

**Non-Market Lease Agreement
Between City of Kelowna and
Central Okanagan Small Boat Association**

May 2022

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NON-MARKET LEASE AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 202_

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
Email address: Propertymanagement@kelowna.ca

(the "City")

AND:

CENTRAL OKANAGAN SMALL BOAT ASSOCIATION, (S-17553) a society duly registered pursuant to the Society Act of the Province of British Columbia, having its offices at 4220 Hobson Rd, Kelowna, British Columbia, V1W 1Y3
Email address: Sailhard@shaw.ca

(the "Society")

WHEREAS:

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

PID: 002-884-143

Lot 1, Section 36, District Lot 167, Township 28, ODYD, Plan 35229

the ("Land") and the City owns the building located on the Land (the "Building");

- B. The City, through various plans and policies, has committed to improving community health and quality of life for the City's residents;
- C. The Society is a not-for-profit society and wishes to lease the Building and the City wishes to grant a lease of the Building to the Society, on the terms and conditions set out in this Agreement; and
- D. 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 Building 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. BASIC TERMS, SCHEDULES, AND DEFINITIONS

1.1 Basic Terms

- a) Initial Term: 5 years
- Commencement Date: May 1, 2022
- b) Renewal Term (if any): No renewal
- c) Annual Base Rent: \$1
- d) Property Taxes: Society to pay unless approved under Permissive Tax Exemption Bylaw
- e) Utilities: All utilities are the Society's responsibility

1.2 Schedules

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

SCHEDULE	SUBJECT
A	Objectives and Operating Requirements;
B	Licence Areas
C	Legal Notations and Encumbrances
D	Building Maintenance and Operations Responsibility Checklist
E	Insurance Certificate

2. GENERAL DUTIES AND OBLIGATIONS

2.1 Society

- a) 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:
- b) continue to be a society registered and in good standing in the Province of British Columbia;
- c) perform promptly and safely all its obligations under this Agreement;
- d) be just and faithful in the performance of its obligations under this Agreement and in its dealing with the City under this Agreement; and
- e) 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 the period set out in subclause 1.1(a) beginning on the Commencement Date, and subject to earlier termination as provided (the "Term").

4. USE AND OCCUPATION OF BUILDING

4.1 Grant of Leases

The City hereby leases the Building 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.

4.2 Grant of Licenses

The City hereby grants to the Society three non-exclusive rights and licenses to enter onto and use the Land surrounding the Building for the Term:

- a) "License Area" as outlined in Schedule B, for purposes necessarily related to the permitted use of the Premises
- b) "Shared Beach License" as outlined in Schedule A. The Society agrees to the use of the Shared Beach License as outlined Schedule A, Section 4, and
- c) "Shared Parking Lot License" as outlined in Schedule A. The Society agrees to use the Shared Parking Lot License as outlined in Schedule A, Section 5

4.3 Permitted Uses

The Society will only use and occupy the Building, License Area, Shared Beach License and Shared Parking Lot License for the purposes of providing the Objectives and Operating Requirements outlined in Schedule "A" attached to this Agreement and shall not use the Building or the License Area, Shared Beach License and Shared Parking Lot License for any other purposes unless expressly authorised in this Agreement.

4.4 Acknowledgement and Agreements of the Tenant

The Society acknowledges and agrees that:

- a) the Society leases the Building and licenses the License Area, Shared Beach License and Shared Parking Lot License on an "as is" basis and the City has not made any representations, warranties or agreements as to the environmental condition of the Building or the Land;
- b) it is the sole responsibility of the Society to satisfy itself with respect to the environmental conditions of the Building and the Land, 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 Building and the Land; and
- c) the City has made no representations or warranties with respect to the Land and the Building including, without limitation, with respect to the condition or suitability of the Land and the Building for the Society's intended use; and
- d) by entering into this Agreement, it is satisfied that the Building, License Area, Shared Beach License and Shared Parking Lot License are suitable for the Society's purposes.

4.5 Cold Beverage Products – Sponsorship Agreement

The Society is aware that the City reserves the right to enter into an exclusive supplier agreement with a third party for the provision of “Cold Beverage Products” relating to the Premises and the License Area and Shared Beach License and its operations, and the Society commits that it will honour the terms of any such agreement. The Society is aware that at the time of entering into this agreement, the City has an agreement with a beverage provider.

