums which the Society shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting there from) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this Agreement, services and/or occupancy or any operations carried on in connection with this Agreement;
 - including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability;
 - 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.
- c) All risks (including flood and earthquake, as required by the City) property insurance (contents, tenant improvements, etc) in an amount equal to 100% of the full replacement cost.
- insuring all property owned by the Society, or for which the Society is legally liable, or installed by or on behalf of the Society, and located within the Buildings including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements. In the event of loss or damage, the Society shall, if so requested by the City, forthwith replace such lost or damaged equipment or chattels;
 - insuring the Society's inventory, furniture, and movable equipment to the extent that such insurance is commercially available;
 - providing business interruption insurance to the Society for loss of revenue resulting from or due to loss or damage to equipment or the Buildings;
 - providing a period of indemnity shall not be less than twelve (12) months from the date of loss or damage; and
 - naming the City as a first loss payee with respect to any loss or damage to the permanent collection of artefacts and archival material maintained by the Society on the policy required by 12.2 (c).
- d) Insurance upon all plate glass in or which forms a boundary of the Building in an amount sufficient to replace all such glass.

The policy(s) set out in Section 12.2 shall contain a waiver of any subrogation rights which the Society's insurer may have against the City. The Society hereby waives its rights of subrogation against the City.

12.3 City's Insurance Obligations

The City shall maintain, through the Term, in those reasonable amounts and with those reasonable deductions that a prudent owner of a similar property would maintain, having regard to the size, age, and location:

- a) All risks insurance on the Buildings and the License Area and machinery, boilers, and equipment contained in it and owned by the City (excluding property that the Society is required to insure pursuant to this Lease);
- b) General liability insurance with respect to the City's operations at the Buildings; and
- c) Whatever other forms of insurance the City considers advisable.

12.4 Automobile Liability Insurance

Save the vehicle referenced in 8.1b, the Society shall procure and maintain insurance policies covering all motor vehicles, owned, operated and used or to be used by the Society directly or indirectly in the performance of this agreement, services and/or occupancy. The limit of liability shall not be less than \$5,000,000.00 inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.

12.5 The City Named As Additional Insured

The policies required by Section 12.2 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.

12.6 Society's Sub-contractors

The Society shall require each of its sub-contractors to provide comparable insurance to that set out in Schedule E.

12.7 Certificates of Insurance

The Society agrees to submit Certificates of Insurance in the form attached as Schedule D for itself and all of its sub-contractors to the City prior to the commencement of this agreement, services and/or occupancy. No review or approval of any insurance certificate or insurance policy by the City derogates from or diminishes the City's rights under this Lease.

12.8 Other Insurance

After reviewing the Society's Certificates of Insurance, the City may require other insurance or alterations to any applicable insurance policies in force during the Term 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 Society's expense.

12.9 Additional Insurance

The Society 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. The Society shall ensure that all of its sub-contractors are informed of and comply with the City's requirements set out in this Schedule E.

12.10 Insurance Companies

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

12.11 Failure to Provide

If the Society 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 in the name and at the expense of the Society and the Society shall repay any and all costs expended 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 Society under this Agreement.

12.12 Non-Payment of Losses

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Society or any sub-contractor shall not be held to waive or release the Society or sub-contractor from any of the provisions of the Insurance Requirements or this Agreement, with respect to the liability of the Society otherwise. Any insurance deductible maintained by the Society or any sub-contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Society as stated in Section 12.11.

13. INDEMNITY

13.1 Society Indemnity

The Society must save harmless, release and indemnify the City and its elected and appointed officials, officers, employees, agents, successors and assigns, from any and all liabilities, actions damages, claims, losses, costs and expenses whatsoever (including without limitation, the full amount of all legal fees, costs, charges and expenses whatsoever) in any way directly or indirectly arising from the occupation, use, activities or actions of the Society in, on or from the Buildings, License Areas or the Lands or any act or omission of the Society. The obligations of the Society under Section 13 shall survive the expiry or earlier termination of this Agreement.

14. DEFAULTS, TERMINATION AND EXPIRATION

14.1 City May Cure Default

If the Society fails to observe, comply with, keep or perform any of its covenants, agreements or obligations under this Agreement, the City may, but is not obliged to, at its discretion and without prejudice, take all steps considered necessary to rectify or cure the default and all costs of so doing, including the costs of retaining professional advisors, shall be payable immediately by the Society upon receipt of an invoice. Nothing in this Agreement obligates the City to rectify or cure any default of the Society but should the City choose to do so, the City shall not be liable to the Society for any act or omission in the course of rectifying or curing or attempting to rectify or cure any default.

