

AMENDMENT TO AIRCRAFT MAINTENANCE FACILITY LEASE

THIS AGREEMENT dated for reference the 5 day of June, 2023 is

BETWEEN:

CITY OF KELOWNA
1435 Water Street
Kelowna, BC V1Y 1J4

(the "City")

AND:

KELOWNA FLIGHTCRAFT LTD.
5655 Airport Way
Kelowna, BC V1V 1S1

("KFC")

AND:

REGENCY AERO LEASE INC.
5655 Airport Way
Kelowna, BC V1V 1S1

("RAL")

(with KFC and RAL together referred to as the "Occupants")

WHEREAS:

- A.** KFC entered into a lease with the City dated May 16, 2005, as amended from time to time pursuant to supplemental agreements including, without limitation, agreements dated December 5, 2007 and July 24, 2009 (collectively called the "Lease"), with respect to the Leased Area (as defined in the Lease), for the purpose of erecting, using, occupying, and enjoying the Maintenance Facility (as defined in the Lease) on the Leased Area;
- B.** By a separate Consent of Assignment agreement dated July 29, 2009, between the City, the KFC, and RAL, all of KFC's rights and obligations under the Lease were assigned to RAL with the consent of the City;
- C.** By a separate Sublease Agreement dated July 13, 2022, between the City, KFC, and RAL, KFC undertook all the obligations for the Leased Area for the Term defined in the Sublease Agreement;

- D. By a separate agreement dated May 1, 2023 between the City, KFC, and RAL (the "Amendment to Main Hangar Sublease"), the Occupants assigned and surrendered to the City the Removed Sublease Area, as defined in the Amendment to Main Hangar Sublease, from the Land, as defined in the Amendment to Main Hangar Sublease;
- E. The Occupants wish to enlarge the Leased Area under the Lease by adding an area to the Leased Area equivalent to the 7,760.78 square-foot area of the Removed Sublease Area (the "Replacement Area"), and the City wishes to provide the Occupants with the Replacement Area;
- F. In connection with the foregoing, the parties wish to amend the Lease by adding the Additional Leased Area (as defined in section 1 of this Agreement) to the Leased Area in accordance with the terms of this Agreement;
- G. Given that the size of the Additional Leased Area is larger than the Removed Sublease Area, the parties have agreed to establish two rental rates applicable to the Additional Leased Area: the rate for the Replacement Area shall be the same rate that was charged to the Occupants for the Removed Lease Area under the Main Hangar Sublease, and the rate for the remaining portion of the Additional Leased Area in excess of the Replacement Area shall be market rate; and
- H. The parties have agreed to amend the Lease in accordance with the terms of this Agreement.

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements contained herein and the sum of One Dollar (\$1.00) now paid by the Occupants to the City and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

Addition to Leased Area

1. The Lease is hereby amended by adding to the Leased Area the 13,454.89 square foot area, shown outlined in red on the site plan attached as Schedule "A" to this Agreement (the "Additional Leased Area") for the purpose of aircraft parking.

Rent and Airport Maintenance Charges

2. In accordance with section 2.1 of the Lease, the Occupants shall pay rent and airport maintenance charges for the Additional Leased Area as follows:
 - (a) rent is calculated as follows:

- i. at the rate of \$0.2549 per square foot for the 7,760.78 square foot area of the Additional Leased Area representing the Replacement Area = 7,760.78 square feet x \$0.2549 = \$1,978.22 per annum, payable in monthly installments of \$164.85; and
 - ii. at the rate of \$0.85 for the remaining 5,694.11 square feet of the Additional Leased Area = \$0.85 x 5,694.11 = \$4,839.99, for a total of \$6,818.21. per annum, payable in advance in month installments of \$568.18
- (b) an airport maintenance charge is calculated at the rate of \$0.03405 per square foot of the Additional Leased Area = 13,454.89 square feet x \$.03405 = \$458.13 per annum, payable in monthly installments of \$38.17; and
- (c) the rent and airport maintenance charge shall be subject to the annual fee increases under the *Kelowna Airport Fees Bylaw* No. 7982, including any amendments thereto.

Wingspan Encroachment Over Additional License Area

3. The Occupants acknowledge that the City has granted a license to KFC to use those lands adjacent to the Additional Leased Area as an aircraft tugway (the "Tugway License"). The Occupants acknowledge that in order to accommodate the wingspan clearance of aircraft using the aircraft tugway pursuant to the Tugway License, a portion of the license area granted by the City under the Tugway License, shown as hashed yellow lines on the sketch attached to this Agreement as Schedule "B", encroaches onto the Additional Leased Area. The Occupants hereby represent and warrant that the Occupants shall not use the Additional Leased Area during any time that aircraft are being tugged on the aircraft tugway adjacent to the Additional Leased Area, and shall not otherwise interfere with the use of the license area granted by the City under the Tugway License or any future tugway licenses. The Occupants hereby acknowledge and permit the encroachment of the licence area granted under the Tugway Licence, or any future tugway licenses, onto the Additional Leased Area and release the City and its elected officials, employees and agents from any and all liability, loss, claims, costs and expenses it may have or incur that are associated with or in any way related to the encroachment.

Landscape Area

4. Throughout the Term (as defined in the Lease), the Occupants shall, in part consideration for the Additional Lease Area, undertake all landscaping and maintenance obligations in the 3,447.68 square-foot area, shown outlined in blue and labelled "Area to the

Maintained by Tenant” on the site plan attached as Schedule “A” hereto and (the “Landscape Area”).

- 5. For clarity, the Landscape Area shall not form part of the Additional Lease Area, and the Occupants shall not otherwise acquire any interest in the Landscape Area.