4.6 Covenant to Operate

The Society shall ensure that, unless prevented by applicable regulatory authorities or for reasons of repair or maintenance, the Building, License Area, Shared Beach License and Shared Parking Lot License shall remain open to and accessible by the public throughout the Term, subject to the Society’s right to close the Building and License Area at the Society’s discretion in accordance with the Society’s published schedules and as the parties otherwise agree in writing.

4.7 Compliance with Laws

The Society shall carry on and conduct its activities on the Land and in, on and from the Building 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 Land, and to obtain all required approvals and permits thereunder and not to do or omit to do anything in, on or from the Building or on or from the Land 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.

4.8 Public Safety

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

4.9 No Waste or Nuisance

The Society shall not:

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

4.10 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 Building and the License Area for the purposes of this Agreement, without limitation, computers and licensed computer software.

4.11 Right to Inspect

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

4.12 Emergency Use

The Society shall make all or part of the Building, License Area, Shared Beach License and Shared Parking Lot License 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 Building, License Area, Shared Beach License and Shared Parking Lot License can safely be used for an emergency centre at the time of the emergency, and shall:

- a) be responsible for any direct expense incurred or damage caused to the Building 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.

4.13 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 Building and endeavour to take the necessary steps to ensure the Building is kept safe. This may include, but is not limited to, routine internal and external inspections of the Building. The Society may seek direction and support from the City as required.

4.14 Access for Telecommunication Antenna Systems

Upon request from the City, the Society shall grant access to the Building, License Area, Shared Beach License and Shared Parking Lot License for the installation and maintenance of Telecommunication Antenna Systems.

5. FEES AND EXPENSES FOR USE OF BUILDING

5.1 Rent

The Society shall pay to the City:

- a) annual rent shall be for the amount set out in subclause 1.1 (c), 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.

5.2 No Deductions

The Society shall pay the Base Rent 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 and the Additional Rent survives the expiry or earlier termination of this Agreement.

5.3 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 Building and License Area 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.

6. REPORTING OBLIGATIONS

6.1 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) 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 10;
- c) Current year revenue and expenditure 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;
 - i. Statistical summary of Building usage in the prior year which may take the form of registration, bookings, rentals, events, attendance, visitation, participation, membership or a combination thereof;
 - ii. 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;

- e) Identification of active partnerships or collaborations, and the beneficial outcomes of same;
- f) Governance and planning information which includes:
 - i. A list of the Society's directors
 - ii. An organizational chart indicating key management and staff roles and staffing levels
 - iii. Objectives for the current calendar year
- g) For the Building, provide a:
 - i. Summary of operational expenses for gas, water and electrical utility data (as applicable) indicating consumption and costs;
 - ii. List of maintenance and repair tasks carried out by the Society with costs and contractors/trades identified;
 - iii. Inspection reports as listed in Section 7.3 along with upcoming capital expenses/projects that the Society intends to undertake in the coming year;
 - iv. Inspection reports as listed in Schedule D;

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.

6.2 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.

6.3 Accounts

The Society shall, at all times during the Term:

- a) keep or cause to be kept true and accurate records and accounts, in accordance with generally accepted accounting principles, regarding management and operation of the Building, including without limitation:
 - i. Programs records: financial reports and records, accident and incident reports, and program registration reports, customer comments; and
 - ii. Building 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) upon reasonable 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 Building and to audit the same; and
- c) upon termination or expiration of this Agreement and within the limitations of privacy legislation, surrender all building records.

7. REPAIRS, MAINTENANCE AND CHANGES TO BUILDING

7.1 Routine Maintenance and Repairs

The Society is responsible for all maintenance. The City has no responsibility to maintain or repair the facility.

7.2 Substantial Maintenance and Repairs

The Society is responsible for all maintenance. The City has no responsibility to maintain or repair the facility.

