

CONSENT TO SUB-SUBLEASE

THIS AGREEMENT dated for reference the ____ day of _____, 2023

BETWEEN:

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

(the "City")

AND:

PATAIRA HOLDINGS CORPORATION (Inc. No. BC0954300)
202 – 1433 St. Paul Street
Kelowna, BC V1Y 2E4

(the "Subtenant")

AND:

1411785 B.C. LTD. (Inc. No. BC1411785)
270 Highway 33 W.,
Kelowna, BC V1X 1X7

(the "Sub-subtenant")

AND:

CANCO PETROLEUM LTD. (Inc. No. BC1130299)
270 Highway 33 W.,
Kelowna, BC V1X 1X7

(the "Covenantor")

WHEREAS:

- A. By a lease dated the 19th day of December, 1979 (the "Lease"), Her Majesty did lease those lands and premises described therein to the City, which lease was amended by the following supplemental agreements: "Supplemental Agreement #1" dated November 8, 1983, "Supplemental Agreement #2" dated January 15, 1985, "Supplemental Agreement #3" dated October 31, 1996, "Supplemental Agreement #4" dated November 15, 1989, "Supplemental Agreement #5" dated September 1, 1990, "Supplemental Agreement #6" dated June 14, 1994, "Supplemental Agreement #7" dated May 26, 1994, "Supplemental Agreement #8" dated February 16, 1996, "Supplemental Agreement #9" dated June 24, 2015, and "Supplemental Agreement #10" dated March 25, 2021;
- B. By a sublease agreement dated December 18, 2014 (the "Sublease"), the City granted to the Subtenant a sublease of the Premises (as defined in the Sublease) which comprises part of the premises leased to the City under the Lease;
- C. In accordance with Section 44 of the Sublease, the Subtenant may not assign the Sublease or the benefit of the Sublease, or sub-sublet the Premises or any part of the Premises, without the prior written consent of the City and the subsequent written consent of Her Majesty;

- D. By an amendment to the Lease dated March 25, 2021 (the "Amendment"), Her Majesty granted to the City the ability to enter into a sub-lease in respect of any part, but not the entirety of the Premises, without the consent of the Minister, provided that the sub-lease complies with sub-section 4.02.01 of the Amendment;
- E. The Subtenant and the Sub-subtenant wish to enter into a sub-sublease of a portion of the Premises (the "Sub-subleased Premises") commencing on June 1, 2023 until May 31, 2033 (the "Sub-sublease Term"); and
- F. The City has agreed to consent to a sub-sublease of the Sublease upon the terms and conditions herein provided.

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

Interpretation

- 1. All terms defined in the Sublease and used herein will have the respective meanings ascribed to them in the Sublease unless the context otherwise requires or unless otherwise stated herein.

Consent to Sub-Sublease

- 2. The City hereby consents to the sub-sublease between the Subtenant, the Sub-subtenant and the Covenantor, attached hereto as Appendix A (the "Sub-Sublease").
- 3. Except as otherwise provided in this Agreement, the Sub-subtenant and the agents and employees of the Sub-subtenant will only use the Sub-subleased Premises for purposes consistent with the permitted use allowed in the Sublease. Further, the Sub-subtenant agrees to comply with all other applicable provisions of the Sublease and will not do anything that would constitute a violation of any part or condition of the Sublease.
- 4. The City's consent to the Sub-sublease will not be deemed to be a consent to:
 - a. the terms of the Sub-sublease;
 - b. any further sub-subleasing of the Sub-subleased Premises; or
 - c. the subleasing of any portion of the Sub-subleased Premises to any other sub-subtenant or any other or different terms than those stated in the Sub-sublease.
- 5. The parties acknowledge and agree that neither this Agreement nor anything herein contained shall have the effect of waiving, modifying, limiting or prejudicing in any respect the rights and remedies of the City contained in the Sublease, notwithstanding any provision to the contrary in the Sub-sublease.

Acknowledgement

- 6. The Subtenant acknowledges and agrees that in accordance with the terms of the Sub-Sublease, the Sub-Sublease does not require the consent of Her Majesty.

Continuing Liability

7. The Subtenant acknowledges that:
 - a. The Subtenant will remain primarily liable for, and will not be released from the full and faithful performance of all the terms and conditions of the Sublease, notwithstanding the existence of, and City's consent, to the Sub-Sublease, or any breach committed by the Sub-Subtenant under the Sub-Sublease; and
 - b. The City will be entitled to pursue all remedies available in the event of the Subtenant's breach of the Sublease without regard to the performance or non-performance of the terms of the Sub-Sublease by the Sub-Subtenant.

Assumption by Sub-subtenant

8. The Sub-Subtenant agrees to assume all of the applicable obligations and responsibilities of the Subtenant under the Sublease with respect to the Sub-subleased Premises throughout the Sub-sublease Term.

Conflict

9. In the event of any conflict or inconsistency between the terms of the Sub-sublease and any of the provisions of the Sublease or of this Agreement where the City's rights are affected, the provisions of the Sublease or of this Agreement, as the case may be, shall prevail.

Additional Terms

10. The City may, at its sole option, on demand in writing delivered to the Sub-subtenant, elect to collect the rent payable by the Sub-subtenant to the Subtenant under the Sub-Sublease directly from the Sub-Subtenant and then apply the net amount collected from the Sub-subtenant, or the necessary portions thereof, to any unpaid Rent under the Sublease.

Termination of Sublease

11. If, at any time prior to the expiration of the Sub-Sublease, the Sublease will terminate or be terminated for any reason, the Sub-Sublease will also simultaneously terminate.

Notices

12. Any notice, request, demand or other communication under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail or electronic transmission to the applicable address below:

To the Landlord:

City of Kelowna
 Kelowna International Airport
 1-5533 Airport Way
 Kelowna, BC V1V 1S1
 Attention: Airport Corporate Services Manager
 Email: ylwadmin@kelowna.ca

To the Subtenant:

Pataira Holdings Corporation

3010 Lakha Road
Kelowna, BC V1X 7W1
Attention: Phillip Patara
Email: ppatara@shaw.ca

To the Sub-subtenant:

1411785 B.C. LTD.
270 Highway 33 W.
Kelowna, BC V1X 1X7
Attention:
Email: satvir@cancopetroleum.ca

To the Covenantor:

Canco Petroleum Ltd.
270 Highway 33 W.
Kelowna, BC V1X 1X7
Attention:
Email: satvir@cancopetroleum.ca

Any such notice, request, demand or other communication will be deemed to have been delivered:

- a. If delivered by hand, upon receipt;
- b. If sent by electronic transmission, twenty-four (24) hours after the time of confirmed transmission, excluding from the calculation weekends and statutory holidays;
- c. If sent by registered mail, four (4) days after the mailing thereof, provided that if there is a postal strike or other disruption, such notice will be delivered by hand or electronic transmission.

Any party may change their respective addresses for delivery by delivering notice of change as provided hereunder.

Miscellaneous

13. All terms and conditions of the Sublease continue to be in full force and effect except as amended by this Agreement.
14. The headings of all the sections hereof are inserted for convenience of reference only and will not affect the construction or interpretation of this Agreement.
15. This Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns.
16. This Agreement shall be construed according to the laws of the Province of British Columbia.
17. Each of the Subtenant, the Sub-subtenant and the Covenantor severally acknowledges that there are no covenants, representations, warranties, agreements, or conditions, expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to the City's

consent to the Sub-sublease to the Sub-subtenant save as expressly set out herein and that this Agreement constitutes the entire agreement between the City, the Subtenant, the Sub-subtenant and the Covenantor with respect to the subject matter hereof and may not be modified except by the subsequent agreement in writing executed by the City, the Subtenant, the Sub-subtenant and the Covenantor.

- 18. This Agreement may be executed in counterparts and when each party has executed a counterpart each of the counterparts will be deemed to be an original and all of the counterparts when taken together will constitute one and the same agreement.
- 19. This Agreement or a counterpart thereof may be executed by a party and transmitted by electronic transmission and if so executed and transmitted this Agreement will be for all purposes as effective and binding upon the party as if the party had delivered an originally executed document.

As evidence of their agreement to be bound by the above terms, the City, the Subtenant, the Sub-subtenant and the Covenantor have each executed this Agreement on the respective dates below:

CITY OF KELOWNA by its authorized signatory(ies)

Mayor

Clerk

Date

PATAIRA HOLDINGS CORPORATION by its authorized signatory(ies)

Philip Patara

Print Name

Print Name

[Signature]

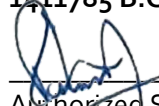
Signature

Signature

JUNE 02/2023

Date

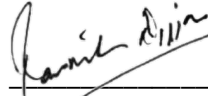
1411785 B.C. LTD. by its authorized signatory(ies)



Authorized Signatory

Parmjeet Singh Sehgal

Print Name



Authorized Signatory

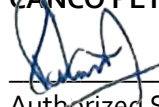
Ravinder Singh Nijjar

Print Name

June 2, 2023

Date

CANCO PETROLEUM LTD. by its authorized signatory(ies)



Authorized Signatory

Parmjeet Singh Sehgal

Print Name



Authorized Signatory

Ravinder Singh Nijjar

Print Name

June 2, 2023

Date

Schedule A
Sub-sublease

Schedule A

SUB-SUBLEASE

THIS SUB-SUBLEASE dated for reference May 11, 2023.

BETWEEN:

PATAIRA HOLDINGS CORPORATION (Incorporation No. BC0954300), a corporation duly incorporated under the laws of the province of British Columbia and having a registered and records office located at 202-1433 St. Paul Street, Kelowna, British Columbia, V1Y 2E4

(the "Sub-Sublandlord")

AND:

1411785 B.C. LTD. (Incorporation No. BC1411785), a corporation duly incorporated under the laws of the province of British Columbia and having a registered and records office located at 270 Highway 33 W., Kelowna, British Columbia, V1X 1X7

(the "Sub-Subtenant")

AND:

CANCO PETROLEUM LTD. (Incorporation No. BC1130299), a corporation duly incorporated under the laws of the province of British Columbia and having registered and records office at 270 Highway 33 W., Kelowna, British Columbia, V1X 1X7

(the "Covenantor")

BACKGROUND

- A. By a lease dated December 19, 1979 and amended by agreements dated November 8, 1983, January 14, 1985, October 31, 1986, January 19, 1990, November 29, 1990, May 26, 1994, June 14, 1994, February 16, 1996, July 24, 2015, and March 25, 2021 (collectively, the "Head Lease"), Her Majesty the Queen In Right of Canada (the "Head Landlord") leased to the City of Kelowna (the "City") the lands more particularly described in the Head Lease (the "Land").
- B. By a sublease dated December 18, 2014 (the "Sublease"), a copy of which is annexed as Schedule A, the City subleased to the Sub-Sublandlord a portion of the Land having an area of approximately 5,800 square meters (the "Leased Premises"), shown in the site plan attached as Schedule B, for the purposes of developing a fueling station, convenience/confectionary store, restaurant and automobile service center/car wash.