14.2 Termination Due to Default

If and whenever:

- a) the Society does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Agreement to be observed, performed and kept by the Society, and persists in such default for 30 days after written notice by the City;
- b) the Society ceases to exist as a non-profit society in good standing in the records of the British Columbia Corporate Registry;
- c) any proceedings towards dissolution or winding up of the Society;
- d) the term or any of the goods or chattels in the Buildings are at any time seized or taken in execution or attachment by any creditor of the Society or under bill of sale or chattel mortgage;
- e) a writ of execution issues against the goods and chattels of the Society;
- f) the Society makes any assignment for the benefit of creditors or becomes insolvent or bankrupt;
- g) the Society is in default in the payment of Rent, the Reserve Fund Contributions or any other amount payable under this Agreement and the default continues for 30 days after written notice by the City to the Society;
- h) the Buildings or the Lands, or any part of it, is destroyed or damaged by any cause so that in the opinion of the City the Buildings are no longer reasonably fit for use by the Society for the purposes set out in this Agreement for any period in excess of 60 days;
or

- i) the Society vacates or abandons the Buildings or any part of it, or uses or permits or suffers the use of the Buildings for any purpose other than the purposes permitted by this Agreement, and such default persists for 14 consecutive days after written notice by the City,

then the City may, in its sole discretion, terminate this Agreement and the Rent, the Reserve Fund Contributions and all outstanding levies and charges shall become immediately due and payable and the Term shall immediately become forfeited and void and the Society must immediately cease all use and occupation of the Buildings and vacate and deliver up possession of the Buildings and the City may without notice or any form of legal process and without any adherence to public law duties or procedural fairness or the principles of natural justice, forthwith re-enter the Buildings and take possession of the Buildings.

14.3 Distress

If the Rent or Reserve Fund Contributions payable by the Society are in arrears, the City or a person authorized in writing by the City may enter upon or into the Buildings and seize any goods or chattels and may sell the same.

14.4 Termination Without Cause

Notwithstanding the rest of this Agreement, either party may terminate this Agreement upon at least six (6) months' written notice to the other party.

14.5 Return of Operating Grant

The Society shall immediately upon expiration of the Term or the earlier termination of this Agreement, release, relinquish and return any unused portion of the Operating Grant to the City.

14.6 Overholding

If the Society continues to occupy any or all of the Buildings after the expiration of the Term or the earlier termination of this Agreement, such holding over will not constitute a renewal of this Agreement. In such case, the City, at its option, may elect to treat the Society as one who has not vacated at the end of the Term and to exercise all of its remedies in that situation, or may elect to construe such holding over as a tenancy from month to month subject to all the terms and conditions of this Agreement except as to the Term. For clarity, this section does not authorize or permit the Society to overhold.

14.7 Compensation Upon Termination

The Society shall not make any claim for compensation, in damages or otherwise, upon the termination or expiry of this Agreement. If the City terminates this Agreement, the City retains the right to proceed at law against the Society for all of the Rent and Reserve Fund Contributions and other loss or damage and costs, including all prospective losses or prospective damages suffered or to be suffered by the City arising from the default of the Society under this Agreement.

14.8 State of Buildings and Lands at Termination

If the Society fails to leave the Buildings, and the Licence Areas, in a condition required by this Agreement, the City may take such action as the City deems necessary to rectify such breach so on behalf the Society and the Society must, on demand, compensate the City for all costs incurred by the City.

14.9 Vacate Upon Termination, Survival

At the termination of this Lease and Operating Agreement, whether by effluxion of time or otherwise, the Society shall vacate and deliver up possession of the Buildings in good repair and in a clean, safe and uncontaminated condition, with the entire Collection safely stored within the Buildings, and the Society shall surrender all keys to the Building to the City, subject only to the Society's rights and obligations in respect of artefacts, collections and archives on loan to the Society or transferred by the British Columbia Dragoons Whizzbang Association.

14.10 The Society Moves To a New Museum Location

Should the Society vacate one of more of the Buildings and move to a new location within the City of Kelowna boundaries the Collection may move with the Society provided that the Collection will be as safely stored, cared for and displayed as it is at the current location. The Society agrees that it will not otherwise move or transfer the Collection from the Building.

14.11 Additional Rights of Re-Entry

If the City shall re-enter the Buildings or terminate this Lease and Operating Agreement, then:

- a) notwithstanding any such termination or the Term thereby becoming forfeited and void, the provisions of this Lease and Operating Agreement relating to the consequences of termination shall survive;
- b) the City may re-enter and retake possession of the Buildings and the Collection and the Society hereby releases the City from all actions, proceedings, claims and demands whatsoever for or in respect of any such entry or any loss or damage in connection therewith or consequential thereupon;

- c) the City may re-let the Buildings or any part thereof for a term or terms which may be less or greater than the balance of the Term and may grant reasonable concessions in connection therewith.

14.12 Delivery of Information

At the expiry or earlier termination of this Lease and Operating Agreement, the Society will deliver to the City a detailed list of the Collection, plus deliver to the City (or leave in place at the Buildings) all materials within the library at the Buildings and all computer software (with assignment of all rights) for management and recording of the Collection and all original paper and electronic information about the Collection and the Buildings and its operations and maintenance.

14.13 Remedies Cumulative

No reference to or exercise of any specific right or remedy by the City prejudices or precludes the City from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement.