7.3 Inspections Performed by the Society

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

- a) **Electrical**
The Society's electrical contractor, as defined in Section 7.4, shall act as the Field Safety Representative (FSR) and the Society shall provide the City with an annual inspection report from the FSR, 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.
- b) **Plumbing**
The Society shall provide an annual inspection report from a contractor, as defined in Section 7.4, documenting the observed status of the plumbing systems, confirmation of completed preventative maintenance, and any recommended capital repairs.
- c) **HVAC**
The Society shall provide an annual inspection report from a contractor, as defined in Section 7.4, documenting the observed status of the HVAC systems, confirmation of completed preventative maintenance, and any recommended capital repairs.
- d) **Fire and Life Safety Inspection Reports**
The Society shall provide the Fire and Life Safety inspection reports as outlined in Schedule D.

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.

7.4 Contractors

The Society commits to engaging maintenance and repair contractors that have been selected by the City for Electrical, Plumbing and HVAC work. The City will provide an update list of the selected contractors annually.

Other 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.

7.5 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.

7.6 Minimum Work Standards

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

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

7.7 Annual Onsite Meeting

The Society and the City shall meet annually to conduct an inspection of each of the Building to identify items that require maintenance and future capital replacement. The Society will be responsible for any maintenance, repair and capital replacement.

7.8 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 key(s) and necessary security information for the 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 Building. 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.

7.9 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 Building;
- b) that the Society will comply with all laws, bylaws, regulations and orders relating to the conservation of energy and affecting the Building; and
- c) that the Society will at its own cost comply with reasonable request and demand of the City made with a view of such energy conservation.

7.10 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 Building that is being managed by the Society under this agreement.

7.11 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 Building or the License Area, or alter the existing state of the Building 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.

7.12 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 Building, and the License Area, whether done by or on behalf of the Society or not, are forfeited to and become the permanent property of the City.

7.13 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 Land relating to any improvements, work or construction that the Society undertakes on the Land and to comply at all times with the Builders Lien Act (British Columbia) in respect of any improvements, work or construction undertaken on the Land.

7.14 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 Building ("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 Building 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 Building and/or the License Area and may require the interruption, disruption, rescheduling or cancellation of regularly scheduled programs and services offered at the Building.

7.15 Damage or Destruction of the Building

If during the Term the Building shall be damaged or destroyed by any cause whatsoever or if a major building system in the Building fails such that in the opinion of the City one or more of the Building 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 Building. If the City chooses not to repair, rebuild or replace the building system or Building 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 provide three (3) months written notice to the Society that this Agreement is terminated, and the Society shall vacate all the Building as if this Agreement had expired or been terminated for cause; or

7.16 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.

8. ENVIRONMENTAL MATTERS

8.1 Definitions

In Section 8, the following terms shall have the following meanings:

- a) **"Contaminants"** means
 - i. 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.

8.2 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 Building, License Area, Shared Beach License, Shared Parking Lot License or the Land 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 12 of this Agreement.

8.3 Condition of the Building

The Society acknowledges and agrees that the City has made no representations or warranties with respect to the environmental condition of the Building, License Area, Shared Beach License and Shared Parking Lot License or the Land and is leasing the Building 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 Building under this Agreement, the Society has performed such investigations of the Building, the License Area and the Land as it considered appropriate and is satisfied as to their environmental condition.

8.4 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 Building, License Area, Shared Beach License, Shared Parking Lot License and the Land 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 Building, License Area, Shared Beach License, Shared Parking Lot License or the Land, except in compliance with all Environmental Laws;
- c) immediately notify the City of the occurrence of any of the following and provide the City with copies of all relevant documentation in connection therewith:
 - i. a release of Contaminants in, on or about the Building, License Area, Shared Beach License, Shared Parking Lot License, the Land or any adjacent land; or
 - ii. the receipt of any citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication from any person that is related to any Environmental Law;
- d) promptly provide to the City a copy of any environmental site assessment, audit, report or test results relating to the Building, License Area, Shared Beach License, Shared Parking Lot License or the Land 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 Building, License Area, Shared Beach License or Shared Parking Lot License and conduct or cause to be conducted any additional investigations that the environmental consultant may recommend all in order to determine compliance of the Building, License Area, Shared Beach License, Shared Parking Lot License or the Land with Environmental Laws; and
- f) promptly remove any Contaminants arising from the Society's use or occupation of the Building, License Area, Shared Beach License, Shared Parking Lot License or the Land in a manner that conforms to Environmental Laws governing their removal.