- C. As required under section 44 of the Sublease, the prior written consent of the City and the Head Landlord is required for this Agreement. Consent from the Head Landlord is not required if this Agreement complies with subsection 4.02.01 of amendment to the Head Lease dated the March 25, 2021.
- D. The Sub-Sublandlord and the Sub-Subtenant have agreed to enter into this Sub-Sublease for a portion of the Leased Premises (the "**Sublet Premises**") located at 101-5538 Airport Way, Kelowna, British Columbia, containing approximately 2,305 square feet (the "**Sublet Rentable Area**") as shown outlined in red on the site plan of the Leased Premises attached as Schedule C, on the terms specified in this Sub-Sublease.
- E. The Sub-Subtenant has requested that the Sub-Sublandlord grant to the Sub-Subtenant a licence to use those areas and facilities of the Leased Premises that, from time to time, are designated by the Sub-Sublandlord as the Common Areas and the Common Facilities as defined in section 6 in this Sub-Sublease.

AGREEMENTS

In consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties, the parties agree as follows:

1. Capitalized Terms

Capitalized terms used in this Sub-Sublease will have the meanings ascribed therein in the Sublease unless otherwise defined in this Sub-Sublease.

2. Grant of Sublease

- (a) Subject to the consent of the City, in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Sub-Subtenant to be paid, observed and performed, the Sub-Sublandlord sub-leases the Sublet Premises to the Sub-Subtenant and the Sub-Subtenant sub-leases the Sublet Premises from the Sub-Sublandlord, for a term (the "**Sub-Sublease Term**") commencing on June 1, 2023 (the "**Commencement Date**") and terminating on May 31, 2033, upon and subject to the terms of this Sub-Sublease.
- (b) From the Commencement Date, the Sub-Subtenant shall have a fixturing period for 2 months (the "Fixturing Period"). During the Fixturing Period the Sub-Subtenant shall pay Rent as set out in section 3 and shall abide by all other provisions of the Sub-Sublease.

3. Basic Rent

The Sub-Subtenant covenants to pay as basic rent ("**Sub-Sublease Basic Rent**") for the period of the Sub-Sublease Term commencing on the Commencement Date, in equal monthly instalments payable in advance on the twenty fourth day of each month as follows:

Period	Per Month
Fixturing Period	\$7,000.00 plus GST

End of Fixturing Period to Year 3	\$14,000.00 plus GST
Year 3 to end of the Sub-Sublease Term	2% increase every year
Renewals	Market Rent

4. **Additional Rent**

The Sub-Subtenant covenants to pay as additional rent during the Sub-Sublease Term the following amounts:

- (a) the Sub-Subtenant's Proportionate Share of real property taxes and common area maintenance payable by the Sub-Sublandlord under the Sublease;
- (b) the Sub-Subtenant's Proportionate Share of the Taxes payable by the Sub-Sublandlord under the Sublease; and
- (c) all other costs, damages, or other amounts that are the responsibility of the Sub-Sublandlord under the Sublease, to the extent such costs relate to the Sublet Premises,

(collectively, the "**Additional Rent**").

The Sub-Sublandlord may, in respect of any or all of the Additional Rent, compute bona fide estimates of the amounts which are anticipated to accrue in the current or next following Lease Year, calendar year, fiscal year, or other period as the Sub-Sublandlord may determine is the most appropriate period for each item or category of Additional Rent ("Proportionate Share"). Despite the foregoing, as soon as bills for all or any portion of Additional Rent so estimated are received, the Sub-Sublandlord may bill the Sub-Subtenant for the actual amount that the Sub-Subtenant is obliged to pay and the Sub-Subtenant will pay the Sub-Sublandlord such amounts so billed (less all amounts previously paid by the Sub-Subtenant on the basis of the Sub-Sublandlord's estimate as aforesaid) as Additional Rent on demand.

The Sub-Subtenant's "Proportionate Share" means a fraction having as its numerator the Sublet Rentable Area and as its denominator the area of the Leased Premises (including the Sublet Premises) as described in Recital B. The Sub-Subtenant will pay to the Sub-Sublandlord its Proportionate Share of any Taxes, or other amounts payable by the Sub-Sublandlord pursuant to estimates of such amounts made by the City as and when such amounts are due under the Sublease, provided that the Sub-Subtenant has received at least 14 days' prior written notice of such amounts, and the Sub-Subtenant will be entitled to and responsible for any adjustments payable upon any recalculation of such amounts as and when they are payable or received by the Sub-Sublandlord as subtenant under the Sublease.

5. **Basis of Determining Additional Rent**

As soon as reasonably possible after the Commencement Date and after the start of each year in the Sub-Sublease Term, the Sub-Sublandlord will furnish to the Sub-Subtenant an estimate of Additional Rent to be paid by the Sub-Subtenant for the balance of each year in the Sub-Sublease Term.

Within 150 days after the end of each year of the Sub-Sublease Term, the Sub-Sublandlord will furnish to the Sub-Subtenant a statement of the actual costs during each year and the Sub-Subtenant's Proportionate Share thereof. In the event that such actual Additional Rent in any year exceeds the estimated Additional Rent for that year, the Sub-Subtenant agrees to pay within 10 days of written demand by the Sub-Sublandlord the Sub-Subtenant's Proportionate Share of such actual Additional Rent. The Sub-Sublandlord will give credit to the Sub-Subtenant for the amount of any overpayment made by the Sub-Subtenant. In the event of dispute, the certificate of a chartered accountant appointed by the Sub-Sublandlord will be conclusive and binding upon the Sub-Sublandlord and the Sub-Subtenant as to any amounts payable under this section.

6. Common Areas and Common Facilities

The Sub-Sublandlord hereby grants to the Sub-Subtenant, its agents, employees, invitees, and other persons transacting business with it, in common with all others entitled thereto, a licence to have the use of certain areas including but not limited to the roof, exterior walls, interior structural elements, landscaped areas, parking areas, driveways, common loading areas, sidewalks, public hallways, public washrooms, utility and storage areas (the "Common Areas").

In addition to the Common Areas, the Sub-Sublandlord hereby grants to the Sub-Subtenant, its agents, employees, invitees, and other persons transacting business with it, in common with all others entitled thereto, a licence to use those facilities including but not limited to the electrical, mechanical, heating, ventilating and air-conditioning, plumbing, fire prevention, and any enclosures constructed therefor (the "Common Facilities").

The Sub-Sublandlord will, at all times, have the exclusive right of control over the Common Areas and the Common Facilities. Without limitation, the Sub-Sublandlord may temporarily obstruct or close off or shut down parts of the Leased Premises for inspection, maintenance or safety reasons. The Sub-Sublandlord has no liability for diminution or alternation of the Common Areas or Common Facilities that occurs as a result of the Sub-Sublandlord's exercise of rights under this section, and the Sub-Subtenant will not be entitled to compensation or a reduction or abatement of Rent, and no such diminution or alteration of the Common Areas or Common Facilities will be deemed to be a constructive or actual eviction of the Sub-Subtenant or a default by the Sub-Sublandlord of any obligation for quiet enjoyment contained in this Sub-Sublease or provided at law.

7. Financial Statements

The Sub-Subtenant shall cause to be kept records of revenue and expenses, such records to be kept according to accepted accounting principles. On or before the 5th day of each month, the Sub-Subtenant shall supply to the Sub-Sublandlord an itemized statement of gross revenue for the preceding month.

8. Apportionment of Rent

Rent will be considered as accruing from day to day under this Sub-Sublease. If it is necessary to calculate Rent for a period of less than one year or less than one calendar month, an appropriate apportionment and adjustment on a pro rata daily basis will be made. Where the calculation of Additional Rent cannot be made until after the expiration or earlier termination of this Sub-Sublease, the obligation of the Sub-Subtenant to pay such Additional Rent will survive the

expiration or earlier termination hereof, and such amounts will be paid by the Sub-Subtenant to the Sub-Sublandlord forthwith upon demand. If the Sub-Sublease Term commences on any day other than the first day of the month or expires on any day other than the last day of the month, Rent for such fraction of a month will be adjusted, as specified, and paid by the Sub-Subtenant on the Commencement Date of the Sub-Sublease Term.

9. Net Lease

Rent payable under this Sub-Sublease will be net and care free to the Sub-Sublandlord, and will be payable without deduction or set-off by the Sub-Subtenant throughout the Sub-Sublease Term. All costs incurred by the Sub-Sublandlord in collecting any amounts payable under this Sub-Sublease or enforcing any right or obligation of the Sub-Subtenant under this Sub-Sublease will be payable by the Sub-Subtenant on demand and will be deemed to be Rent for all purposes from the date demand therefor is made. In addition to Rent under this Sub-Sublease, the Sub-Subtenant will remit to the Sub-Sublandlord any goods and services tax or other tax or imposition collectible by the Sub-Sublandlord for the use of the Sublet Premises by the Sub-Subtenant or goods or services provided to the Sub-Subtenant, and the Sub-Sublandlord will be entitled to exercise all remedies in respect of any failure by the Sub-Subtenant to pay such amounts as if they were Rent in arrears. From the date any Rent or other amounts payable under this Sub-Sublease are due until they are actually paid, they will bear interest at the rate of 18% per annum.

All payments to be made hereunder are to be made to the Sub-Sublandlord in lawful money of Canada at the address given in the heading of this Sub-Sublease or at such other place as the Sub-Sublandlord may from time to time hereafter designate in writing.

10. Delay

The Sub-Sublandlord will not be deemed to be in default in the performance of any of its obligations in this Sub-Sublease during any period when the Sub-Sublandlord is prevented from performance by reason of being unable, using reasonable efforts (without expenditure of any funds other than reimbursement of the City's and the Head Landlord's legal costs) to obtain the consent of the City, and neither the Sub-Sublandlord nor the Sub-Subtenant will be deemed to be in default of their respective obligations during any period when such party is prevented from performance by reason of the default of the other party, or by reason of being unable to obtain the materials, goods, equipment, service, or labour required by reason of any statute, law, bylaw, ordinance, or regulation, or by reason of any strikes, lockouts, slowdowns, or other combined action of workmen or shortages of material or any other cause beyond its control, and the time for the performance of any such obligation will be extended accordingly. The inability to perform an obligation due to lack of financial resources will not be deemed to be beyond a party's control.

11. Liens

If any lien or encumbrance arising out of the act or omission of the Sub-Subtenant is filed or attached against the Land, the Sub-Subtenant will, within five days after notice of the lien or encumbrance, procure its discharge, failing which the Sub-Sublandlord may, at its option and in addition to any other remedies it may have under the Sub-Sublease arising out of defaults by the Sub-Subtenant, make any payments into court required to procure such discharge; and the Sub-Subtenant will promptly reimburse the Sub-Sublandlord for any payment, cost, or expense incurred in so doing, whether or not such lien or encumbrance was without merit or excessive.

