

# APPENDIX "F"

LONDON LIFE INSURANCE COMPANY

- and -

SOUTHAM INC.

---

BUILDING LEASE

EDMONTON JOURNAL BUILDING

---

April 1, 1991

Davies, Ward & Beck  
and  
Blake, Cassels and Graydon

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**BUILDING LEASE - EDMONTON JOURNAL BUILDING**

**THIS LEASE** made as of the 1st of April, 1991.

**B E T W E E N:**

**LONDON LIFE INSURANCE COMPANY,  
(hereinafter called the "Landlord"),**

**OF THE FIRST PART,**

**- and -**

**SOUTHAM INC.,  
a corporation incorporated under  
the laws of Canada  
(hereinafter called the "Tenant"),**

**OF THE SECOND PART.**

**WHEREAS** the Landlord owns the Building and the Building Strata Parcel and has leased the Ground Strata Lands, the Tower Strata Parcel and the Phase II Lands (collectively the "Adjacent Lands") from Southam Inc. pursuant to the Ground Lease;

**AND WHEREAS** the Landlord has agreed to sublease its interest in the Adjacent Lands and lease its interest in the Building Strata Parcel and the Building to the Tenant upon the terms and conditions contained herein;

**NOW THEREFORE** this lease witnesses that in consideration of the premises and mutual covenants, agreements and conditions herein contained, the parties hereto hereby declare, covenant and agree with one another as follows:

**ARTICLE 1**

**DEFINITIONS AND INTERPRETATION**

**1.01 Definitions.** In this Lease, unless there is something in the subject matter or context inconsistent therewith:

**"Accounting Period"** means a calendar year or such other accounting period, not exceeding 16 months, as the Landlord may adopt from time to time for the Premises;

**"Additional Rent"** means all amounts in addition to Minimum Rent payable by the Tenant to the Landlord pursuant to this Lease, including without limitation those amounts set out in Section 4.02;

**"Adjacent Lands"** has the meaning ascribed thereto in the first recital hereto;

**"Affiliate"** has the meaning set forth in the Canada Business Corporations Act as now in effect;

**"Agreed Casualty Value"** means the amount shown in Schedule C as being payable to the Landlord upon termination of this Lease pursuant to Section 11.03; ← \*

**"Applicable Laws"** means all statutes, laws, by-laws, regulations, ordinances, orders and requirements of governmental or other public authorities having jurisdiction, and all amendments thereto, at any time and from time to time in force;

**"Approved Plans"** means the plans and specifications for the Stage II Building approved by the Landlord, which are listed in Schedule F;

**"Associate"** has the meaning set forth in the Canada Business Corporations Act as now in effect;

**"Building"** means collectively the Stage I Building and the Stage II Building together with all other structures, improvements, facilities and appurtenances that have been or are being constructed in the Building Strata Parcel, including or together with the Building Systems, all as may be altered, expanded, reduced or reconstructed from time to time and subject to any and all easements, licences, rights-of-way or other interests from time to time granted to other owners and occupiers of the Development, all as contemplated by Section 5.03;

**"Building Strata Parcel"** means the strata parcel described in Schedule A-1 within which the Building has been or is being constructed, together with any and all easements, servitudes and rights-of-way for hydro, gas, telephone or other like services provided by any public or private utility to the whole or any part of the Building Strata Parcel and any other easements, servitudes and rights-of-way for the benefit of the whole or any part of the Building Strata Parcel and subject to any easements, servitudes

and rights-of-way from time to time granted for the benefit of the whole or any part of the Ground Strata Lands or the Tower Strata Parcel;

**"Building Systems" means:**

- (i) the HVAC System and all other systems, services, installations and facilities from time to time installed in or servicing the Building (or any portion thereof) or the Shared Common Areas and Facilities (or any portion thereof), whether exclusively or in common with other parts of the Development including, but not limited to, the elevators and escalators and the following systems, services, installations and facilities: mechanical (including plumbing, sprinkler, drainage and sewage), electrical and other utilities, lighting, sprinkler, life safety (including fire prevention, communications, security and surveillance), computer (including environmental, security and lighting control), ice and snow melting, refuse removal, window washing, and music; and
- (ii) all machinery, appliances, equipment, apparatus, components, computer software and appurtenances forming part of or used for or in connection with any of such systems, services, installations and facilities including, but not limited to, boilers, motors, generators, fans, pumps, pipes, conduits, ducts, valves, wiring, meters and controls, and the structures and shafts housing and enclosing any of them;

**"Business Day" means any day other than a Saturday, a Sunday or any day on which the banks are closed for business in the Province of Ontario or the Province of Alberta;**

**"Business Taxes" means all taxes, rates, duties, levies, assessments, licence fees and other charges in respect of the use or occupancy of, or any business carried on, by the Tenant and includes, without limitation, business taxes levied or assessed pursuant to the *Municipal Taxation Act*;**