15. ARTIFACT AND ARCHIVAL COLLECTIONS

The parties acknowledge and agree that, in the event of the winding up or dissolution of the Society, the entire collection of artefacts now and hereafter held at the Buildings or other locations or acquired by the Society, whether by purchase, bequest, donation, exchange or otherwise (the "Collection") shall be transferred, as directed by the City, to such charitable organization(s) in the City of Kelowna which have similar charitable purposes to the Society, except for:

- a) artefacts and archival collections on loan to the Society; and
- b) the artefacts and archives of the British Columbia Dragoons Regimental Family transferred to the Society.

16. GENERAL TERMS

16.1 Assignment and Subleasing or Sublicensing

The Society shall not assign or sub-licence the Society's interest in or rights under this Agreement in whole or in part, without the prior written consent of the City, nor may the Society charge, mortgage, or encumber or purport to charge, mortgage or encumber the Society's interest in the Buildings, the License Areas or any part of the Buildings, the License Areas or this Agreement without the prior written consent of the City. The City may withhold such consents for any reason whatsoever. If the City consents to a sublease of the Buildings or any part of the Buildings, the City may grant such approval on condition that the Society and the proposed sublessee execute a sublease agreement in a form satisfactory to the City.

16.2 Society's Representations and Warranties

The Society represents and warrants that it:

- a) is a not-for-profit society validly incorporated and in good standing under the laws of British Columbia and does not conduct its activities with a view to obtaining, and does not distribute, profit or financial gain to its members;
- b) has the power and capacity to enter into and carry out its obligations under this Agreement; and
- c) has completed all necessary resolutions and other preconditions to the validity of this Agreement.

16.3 City's Powers Unimpaired

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

16.4 Freedom of Information

The parties acknowledge, agree and consent to the disclosure of this Agreement as a matter of public record and further acknowledge and agree that applicable laws may require disclosure of information provided by one party to the other pursuant to or in connection with this Agreement.

16.5 Entire Agreement

The provisions in this Agreement constitute the whole of the 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 this Agreement.

16.6 Amendment

This Agreement may not be modified or amended except in writing signed by the City and the Society.

16.7 Enurement

This Agreement shall enure to the benefit of and be binding upon the City and the Society and their respective successors and permitted assigns, if any.

16.8 City Interests

The Society acknowledges and agrees that the City may assign, transfer, mortgage, subdivide and otherwise deal with its interests in the Buildings, the License Areas, Lands or any portion thereof, whether land or improvement, without the consent of the Society.

16.9 Attornment

If any person shall through the City succeed to the rights of the City under this Agreement or to ownership of the Buildings then, upon the request of the party succeeding to the City's rights hereunder, the Society shall attorn to and recognize the new owner(s) as the landlord of the Society under this Agreement and shall promptly execute and deliver any instrument that such party may reasonably request to evidence the attornment. In the event of any other transfer of interest of the City hereunder, upon the written request of the transferee and the City, the Society shall attorn to and recognize the transferee as the landlord of the Society under this Agreement and shall promptly execute and deliver any instrument that the transferee and the City may reasonably request to evidence the attornment provided that the transferee agrees with the Society to become the landlord hereunder and to assume the obligations of the City hereunder that are to be performed by the transferee after the transfer.

16.10 Certificates

The City and the Society agree that at any time and from time to time upon not less than thirty (30) days prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- a) that this Agreement is unmodified and in full force and effect or if there have been modifications that the same are in full force and effect as modified and identifying the modifications;
- b) the dates to which the Rent, Reserve Fund Contributions and other charges or fees have been paid;
- c) that, so far as the maker of the statement knows, without having conducted any searches or made any particular enquiries, the party who requests the statement is not in default under any provisions of this Agreement or, if in default, the particulars thereof; and
- d) any other reasonable information which is requested.

16.11 Not in Registrable Form

The Society acknowledges and agrees that the City is under no obligation to at any time to deliver this Agreement or any instrument creating this Agreement to the Society in a form registrable in the Land Title Office.

16.12 Notice

Any notice, request, direction or other communication (any of which is a "Notice") that is to be given or made by a party under this Agreement, shall be in writing, and if to the City, either delivered to an executive officer of the City or delivered or mailed (by prepaid registered mail) to the City at the address set out on page 3 of this Agreement, or if the City has given the Society Notice of another address in Canada to which notices to the City under this Agreement are to be given, then to the last such address of which the Society has been given Notice or sent by e-mail; and if to the Society, either delivered to the Society personally (or to a partner or officer of the Society if the Society is a firm or corporation) or delivered or

mailed (by prepaid registered mail) to the Society at the Buildings or sent by email, addressed as follows:

- a) To the City: City of Kelowna
E-mail Address: culture@kelowna.ca
Attention: Manager of Cultural Services
- b) To the Society: Kelowna Museums Society
E-mail Address: info@kelownamuseums.ca
Attention: Executive Director

Every such Notice shall be deemed to have been given when delivered or, if mailed as aforesaid, upon the third business day after the day of mailing thereof in Canada provided that if mailed, should there be a mail strike, slowdown, or other labour dispute which might affect delivery of such notice between the time of mailing and the actual receipt of notice, then such notice shall only be effective if actually delivered. Any Notice sent by e-mail is to be considered given on the day it is sent, if that day is a business day and if that day is not a business day, it is to be considered given on the next business day after the date it is sent.