12. Sub-Subtenant's Covenants

The Sub-Subtenant acknowledges having received and read a copy of the Sublease and covenants and agrees with the Sub-Sublandlord:

- (a) to perform all of the obligations of the Subtenant under the Sublease and to be bound by the terms of the Sublease in each case as they relate to the Sublet Premises;
- (b) to abide by any rules and regulations governing the use of the Premises and the Building appended to the Sublease, as the Sublease may be amended from time to time;
- (c) to pay Rent and perform all of the obligations of the Sub-Subtenant under this Sub-Sublease;
- (d) not to do or omit to do any act in or around the Sublet Premises that would cause a breach of the Sub-Sublandlord's obligations as Subtenant under the Sublease;
- (e) to promptly pay when due to the authorities having jurisdiction all Taxes (whether imposed upon the Sub-Subtenant or otherwise) attributable to the personal property, trade fixtures, business, income, or occupancy of the Sub-Subtenant or any other occupant of the Sublet Premises and to any leasehold improvements or fixtures within the Sublet Premises, and to the use by the Sub-Subtenant or its officers, employees, and invitees of any of the Common Facilities; and
- (f) to indemnify and save harmless the Sub-Sublandlord against and from any and all expenses, costs, damages, suits, actions, or liabilities arising or growing out of the failure of the Sub-Subtenant to perform any of its obligations under this Sub-Sublease and from all claims and demands of every kind and nature made by any person or persons to or against the Sub-Sublandlord for all and every manner of costs, damages, or expenses incurred by or injury or damage to such person or persons or his, her, or their property, to the extent that such claims or demands arise out of the use and occupation of the Sublet Premises by the Sub-Subtenant or its officers, employees, or any other person authorized or permitted by the Sub-Subtenant to be on the Sublet Premises or in or about the Building, and from all costs, counsel fees, expenses, and liabilities incurred by reason of any such claim or any action or proceeding brought on such claim.

13. Sub-Subtenant's Breach

If the Sub-Subtenant fails to perform any of its obligations herein, the Sub-Sublandlord will have all of the remedies against the Sub-Subtenant that the City has under the Sublease for a breach of it, whether expressly set out in the Sublease or arising in law or equity.

14. Sub-Sublandlord's Covenants

Subject to the City first consenting to this Sub-Sublease and the due performance by the Sub-Subtenant of its obligations in this Sub-Sublease, the Sub-Sublandlord covenants and agrees with the Sub-Subtenant:

- (a) for quiet enjoyment of the Sublet Premises;
- (b) to enforce against the City for the benefit of the Sub-Subtenant the obligations of the City under the Sublease that materially affect the Sublet Premises;
- (c) to perform all of the obligations of the Sub-Sublandlord under this Sub-Sublease; and
- (d) to perform all of the obligations of the Sub-Sublandlord under the Sublease that materially affect the Sublet Premises, including without limitation the payment of Rent pursuant to the Sublease.

15. Use

The Sublet Premises will be used by the Sub-Subtenant solely for the purpose of a fueling station and convenience/confectionary store and for no other purpose.

16. Insurance

The Sub-Subtenant will take out and maintain, from the Commencement Date and throughout the Sub-Sublease Term, insurance with respect to the Sublet Premises providing for the coverages and upon the terms required in the Sublease to be maintained by the Sub-Sublandlord. The Sub-Sublandlord and the City will be shown as named insureds on all liability policies, with a cross-liability and severability of interest endorsement, and each property insurance policy will contain a waiver of subrogation with respect to the City and the Sub-Sublandlord. The Sub-Subtenant releases the Sub-Sublandlord from any claim the Sub-Subtenant may have that is or would be insured against by the insurance policies that the Sub-Subtenant is required to maintain by this Sub-Sublease.

17. Sub-Subtenant's Assigning, Subletting, etc.

The Sub-Subtenant may not assign the Sub-Sublease or the benefit of the Sub-Sublease, or sublet the Sublet Premises or any part of the Sublet Premises, without the prior written consent of the City and the subsequent written consent of the Head Landlord, nor may the Sub-Subtenant charge, mortgage, or encumber, or purport to charge, mortgage, or encumber the Sub-Subtenant's interest in the Sublet Premises or the Sub-Sublease without the prior written consent of the City and the subsequent written consent of the Head Landlord. The City and the Head Landlord may not unreasonably withhold such consents. The Sub-Subtenant shall be responsible for all costs associated with any assignment or sub-sublease of the Sublet Premises, including the City associated legal and administrative costs. The consent of the Head Landlord is not required under this section in respect of assigning or subletting any part of the Sublet Premises if the sub-lease meets all of the requirements in subsection 4.02.01 of the amendment to the Head Lease dated March 25, 2021.

18. Exercise of Rights

The determination of any state of facts, the promulgation of any rules or regulations, or the taking of any other action or exercise of any other rights under the Head Lease and Sublease that is permitted to the Head Landlord or the City will, upon written notice to the Sub-Subtenant of such action or exercise, be binding upon the Sub-Subtenant and the Sublet Premises.

19. Paramountcy of Sublease

The Sub-Subtenant acknowledges and agrees that it has no greater interest in the Sublet Premises than the Sub-Sublandlord under the Sublease. To the extent that any right or benefit conferred by this Sub-Sublease contravenes or is incompatible with the Sublease or the Head Lease, such right or benefit will be amended or modified so as not to contravene or be incompatible with the Sublease or the Head Lease.

20. Notices

All notices, consents, and approvals permitted or required to be given under this Sub-Sublease will be in writing and will be delivered to the Sub-Sublandlord or the Sub-Subtenant, as the case may be, as follows:

- (a) to the Sub-Sublandlord at the Leased Premises

Attention: Philip Patara;

- (b) to the Sub-Subtenant at the Sublet Premises

Attention: Parmjeet Sehgal;

or such other place as either party may designate by notice given in accordance with this section 20.

Any notice so made will be deemed to have been given and received on the date of delivery on a business day to an adult person on the Leased Premises or the Sublet Premises, as applicable.

21. Parking

Subject to the terms of the Sublease, the Sub-Sublandlord hereby grants to the Sub-Subtenant a licence to use the parking spaces made available to the Sub-Sublandlord under the Sublease for the duration of the Sub-Sublease Term, on the terms and conditions pertaining to the use of such spaces from time to time under the Sublease, including as to payment of any parking fees associated with such parking spaces, if any. The Sub-Subtenant will be responsible for obtaining such passes from the City as may be required for the use of such parking spaces from time to time, and completing all documentation that the City may require in this regard, and all rental for parking spaces used by the Sub-Subtenant will be paid by the Sub-Subtenant directly to the City. The Sub-Subtenant will notify the Sub-Sublandlord of the spaces made available to the Sub-Subtenant by the City, and the Sub-Subtenant will be solely responsible for the use of such spaces and indemnifies the Sub-Sublandlord from any damages, losses, or claims arising from the use of such spaces, howsoever arising.

22. Head Lease Termination

Upon termination of the Head Lease for any reason (including default by the City), the Sub-Sublease will immediately terminate without any compensation payable to the Sub-Subtenant.

Notwithstanding section 22, if:

- (a) the termination of the Head Lease is not in any manner disputed; and
- (b) the City has yielded up vacant possession of the Premises to the Head Landlord;

then the Sub-Sublease shall, at the Head Landlord's option, be deemed to have been assigned to the Head Landlord, thereby creating a new lessor/lessee relationship under the terms and conditions of the Sub-Sublease; provided, however, that the Head Landlord reserves the option to amend the new sublease therein created from time to time in accordance with policy or policies in effect at that time.

23. Successors and Assigns

Except as otherwise provided *in* this Sub-Sublease, all of the rights and obligations of a party enure to the benefit of and are binding upon the successors and assigns of that party.

24. Further Assurances

Each party agrees to execute such further assurances as may be reasonably required from time to time by any other party to more fully effect the true intent of this Sub-Sublease.

25. Entire Agreement and "As Is"

This Sub-Sublease merges and supersedes all prior negotiations, representations, and agreements between the parties relating in any way to the Sublet Premises. The parties agree that there are no representations, covenants, agreements, warranties, or conditions in any way relating to the subject matter of this Sub-Sublease or the occupation or use of the Sublet Premises, whether express or implied or otherwise, except as provided in this Sub-Sublease. In particular, and without limiting the generality of the foregoing, the Sub-Subtenant acknowledges having inspected the Sublet Premises, and sublets the Sublet Premises on an "as is" basis. The Sub-Sublandlord will not be responsible for any alteration or improvement required or desired by the Sub-Subtenant to the Sublet Premises. The Sub-Subtenant acknowledges that the Sub-Sublandlord has made no representations as to the condition of the Sublet Premises or the fitness of the Sublet Premises for any purpose not expressly provided in this Sub-Sublease.

26. Waiver

No waiver by the Sub-Sublandlord of a condition or the performance of an obligation of the Sub-Subtenant under this Sub-Sublease binds the Sub-Sublandlord unless in writing and executed by it, and no waiver given by the Sub-Sublandlord will constitute a waiver of any other condition or performance by the Sub-Subtenant of its obligations under this Sub-Sublease in any other case.

27. Sub-Sublease Execution and Consent Required

This Sub-Sublease and all subsequent amendments to this Sub-Sublease are only binding on the Sub-Sublandlord and the Sub-Subtenant respectively, if in writing and executed by

authorized signatories for the Sub-Sublandlord and the Sub-Subtenant and if executed copies of this Sub-Sublease have been delivered to each party. It is a condition precedent to this Sub-Sublease and all obligations of the Sub-Sublandlord and Sub-Subtenant under this Sub-Sublease that the City consents to this Sub-Sublease. The parties agree to use their commercially reasonable best efforts to obtain the consent of the City to this Sub-Sublease, and to provide all such information and assurances (other than third-party guarantees or covenants or additional security) as the City may reasonably require in this regard.

28. Governing Law

This Sub-Sublease will be governed in accordance with laws applicable in the province of British Columbia, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of British Columbia.

29. Counterparts

This Sub-Sublease may be executed by the parties in counterpart, and the counterparts may be delivered by electronic means.

30. Renewal of Sub-Sublease

This Sub-Sublease may be renewed pursuant to the renewal provisions set out in Schedule D attached to this Agreement.


31. Obligations of Covenantor

The Covenantor does hereby unconditionally covenant and agree with the Sub-Sublandlord:

- (a) to make the due and punctual outstanding payment of all Rent, money, and charges owing to the Sub-Sublandlord from the Sub-Subtenant under this Sub-Sublease upon receipt of written demand therefor made by the Sub-Sublandlord to the Covenantor; and
- (b) to effect prompt and complete performance of all and singular the covenants, agreements, conditions, and provisos in this Sub-Sublease contained on the part of the Sub-Subtenant to be kept, observed, and performed, upon receipt of written demand therefor made by the Sub-Sublandlord to the Covenantor.

IN WITNESS WHEREOF the parties have duly executed this Sub-Sublease as of the date set out above.

PATAIRA HOLDINGS CORPORATION

Per: 
Authorized Signatory

1411785 B.C. LTD.

Per:



Authorized Signatory

CANCO PETROLEUM LTD.

Per:



Authorized Signatory

SCHEDULE A – SUBLEASE



Transport
Canada

Transports
Canada

DUPLICATE
ORIGINAL - ORIGINALE

161347

NO. - N°

CONSENT TO A SUBLEASE

between

CITY OF KELOWNA

-and-

PATAIRA HOLDINGS CORPORATION

Date of Sublease: - December 18, 2014

Public Work Concerned: - Kelowna Airport, BC

Description: - Consent to a Sublease of a portion of Lease No. 109806 (PACIFIC 1375) dated December 19, 1979.