**"Cash Collateral" has the meaning ascribed thereto in Section 15.04;**

**"City" means The City of Edmonton and its successors and assigns;**

**"City Development Agreement" means the development agreement dated December 2, 1988 between the City and Southam Inc. with respect to the development of the Building, as amended from time to time with the consent of all of the parties hereto;**

**"Commencement Date" means April 1, 1991;**

"Construction Agreement" means that certain construction contract dated January 3, 1989 between The Edmonton Journal, a division of Southam Inc., and Carlson Constructors, a division of H&K Carlson Constructors Inc., as amended from time to time with the consent of all of the parties hereto;

"Development" means the Premises and all structures, improvements, facilities and appurtenances constructed on such lands from time to time, including the Building, the Tower, the Phase II Parking Facility and the Shared Common Areas and Facilities (including passageways, tunnels or other facilities servicing the Development that may extend or be located beyond the boundaries of such block), all as may be altered, expanded, reduced or reconstructed from time to time;

"Event of Default" means any event specified as such in Section 14.01;

"Expert" means any independent architect, engineer, chartered accountant, quantity surveyor, or other professional consultant, in any case appointed by the Landlord and, in the reasonable opinion of the Landlord, qualified to perform the function for which he or she is retained;

"Fair Market Value" means the most probable price estimated in terms of money which the property in question would bring if exposed for sale in the open market, by a willing seller, allowing for a reasonable period of time to find a buyer, neither seller nor buyer acting under compulsion, both having knowledge of all the uses and purposes to which property in question is adapted and both exercising intelligent judgement, taking into account, without limitation, such matters as the terms (whether favourable or unfavourable) of any existing mortgages or other encumbrances affecting the property in question if the same are to be assumed by the buyer and the amount, if any, of any prepayment bonus or penalty in respect of mortgages or encumbrances not assumed by the buyer, such most probable price being based on the existing permitted use of the property in question at such time (but not any potential uses nor the highest and best use, if different from the permitted use at such time), such use taking into account, if in existence, the separate ownership of the Adjacent Lands, the Purchase Agreement and the Ground Lease and the restrictions imposed by the Purchase Agreement and the Ground Lease.

"Ground Lease" means the lease of the Adjacent Lands made by Southam Inc., as lessor, to London Life Insurance Company, as lessee dated April 1, 1991 as the same may be amended, extended, supplemented or replaced from time to time;

"Ground Strata Lands" means the strata parcel of land described in Schedule A-2, together with any and all easements, servitudes and rights-

of-way for hydro, gas, telephone or other like services provided by any public or private utility to the whole or any part of the Ground Strata Lands and other easements, servitudes and rights-of-way for the benefit of the whole or any part of the Ground Strata Lands and subject to any easements, servitudes and rights-of-way from time to time granted for the benefit of the whole or any part of the Building Strata Parcel or the Tower Strata Parcel;

"HVAC System" means all interior climate control (including heating, ventilating and air-conditioning) systems, installations, equipment and facilities in or servicing the Building or any part thereof;

"Landlord" means London Life Insurance Company and its successors and assigns;

"Lands" means, collectively, the Building Strata Parcel, the Ground Strata Lands, the Tower Strata Parcel and the Phase II Lands;

"Lease" means this lease as it may be amended from time to time in accordance with the provisions hereof;

"Leasehold Improvements" means all fixtures, improvements, installations, alterations and additions from time to time made, erected or installed in or around the Building, including internal stairways, doors, hardware, partitions (including moveable partitions) and wall-to-wall carpeting with the exception of such carpeting where laid over vinyl, tile or other finished floor and removable without damage to such floor, but excluding trade fixtures, drapes, and furniture and equipment not of the nature of fixtures;

"Lease Year" means, in the case of the first Lease Year, the period beginning on the Commencement Date and ending on March 31, 1992 and, in the case of the second and each subsequent Lease Year, means consecutive periods each of 12 consecutive full months, with the second Lease Year commencing on April 1, 1992;

"Minimum Rent" means the rent payable pursuant to Section 4.01;

"Mortgage" means any mortgage, charge or security instrument (including a deed of trust or mortgage securing bonds) and all extensions, modifications and renewals thereof which may now or hereafter affect the Premises;

"Mortgagee" means any mortgagee, chargee or secured party or trustee for bondholders, as the case may be, who from time to time holds a Mortgage;

"Municipal Agreements" means collectively (i) any and all agreements made pursuant to the *Planning Act* (Alberta) and any other similar or successor provisions, (ii) development, site plan, landscaping, sidewalk improvement, tunnel, lane closing, building conservation, restoration or heritage agreements including, without limitation, the City Development Agreement and (iii) any other agreements with the City or others (including owners of other real estate projects) relating to the development, construction, or operation of the Development or any part thereof, in each case whether now or hereafter entered into and as the same may be amended from time to time;