8.5 Confidentiality of Environmental Reports

The Society shall maintain all environmental site investigations, assessments, audits and reports relating to the Building, License Area, Shared Beach License, Shared Parking Lot License or the Land 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.

8.6 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.

8.7 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 Building, License Area, Shared Beach License, Shared Parking Lot License or the Land 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 Building, License Area, Shared Beach License, Shared Parking Lot License or the Land and notwithstanding the expiry or earlier termination of this Agreement. This section supersedes any other provision of this Agreement to the contrary.

8.8 Survival of Society's Obligations

The obligations of the Society under this Section 8 (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.

9. MANAGEMENT OF BUILDING AND PROVISION OF SERVICES

9.1 No Discrimination

The Society acknowledges and agrees that it is in the community's best interest that recreation and community services be provided in a non-discriminatory manner. The Society hereby covenants and agrees to provide the Objectives and Operating Requirements and other services offered at the Building in accordance with the *Human Rights Code* (British Columbia).

9.2 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 Objectives and Operating Requirements. The Society must immediately discharge or cause to be discharged any employee, contractor or volunteer whose conduct or health is contrary to the provision of the Objectives and Operating Requirements in accordance with this Agreement or is detrimental to members of the public patronizing the Building or upon reasonable demand in writing from the City.

9.3 WorkSafe BC Coverage

The Society shall, in its use of and activities on the Building and the Land, 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 Building 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 Building 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.

9.4 Incidental Rights

The Society may:

- a) enter into sponsorship, media or advertising agreements ("Endorsements") involving the Building or the Objectives and Operating Requirements provided that the Endorsements are:
 - i. appropriate for families and children;
 - ii. consistent with the parties' joint values of equality, accessibility, health, respect and the dignity of the individual;
 - iii. respectful of the neighbourhoods surrounding the Building and all scheduled programs and services at the Building;
 - iv. appropriate to the aesthetics of the Building; and
 - v. 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 the Building. This requirement does not apply to any interior room in any facility which was named prior to execution of this Agreement; and
- b) undertake fundraising activities at the Building for the Society's benefit only.

9.5 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 Building or ownership of the Building 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) **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.

10. SOCIETY INSURANCE

10.1 Society to Provide

The Society shall procure and maintain during the Term, at its own expense and cost, the insurance policies listed in Section 10.2 of this Lease. For clarity, the insurance requirements set out in Section 10.2 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.

10.2 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
 - i. providing for an inclusive limit of not less than \$5,000,000.00 for each occurrence or accident;
 - ii. 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;
 - iii. 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;
 - iv. including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgement made against any other Insured.
- 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.
 - i. 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 Building including, but not limited to, fittings, installations, alterations, additions, partitions, and all other leasehold improvements;
 - ii. insuring the Society's inventory, furniture, and movable equipment to the extent that such insurance is commercially available; and

- iii. naming the City as a loss payee as the City's interest may appear.
- 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 10.2 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.

10.3 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 Building, License Area, Shared Beach License and Shared Parking Lot License 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 Building; and
- c) Whatever other forms of insurance the City considers advisable.

10.4 Automobile Liability Insurance

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.

10.5 The City Named As Additional Insured

The policies required by Section 10.2 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.

10.6 Society's Sub-contractors

The Society shall require each of its sub-contractors to provide comparable insurance to that set forth under Section 1 of Schedule E.

10.7 Certificates of Insurance

The Society agrees to submit Certificates of Insurance in the form attached as Schedule E 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.

10.8 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.

10.9 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.

10.10 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.

10.11 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.

10.12 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 10.11.

11. INDEMNITY

11.1 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 Building, License Area, Shared Beach License, Shared Parking Lot License or the Land or any act or omission of the Society. The obligations of the Society under Section 11 shall survive the expiry or earlier termination of this Agreement.

12. DEFAULTS, TERMINATION AND EXPIRATION

12.1 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.