Date of Consent: - February 20, 2015

161347

DEPT'L REFERENCE - RÉFÉRENCE DU MINISTÈRE
FILE NO. - N° DU DOSSIER T7155-P131

MEMORANDA - NOTES

[Empty box for MEMORANDA - NOTES]

TO WHOM IT MAY CONCERN

WHEREAS:

The Minister of Transport hereby, pursuant to the fourth clause of:

- a) Lease No. 109806 (PACIFIC 1375) dated the nineteenth day of December, 1979, (hereinafter called "Lease") Her Majesty the Queen in right of Canada, represented therein by the Minister of Transport, granted to The City of Kelowna, all and singular those certain parcels of land situated, lying and being in the Province of British Columbia, Osoyoos Division, Yale District, consisting of Lot 3 - Registered Plan 11796, District Lot 120 - Plan 1929, Lot 7 - Registered Plan 1502, comprising all of the Kelowna Airport and being more particularly shown on Drawing No. P131P007N026, dated June 1, 1978, together with buildings and facilities as listed in the Index to Buildings and shown on Drawing No. P131P007N026, dated June 1, 1978, thereto annexed. Together with the Lessor's equipment as enumerated in the Schedule annexed thereto marked "A";
- b) the Lease was further renewed and amended by agreements supplemental thereto dated November 8, 1983, January 15, 1985, October 31, 1986, January 19, 1990, November 29, 1990, May 26, 1994, June 14, 1994 and February 16, 1996, respectively, all of which will be referenced thereto at length and more fully appear; and

NOW THEREFOR, the Minister of Transport, pursuant to Clause No. 4 of the Lease, hereby **CONSENTS** to the Sublease dated the 18th day of December, 2014, annexed hereto marked "A" made between:

CITY OF KELOWNA

LESSEE

AND

PATAIRA HOLDINGS CORPORATION

SUBLESSEE

(hereinafter called "Sublease"), **IN SO FAR ONLY** as the terms of the Sublease are within the terms of the Lease.

BY SUCH CONSENT, HOWEVER, Her Majesty the Queen in right of Canada shall not waive or be deemed to have waived compliance and observance on the part of the City of Kelowna, its heirs, executors, administrators, successors and assigns, of the covenants, conditions and reservations in the Lease to be complied with, observed and performed on their or any of their parts, nor to have waived, impaired or restricted in any way whatsoever any of the rights or remedies of Her Majesty the Queen in respect of the Lease or the property or rights thereby leased or to have approved of the form or any of the terms of the Sublease.

It is hereby expressly declared that the sole object, purport and effect of this Consent is merely to meet the requirements of clause four of the Lease, and no action shall be taken or things done or maintained, under, by virtue of, or in connection with the Sublease that may prejudice, impair or affect in any way whatsoever any of the rights or remedies of Her Majesty the Queen in Right of Canada.

DATED AT OTTAWA, ONTARIO, this 20th day of February, 2015.

SUBLEASE AGREEMENT

THIS AGREEMENT dated for reference the 18 day of December, 2014.

BETWEEN:

CITY OF KELOWNA, a municipal corporation of 1435 Water Street,
Kelowna, B.C. V1Y 1J4

(the "City")

AND:

PATAIRA HOLDINGS CORPORATION, a body corporate with its
office located at 3010 Lakha Road, Kelowna, B.C. V1X 7W1

(the "Subtenant")

WHEREAS:

- A. By a lease dated December 19, 1979 (the "Head Lease") between the City and Her Majesty the Queen in Right of Canada (the "Head Landlord"), as represented by the Minister of Transport (the "Minister"), the Head Landlord leased to the City the following lands, on the terms and conditions set out in the Head Lease:
- Parcel Identifier: 009-459-014
Lot 3 District Lots 32 and 120 and of Section 14 Township 23 Osoyoos Division Yale District Plan 11796
- Parcel Identifier: 013-949-101
Lot B District Lot 122 Osoyoos Division Yale District Plan 41159
- Parcel identifier: 011-518-189
Lot 7 Section 14 Township 23 Osoyoos Division Yale District Plan 1502 except plan H16596
- (collectively, the "Land");
- B. The City and the Head Landlord amended the Head Lease on November 8, 1983, January 14, 1985, October 31, 1986, January 19, 1990, November 29, 1990, May 26, 1994, June 14, 1994, and February 16, 1996;
- C. The City has agreed to sublease to the Subtenant that portion of the Land having an area of approximately 5,800 square metres (the "Premises"), shown outlined in heavy black on the sketch plan prepared by Runnalls Denby, B.C.L.S. and dated the 3rd day of June, 2013, a reduced copy of which is attached as Schedule "A", for the purposes of developing a fuelling station, convenience/confectionery store, restaurant and

automobile service centre/car wash;

- D. As required under section 4 of the Head Lease, the written consent of the Head Landlord is required for this Agreement;
- E. In accordance with section 26 of the *Community Charter*, the City has posted and published notice of its intention to sublease the Premises to the Subtenant;

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

Sublease

- 1. The City subleases the Premises to the Subtenant for the Term, and the Subtenant subleases the Premises from the City for the Term, on and subject to the terms and conditions of this Agreement.
- 2. It is an express condition subsequent of this Agreement that the City shall obtain the Head Landlord's written consent, which consent shall not be unreasonably withheld. This condition cannot be waived.

Term

- 3. The term of this Agreement (the "Term") shall commence on the date this Agreement is fully executed by the parties (the "Commencement Date") and shall expire in twenty (20) years (the "Expiry Date").

Rent

- 4. The Subtenant covenants and agrees to pay to the City the rent provided for in this section 4 on a monthly basis. The Subtenant shall pay the first monthly instalment of rent on May 15, 2015 and shall make subsequent monthly instalments on the fifteenth (15th) of each month during the currency of this Agreement, the sum or sums computed as follows:
 - (a) Years 1 through 5 of the Agreement, the Subtenant will pay in equal monthly instalments the minimum annual guarantee amounts attached as Schedule "B";
 - (b) Years 6 through 20 of the Agreement, the Subtenant will pay in equal monthly instalments the greater of:
 - (i) the minimum annual guarantee amounts attached as Schedule "B"; or
 - (ii) a percentage of revenue negotiated by the Subtenant and the City at the

end of year 5 of the Agreement. At no time in years 6 through 20 of the Agreement will the percentages of revenue paid by the Subtenant be less than:

- a. .005 % Fuel
- b. 1% Tobacco and Lottery
- c. 4% All other Business Units;

(collectively, the "Rent"). The Rent does not include Goods and Services Sales Tax ("GST") or any similar or replacement tax.

Percentage of Gross Revenue

- 5. That the Subtenant shall remit to the City in accordance with the provisions hereof the percentage of all gross revenue derived by the Subtenant from its operations hereunder, whether such revenue is actually paid or due and payable only, and notwithstanding any loss sustained by the Subtenant with respect to such gross revenue as a result of theft, defalcation or from any other cause whatsoever.
- 6. In all cases where the charges derived from the operations of the Subtenant hereunder are not collected by the Subtenant at the time such charges are incurred, all such charges shall be accounted for by the Subtenant as revenue for purposes of determining the percentage payable to the City, in the month that services are provided, whether or not payment thereof has been received by the Subtenant.

Financial Statements

- 7. That during the currency of this Agreement, the Subtenant shall cause to be kept, records of revenue and expenses, such records to be kept according to accepted accounting principles. On or before the fifteenth (15) day of each month, the Subtenant shall supply to the Airport Director in format deemed satisfactory an itemized statement of gross revenue for the preceding month, upon which the percentage payments under this Agreement are calculated. The fiscal year shall be January 1 to December 31. At the end of each fiscal year, the Subtenant shall provide audited financial statements of the Subtenant's operations hereunder and such additional accounting statements with the gross revenue reported in the annual audited statement, all to be in the form determined by the Airport Director and to be received by the office of the Airport Director by March 31st of the year following. The audited financial statement referred to herein shall contain a statement from a licensed public accountant stating his/her opinion, without qualification, as to the fairness of this financial statement.
- 8. All cash sales to customers pursuant to these presents shall be recorded immediately on a cash register at the time of sale. All cash registers, and devices used in recording sales to customers shall have a detailed tape for a permanent recording of each sales

transaction. All transactions recorded on these devices shall be visibly displayed so that the amount recorded can be viewed by customers from a reasonable distance. No register or device in which cash sales are recorded and deposited may be opened without recording the date and time of said opening. Cash register or device drawers must be kept closed at all times except when sales are made. All registers and devices used in recording sales to customers must meet all accepted standards of accounting systems and cash control.

Audit and Inspection

9. That the books of the Subtenant shall be open for audit and inspection and for taking extracts there from at all times, during business hours, by the accredited officers of the City. The Subtenant shall prepare and keep adequate books and records which shall show transactions by the Subtenant. The cost of any audit performed pursuant to this clause shall be borne by the City, provided, however, that should the results of such audits reveal a discrepancy of more than ONE HUNDRED DOLLARS (\$100.00) between the gross receipts reported in accordance with section 5 herein and the gross receipts as determined by such audits then the full cost of such audits shall be borne by the Subtenant.

Disclosure of Gross Revenue Information

10. It is understood and agreed that in the concluding year of this Agreement and at any time after its termination, the City may publish the annual total of the gross sales reported by the Subtenant in each year of this Agreement for the purpose of public tender information, along with a breakdown of revenue by business service.

Security Deposit

11. A security deposit equivalent to 3 months of the highest Rent due over the term of this Agreement in the form of an irrevocable letter of credit, attached hereto as Schedule "C", or cash will be required. The security deposit will be retained by the City for the term of the Agreement or until the Agreement comes to an end, whichever comes first. In the case of cash, interest will accrue at the City's prevailing rate of interest. The security deposit shall be returned to the Subtenant provided that if the Subtenant fails to pay any portion of the revenues due and/or impairs, damages and injures the said Premises or Land or any part thereof during the currency of the Agreement, the City may draw on the security deposit and may apply the funds or any part thereof to the arrears of sums and/or damages. The application of the security deposit by the City shall not constitute a waiver nor in any way defeat or affect the rights of the City in terms of the Agreement or any and all other rights and remedies which the City has by law.

Purposes

12. The Subtenant shall only use and occupy the Premises for a fuelling station, convenience/confectionery store, restaurant, automobile service centre/car wash, and commercial retail use as approved by the Airport Director and for no other purpose whatsoever.

Subtenant's Covenants

13. The Subtenant covenants and agrees with the City:
- (a) to promptly pay when due, Rent and any other amounts required to be paid by it under this Agreement;
 - (b) not to do, suffer, or permit anything in, on, or from the Premises that may be or become a nuisance or annoyance to other occupiers or users of the Land, or to the owners, occupiers, or users of other land or premises adjacent to or near the Premises, or to the public, including the accumulation of rubbish or unused personal property of any kind;
 - (c) not to do, suffer, or permit any act or neglect that may in any manner directly or indirectly cause injury to the Premises or to the Land, and not to commit or permit waste to the Premises or to the Land;
 - (d) to keep and maintain the Premises, and all improvements constructed thereon, in a safe, tidy, and sanitary condition;
 - (e) to take all reasonable precautions to ensure the safety of all persons using the Premises;
 - (f) to keep the Premises free of any rubbish, litter, and debris and keep the areas adjacent to the Premises free of any rubbish, litter, and debris originating from the Premises;
 - (g) not to construct, erect, place, install, or permit, on the outside of any building or structure or other exterior area of the Premises, any poster, advertising sign or display, electrical or otherwise, without first obtaining the written consent of the Airport Director;
 - (h) to pay to the City all GST (or replacement tax) payable in respect of this Agreement;
 - (i) to pay all costs and expenses of any kind whatsoever associated with and payable in respect of the Premises, the Subtenant's improvements and trade fixtures, and all equipment, furniture and other personal property brought onto the Premises by the Subtenant and any business or activity conducted on or from the Premises, including without limitation, all taxes (including property

taxes), levies, charges and assessments, permit and license fees, strata fees and levies, repair and maintenance costs, administration and service fees, telephone, electrical, gas, water, sewage disposal and other utility charges and payments for work and materials;

- (j) to carry on and conduct its activities in, on, and from the Premises in compliance with any and all laws, statutes, enactments, bylaws, regulations, and orders from time to time in force, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on, or from the Premises in contravention thereof;
- (k) to promptly cause to be discharged any builders lien which may be filed against the title to the Land, and to comply at all times with the *Builders Lien Act* (British Columbia) in respect of any improvements, work, or other activities undertaken in, on, or to the Premises.

