

## LEASE MODIFICATION AGREEMENT

THIS AGREEMENT dated for reference the \_\_\_\_ day of \_\_\_\_\_, 2023, is

BETWEEN:

**CITY OF KELOWNA**

a municipal corporation  
1435 Water Street  
Kelowna, BC V1Y 1J4

(the "Landlord")

AND:

**REGENCY AERO LEASE INC.**

A company extra-provincially registered under the laws of British Columbia (No. A-0066242)  
5655 Airport Way  
Kelowna, BC V1V 1S1

(the "Tenant")

WHEREAS:

- A. By Lease Agreement dated May 14, 1997, the Landlord and Kelowna Flightcraft Ltd. entered into a Lease of certain lands owned by the Landlord and located at the Kelowna International Airport, Kelowna, British Columbia, legally described as Parcel Identifier: 023- 824-123, Lot A, Section 14, Township 23 and District Lot 32, Osoyoos Division Yale District, Plan KAP59550 (the "Lease");
- B. The Lease was amended pursuant to supplemental agreements dated February 14, 2002, August 13, 2002, December 5, 2007, and July 29, 2009 (the "Supplemental Agreements");
- C. By virtue of an Assignment of Lease dated July 29, 2009 made between Kelowna Flightcraft Ltd., as Assignor, and Kelowna Flightcraft Leasing Ltd., as Assignee, the Lease and all supplemental agreements to the Lease were assigned to the Assignee for the remainder of the term set out in the Lease;
- D. By virtue of a change of name for an extra-provincial company dated August 12, 2009, the Assignee's name has been changed and the Lease and all supplemental agreements to the Lease have been assigned to the Tenant for the remainder of the term set out in the Lease;
- E. Pursuant to a lease modification agreement dated December 17, 2013 between the Landlord and the Tenant (the "Lease Modification Agreement"), the parties agreed to enlarge the

premises under the Lease by adding the area identified in the Lease Modification Agreement (the "Initial Added Area") to the premises under the Lease;

- F. Pursuant to a separate agreement dated May 26, 2022 between the Landlord and the Tenant (the "Partial Surrender of Lease"), the Tenant assigned and surrendered to the Landlord the Initial Added Area, in order to accommodate a childcare facility owned by the Landlord;
- G. The Lease, the Supplemental Agreements, and all amendments to the Lease to the date of this Agreement are herein collectively called the "Lease";
- H. By virtue of a Consent to Sublease, dated July 13, 2022, the Tenant has subleased, with the Landlord's permission, the premises subject to the Lease to Kelowna Flightcraft Ltd. (the "Subtenants") for a period of 10 years commencing January 1, 2015 and renewing on an annual basis until the expiry of the term of the Lease and any renewal thereafter;
- I. The Tenant wishes to enlarge the premises under the Lease by adding an area to the premises equivalent to the size of the Initial Added Area (the "Replacement Area"), and the Landlord wishes to provide the Tenant with the Replacement Area;
- J. In satisfaction of the foregoing, the Tenant has made application to the Landlord for 0.276 hectares, which parcel is shown and designated as Lease Area situated on LOT 1 DISTRICT LOT 32 AND OF SECTION 14 TOWNSHIP 23 OSOYOOS DIVISION YALE DISTRICT PLAN EPP87190 shown outlined in black on the Sketch Plan attached as Schedule "A" (the "Added Lease Land") and the Landlord has agreed to grant such application on the terms and conditions of this Agreement effective May 1, 2023;
- K. Given that the size of the Added Lease Land is larger than the Initial Added Area, the parties have agreed to establish two rental rates for the Added Lease Land: the rate for the Replacement Area shall be the same rate as was charged for the Initial Added Area, and the rate for the remaining portion of the Added Lease Land in excess of the Replacement Area shall be market rate;
- L. The parties have agreed to establish the rent and airport maintenance charges payable under the Lease effective May 1, 2023.