"Operating Costs" means those costs, expenses, fees, rentals, disbursements and outlays referred to in Section 7.06;

"Original Term" means the period of 15 years specified in Section 3.01;

"Person", according to the context, includes any person, corporation, firm, partnership or other entity, any group of persons, corporations, firms, partnerships or other entities, or any combination thereof;

"Phase II Lands" means the lands described in Schedule B hereto;

"Phase II Parking Facility" means the parking structure which may be constructed upon the Phase II Lands;

"Premises" means the Lands and the Building;

"Prime Rate" means the annual rate of interest quoted or published from time to time by Citibank Canada as the daily rate of interest used by Citibank Canada as a reference rate in setting rates of interest for commercial demand loans of Canadian dollars and commonly referred to by such bank as its Canadian "prime rate", provided that if Citibank Canada is not at any relevant time quoting or publishing a "prime rate", references in this definition to Citibank Canada shall be deemed to be changed to "Canadian Imperial Bank of Commerce";

"Property Taxes" means all taxes, rates, duties, levies, fees, charges (including local improvement charges) and assessments whatsoever, imposed, assessed, levied, rated or charged against the Premises or any part thereof from time to time by any lawful taxing authority whether school, municipal, regional, provincial, federal, or otherwise and any taxes or other amounts which are imposed in lieu of, or in addition to, any of the foregoing whether or not in existence at the commencement of the Term and whether of the foregoing character or not and any such taxes levied against the Landlord or any owner on account of its ownership of the Premises or its interest therein or the rents payable to any such Person by tenants or

other occupants of the Building, but excluding taxes on the capital, income or profits of the Landlord except to the extent that they are levied in lieu of the foregoing;

"Purchase Agreement" means the purchase agreement dated April 1, 1991 hereof between the Landlord, as purchaser and the Tenant as vendor providing for, *inter alia*, the sale of the Building as amended from time to time;

"Renewal Term" has the meaning ascribed thereto in Section 3.02;

"Rent" means all Minimum Rent and Additional Rent payable pursuant to this Lease;

"Residual Value" means an amount equal to the Fair Market Value of the Building and the Building Strata Parcel less the amount of any selling expenses which would normally be incurred in a sale of a building similar to the Building including, without limitation, any sales commissions and legal fees.

"Rules and Regulations" means the rules and regulations, if any, made by the Landlord from time to time pursuant to Section 8.04;

"Sales Taxes" means all sales taxes, value added taxes and other taxes, rates, duties, levies, fees, charges and assessments whatsoever, whether or not in existence at the commencement of the Term, imposed, assessed, levied, rated or charged on the Tenant or the Landlord in respect of the Rent payable by the Tenant to the Landlord or the rental of the Premises or the provision of any goods, services or utilities whatsoever by the Landlord to the Tenant under this Lease including, without limiting the generality of the foregoing, the goods and services tax proposed by the Government of Canada, as the same may ultimately be enacted into law and from time to time thereafter amended, altered, supplemented or replaced;

"Shared Common Areas and Facilities" means: (i) those areas, facilities, improvements, installations and equipment in or around the Development, if any, that (A) are neither rented nor designated or intended by the owners of the Development to be rented, and (B) are provided or designated from time to time by such owners for the benefit or use of the Premises in common with other parts of the Development including, but not limited to, entrances, lobbies, access and service corridors, stairways, indoor and outdoor walkways (both open and enclosed), malls, courts and arcades (both open and enclosed), public seating areas and facilities, furniture, furnishings and fixtures, public sidewalks (to the extent maintained for the benefit of the Development), public washrooms, indoor

and outdoor landscaping and landscaped areas, lighting, passageways or tunnels leading to any public transportation system and to other buildings or concourses, mailrooms, electrical, telephone, meter, valve, mechanical, storage and janitor rooms, shipping and receiving areas and loading docks, package or passenger pick-up areas, waste disposal or recycling facilities, driveways, laneways and ramps; and (ii) space, facilities and installations that are made available for community service, public or other use pursuant to the Municipal Agreements; all as may be altered, expanded, reduced, reconstructed or relocated from time to time;

**"Shared Facilities Agreement"** means any agreement or agreements from time to time entered into by the owner of the Building with one or more Persons with an interest or interests in any other part or parts of the Development;

**"Stage I Building"** means the office building currently located within the northerly portion of the Building Strata Parcel known as the "Edmonton Journal Building", being five storeys above grade and one storey below grade comprising approximately 88,450 gross square feet of space including rooftop mechanical space and approximately 18,500 gross square feet of parking space together with all other structures, improvements, facilities and appurtenances that have been or are being constructed in connection therewith, including or together with the Building Systems servicing the Stage I Building, all as may be altered, expanded, reduced or reconstructed from time to time;