Net Sublease

14. Without limiting any other provisions in this Agreement, the Subtenant agrees that the sublease granted herein is absolutely carefree net to the City, and the Subtenant must promptly pay when due on its own account and without any variation, set-off, or deduction, all amounts, charges, costs, duties, expenses, fees, levies, rates, sums, taxes, and increases in any way relating to the Premises, including all penalties and interest thereon, whether or not referred to in this Agreement and, to the extent that any such amounts remain unpaid after they come due, the City may pay such amounts on behalf of the Subtenant and the amounts so paid by the City shall be immediately due from the Subtenant to the City. Without limiting the foregoing, the City shall have no obligations whatsoever to the Subtenant concerning the Premises except for the City's express obligations under this Agreement.

Quiet Possession

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

Security

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

City Consent for New Improvements and Alterations

17. The Subtenant shall not make any improvements or alterations to the Premises without the prior written consent of the City, which consent may not be unreasonably withheld.

Construction of Airport Plaza

18. Prior to the commencement of any development on the Premises and as soon as is reasonably practical after the Commencement Date, the Subtenant will:
- (a) apply to the City for all permits necessary to construct two buildings including a primary structure for a fuelling station, convenience/confectionery store and restaurant ("Phase I") pursuant to the drawing attached hereto as Schedule "D" and a third building for commercial retail use ("Phase II"), (collectively the "Airport Plaza"); and
 - (b) deliver to the City drawings, elevations (where applicable), specifications (including the materials to be used), location on the Premises, and exterior decoration and design of the Airport Plaza for the City's consent and approval pursuant to section 17, which drawings and specifications, if required by the City, shall be prepared by and under seal of an appropriately qualified professional engineer or registered architect acceptable to the City.

Upon receipt of all necessary permits pursuant to (a) and written consent from the City pursuant to (b), the Subtenant shall construct the Airport Plaza expeditiously and in a good and workmanlike manner and in substantial accordance with the drawings, elevations, specifications (including materials to be used), location on the Premises, and exterior decoration and design upon which issuance of the necessary permits and approvals are based.

Deadlines for Commencement and Completion of Construction

19. The Subtenant covenants and agrees with the City that, subject always to section 26:
- (a) the Subtenant shall commence construction of Phase I of the Airport Plaza on or before April 1, 2015;
 - (b) the Subtenant shall substantially complete Phase I of the Airport Plaza in accordance with the requirements of section 18 on or before December 31, 2015;
 - (c) the Subtenant shall commence construction of Phase II of the Airport Plaza on or before April 1, 2016; and
 - (d) the Subtenant shall substantially complete Phase II of the Airport Plaza on or before December 31, 2016.

20. For the purposes of sections 19(a) and (c), construction will be considered to have been commenced once a building permit or permits have been issued by the City for the Airport Plaza, and the foundations and footings of the Airport Plaza have been installed.
21. For the purposes of sections 19(b) and (d), construction of the Airport Plaza will be considered substantially complete when the architect or engineer of the Subtenant has issued a certificate to the City, signed and sealed by the architect or engineer, certifying that:
 - (a) the Airport Plaza is substantially complete in all material respects in a proper and workmanlike manner and in accordance with the applicable plans, specifications, and supporting documents submitted to and accepted by the City and upon which issuance of any permits for the Airport Plaza have been based, except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;
 - (b) all building bylaws and regulations of the City have been complied with by the Subtenant except for deficiencies the correction of which, in the opinion of the architect or engineer, is adequately ensured;
 - (c) all permits for occupancy that may be required by the City have been obtained; and
 - (d) the Airport Plaza is ready for occupancy.

Termination if Subtenant Defaults in Commencement or Completion of Construction

22. If the Subtenant does not commence or substantially complete construction of the Airport Plaza by the dates specified in section 19, the City will have the right and option to terminate this Agreement and the sublease granted herein, without any right on the part of the Subtenant to seek compensation, and sections 45 through 51 of this Agreement will apply.

Minimum Work Standards

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

Repair and Maintenance

24. The Subtenant shall during the Term, at its cost, by itself or by the use of agents, put and keep in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the

Airport Plaza or the foundation or structure of the Airport Plaza) the Premises and the Airport Plaza, and the appurtenances and equipment of them, both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, elevators (if any) and similar devices, heating and air-conditioning equipment, sidewalks, landscaping, yards and other like areas, water and sewer mains and connections, water, steam, gas, and electric pipes and conduits, and all other fixtures on the Premises and the Airport Plaza and machinery and equipment used or required in the operation of them, whether or not enumerated in this Agreement, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacement, alterations, additions, changes, substitutions, and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Airport Plaza and aforesaid fixtures, appurtenances, and equipment fully usable for all of the purposes for which the Airport Plaza was erected and constructed and the specified fixtures, appurtenances, and equipment were supplied and installed. Such repairs will be in all respects to the standard at least substantially equal in quality of material and workmanship to the original work and material in the Airport Plaza and aforesaid fixtures, appurtenances, and equipment.

City Not Obligated to Repair

25. Except the work to be done by the City set forth in Schedule "F", the City is not obliged to furnish any services or facilities or to make any repairs or alterations in or to the Premises or the Airport Plaza, and the Subtenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance, and management of the Premises and the Airport Plaza.

City May Repair

26. If at any time during the Term, the Subtenant fails to maintain the Premises and the Airport Plaza and the fixtures, appurtenances, and equipment of them, both inside and outside, in the condition required by the provisions of section 24, the City through its agents, servants, contractors, and subcontractors may, but will not be obliged to, enter upon those parts of the Premises and the Airport Plaza required for the purpose of making the repairs required by section 24. The City may make such repairs only after giving the Subtenant 30 days' written notice of its intention so to do, except in the case of an emergency when no notice to the Subtenant is required. Any amounts paid by the City in making such repairs to the Premises or to the Airport Plaza or any part or parts thereof, together with all costs and expenses of the City, will be reimbursed to the City by the Subtenant on demand, plus a 15% administration fee together with interest at the rate specified in section 40.

Damage or Destruction

27. The partial destruction or damage or complete destruction by fire or other casualty of the Airport Plaza will not terminate this Agreement or the sublease granted hereunder,

or entitle the Subtenant to surrender possession of the Premises or the Airport Plaza or to demand any abatement or reduction of the Rent or other charges payable under this Agreement, any law or statute now or in the future to the contrary.

28. The Subtenant covenants and agrees with the City that, in the event of damage to or partial destruction of the Airport Plaza, the Subtenant, subject to the regulations and requirements of the City and any other government authority having jurisdiction, will repair, replace, or restore any part of the Airport Plaza so destroyed.
29. The Subtenant covenants and agrees with the City that, in the event of complete or substantially complete destruction of the Airport Plaza, the Subtenant, subject to the regulations and requirements of the City and any other government authority having jurisdiction, will reconstruct or replace the Airport Plaza with a structure comparable to that being replaced.
30. Any replacement, repair, or reconstruction of the Airport Plaza or any part of the Airport Plaza pursuant to the provisions of sections 28 or 29 will be made or done in compliance with sections 17, 23, and 24 of this Agreement.

Unavoidable Delays

31. If, by reason of strike, lock-out, or other labour dispute, material or labour shortage not within the control of the Subtenant, stop-work order issued by any court or tribunal of competent jurisdiction (providing that such order was not issued as the result of any act or fault of the Subtenant or of anyone employed by it directly or indirectly), fire or explosion, flood, wind, water, earthquake, act of God, or other similar circumstances beyond the reasonable control of the Subtenant and not avoidable by the exercise of reasonable efforts or foresight by the Subtenant, the Subtenant is, in good faith and without default or neglect on its part, prevented or delayed in the commencement or substantial completion of construction of the Airport Plaza or repair of the Airport Plaza or any part of it which under the terms of this Agreement the Subtenant is required to do by a specified date or within a specified time or, if not specified, within a reasonable time, the date or period of time within which the work was to have been completed will be extended by the City by a reasonable period of time at least equal to that of such delay or prevention; and the Subtenant will not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Agreement within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the City and the Subtenant. For the purposes of this section 31, the inability of the Subtenant to meet its financial obligations under this Agreement or otherwise will not be a circumstance beyond the reasonable control of the Subtenant and not avoidable by the exercise of reasonable effort or foresight by the Subtenant. The Subtenant will act diligently and take all reasonable steps of a prudent owner to remove the cause or causes of delay in the commencement or completion of construction of the Airport Plaza.

Acknowledgment and Agreements of the Subtenant

32. The Subtenant acknowledges and agrees that:

- (a) the City has given no representations or warranties with respect to the Premises or the Land, including with respect to the suitability of the Premises for the Subtenant's intended use;
- (b) the Subtenant subleases the Premises on an "as-is" basis and the City has not made any representations, warranties or agreements as to the condition of the Premises (including the subsurface nature or condition of any part of the Premises, or the environmental condition of the Premises);
- (c) it is the sole responsibility of the Subtenant to satisfy itself with respect to the condition of the Premises (including the subsurface nature or condition of the Premises and the environmental condition of the Premises), including by conducting any reports, tests, investigations, studies, audits and other inquiries as the Subtenant, in its sole discretion, considers necessary in order to satisfy itself as to the condition of the Premises;
- (d) this Agreement is subject to the Head Lease and all of its terms, restrictions, and limitations, and the Subtenant has no greater interest in the Premises than the City under the Head Lease and, to the extent that any right or benefit conferred by this Agreement contravenes or is incompatible with the Head Lease, such right or benefit will be amended or modified so as not to contravene or be incompatible with the Head Lease;
- (e) the City may register a *Builders Lien Act* "notice of interest" against title to the Land in the land title office.

Insurance Requirements

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

Insurance Certificates

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

City May Insure

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

Subtenant Indemnity

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

City Right to Grant Further Interests

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

Permission to Enter

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

Payments Generally

39. All payments, including interest, required to be made by the Subtenant to the City under the terms of this Agreement shall be:
- (a) payable in lawful money of Canada;
 - (b) paid to the City at the office of the City or at such other place as the City may designate from time to time in writing;
 - (c) made when due hereunder, without the need for prior demand and without any set-off, abatement or deduction;

- (d) applied towards amounts outstanding in such a manner as the City sees fit; and
- (e) deemed to be rent (if not Rent), in partial consideration for which this Agreement is entered into, and shall be payable and recoverable as rent, and the City shall have all of the rights and remedies against the Subtenant for default in making any such payment which may not be expressly designated as rent, as the City has for a default in payment of Rent.

Interest

40. All payments due by the Subtenant to the City under this Agreement shall bear interest at the rate of interest established from time to time by the Royal Bank of Canada, Main Branch, Vancouver, B.C. as the base rate used to determine interest rates charged by it for Canadian dollar loans to customers in Canada designated by them as the "prime rate" plus 6% per annum calculated monthly not in advance from the date due until paid.