Severability

- 6. If any section of this Agreement or any part of a section is found to be unlawful or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be, shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

Enurement

- 7. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Interpretation

- 8. Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or the body corporate or politic where the context or the parties so require.
- 9. All terms, conditions, covenants and agreements of the Lease not specifically modified by this Agreement shall remain unchanged and in full force and effect.

Counterparts


- 10. This Agreement may be executed in multiple counterparts, each of which is to be deemed to be an original and all of which together constitute one and the same agreement.

IN WITNESS whereof the parties have executed this Agreement on the dates written below.

CITY OF KELOWNA by its authorized signatories:

Real Estate Manager

KELOWNA FLIGHTCRAFT LTD. by its
authorized signatories:

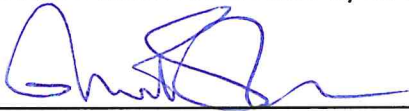


Authorized Signatory:



Authorized Signatory:

REGENCY AERO LEASE INC. by its authorized signatories:



Authorized Signatory:



Authorized Signatory:

SCHEDULE A

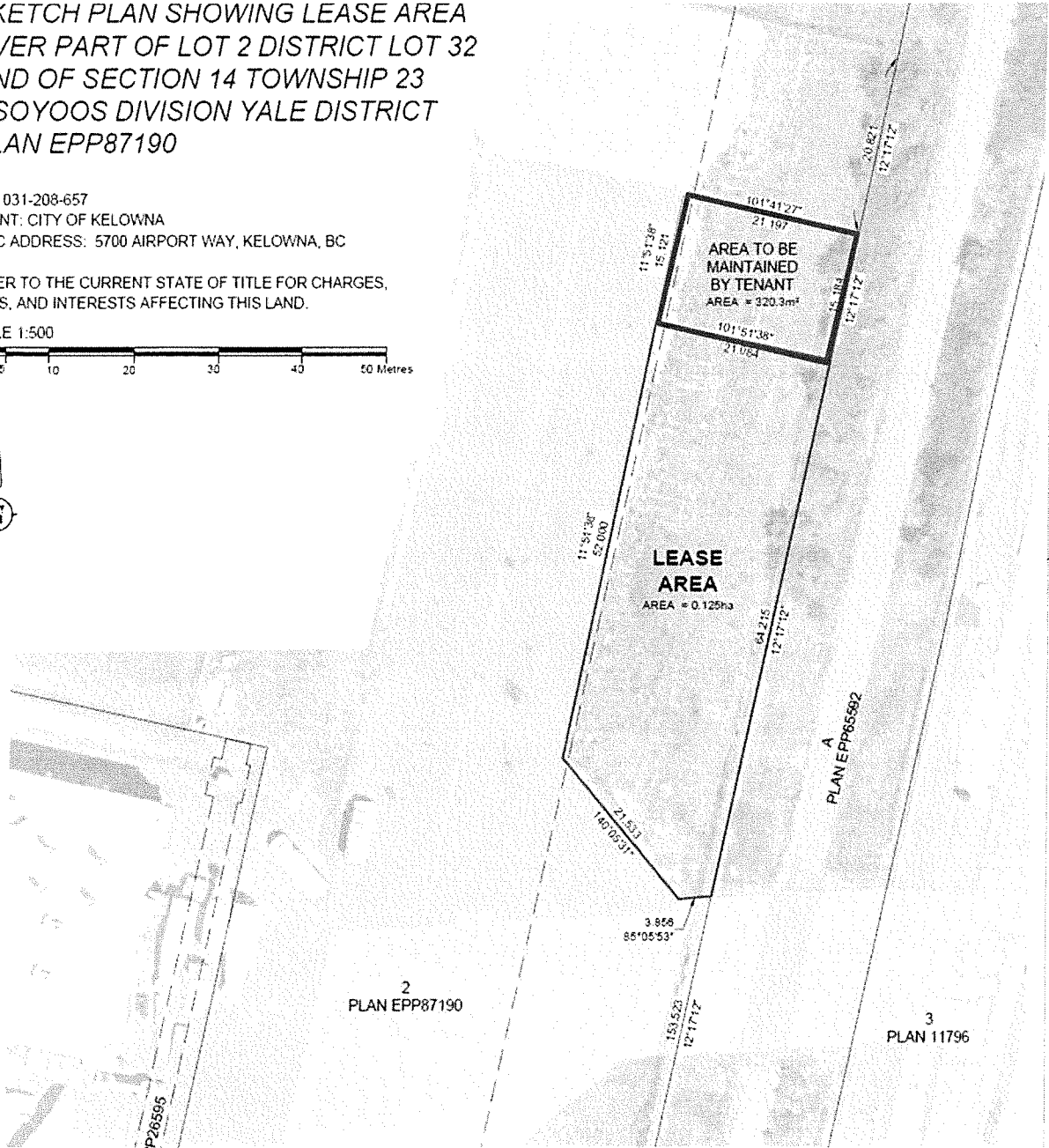
Additional Leased Area

SKETCH PLAN SHOWING LEASE AREA
OVER PART OF LOT 2 DISTRICT LOT 32
AND OF SECTION 14 TOWNSHIP 23
OSOYOOS DIVISION YALE DISTRICT
PLAN EPP87190

PID: 031-208-657
CLIENT: CITY OF KELOWNA
CIVIC ADDRESS: 5700 AIRPORT WAY, KELOWNA, BC

REFER TO THE CURRENT STATE OF TITLE FOR CHARGES,
LIENS, AND INTERESTS AFFECTING THIS LAND.

SCALE 1:500



SCHEDULE B

Wingtip Encroachment from Tugway