NOW THEREFORE in consideration of the sum of one dollar (\$1.00) paid by the Tenant to the Landlord and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the Landlord and the Tenant covenant and agree that:

### **INCREASE OF LEASE LANDS**

1. Effective May 1, 2023, the Lease is amended by increasing the Lease Lands by 0.276 hectares as shown and described on the attached drawing prepared by Runnalls Denby and identified as Drawing Number 16435 Lease 3 dated June 6, 2022 within Schedule A.

### **USE OF ADDED LEASE LAND**

2. The Added Lease Land will be used for temporary vehicle and equipment parking to service the parking and storage requirements of the Tenant and for the exclusive use and occupation by the Tenant, its officers and employees, upon the terms and conditions, and subject to the provisions contained in the Lease.

### **RENT AND AIRPORT MAINTENANCE CHARGES**

3. The Lease is amended by providing that the Rent and Airport Maintenance Charges payable by the Tenant for the Added Lease Land pursuant to the Lease are as follows, effective May 1, 2023:
  - (a) Rent is calculated as follows:
    - i. at a rate of \$0.2549 per square foot for 14,638.92 square feet of the Added Lease Land (representing the Replacement Area) =  $14,638.92 \text{ square feet} \times \$0.2549 = \$3,731.46$  per annum; and
    - ii. \$0.85 for the remaining 15,069.47 square feet of Added Lease Land =  $\$0.85 \times 15,069.47 = \$12,809.04$ , for a total of \$16,540.50 per annum for the Added Lease Land, payable in advance in month installments of \$1,378.37.
  - (b) an airport maintenance charge is calculated at a rate of \$0.03405 per square foot of leased area =  $29,708.39 \text{ square feet} \times \$0.03405 = \$1,011.57$  per annum, payable in monthly installments of \$84.29;
  - (c) an annual increase in the rent and airport maintenance charges payable under the Lease in accordance with Bylaw 7982 as amended from time to time; and
  - (d) without waiving any other right of action of the Landlord in the event of default or payment of any amounts owing under the Lease, in the event that the Tenant is delinquent in paying amounts owing to the Landlord, the Tenant shall pay interest thereon at the rate of one point five (1.5%) percent per month (18.00 percent per annum) effective from the date of default until paid in full. In order to reflect prevailing interest rates, the Landlord may review and adjust the interest rate from time to time.

**EFFECTIVE DATE OF AMENDMENTS TO LEASE**

- 4. This Agreement shall be in full force and effect commencing May 1, 2023. All terms and conditions contained in the Lease continue to be in full force and effect as amended by this Agreement.

**MISCELLANEOUS**

- 5. This Agreement may be executed in one or more counterparts, each of which will be an original, and all of which together will constitute a single instrument. The counterparts may be delivered by facsimile or electronic mail.

IN WITNESS WHEREOF the parties have signed this Agreement as of the dates written below.

**CITY OF KELOWNA**

by its authorized signatory(ies):

\_\_\_\_\_  
Real Estate Manager

Date: \_\_\_\_\_

**REGENCY AERO LEASE INC.**

by its authorized signatory(ies):

  
\_\_\_\_\_

Name:

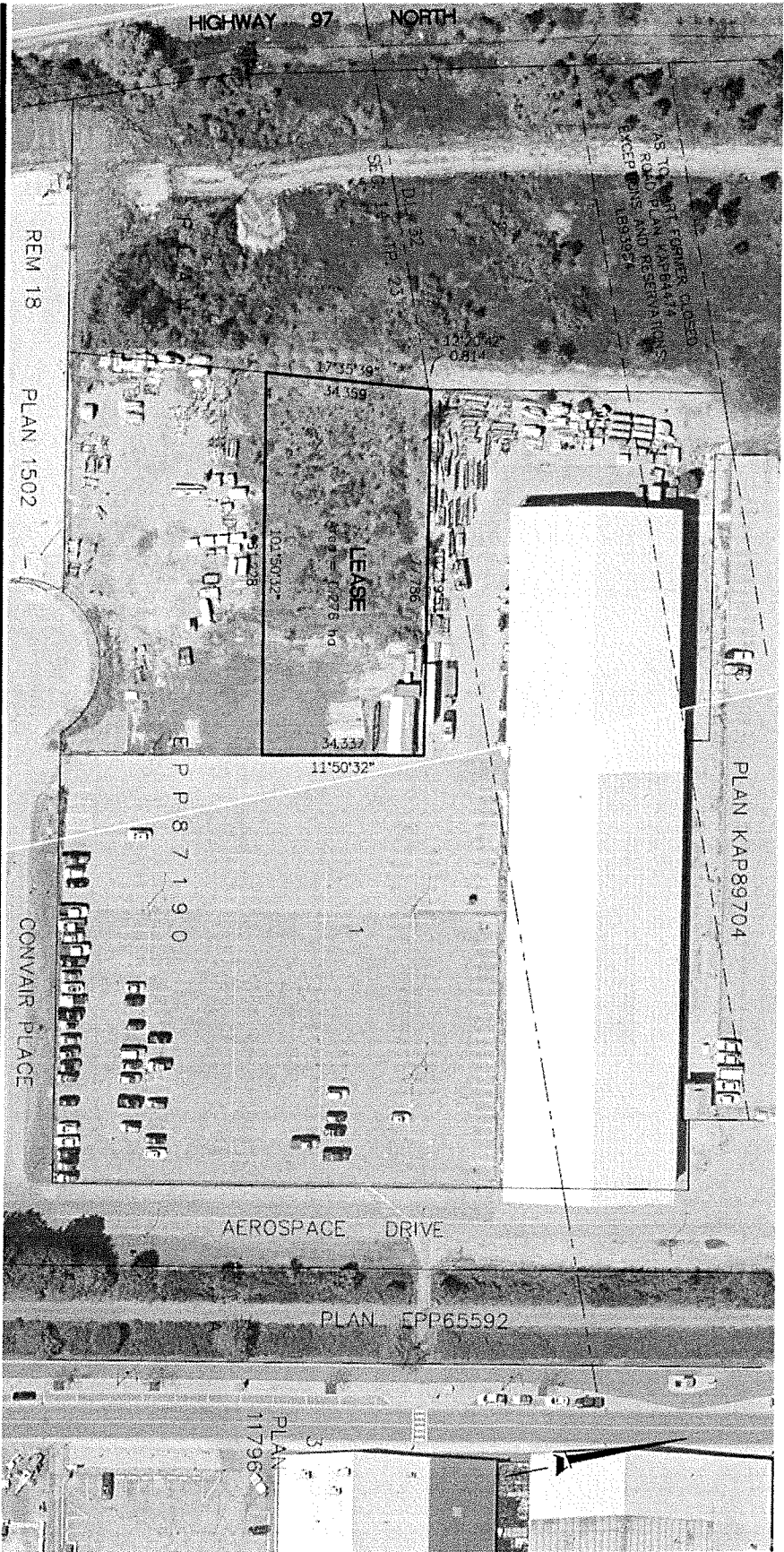
  
\_\_\_\_\_

Name:

Date JUNE 5, 2023

SCHEDULE A

SKETCH PLAN LEASE AREA SITUATED ON PART OF LOT 1 DISTRICT LOT 32 AND OF SECTION 14 TOWNSHIP 23 OSOYOOS DIVISION  
 YALE DISTRICT PLAN EPP87190



SKETCH PLAN SHOWING LEASE AREA  
 OVER PART OF LOT 1, DL 32 AND SEC  
 14, TP 23, ODYD, PLAN EPP87190

FILE NO: 16435  
 REV: 0

DATE: June 6, 2022  
 DWG: 16435 Lease 3

CLIENT: KELOWNA AIRPORT

DRAWN BY: RUNNALLS DENBY  
 british columbia land surveyors  
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 Kelowna, B.C. V1Y 8L2  
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