**"Stage II Building"** means the addition to the Stage I Building being constructed by the Tenant within the southerly portion of the Building Strata Parcel which addition upon completion shall contain five storeys above-grade comprising approximately 81,900 gross square feet of space including rooftop mechanical space, and approximately 18,600 gross square feet of parking space together with all other structures, improvements, facilities and appurtenances that have been or are being constructed in connection therewith, including or together with the Building Systems servicing the Stage II Building, all as may be altered, expanded, reduced or reconstructed from time to time;

**"Tenant"** means Southam Inc. and its permitted successors and assigns;

**"Term"** means the period specified in Section 3.01, as it may be extended or renewed by the Tenant pursuant to the option given to the Tenant to extend or renew this Lease;

**"Tower"** means the office building which may be constructed within the Tower Strata Parcel and above the Stage II Building, which building upon completion is currently contemplated to comprise 17 stories above the Stage II Building, together with all other structures, improvements, facilities and appurtenances that have been or are being constructed in connection



therewith, all as may be altered, expanded, reduced or reconstructed from time to time;

**"Tower Strata Parcel"** means the strata parcel of land described in Schedule A-3 hereto together with any and all easements, servitudes and rights-of-way for hydro, gas, telephone and like services provided by any public or private utility to the whole or any part of the Tower Strata Parcel and any other easements, servitudes and rights-of-way for the benefit of the whole or any part of the Tower Strata Parcel and subject to any easements, servitudes and rights-of-way from time to time granted for the benefit of the whole or any part of the Building Strata Parcel or the Ground Strata Lands;

**"Transfer"** means an assignment of this Lease in whole or in part, a sublease of all or any part of the Premises, any transaction whereby the rights of the Tenant under this Lease or to the Premises are transferred to another Person, any transaction by which any right of use or occupancy of all or any part of the Premises is conferred upon any Person, any mortgage, charge or encumbrance of this Lease or the Premises or any part thereof or other arrangement under which either this Lease or the Premises become security for any indebtedness or other obligations and includes any transaction or occurrence whatsoever (including, but not limited to, receivership proceedings, seizure by legal process and transfer by operation of law), which has changed or might change the identity of the Person having lawful use or occupancy of any part of the Premises;

**"Transferee"** means the Person to whom a Transfer is or is to be made;

**"Trust Agreement"** means the agreement entered into between the Landlord, the Tenant and the Trustee pursuant to Section 15.04 governing the manner in which the Cash Collateral is to be held and utilized;

**"Trustee"** means The Royal Trust Company or such other nationally recognized trustee as the Landlord may select to act as trustee of the Cash Collateral pursuant to the Trust Agreement;

**"Unavoidable Delay"** means any cause beyond the control of the party affected thereby which prevents the performance by such party of any obligation hereunder and not caused by its default or act of commission or omission and not avoidable by the exercise of reasonable care, including without limitation strikes, lockouts or other labour disputes, the enactment, amendment or repeal of any Applicable Laws, and shortages or unavailability of labour or materials, but excluding lack of funds or financial inability; and

"Underlying Agreements" means all present and future agreements to which the Landlord or the Tenant is a party relating to the construction, maintenance or operation of the Premises or any part thereof or to the supply of goods and services to the Premises or any part thereof, including, without limitation, the Municipal Agreements and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements or substitutions thereof or therefor which may hereafter be affected or entered into.

1.02 Other Definitions. All capitalized words or phrases used herein and not defined herein which are defined in the Purchase Agreement, herein shall have the same meaning herein as in the Purchase Agreement;

1.03 Number, Gender, Liability. The grammatical changes required to make the provisions of this Lease apply in the plural sense where the Tenant comprises more than one Person and to corporations, firms, partnerships, or individuals, male or female, will be assumed as though in each case fully expressed. If the Tenant consists of more than one Person, the covenants of the Tenant shall be deemed to be joint and several covenants of each such Person. If the Tenant is a partnership each person who is presently a member of such partnership, and each Person who becomes a member of any successor partnership, shall be and continue to be liable jointly and severally for the performance of this Lease, whether or not such Person ceases to be a member of such partnership or successor partnership.

1.04 No Limitation. Whenever a statement or provision in this Lease is followed by words denoting inclusion or example (such as "including" or "such as") and then a list of, or reference to, specific matters or items, such list or reference shall not be read so as to limit or restrict the generality of such statement or provision, even though words such as "without limitation" or "without limiting the generality of the foregoing" do not precede such list or reference.

1.05 Headings and Captions. The table of contents, Article numbers, Article headings, Section numbers and Section headings are inserted for convenience of reference only and are not to be considered when interpreting this Lease.

1.06 Obligations as Covenants. Each obligation of the Landlord or the Tenant expressed in this Lease shall be a covenant for all purposes.