Worker Safety and Compensation

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

Environmental Matters

42. In section 43, the following definitions apply:

- (a) "Contaminants" means:
 - (i) as defined in the *Environmental Management Act* (British Columbia): any biomedical waste, contamination, effluent, pollution, recyclable material, refuse, hazardous waste or waste;
 - (ii) matter of any kind which is or may be harmful to safety or health or to the environment; or
 - (iii) matter of any kind the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, release, remediation, mitigation or removal of which is now or is at any time required, prohibited, controlled, regulated or licensed under any Environmental Law;
- (b) "Environmental Law" means any past, present or future common law, enactment, statute, regulation, order, bylaw or permit, and any requirement,

standard or guideline of any federal, provincial or local government authority or agency having jurisdiction, relating to the environment, environmental protection, pollution or public or occupational safety or health.

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

No Assignment or Sublease

44. The Subtenant may not assign this Agreement or the benefit of this Agreement, or sublet the Premises or any part of the Premises, without the prior written consent of the City and the subsequent written consent of the head Landlord, nor may the Subtenant charge, mortgage, or encumber, or purport to charge, mortgage, or encumber the

Subtenant's interest in the Premises or this Agreement without the prior written consent of the City and the subsequent written consent of the Head Landlord. The City and Head Landlord may not unreasonably withhold such consents. The Subtenant shall be responsible for all costs associated with any assignment or sublease of the Premises, including the City associated legal and administrative costs.

Termination Due to Default

45. If and whenever:

- (a) the Subtenant fails to pay any Rent or other amount owing under this Agreement when due, whether or not demanded by the City;
- (b) the Subtenant fails to observe or perform any of its obligations under this Agreement and the Subtenant has not, within 7 days after notice from the City specifying the default, cured the default, or if the cure reasonably requires a longer period, the Subtenant has not commenced to cure the default within the 7 day period and thereafter does not diligently pursue the cure of such default;
- (c) re-entry is permitted under other terms of this Agreement;
- (d) without the consent of the City, the Premises are vacant or the Subtenant fails to operate its business within the Premises for 10 days or more;
- (e) a receiver is appointed to control the conduct of the business of the Subtenant on or from the Premises;
- (f) the Subtenant becomes bankrupt or insolvent or takes the benefit of any legislation in force for bankrupt or insolvent debtors;
- (g) proceedings are instituted for the winding-up or termination of the corporate existence of the Subtenant;
- (h) without the consent of the City, the Subtenant abandons or attempts to abandon the Premises or disposes of the bulk of its goods and chattels on the Premises;
- (i) the Term or any of the goods or chattels on the Premises are at any time seized or taken in execution or attachment by any creditor of the Subtenant or under bill of sale or chattel mortgage; or
- (j) the Subtenant permits a builders lien to arise in respect of the Land and to remain registered against title to the Land for more than 60 days,

then the City may re-enter and take possession of the Premises as though the Subtenant or other occupant was holding over after the expiration of the Term and this Agreement

may, at the City's option, be immediately terminated by notice left at the Premises.

Right to Relet

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

Re-entry

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

Distress

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

State of Premises at Termination

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

the rate specified in section 40. The City's rights and the Subtenant's obligations under this section shall survive the expiry or earlier termination of this Agreement.

Ownership of Improvements during Term and at Termination

50. The City and the Subtenant agree that the title to and ownership of all buildings, structures, and improvements on the Premises, including the Airport Plaza, and all alterations, additions, changes, substitutions, or improvements thereto will at all times during the Term be vested in the Subtenant, notwithstanding any rule or law as to the immediate vesting of the title to and ownership of them in the owner of the freehold. Upon the expiry or earlier termination of this Agreement, all buildings, structures, and improvements on the Premises, including the Airport Plaza, and all alterations, additions, changes, substitutions, or improvements thereto, shall, without compensation to the Subtenant, become the permanent property of the City, though the City shall have the option of requiring or compelling the Subtenant to remove the improvements in accordance with section 51 of this Agreement.

Required Improvement Removal

51. Notwithstanding anything to the contrary in this Agreement, the City may, by providing written notice to the Subtenant within 21 days following termination or expiry of this Agreement, require that the Subtenant remove any or all improvements done by or on behalf of the Subtenant during the Term, including the Airport Plaza. Upon such notice, the specified improvements shall become the property of the Subtenant and the Subtenant shall remove such improvements within 21 days of receipt of such notice, failing which the City may, without notice or compensation to the Subtenant, dispose of such improvements as it sees fit and the Subtenant shall reimburse the City for its costs of doing so (including a 15% administration fee) within 21 days of receipt of an invoice from the City. The City's rights and the Subtenant's obligations under this section shall survive the expiry or earlier termination of this Agreement.

Head Lease Covenant

52. The Subtenant hereby covenants that it will perform and observe all the covenants on the part of the City under the provisions of the Head Lease other than the covenant to pay rent there under and other than the covenants relating to the Land other than these Premises, and will indemnify the City against all actions, expenses, claims and demands in respect of such covenants except as aforesaid.

Head Lease Termination

53. Upon termination of the Head Lease for any reason (including default by the City), this Agreement will immediately terminate without any compensation payable to the Subtenant.

54. Notwithstanding section 53, if:

- (a) the termination of the Head Lease is not in any manner disputed;
- (b) the City has yielded up vacant possession of the Premises to the Head Landlord;
- (c) immediately preceding the termination of the Head Lease, all airport subleases, including this Agreement, are in full force and effect and the sublessees, including the Subtenant, at the termination of the Head Lease, are not in default or breach of their respective subleases;
- (d) the Head Landlord is not legally prohibited by reason of defect in title, adverse possession, or otherwise from fulfilling the terms of any of the airport subleases, including this Agreement;

then this Agreement shall, at the Head Landlord's option, be deemed to have been assigned to the Head Landlord, thereby creating a new lessor/lessee relationship under the terms and conditions of this Agreement; provided, however, that the Head Landlord reserves the option to amend the new lease therein created from time to time in accordance with policy or policies in effect at that time.

Remedies Cumulative

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

Holding Over

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

Sublease Not In Registrable Form

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

Waiver or Non-Action

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

Conditions

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

No Joint Venture

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

Interpretation

61. In this Agreement:
- (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
 - (b) a particular numbered section or lettered Schedule is a reference to the correspondingly numbered section or lettered Schedule of this Agreement;
 - (c) an "enactment" is a reference to an enactment as that term is defined in the Interpretation Act (British Columbia) on the day this Agreement is made;
 - (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
 - (e) section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
 - (f) a "party" is a reference to a party to this Agreement;
 - (g) time is of the essence; and

- (h) where the word “including” is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word “including”.

Notices

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

City and Head Landlord Discretion

- 63. Wherever in this Agreement the approval or consent of the City or Head Landlord is required, some act or thing is to be done to the City or Head Landlord’s satisfaction, the City or Head Landlord are entitled to form an opinion, or the City or Head Landlord is given the sole discretion:
 - (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, consent, opinion or expression of satisfaction is in writing signed by the City and the Head Landlord as required, or their authorized representative;
 - (b) the approval, consent, opinion or satisfaction is in the discretion of the City or Head Landlord as required, acting reasonably;
 - (c) sole discretion is deemed to be the sole, absolute and unfettered discretion of the City or Head Landlord as required; and
 - (d) no public law duty of procedural fairness or principle of natural justice shall have any application to such approval, consent, opinion, satisfaction or discretion.

No Effect on Laws or Powers

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

Severance

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

Binding on Successors

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

Law of British Columbia

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

Bribes

68. The Subtenant hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of the City for or with a view to obtaining the sublease granted herein any bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure the sublease granted herein upon any agreement for a commission, percentage, brokerage, or contingent fee.

House of Commons

69. No Member of the House of Commons of Canada shall be admitted to any share or part of the sublease granted herein, or to any benefit to arise therefrom.

Counterparts

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

Schedules

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

Schedule "A" – Reduced Copy of Sketch Plan
Schedule "B" – Minimum Annual Guarantee Amounts
Schedule "C" – Irrevocable Letter of Credit Template
Schedule "D" – Drawing- Airport Plaza
Schedule "E" – Insurance Requirements
Schedule "F" – City Work


Entire Agreement


72. The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and

agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement.

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

CITY OF KELOWNA by its authorized signatories:



Mayor: Colin Basran, MAYOR


Clerk: Stephen Fleming,
City Clerk

Date: DECEMBER 22, 2014

PATAIRA HOLDINGS CORPORATION by its authorized signatories:



Name: Philip Patara

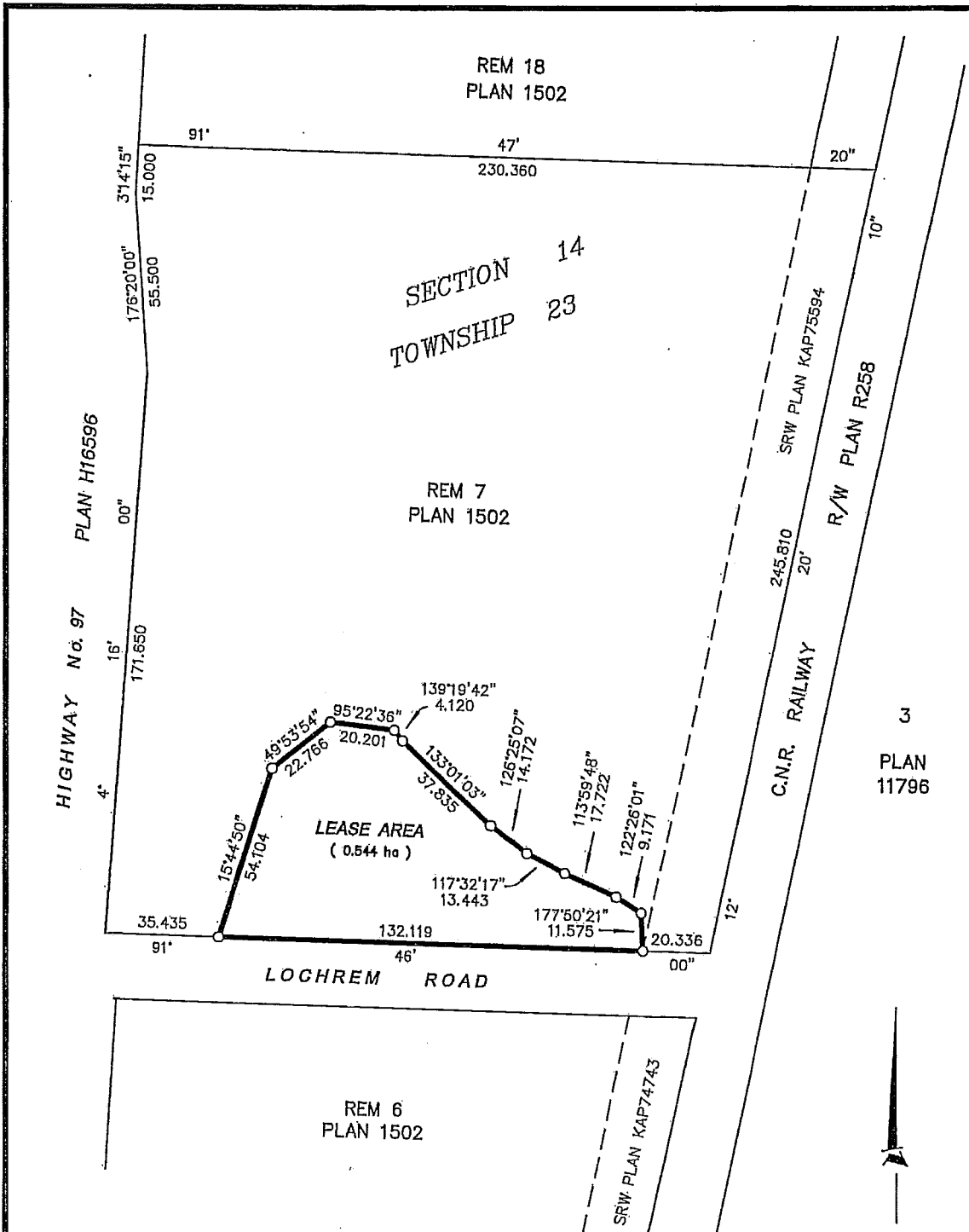
Name: _____

Date: December 18, 2014

SCHEDULE "A"

Reduced Copy of Sketch Plan

Schedule "A"



Certified correct this 3rd day of June, 2013.