16.13 Waivers

Waiver by a party of any default by the other party shall not be deemed to be a waiver of any subsequent default. A waiver is effective only if it is in writing.

16.14 Further Assurances

The parties shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement.

16.15 Own Cost

The Society shall perform all of its obligations, covenants and agreements under this Agreement solely at its own cost.

16.16 Joint Venture

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

16.17 Independent Contractor

The parties have entered into an arm's length contract for the provision of the services set out in this Agreement and the Society is an independent contractor, not an employee, of the City.

16.18 Legal Advice

The Society acknowledges and agrees that the City has recommended that it receive independent legal advice with respect to this Agreement, and that the City has provided the Society with adequate time to do so.

16.19 Time is of the Essence

Time is of the essence of this Agreement.

17. INTERPRETATION**17.1 Headings and Table of Contents**

The division of this Agreement into sections, the insertion of headings and the provision of a table of contents are for convenience only and do not form a part of this Agreement and will not be used to interpret, define or limit the scope, extent or intent of this Agreement.

17.2 Schedules

The following schedules are attached to and form part of this Agreement:

- a) Schedule "A" – Administration and Programing
- b) Schedule "B-1"-Laurel Packing House Lease and License Area
- c) Schedule "B-2"-Military Museum Lease and License Area
- d) Schedule "B-3"-Okanagan Heritage Museum Lease and License Area

- e) Schedule "C"-Legal Notations and Encumbrances
- f) Schedule "D-1"- Society Responsibility Checklist – Military Museum
- g) Schedule "D-2" - Society Responsibility Checklist – Okanagan Heritage Museum and Laurel Packing House
- h) Schedule "E" - Insurance Certificate

17.3 Number and Gender

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

17.4 Use of the Word "Including"

The word "including" when following any general term or statement will not be construed as limiting the general term or statement to the specific matter immediately following the word "including" or to similar matters, and the general term or statement will be construed as referring to all matters that reasonably could fall within the broadest possible scope of the general term or statement.

17.5 Governing Law

This Agreement and each of the documents contemplated by or delivered under or in connection with this Agreement are governed exclusively by, and are to be enforced, construed and interpreted exclusively in accordance with the laws applicable and in force in British Columbia.

17.6 Severability

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 this Agreement.

IN WITNESS WHEREOF the City and the Society have executed this Agreement on the date first above written.


CITY OF KELOWNA

by its authorized signatories

Mayor

City Clerk

KELOWNA MUSEUMS SOCIETY by its
authorized signatories

 *President
Kms*

Authorized Signatory

 _____
Authorized Signatory

Schedule A - Administration and Programming Requirements

The Society conveys to the City that during the term of the Agreement it will fulfill the following requirements.

1. USE OF THE BUILDINGS:

The Society shall use the Buildings for:

- a. Acquisition, conservation, research, communication and exhibition of the tangible and intangible heritage of humanity, with a focus on Kelowna and its environment, for the education, study and enjoyment of residents and visitors;
- b. Providing democratizing, inclusive and polyphonic spaces for critical dialogue about the past and the futures;
- c. Acknowledging and addressing the conflicts and challenges of the present, holding artefacts and specimens in trust for society, safeguarding diverse memories for future generations and guaranteeing equal rights and equal access to heritage for all people;
- d. Working in active partnership with and for diverse communities to collect, preserve, research, interpret, exhibit, and enhance understandings of Kelowna and the world, aiming to contribute to human dignity and social justice, equality and wellbeing;
- e. The operation of gift shops, rental venues and revenue centres, with proceeds dedicated to the support of mission-related activity; and
- f. Providing meaningful and memorable public access.

2. LIST OF COLLECTION

The Society shall maintain records of all acquisitions and all deaccessions of artefacts and archival collections, and the particulars thereof and shall maintain these records to current standards and practices. The list of collections shall be made fully available to the City for inspection with reasonable notice.

3. COVENANT TO OPERATE

The Society shall throughout the whole of the Term continuously operate, occupy and utilize the Buildings for the purpose set out herein, as a first-class museum in keeping with the standards and practices maintained by similar museums in British Columbia and without limiting the foregoing, the Society shall operate the Buildings and ensure that, unless prevented by applicable Statutory Authorities or for reasons of repair and maintenance, the Buildings are, at a minimum, open and available to the public throughout the Term subject to the Society's right to close at their discretion on any statutory holiday, Sundays and as per published schedules, or periodically for other museum related purposes.

4. GENERAL ADMISSION FEE

The Society may charge an admission fee to the Buildings at rates that are generally affordable to the residents of Kelowna.

5. PROGRAM AND SERVICE FEES

The Society may charge market rates for programs, special events and heritage / research / consulting services offered.

6. STAFFING

The Society shall always provide appropriately trained staff to operate and maintain the Buildings.