1.07 Entire Agreement. Except for the Purchase Agreement, this Lease contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties concerning the Premises and the subject matter of this Lease and may be amended only by an agreement in writing signed by the Landlord and the Tenant. In the event of any conflict between the provisions of this Lease and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall govern.

1.08 Governing Law. This Lease shall be interpreted under and is governed by the laws of the Province of Alberta.

1.09 Currency. All Rent and other amounts of money in this Lease are expressed in and refer to Canadian dollars and shall be paid in the lawful currency of Canada.

1.10 Severability. If any provision of this Lease is illegal or unenforceable it shall be considered severable from the remaining provisions of this Lease, which shall remain in force.

1.11 Successors and Assigns. This Lease and everything herein contained shall benefit and bind the successors and assigns of the Landlord and the permitted successors and assigns of the Tenant.

1.12 Time of the Essence. Time is of the essence of this Lease and every part thereof.

## ARTICLE 2

### GRANT OF LEASE

2.01 Demise. The Landlord hereby leases to the Tenant the Premises (by a lease of the Building and the Building Strata Parcel and a sublease of the Adjacent Lands) to have and to hold during the Term. The Tenant takes the Building and the Building Strata Parcel on lease and the Adjacent Lands on sublease from the Landlord and covenants to pay the Rent and to observe and perform all the covenants and obligations to be observed and performed by the Tenant pursuant to this Lease.

2.02 Examination of Premises. The Tenant shall take possession of the Premises on an "as is" basis. The Tenant agrees that there is no promise, representation, warranty or undertaking by or binding upon the Landlord with respect to the condition or state of repair of the Building or any other part of the Premises or with respect to any alteration, remodelling or decoration of the Building or any other part of the Premises or with respect to the installation of equipment or fixtures in the Building.

2.03 Construction of Stage II Building. The Landlord acknowledges and agrees to the construction by the Tenant in the Building Strata Parcel of the Stage II Building. The Tenant shall use its diligent best efforts to complete such construction in a good and workmanlike manner on or before June 30, 1991. Construction of the Stage II Building shall be performed in accordance with the Approved Plans, all Applicable Laws, the Construction Contract and the Municipal Agreements. The Tenant shall be fully responsible for any and all costs relating to the construction of The Stage II Building and shall keep the Landlord fully indemnified with respect thereto. If, notwithstanding the use of its diligent and reasonable best efforts, as a result of Unavoidable Delay the Tenant is unable to complete construction of the Stage II Building on or before June 30,

1991, it shall be given a further grace period equal to the number of days the Unavoidable Delay persists, up to 184 days, within which to complete construction of the Stage II Building, provided that the Tenant covenants that the Stage II Building will, in any event, be completed on or before December 31, 1991. The Tenant acknowledges that the Stage II Building is being constructed in the Building Strata Parcel and that title to and ownership of all improvements constructed within the Building Strata Parcel, including the Stage II Building, shall be vested in the Landlord upon their being placed in the Building Strata Parcel, without the need for any further action or delivery of any documentation on the part of the Landlord or the Tenant.

**2.04 Recognition of Underlying Agreements.** The Tenant acknowledges the existence of the Underlying Agreements and agrees to be bound by the Underlying Agreements to the same extent as the Landlord insofar as they affect the Lands. In particular, the Tenant acknowledges the existence of the Municipal Agreements, including the obligation of the owner of the Lands to grant an easement in favour of the City over a portion of the Lands and the option of the City to purchase a portion of the Lands, each as described in the City Development Agreement. The Tenant agrees to release its interest in the portion of the Lands to be conveyed to the City pursuant to the City Development Agreement forthwith following written notice from the Landlord in order for the Landlord to comply with its obligations pursuant to Section 7.4 of the City Development Agreement. The Tenant agrees not to enter into any amendments to or replacements of the Underlying Agreements without the prior written consent of the Landlord.

### ARTICLE 3

#### TERM

**3.01 Term.** The Term of this Lease shall commence on April 1, 1991 and, subject to Section 3.02, expire on March 30, 2006, unless terminated earlier pursuant to this Lease.