Neil R. Denby
 Neil R. Denby B.C.L.S.

TITLE:		
SKETCH PLAN - LEASE AREA		
SITUATED ON PART OF LOT 7, SECTION 14, TOWNSHIP 23, OSOYOOS DIVISION YALE DISTRICT, PLAN 1502, EXCEPT PLAN H16596		
DRAWN BY:	RUNNALLS DENBY	SCALE: 1:1500
	<i>british columbia land surveyors</i>	DATE: JUNE 3rd, 2013
	259A Lawrence Avenue Phone: (250)763-7322 Kelowna, B.C. V1Y 6L2 Fax: (250)763-4413 Email: nell@runnallsdenby.com	DWG: 13670 LEASE
CLIENT:	KELOWNA INTERNATIONAL AIRPORT	FILE No: 13670 REV. 1

SCHEDULE "B"

Minimum Annual Guarantee Amounts

FINANCIAL PROPOSAL FORM

Year 1		Year 2		Year 3		Year 4		Year 5	
Business Unit	Gross Revenue / Annual % of Sales	Minimum Annual Guarantee	Royalty Payments	Gross Revenue / Annual % of Sales	Minimum Annual Guarantee	Royalty Payments	Gross Revenue / Annual % of Sales	Minimum Annual Guarantee	Royalty Payments
Business Unit Fuel (litres) On the Run	2,169,934	\$ 69,000	\$ 15,000	3,000,000	\$ 66,245	\$ 15,000	3,000,000	\$ 66,245	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	2,688,251	\$ 61,200	\$ 15,000	3,000,000	\$ 67,570	\$ 15,000	3,000,000	\$ 67,570	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	2,511,985	\$ 62,424	\$ 15,000	3,000,000	\$ 68,921	\$ 15,000	3,000,000	\$ 68,921	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	2,555,665	\$ 63,672	\$ 15,000	3,000,000	\$ 70,300	\$ 15,000	3,000,000	\$ 70,300	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	3,000,000	\$ 71,706	\$ 15,000	3,000,000	\$ 79,659	\$ 15,000	3,000,000	\$ 79,659	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	3,000,000	\$ 82,367	\$ 15,000	3,000,000	\$ 90,000	\$ 15,000	3,000,000	\$ 90,000	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	3,000,000	\$ 84,014	\$ 15,000	3,000,000	\$ 92,000	\$ 15,000	3,000,000	\$ 92,000	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	3,000,000	\$ 85,695	\$ 15,000	3,000,000	\$ 94,000	\$ 15,000	3,000,000	\$ 94,000	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		
Business Unit Fuel (litres) On the Run	3,000,000	\$ 87,409	\$ 15,000	3,000,000	\$ 96,000	\$ 15,000	3,000,000	\$ 96,000	\$ 15,000
Tobacco			\$	1%		\$	1%		\$
Lottery			\$	1%		\$	1%		\$
Other			\$	4%		\$	4%		\$
Subway			\$	4%		\$	4%		\$
Car Wash			\$	4%		\$	4%		\$
Detailing			\$	4%		\$	4%		\$
Future Ops			\$	4%		\$	4%		\$
TOTALS				4%			4%		

SCHEDULE "C"

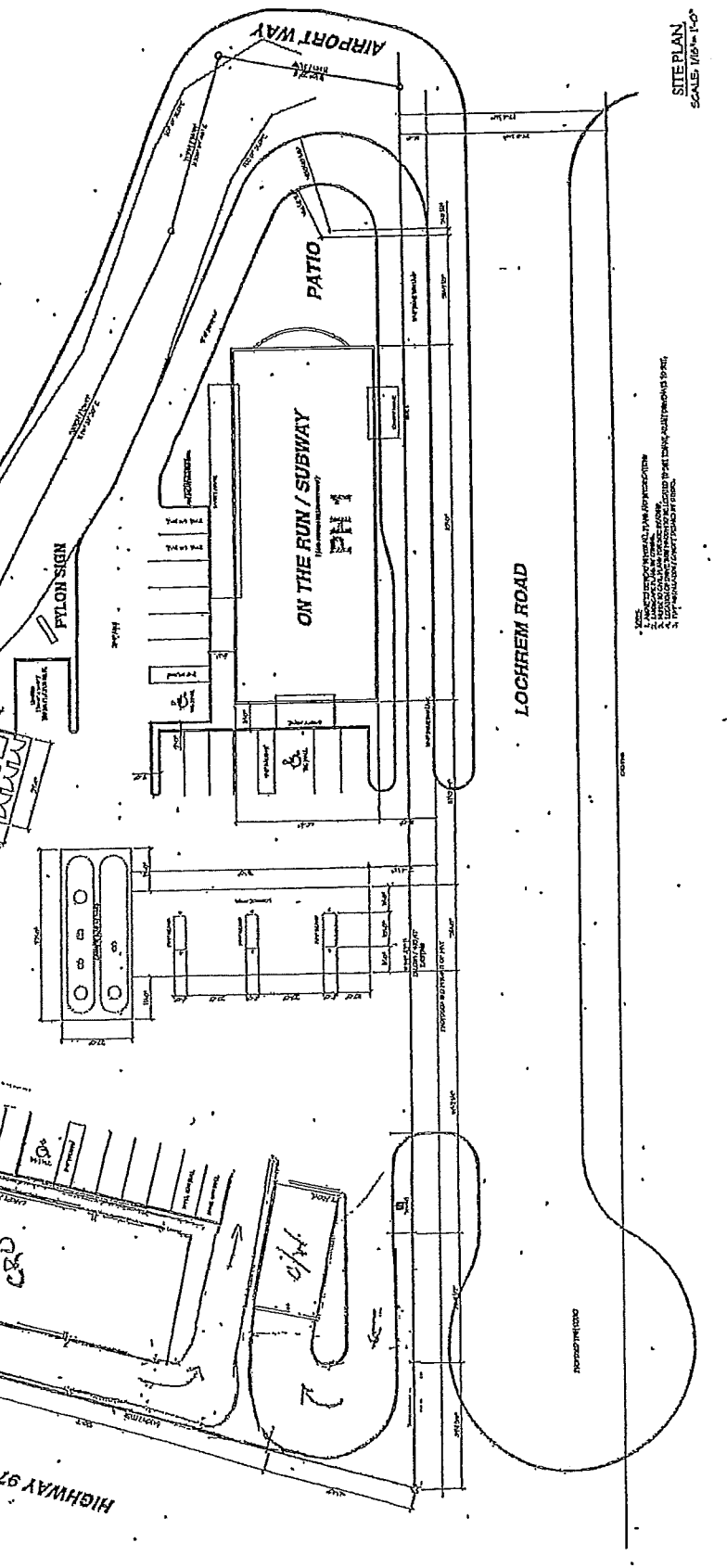
Irrevocable Letter of Credit Template

SCHEDULE "D"

Drawing(s) – Airport Plaza

REVISIONS	
NO.	DESCRIPTION
1	ISSUED FOR PERMITS
2	ISSUED FOR PERMITS
3	ISSUED FOR PERMITS
4	ISSUED FOR PERMITS
5	ISSUED FOR PERMITS
6	ISSUED FOR PERMITS
7	ISSUED FOR PERMITS
8	ISSUED FOR PERMITS
9	ISSUED FOR PERMITS
10	ISSUED FOR PERMITS

1. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 7. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 8. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.



- 1. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 7. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 8. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

SITE PLAN
 SCALE: 1/8" = 1'-0"

OSA
 OSA ARCHITECTURAL INC.
 10000 W. 10TH AVENUE
 DENVER, CO 80202
 TEL: 303.733.8800
 FAX: 303.733.8801
 WWW.OSA-ARCH.COM

TED J. THOMAS
 ARCHITECT
 10000 W. 10TH AVENUE
 DENVER, CO 80202
 TEL: 303.733.8800
 FAX: 303.733.8801
 WWW.OSA-ARCH.COM

PROJECT: [REDACTED]
 SHEET: PH 1 OF 2
 DATE: [REDACTED]

DATE: [REDACTED]

SEAL: [REDACTED]

SCHEDULE "E"

Insurance Requirements

The Subtenant shall obtain and maintain:

- (a) comprehensive general liability insurance providing coverage for death, bodily injury, property loss and damage, and all other losses, arising out of or in connection with the Subtenant's use and occupation of the Premises in an amount of not less than \$5,000,000.00 per occurrence (or in such greater amount as may be required from time to time by the City);
- (b) course of construction insurance providing coverage for death, bodily injury, property loss and damage, and all other losses arising out of or in connection with the construction of the Airport Plaza and any other building or structure on the Premises, to an amount reasonably satisfactory to the City;
- (c) "all risks" property insurance for replacement cost of the Airport Plaza and all of the Subtenant's personal property and fixtures that are in the nature of trade fixtures; and
- (d) any other form or forms of insurance that the City may reasonably require from time to time in such amounts and for such perils against which a prudent tenant acting reasonably would protect itself in similar circumstances.