7. SUPERVISION

The Society shall be responsible for supervising and controlling the activities of its members, directors, officers, employees, volunteers and members of the public who are utilizing the Buildings and for managing the Buildings.

8. CULTURAL DISTRICT SUPPORT

The Society shall provide support through marketing, programming, and development of heritage, arts and cultural projects within the scope of this Lease and Operating Agreement to support the success for initiatives of the Cultural District, by co-operating and collaborating with the City and various organizations in the community.

9. USE OF THE BUILDINGS

The Society shall use the Buildings for:

- i. the operation and maintenance of a museum and archives for the perpetual benefit of the City and citizens of the City of Kelowna and its visitors;
- ii. acceptance of gifts, bequests or loans of artefacts;
- iii. to purchase, acquire or exchange artefacts as trustees for the City of Kelowna;
- iv. exhibit and display artefacts;
- v. hold special exhibitions and special events from time to time;
- vi. the provision of courses and related activities designed to improve the appreciation of local human and natural history for residents of and visitors to Kelowna and the surrounding area;
- vii. the operation of gifts shops and related business functions;
- viii. the provision of marketable heritage services; and
- ix. such other uses as are customarily incidental to a museum and/or archives.

10. HERITAGE FUNCTIONS

The Society may be asked to provide expertise and support to the City regarding the maintenance of and appreciation for the community's heritage assets within and beyond the Cultural District. The City acknowledges there may be additional costs related to museum services offered in support of curatorial projects, prints, archives, research and other related services. Costs for such additional services and projects shall be discussed and agreed upon at the initial planning stages and may be the subject of additional or separate agreements.

Schedule "B-1"

Laurel Packing House Lease and License Area



SCALE: N.T.S.

MAILING ADDRESS: 1304 ELLIS ST (LAUREL PACKING HOUSE)