**3.02 Option to Renew.** Provided it is not then in default hereunder, the Tenant shall have the right to renew the Lease, at its option, for a period of 35 years (the "Renewal Term") subject to the following terms and conditions:

- (a) the Renewal Term shall commence upon the day following the date of expiration of the Original Term and end on the 35th anniversary of such date of expiration;
- (b) the option to renew this Lease upon the expiry of the Original Term shall be exercised by notice given by the Tenant to the Landlord not less than two years prior to the expiration of the Original Term, provided that such notice shall be validly given only if at the time it is given the Tenant is not in breach of any of its obligations under this Lease;

- (c) the renewal of the Lease upon the exercise of such option shall be upon the terms and subject to all the provisions of this Lease except that:
- (i) there shall be no further right to renew or extend the Term of this Lease;
  - (ii) the Minimum Rent to be payable by the Tenant during the Renewal Term shall be prepaid during the first five years of the Renewal Term in accordance with Schedule E; and
- (d) if the Landlord is not at the end of the Original Term the owner of the Adjacent Lands or has not at such time obtained a ground lease of the Adjacent Lands from the owner thereof in accordance with the Purchase Agreement and on the terms contained therein or a renewal ground lease of the Adjacent Lands from the owner thereof in accordance with the Ground Lease and on the terms contained therein, the option to renew referred to in this Section 3.02 shall be restricted to the Building and the Building Strata Parcel and throughout the Renewal Term the Premises shall be restricted to the Building and the Building Strata Parcel and the Tenant shall have no interest in the Adjacent Lands during such Renewal Term and this Lease shall be deemed to be amended to take into account such restricted meaning of "Premises". If, pursuant to the provision of Section 6.12 of the Purchase Agreement, the Landlord obtains a ground lease of the Adjacent Lands from the owner thereof the Premises shall, for the balance of the Renewal Term, include the Adjacent Lands so leased to the Landlord and thereafter this lease shall be read using such expanded meaning of "Premises".

#### ARTICLE 4

#### RENT

4.01 Minimum Rent. The Tenant shall pay to the Landlord, in and for each Lease Year, Minimum Rent in unequal consecutive semi-annual instalments in arrears on the last day of September and March in each Lease Year in the amount set out in Schedule D for such Lease Year.

4.02 Additional Rent. The Tenant shall also pay to the Landlord throughout the Term as Additional Rent:

- (a) such Property Taxes and other taxes as are required to be paid to the Landlord in accordance with Article 7;

*Handwritten notes:*  
\$1,500,000 / yr  
+ 1,669,400 / yr  
1999  
+1

- (b) all Operating Costs not paid directly by the Tenant, which Operating Costs shall be as specified in Article 7; and
- (c) the aggregate of such other costs, charges, amounts and expenses as are required to be paid by the Tenant to the Landlord under this Lease.

Except as otherwise provided in this Lease, all Additional Rent shall be payable within 15 days of receipt by the Tenant of an invoice, statement or demand therefor from or on behalf of the Landlord.

**4.03 Payment of Additional Rent.** If the Landlord elects, before the commencement of each Accounting Period the Landlord may notify the Tenant of the estimated amount for such Accounting Period of:

- (a) amounts payable to the Landlord pursuant to Section 4.02; and
- (b) such other items of Additional Rent which are not paid directly by the Tenant as the Landlord may estimate in advance.

The Tenant shall pay such estimated amount in monthly instalments, as notified by the Landlord to the Tenant, in advance on the first day of each month during such Accounting Period. The Landlord may from time to time during an Accounting Period re-estimate any items of Additional Rent and may fix monthly instalments for the then remaining balance of the Accounting Period so that such items will have been entirely paid during such Accounting Period. Within 120 days after the end of such Accounting Period the Landlord shall determine and provide the Tenant with a statement in reasonable detail for the relevant Accounting Period of the Operating Costs, the Property Taxes and such other items of Additional Rent as the Landlord estimated in advance. The Landlord shall provide the Tenant with a certificate of the Landlord's auditor confirming or not confirming the Landlord's determination of Operating Costs, which shall be binding upon the parties. If the total of the monthly instalments paid by the Tenant in respect of estimated Additional Rent for such Accounting Period is less than the amount of Additional Rent payable for such Accounting Period determined as aforesaid, the Tenant shall forthwith pay the difference to the Landlord. If the total of such monthly instalments paid is greater than the amount of the Additional Rent payable for such Accounting Period, determined as aforesaid, the difference shall either, at the option of the Landlord, be forthwith repaid to the Tenant with such statement, be applied in payment of other amounts owing by the Tenant, or be applied in reduction of future payments due under this Lease.

**4.04 Accrual of Rent.** Rent shall be considered as accruing from day to day hereunder from the Commencement Date and where it becomes necessary for any reason to calculate such Rent for an irregular period during the relevant Lease Year or Accounting Period an appropriate apportionment and adjustment shall be made on a per diem basis based upon the relevant Lease Year or Accounting Period.

**4.05 Payments Generally.** All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Lease shall:

- (a) be applied towards amounts then outstanding hereunder in such manner as the Landlord determines; and
- (b) bear interest daily from the due date to the date of payment, calculated daily, at the rate per annum which is 3% above Prime Rate, with interest on overdue interest at the same rate.