All policies of insurance required to be taken out by the Subtenant shall be with companies satisfactory to the City and shall, unless otherwise approved in writing by the City:

- (a) name the City and the Head Landlord as additional insureds;
- (b) include that the City is protected notwithstanding any act, neglect or misrepresentation by the Subtenant which might otherwise result in the avoidance of a claim and that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;
- (c) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
- (d) be primary and non-contributing with respect to any policies carried by the City and that any coverage carried by the City is in excess coverage;
- (e) not be cancelled or materially modified without the insurer providing the City with 30 days written notice stating when such cancellation is to be effective or identifying the modification;
- (f) not include a deductible greater than \$5,000.00 per occurrence (except for the "all risks" insurance with respect to the Airport Plaza, which shall include no deductible);

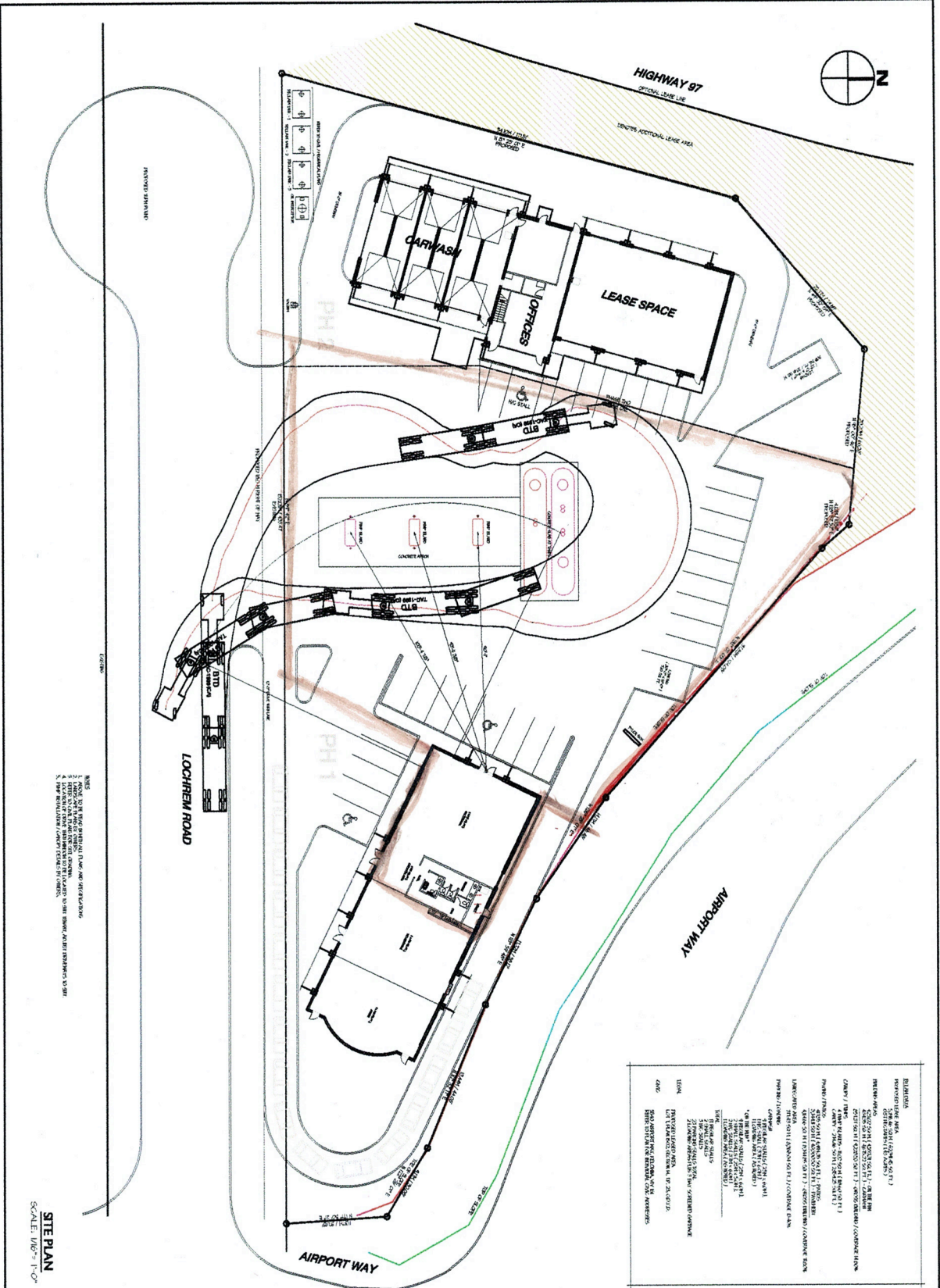
SCHEDULE "F"

CITY WORK

Under the terms and conditions of this Agreement, and as per the Subtenant's plans and specifications, the City will provide and install the following, all at the City's sole cost and expense, and all to a location within the Land and Airport Plaza as determined by the Subtenant, including all necessary permits:

- (a) surface paving and line striping for a road as shown on the attached Schedule "D". For greater certainty, the Subtenant will be solely responsible for the road construction including subsurface engineering and materials.

SCHEDULE B – LEASED PREMISES



NOTES:
 1. THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO APPROVAL BY THE LOCAL AUTHORITY.
 2. THE DESIGNER HAS CONSIDERED THE NEED FOR ACCESS TO THE SITE FROM ADJACENT ROADS TO BE MET.
 3. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE PARKING SPACE TO BE MET.
 4. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE DRAINAGE TO BE MET.
 5. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE LIGHTING TO BE MET.
 6. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE SECURITY TO BE MET.
 7. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE FENCING TO BE MET.
 8. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE LANDSCAPING TO BE MET.
 9. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE UTILITIES TO BE MET.
 10. THE DESIGNER HAS CONSIDERED THE NEED FOR ADEQUATE SERVICES TO BE MET.

SCALE: 1/2" = 1'-0"
 SITE PLAN

LEGEND:
 1. EXISTING BUILDING
 2. PROPOSED BUILDING
 3. EXISTING DRIVEWAY
 4. PROPOSED DRIVEWAY
 5. EXISTING PARKING SPACE
 6. PROPOSED PARKING SPACE
 7. EXISTING FENCING
 8. PROPOSED FENCING
 9. EXISTING LANDSCAPING
 10. PROPOSED LANDSCAPING
 11. EXISTING UTILITIES
 12. PROPOSED UTILITIES
 13. EXISTING SERVICES
 14. PROPOSED SERVICES

<p>OSHA OSHA PROFESSIONAL SEAL License No. 1001 OSHA Seal No. 1001</p>		<p>TED J. THOMAS A PROFESSIONAL ENGINEER License No. 1001 State of Virginia</p>	
<p>PROJECT: COMMERCIAL DEVELOPMENT / REDEVELOPMENT 1001 AIRPORT WAY LOCHREEM ROAD</p>		<p>DATE: 10/1/2023</p>	
<p>SCALE: 1/2" = 1'-0"</p>		<p>PROJECT: COMMERCIAL DEVELOPMENT / REDEVELOPMENT 1001 AIRPORT WAY LOCHREEM ROAD</p>	

SCHEDULE C – SUBLET PREMISES

SCHEDULE D—RENEWAL PROVISIONS

1. TWO RENEWALS
 - 1.1 Subject to the Term of the Head Lease and the Sublease being renewed, for periods equivalent to the Renewal Terms, and if the Sub-Subtenant duly and punctually observes and performs the covenants, agreements, conditions, and provisos in this Sub-Sublease on the part of the Sub-Subtenant to be observed and performed, the Sub-Sublandlord will, at the expiration of the Sub-Sublease Term, at the cost of the Sub-Subtenant, and at the Sub-Subtenant's written request delivered to the Sub-Sublandlord in the manner provided for in this Sub-Sublease not earlier than 12 months and not later than nine months prior to the expiration of the Sub-Sublease Term, grant to the Sub-Subtenant a renewal lease of the Sublet Premises for a further 2 terms of 5 years (the "Renewal Terms") commencing on the expiration of the Sub-Sublease Term, upon all of the covenants, agreements, conditions, and provisos contained in this Sub-Sublease Lease except this covenant for renewal, and except the Basic Rent to be paid during the Renewal Terms.
 - 1.2 The Basic Rent for the Renewal Terms will be the then-fair market rent for the Sublet Premises, being the rent that would be paid for the Sublet Premises in their then-current condition (including all leasehold improvements to the Sublet Premises) or in whatever condition the Sub-Sublandlord is entitled to require the Sub-Subtenant to leave the Sublet Premises at the expiration of the Sub-Sublease Term, whichever condition would result in higher rent, as between persons dealing in good faith and at arm's length and without regard to any restrictive covenants as to use. If the Sub-Sublandlord and the Sub-Subtenant have not mutually agreed on the amount of the Basic Rent three months prior to the commencement of the Renewal Terms, then the Basic Rent will be decided by binding arbitration under Section 1.4, provided that the annual Basic Rent payable during the Renewal Terms will not be less than the annual Basic Rent payable during the last year of the Sub-Sublease Term. Until the Basic Rent for the Renewal Terms has been determined as provided in this Section 1.2, the Sub-Subtenant will pay the monthly Rent requested by the Sub-Sublandlord; and upon the determination of the Basic Rent for the Renewal Terms the Sub-Sublandlord and the Sub-Subtenant will make the appropriate adjustment without interest.
 - 1.3 The Sub-Sublandlord and the Sub-Subtenant acknowledge and agree that under Section 1.1 the Sub-Subtenant is given the option of renewing the Sub-Sublease Term for 2 Renewal Terms of 5 years, and at the expiration of the Second Renewal Terms there will be no further right of renewal.
 - 1.4 If under the provisions of Section 1.2 the Sub-Sublandlord and the Sub-Subtenant have failed to agree as to the Basic Rent payable for the Sublet Premises with respect to the Renewal Terms by the date specified in Section 1.2, the determination of the Basic Rent will be referred to arbitration in accordance with the following:
 - (a) one arbitrator will be appointed by the mutual agreement of the Sub-Sublandlord and Sub-Subtenant;
 - (b) if the Sub-Sublandlord and Sub-Subtenant cannot agree on a single arbitrator, then one arbitrator will be appointed by each of the Sub-Sublandlord and the Sub-Subtenant and a third arbitrator will be appointed in writing by the first two named arbitrators and the following will apply:

- (i) if the Sub-Sublandlord or the Sub-Subtenant refuses or neglects to appoint an arbitrator within 10 days after the other serves a written notice upon the party so refusing or neglecting to make that appointment, the arbitrator first appointed will, at the request of the party appointing him or her, proceed to determine the Basic Rent as if he or she were a single arbitrator appointed by both the Sub-Sublandlord and the Sub-Subtenant for that purpose;
 - (ii) if two arbitrators are so appointed within the time prescribed and they do not, within 10 days from the date of appointment of the second arbitrator, agree upon the appointment of the third arbitrator, then upon the application of either the Sub-Sublandlord or the Sub-Subtenant the third arbitrator will be appointed by a judge of the Supreme Court of British Columbia;
- (c) the determination made by the arbitrators or the majority of them, or by the single arbitrator, as the case may be, will be final and binding upon the Sub-Sublandlord and the Sub-Subtenant and their respective successors and assigns;
 - (d) in the case of a single arbitrator, the Sub-Sublandlord and Sub-Subtenant will pay one-half of the fees and expenses of such arbitrator, or in the case of three arbitrators, each party will pay the fees and expenses of the arbitrator appointed by it and one-half of the fees and expenses of the third arbitrator; and
 - (e) the provisions of this Section will be deemed to be a submission to arbitration within the provisions of the *Arbitration Act*, R.S.B.C. 1996, c. 55, and any statutory modification or re-enactment of that Act, provided that any limitation on the remuneration of the arbitrators imposed by that legislation will not apply.

1.5 The exercise of the right of renewal is solely within the control of the Sub-Subtenant, and nothing contained in this Sub-Sublease obligates or requires the Sub-Sublandlord to remind the Sub-Subtenant to exercise the right of renewal. The Sub-Sublandlord's acceptance of any future rent for the Renewal Terms will in no way be deemed a waiver of the Sub-Subtenant's requirement to give notice within the time limit specified in Section 1.1 for renewing the Sub-Sublease Term.

1.6 The renewal lease of the Renewal Terms is deemed to incorporate all of the terms and provisions of the Lease as modified by this Schedule D, and the parties ratify and confirm all of the terms and conditions of the Sub-Sublease as so amended. The parties will not be obliged to enter into a separate renewal lease to give effect to this Schedule D but the Sub-Subtenant will, at the Sub-Subtenant's cost, execute a separate renewal lease if required by the Sub-Sublandlord to do so.

Type text here