LEGAL DESCRIPTION: LOT NO. 1 PLAN NO. 362448

TWP. 25 SEC. 25



LEASED SPACE = $\pm 1300\text{m}^2$



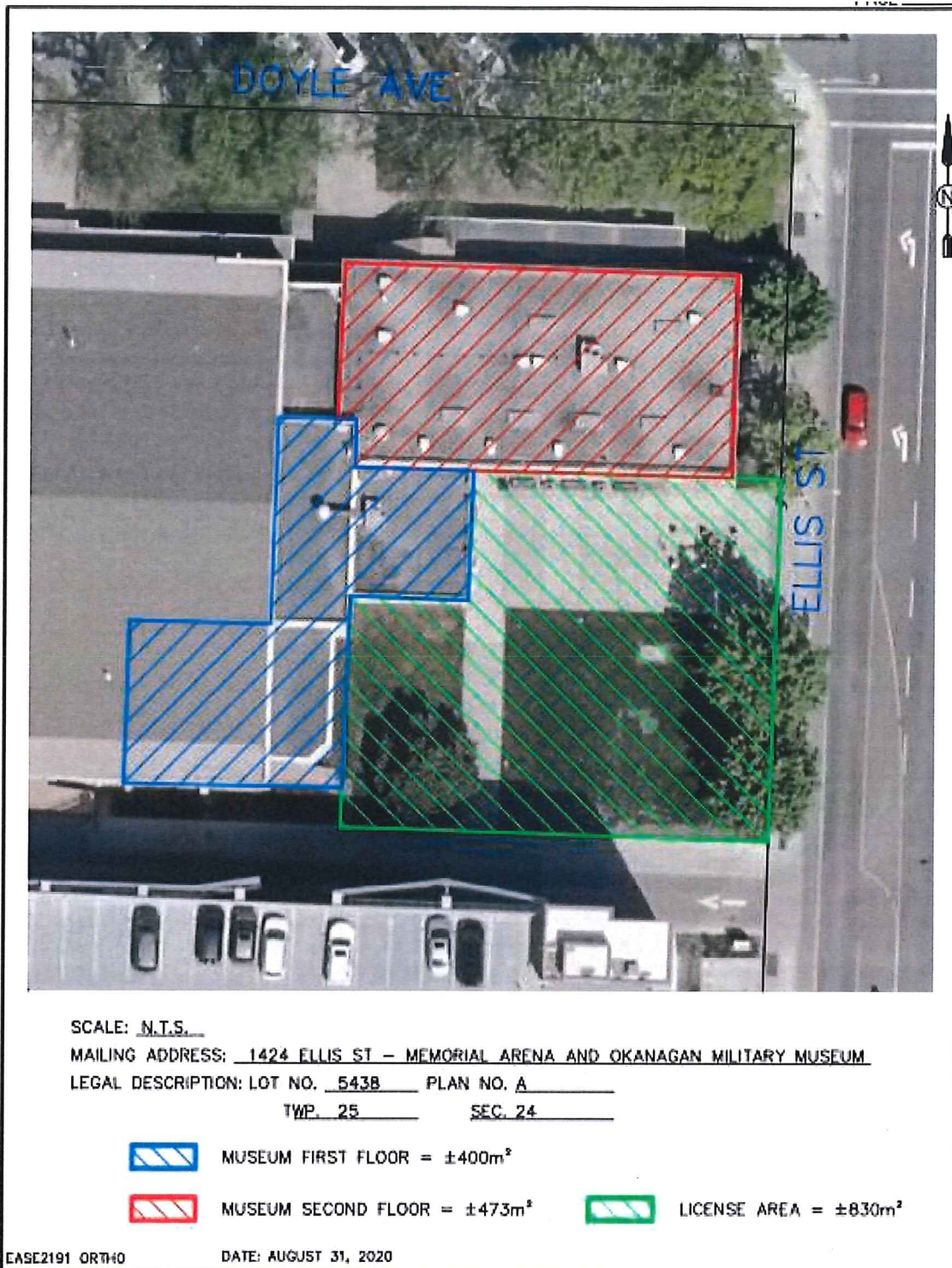
LICENSE AREA = $\pm 1346\text{m}^2$

EASE2190 ORTHO

DATE: AUGUST 31, 2020

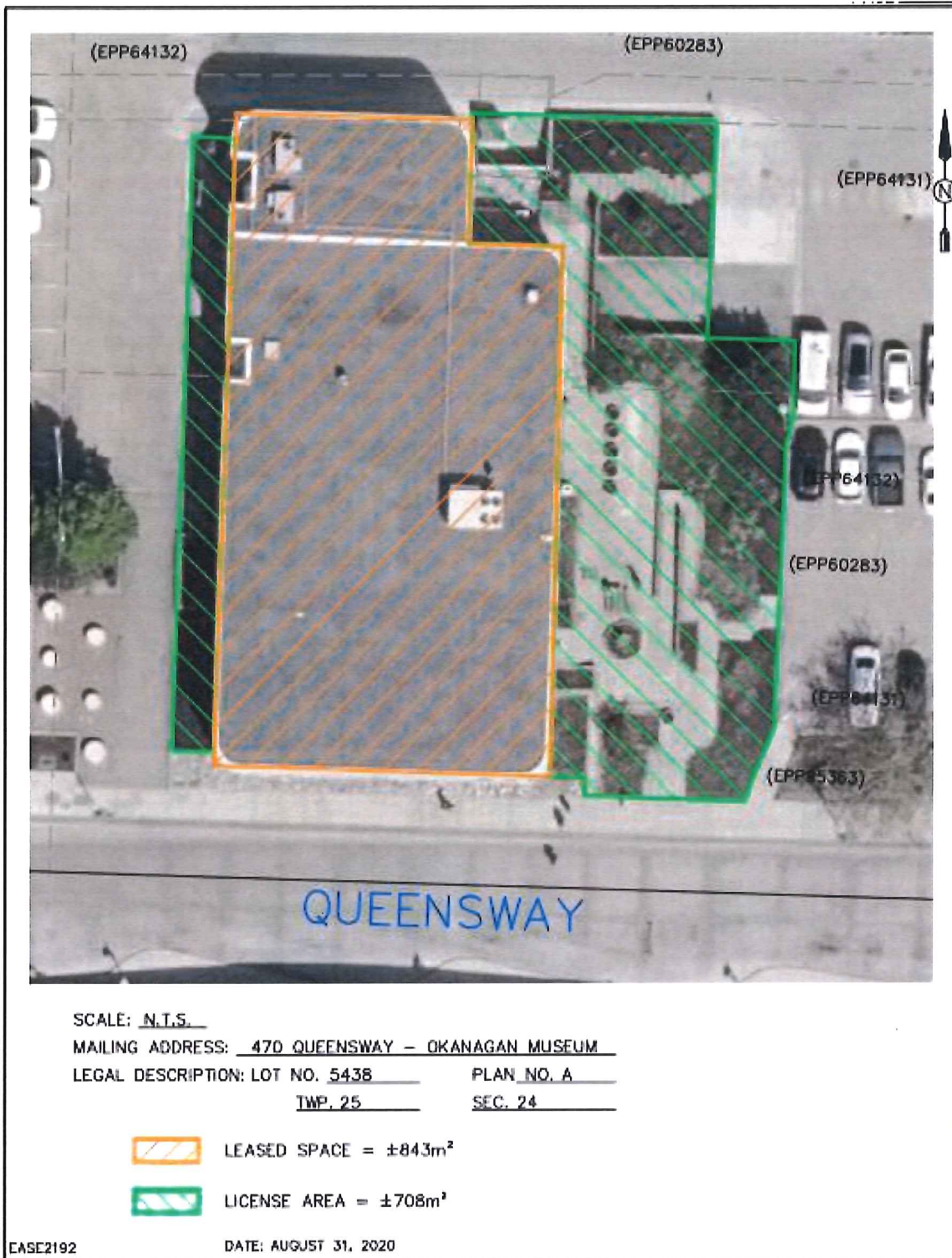
Schedule "B-2"

Military Museum Lease and License Area



Schedule "B-3"

Okanagan Heritage Museum Lease and License Area



Schedule "C" Legal Notices and Encumbrances

The Society acknowledges that this Lease and Operating Agreement is subject to the following legal notations and charges registered against the title to the Land:

Okanagan Heritage Museum and Okanagan Military Museum:

- (a) Notice of Interest, Builder's Lien Act (S.3(2)), See LB49784
- (b) This title may be affected by a permit under Part 26 of the Local Government Act See CA4479908, KR28290, KW76710, LB426343
- (c) Restrictive Covenant 47392E, See DD 108302F;
- (d) Statutory Right of Way, See KM65466;
- (e) Caveat, See LB48737;
- (f) Certificate of Pending Litigation, See LB72248;
- (g) Statutory Right of Way, CA5405405
- (h) Statutory Right of Way CA5405406
- (i) Statutory Right of Way CA5405407

Laurel Packinghouse:

- (a) Statutory Right of Way, See KT123011;
- (b) Easement, See KT44193;
- (c) Statutory Right of Way LB395305

and the Society agrees to comply with the obligations within those documents, and within such other charges, interests and rights which the City may grant from time to time in the future, provided the interest of the Society under this Lease and Operating Agreement is not materially affected, and the Society shall execute any associated documents and plans.

Schedule "D-1" Society Responsibility Checklist

Military Museum

Building Maintenance and Operations Responsibility Checklist <i>Kelowna Museum Society</i>	Military Museum		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Backflow Preventor testing – Repair / Replacement	X		
Boiler operating permits			X
Card Access			X
Electrical Field Safety Representative (FSR)	X		
Electrical operating permit	X		
Electrical system – annual inspection report	X		
Electrical system - preventative maintenance	X		
Electrical system – repairs	X		
Electrical/lights - lamp & tube replacement		X	
Elevator equipment repairs			X
Elevator maintenance contract			X
Elevator operating permits			X
Emergency lighting testing & repairs	X		
Exterior doors, windows, facades, etc.	X		
Fire alarm system repairs	X		

Building Maintenance and Operations Responsibility Checklist <i>Kelowna Museum Society</i>	Military Museum		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Fire alarm system testing & inspection contracts	X		
Fire extinguisher monthly & annual inspections	X		
Fire safety plan		X	
Fire safety drills		X	
Fire sprinkler system repairs			X
Fire sprinkler system testing & inspection contracts			X
Furnishings (maintain & replace)		X	
Garbage & recycling program		X	
Grease trap annual service			X
HVAC – annual inspection report	X		
HVAC - preventative maintenance	X		
HVAC - repairs	X		
Insurance – automotive (except the vehicle mentioned in section 8.1b)		X	
Insurance – Collection, archives & records		X	
Insurance - Liability		X	
Insurance - Property, building	X		
Insurance - Society owned furnishings & fixtures		X	

Building Maintenance and Operations Responsibility Checklist <i>Kelowna Museum Society</i>	Military Museum		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Insurance - Society owned operational equipment, computers		X	
Interior walls, flooring, doors, ceilings, etc		X	
Internet		X	
Janitorial services & supplies in leased spaces		X	
Janitorial services & supplies in public washrooms		X	
Keys – providing City with master keys and emergency access contact information		X	
Keys & locks - repair & maintenance		X	
Kitchen equipment repair & maintenance - Landlord Owned			X
Kitchen equipment repair & maintenance - Tenant Owned			X
Kitchen exhaust hood annual cleaning			X
Kitchen exhaust hood repairs			X
Kitchen hood fire suppression system preventative maintenance			X
Kitchen hood fire suppression repairs			X
Kitchen hood fire suppression testing			X
Landscape maintenance	X		
Licences			
Business License		X	

Building Maintenance and Operations Responsibility Checklist Kelowna Museum Society	Military Museum		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Liquor License		X	
IHA Food Operating Permit/ Food safe Certification		X	
Overhead Doors			X
Painting - Exterior	X		
Painting - Interior		X	
Parking lots – parking lines, sweeping, asphalt, signage, etc.	X		
Pest control		X	
Plumbing system – annual inspection report		X	
Plumbing system - preventative maintenance		X	
Plumbing system - repairs		X	
Property taxes		X	
Roof – annual inspection report	X		
Roof preventative maintenance and repairs	X		
Security and Video Monitoring System		X	
Signage		X	
Site drainage	X		

Building Maintenance and Operations Responsibility Checklist	Military Museum		
Kelowna Museum Society	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Snow removal Snow removal and ice control (shared responsibility) City to include public sidewalks, the Society to include the Building entrances, decking and emergency exits.	X	X	
Telephone		X	
Tenant improvements		X	
Tenant improvements – repair, maintenance & replacement		X	
Tree removal	X		
Utilities – electricity		X	
Utilities – natural gas		X	
Utilities – propane			X
Utilities – water, sewer		X	
Vandalism (exterior)	X		
Vandalism (interior)		X	
Window cleaning (exterior)		X	
Window cleaning (interior)		X	