**4.06 Net and Carefree Lease.** The Tenant acknowledges and agrees that it is intended that this Lease shall be a completely carefree and triple net lease for the Landlord and that the Landlord shall not be responsible during the Term for any costs, charges, expenses, payments and outlays of any nature whatsoever arising from or relating to the Premises, whether foreseen or unforeseen and whether or not within the contemplation of the parties at the commencement of the Term, so as to provide to the Landlord an absolutely net rent, free and clear of all deductions, compensation, abatement or set-off throughout the Term. It is intended that the Tenant shall pay all costs, charges, expenses, payments and outlays of any nature whatsoever arising from or relating to the Premises, whether foreseen or unforeseen and whether or not within the contemplation of the parties at the commencement of the Term.

**4.07 Absolute Obligation.** Subject to Section 11.03 the Tenant's obligation to pay Rent and to perform all of its other obligations under this Lease are absolute and unconditional and shall not be affected by any event or circumstances whatsoever including, without limitation:

- (a) any claim, setoff, counterclaim, recoupment, defense or other right which the Tenant may have against the Landlord or anyone else for any reason whatsoever;
- (b) any defect in the title, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, the Premises;
- (c) any interruption or cessation in the use or possession of the Premises or by the Tenant for any reason whatsoever including, without limitation, any Applicable Laws hereinafter enacted;
- (d) the state of completion or non-completion of the Stage II Building or any inability, even if permanent, to complete construction of the Stage II Building;
- (e) any interruption in use, deprivation of quiet enjoyment, nuisance or disturbance caused by construction of any part of the Development including, without limitation, the Tower; and

- (f) any other circumstances, occurrences or events whatsoever, whether or not similar to the foregoing.

## ARTICLE 5

### CONTROL AND OPERATION OF BUILDING

5.01 Operation of the Premises. Subject to the other provisions of this Lease, the Tenant will operate the Premises in a first class and reputable manner as would a prudent owner of a comparable development of similar age, size and location in the City of Edmonton. The Tenant shall do and perform such other acts and things as are required to be done by the owner of the Premises in accordance with the Shared Facilities Agreement. Any notice from the Landlord to the Tenant of the need or desirability of any such acts or things shall be prima facie evidence of such need or desirability. The Landlord and the Tenant shall enter into any Shared Facilities Agreement necessary to enable the construction, existence and operation of the Tower, provided that the terms of such agreement are in form and substance satisfactory to the Landlord, acting reasonably.

5.02 Control of the Building. The Tenant shall have at all times exclusive control of the Premises and its management, operation and repair, but not so as to deny the Landlord access to the Premises for the purposes of inspecting the Premises or performing any of the obligations of the Tenant hereunder when the Tenant fails to do so in accordance with the provisions of this Lease.

5.03 Alterations. To the extent the Landlord is required to do so pursuant to the Ground Lease or any Shared Facilities Agreement at any time and from time to time, the Landlord may, alone or in conjunction with the owner or owners of any one or more components of the Development:

- (a) dedicate or convey portions thereof to any governmental or public authority or other Person and grant easements, rights-of-way, restrictive covenants or other interests in the Development including, without limitation, such rights-of-way, easements and other interests in, on, through or under the Premises as may be necessary or desirable in connection with the construction, operation or use of the Tower. The Tenant agrees that it shall enter into such agreements or other documents as may be necessary to give effect to the foregoing; and
- (b) permit others to construct in or adjoining the Premises improvements and make alterations or additions to, or change the location of, or expand or reduce any part of any buildings, facilities, improvements and areas from time to time in the Development, including, without limitation, the Shared Common Areas and Facilities provided that in so doing the Landlord shall



use its reasonable efforts not to interfere or cause interference with the business of the Tenant.

5.04 Agreements and Easements. The Tenant agrees that it will co-operate fully with the Landlord in the development of the Lands and also agrees that it will:

- (a) enter into or consent to, as required by the Landlord, any Shared Facilities Agreement necessary to enable the construction, existence and operation of the Building or the Tower;
- (b) enter into or consent to, as required by the Landlord, any agreement with the City and/or public utilities which may be required in conjunction with the development of the Lands or any part thereof; and
- (c) grant or consent to the granting of one or more easements affecting the Lands for purposes of support and/or access for maintenance to any other part of the Lands in favour of the owner and/or occupant thereof and any mortgagee of any other part of the Lands.

5.05 No Liability. Neither the exercise by the Landlord of its rights under this Article 5 nor any noise, dust, vibration or other consequences of construction, alteration, expansion, reduction or reconstruction from time to time of the various parts of the Development including, without limitation, the Tower and the Phase II Parking Facility, shall entitle the Tenant to any reduction in Rent or abatement of Rent, result in any liability of the Landlord to the Tenant or in any other way affect this Lease or the Tenant's obligations hereunder.

## ARTICLE 6

### HVAC, UTILITIES AND OTHER SERVICES

6.01 Building Systems. The Tenant shall be solely responsible for all Building Systems. The Landlord shall not be responsible in any way for performance or breakdown of any of the Building Systems whether or not attributable to the inadequacy of the design of the Building Systems.