12.2 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 Building 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 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 Building or the Land, or any part of it, is destroyed or damaged by any cause so that in the opinion of the City the Building is 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 Building or any part of it, or uses or permits or suffers the use of the Building 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 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 Building and vacate and deliver up possession of the Building 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 Building and take possession of the Building.

12.3 Distress

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

12.4 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.

12.5 Overholding

If the Society continues to occupy any or all of the Building 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.

12.6 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 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.

12.7 State of Building and Land at Termination

If the Society fails to leave the Building, License Area, Shared Beach License and the Shared Parking Lot License area in a condition required by this Agreement, the City may take such action as the City deems necessary to rectify such breach on behalf of the Society and the Society must, on demand, compensate the City for all costs incurred by the City.

12.8 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.

13. GENERAL TERMS

13.1 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 Building, License

Area, Shared Beach License, Shared Parking Lot License or any part of the Building, License Area, Shared Beach License, Shared Parking Lot License or this Agreement without the prior written consent of the City. The City may withhold such consents for any reason whatsoever.

13.2 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.

13.3 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 Land or the Building, all of which may be fully and effectively exercised in relation to the Land or the Building as if this Agreement had not been fully executed and delivered.

13.4 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.

13.5 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.

13.6 Amendment

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

13.7 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.

13.8 City Interests

The Society acknowledges and agrees that the City may assign, transfer, mortgage, subdivide and otherwise deal with its interests in the Building, License Area, Shared Beach License, Shared Parking Lot License, Land or any portion thereof, whether land or improvement, without the consent of the Society.

13.9 Attornment

If any person shall through the City succeed to the rights of the City under this Agreement or to ownership of the Building 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.

13.10 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 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.

13.11 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.

13.12 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 Building or sent by email, addressed set out on page 3 of this Agreement.

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.

13.13 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.

13.14 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.

13.15 Own Cost

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

13.16 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.

13.17 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.

13.18 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.

13.19 Time is of the Essence

Time is of the essence of this Agreement.

14. INTERPRETATION

14.1 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.

14.2 Number and Gender

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

14.3 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.

14.4 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.

14.5 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.

SCHEDULE "A" - OBJECTIVES AND OPERATING REQUIREMENTS

1) Objectives:

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

- a) Provide quality, inclusive programs, services and events through a wide range of sailing and other water- based activities. Promote sport participation at all stages of the Sport for Life continuum, increase awareness and understanding of the benefits of physical activity, and reduce barriers that may inhibit participation.
- 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) Contribute to the local sport community through the effective management of club operations, including but not limited to: governance, finances, administration, facility maintenance, and event hosting. Build community support for a sustainable business model that ensures self-sufficiency and long-term success.

2) Occupancy and Permitted Use:

The Society shall use the Premises, License Area, Shared Parking Lot License and Shared Beach Area only for the purpose of water-sport activities or such activity as may be properly authorized, in writing, by the City and to operate to the satisfaction of the City in accordance with any conditions or requirements as may from time to time be detailed by the City. It is understood that motorized boats may be used in support of non-motorized vessels and the programs, but the operation of motorized boats is not the primary purpose of the facility. The Society shall be permitted to use a portion of the Premises as a live-in caretaker suite, and this use shall be secondary to that of the water-sport / recreation centre.

3) Operating Requirements:

The Society shall operate the Premises in accordance with the following operating requirements:

1. Facility rentals shall be limited to daytime and early evening activities and the facility shall not be rented for private parties in the evening, such as wedding receptions, staff parties, one-off parties, or the like. Rentals must have vacated the Premises no later than 10:00pm.
2. Any functions at which alcoholic beverages are to be available must receive the prior approval of the City and must be licensed by the Liquor and Cannabis Licensing Branch of the Province of British Columbia. The City, in its sole discretion, may withhold approval of the function;
3. To take reasonable measures to ensure event parking does not adversely impact the neighborhood;
4. To take reasonable measures to ensure the daily activity and events associated with the Society's programs work in harmony with the neighborhood;
5. To use its best efforts to operate an attractive and efficient water sport/recreation centre which will reflect positively upon the image of the City;
6. To maintain public access and keep the foreshore open to the general public;
7. To work with the City with regards to exterior signage surrounding the property;
8. The Society is permitted to run a special event up to 3 times per year utilizing the foreshore of the Hobson Park, to the north, and will work with the City to meet all Facility Use Permit requirements

In the event that the operation of the Premises has an adverse effect of the neighborhood, the City reserves the right to impose additional operations restrictions.