Schedule "D-2" Building Maintenance and Operations Responsibility Checklist

Okanagan Heritage Museum and Laurel Packinghouse

Building Maintenance and Operations Responsibility Checklist Kelowna Museum Society	Okanagan Heritage Museum Laurel Packinghouse		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Backflow Preventor testing – Repair / Replacement	X		
Boiler operating permits			X
Card Access Heritage Museum (Society's Responsibility) Laurel (N/A)		X	X
Electrical Field Safety Representative (FSR)		X	
Electrical operating permit		X	
Electrical system – annual inspection report		X	
Electrical system - preventative maintenance		X	
Electrical system - repairs (in accordance with paragraph 9.2)		X	
Electrical/lights - lamp & tube replacement		X	
Elevator equipment repairs	X		
Elevator maintenance contract	X		
Elevator operating permits	X		

Building Maintenance and Operations Responsibility Checklist	Okanagan Heritage Museum Laurel Packinghouse		
Kelowna Museum Society			
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Emergency lighting testing & repairs	X		
Exterior doors, windows, facades, etc. (in accordance with paragraph 9.2)		X	
Fire alarm system repairs	X		
Fire alarm system testing & inspection contracts	X		
Fire extinguisher monthly & annual inspections	X		
Fire safety plan		X	
Fire safety drills		X	
Fire sprinkler system repairs	X		
Fire sprinkler system testing & inspection contracts	X		
Furnishings (maintain & replace)		X	
Garbage & recycling program		X	
Grease trap annual service			X
HVAC – annual inspection report	X		
HVAC - preventative maintenance	X		
HVAC - repairs	X		
Insurance – Automotive (except the vehicle mentioned in section 8.1b)		X	
Insurance – Collection, archives & records		X	
Insurance - Liability		X	

Building Maintenance and Operations Responsibility Checklist Kelowna Museum Society	Okanagan Heritage Museum Laurel Packinghouse		
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Insurance - Property, building	X		
Insurance - Society owned furnishings & fixtures		X	
Insurance - Society owned operational equipment, computers		X	
Interior walls, flooring, doors, ceilings, etc		X	
Internet		X	
Janitorial services & supplies in leased spaces		X	
Janitorial services & supplies in public washrooms		X	
Keys – providing City with master keys and emergency access contact information		X	
Keys & locks - repair & maintenance		X	
Kitchen equipment repair & maintenance - Landlord Owned			X
Kitchen equipment repair & maintenance - Tenant Owned		X	
Kitchen exhaust hood annual cleaning			X
Kitchen exhaust hood repairs			X
Kitchen hood fire suppression system preventative maintenance			X
Kitchen hood fire suppression repairs			X

Building Maintenance and Operations Responsibility Checklist	Okanagan Heritage Museum Laurel Packinghouse		
Kelowna Museum Society			
Kitchen hood fire suppression testing			X
Landscape maintenance	X		
Licences			
Business License		X	
Liquor License		X	
IHA Food Operating Permit/ Food safe Certification		X	
Overhead Doors		X	
Painting - Exterior	X		
Painting - Interior		X	
Parking lots – parking lines, sweeping, asphalt, signage, etc.	X		
Pest control		X	
Plumbing system – annual inspection report		X	
Plumbing system - preventative maintenance		X	
Plumbing system - repairs (in accordance with paragraph 9.2)		X	
Property taxes		X	
Roof – annual inspection report	X		
Roof - preventative maintenance and repairs	X		
Security and Video Monitoring System		X	
Signage		X	
Site drainage	X		

Building Maintenance and Operations Responsibility Checklist	Okanagan Heritage Museum Laurel Packinghouse		
Kelowna Museum Society			
	Provided by the City, Cost borne by the City	Provided by the Society, Cost borne by the Society	Does Not Apply
Snow removal Snow removal and ice control (shared responsibility) City to include public sidewalks, the Society to include the Building entrances, decking and emergency exits.	X	X	
Telephone		X	
Tenant improvements		X	
Tenant improvements – repair, maintenance & replacement		X	
Tree removal	X		
Utilities – electricity		X	
Utilities – natural gas		X	
Utilities – propane			X
Utilities – water, sewer		X	
Vandalism (exterior)	X		
Vandalism (interior)		X	
Window cleaning (exterior)		X	
Window cleaning (interior)		X	

Schedule "E" - Insurance Certificate



CERTIFICATE OF INSURANCE

City staff to complete prior to circulation
 City Dept.: _____
 Dept. Contact: _____
 Project/Contract/Event: _____

Insured

Name: _____
 Address: _____

Broker

Name: _____
 Address: _____

Location and nature of operation and/or contract reference to which this Certificate applies:

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
Section 1 Comprehensive General Liability including: <ul style="list-style-type: none"> • Products/Completed Operations; • Blanket Contractual; • Contractor's Protective; • Personal Injury; • Contingent Employer's Liability; • Broad Form Property Damage; • Non-Owned Automobile; • Cross Liability Clause. 				Bodily Injury and Property Damage \$ <u>5,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
Section 2 Automobile Liability				Bodily Injury and Property Damage \$ <u>5,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

Print Name _____

Title _____

Company (Insurer or Broker) _____

Signature of Authorized Signatory _____

Date _____