4) Shared Beach License:

1. The Society is aware that the Shared Beach License is a public beach and open to the enjoyment and use of all citizens and that the Society cannot restrict access to the Shared Park License;
2. Shared Beach License is primarily for use by the general public and are not for the exclusive use by the Society. Long term placement of equipment or the maintenance of sailing craft is not permitted in Shared Beach License.
3. In addition to the use the License Area, the Society may use Shared Beach License as shown on Schedule A for pre-approved signature events and other short-term activities as listed below:
 - a. educational activities and programs carried out by the Society;
 - b. weekly events such as sailing competitions;
 - c. dry land training;
 - d. rigging of sailing craft; and
 - e. launching and landing of sailing craft.

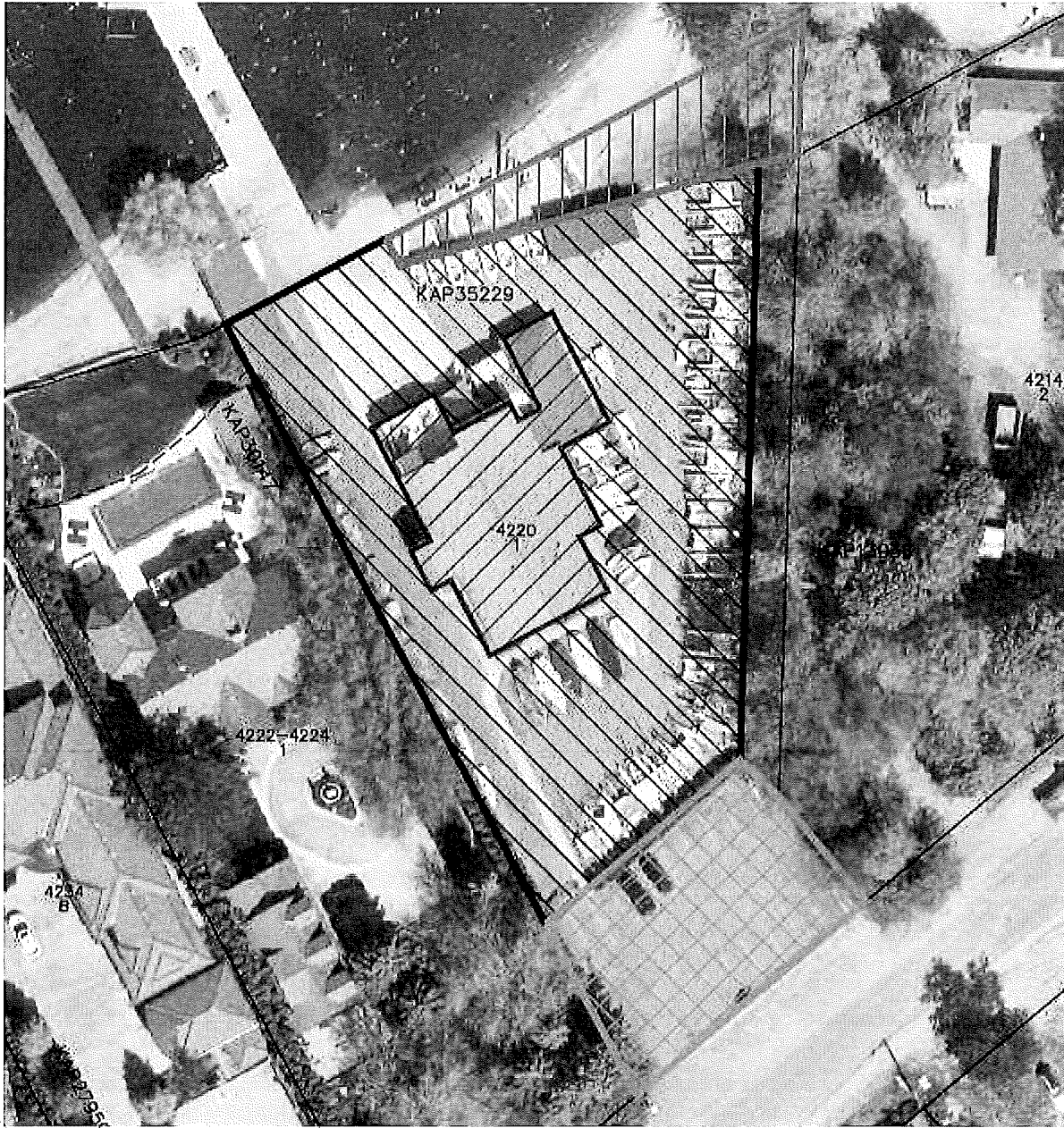
5) Shared Parking Lot License:

The Society is aware that the Shared Parking Lot Area is a public parking lot and open to the enjoyment and use of all citizens and that the Society cannot restrict access to the Shared Parking Lot;

6) Foreshore Tenure

Land use regulation extends into the foreshore that lies within the site boundary. The Society currently has received the tenure for the foreshore however the City, at their sole discretion, may request the Society to assign the foreshore tenure to the City

SCHEDULE "B" - LEASE, LICENSE AREA, SHARED BEACH LICENSE AND PARKING LOT LICENSE



SCALE: N.T.S.

MAILING ADDRESS: 4220 HOBSON RD.

LEGAL DESCRIPTION: LOT NO. 1 PLAN NO. KAP35229

TWP. 25

SEC. 01

PLEASE NOTE THAT THIS SKETCH IS FOR ILLUSTRATIVE PURPOSES ONLY. THE DEGREE OF ACCURACY OF THE AREA IS LIMITED.



LICENSE AREA = $\pm 2625m^2$



SHARED BEACH LICENSE = $\pm 353m^2$



LEASED PREMISES AREA = $\pm 455m^2$



SHARED PARKING LOT LICENSE = $\pm 562m^2$

SCHEDULE "C" - LEGAL NOTICES AND ENCUMBRANCES

N/A

This section is left intentionally blank.

SCHEDULE "D" - BUILDING MAINTENANCE AND OPERATIONS RESPONSIBILITY CHECKLIST

Building Maintenance and Operations Responsibility Checklist	Central Okanagan Small Boat Association		
	Provided by the <u>City</u> , Cost borne by the <u>City</u>	Provided by the <u>Society</u> , Cost borne by the <u>Society</u>	Does Not Apply
Backflow Preventor testing – Repair / Replacement		X	
Boiler operating permits		X	
Camera Systems		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	
	Provided by the <u>City</u> , Cost borne by the <u>City</u>	Provided by the <u>Society</u> ,	Does Not Apply

Building Maintenance and Operations Responsibility Checklist	Central Okanagan Small Boat Association		
		Cost borne by the <u>Society</u>	
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		X	
Insurance - liability		X	
Insurance - property, building	X		
Insurance - Society owned furnishings & fixtures		X	
Insurance - Society owned operational equipment, computers		X	
	Provided by the <u>City</u> , Cost borne by the <u>City</u>	Provided by the <u>Society</u> ,	Does Not Apply

Building Maintenance and Operations Responsibility Checklist	Central Okanagan Small Boat Association		
		Cost borne by the <u>Society</u>	
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	
Liquor License			X

Building Maintenance and Operations Responsibility Checklist	Central Okanagan Small Boat Association		
	Provided by the <u>City</u> , Cost borne by the <u>City</u>	Provided by the <u>Society</u> , Cost borne by the <u>Society</u>	Does Not Apply
IHA Food Operating Permit/ Food safe Certification		X	
Overhead Doors		X	
Painting - Exterior		X	
Painting - Interior		X	
Parking lot – 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 system		X	
Signage		X	
Site drainage		X	

Building Maintenance and Operations Responsibility Checklist	Central Okanagan Small Boat Association		
	Provided by the <u>City</u> , Cost borne by the <u>City</u>	Provided by the <u>Society</u> , Cost borne by the <u>Society</u>	Does Not Apply
Snow removal Society responsible for sidewalks and entrances and for snow removal of Shared Parking Lot		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

<u>City staff to complete prior to circulation</u>
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