6.02 Electricity and Other Utilities. The Tenant shall pay all rates and charges relating to the use of electricity, water, gas, sewage disposal and other utility services serving the Premises when the same become due and payable and before any penalty or interest is incurred in respect thereof. The Tenant shall not in any event overload the capacity of any such service.

6.03 Janitorial Services. The Tenant shall be responsible for all janitorial services to the Premises and shall keep the Premises in a neat and tidy condition at all times and the Landlord shall have no responsibility therefor whatsoever.

6.04 Performance by the Landlord. The Landlord shall have the right, but not the obligation, on behalf of the Tenant to perform any of the obligations of the Tenant under this Lease which the Tenant fails to perform in accordance with this Lease within 10 Business Days (or such longer period of time as may be necessary in the circumstances to perform such obligations provided the Tenant has commenced to perform such obligations within such 10 Business Day period and thereafter proceeds diligently to perform to completion such obligations) after receipt of notice from the Landlord of such failure and the Tenant shall pay to the Landlord on demand the costs of performance by the Landlord or its contractors of any such obligations plus an administration fee equal to 15% of such costs as Additional Rent.

6.05 Services by Other Persons. The Tenant shall be solely responsible for obtaining all services used or consumed in or provided to the Premises, and shall pay all costs related thereto. In no event will the Landlord be responsible for any failure or interruption in the supply of such services.

## ARTICLE 7

### TAXES AND OPERATING COSTS

#### 7.01 Property Taxes Payable by the Tenant.

- (a) The Tenant shall during the Term pay all the Property Taxes and its equitable portion of all taxes, rates, duties, levies, fees, charges (including local improvement charges) and assessments of the nature included in Property Taxes which relate to the Shared Common Areas and Facilities ("Common Area Taxes") provided, however, that should the law require that any such Property Taxes or Common Area Taxes be paid by the Landlord and not the Tenant, the Tenant shall pay as Additional Rent directly to the Landlord in each Accounting Period during the Term any such Property Taxes and Common Area Taxes as are to be paid by the Landlord. The Tenant shall also pay any penalty and interest validly imposed in connection with any payment or non-payment of any such Property Taxes or Common Area Taxes (save for any penalty or interest occasioned by the failure of the Landlord to remit any payment when due when the Tenant has provided to the Landlord, prior to the date payment of the sum is required to be made to the appropriate authority, sufficient funds to make such payment) and will, from time to time, as requested by the Landlord, produce for inspection by the Landlord receipts or other reasonable evidence of payment of same.

- (b) If it is necessary for the Landlord to determine the amount of Property Taxes or Common Area Taxes to be allocated to the Premises for the purposes of Subsection 7.01(a), such determination shall be made by the Landlord on an equitable basis having regard, without limitation, to the various uses of the components of the Development, costs of construction, the benefits derived by the relevant components of the Development, assessment values relating to the Development which may be available and any agreements between separate owners of the various components of the Development relating to the allocation of Property Taxes.
- (c) If the Landlord so requests, the Tenant shall promptly provide the Landlord with a copy of any separate tax bill or separate assessment notice that it receives for the Premises or any part thereof and shall promptly deliver to the Landlord receipts evidencing payment of such Property Taxes on or before the date such tax bill or assessment sets for the payment of such Property Taxes. The Tenant shall also provide to the Landlord, at its request, any other information necessary for the Landlord to make any allocation contemplated by this Section 7.01.

**7.02 Business Taxes and Other Taxes of the Tenant.** The Tenant shall pay promptly when due to the taxing authorities or, other than Business Taxes, to the Landlord if it so directs, as Additional Rent, all Sales Taxes and all rates, duties, levies and assessments whatsoever, whether municipal, parliamentary or otherwise, levied, imposed or assessed in respect of the construction of the Building, operations at, occupancy of, or conduct of business in or from the Premises by the Tenant or any other permitted occupant, including the Tenant's Business Taxes. The Tenant shall also pay to the taxing authorities as Additional Rent an amount equal to any or all of the following Property Taxes, and any amounts so paid by the Tenant shall be excluded in the determination of Property Taxes allocated to the Building pursuant to Subsection 7.01(b):

- (a) all Property Taxes charged in respect of Leasehold Improvements; and
- (b) if the Premises, or any part of it, by reason of the act, election or religion of the Tenant or any other occupant shall be assessed for the support of separate schools, the amount by which the Property Taxes so payable exceed those which would have been payable if the Building had been assessed for the support of public schools.

**7.03 Appeal of Taxes.** The Tenant may appeal, if acting in good faith, the imposition of any Property Taxes or taxes, rates, duties, levies and assessments payable directly by it to the taxing authorities pursuant to Section 7.01 or Section 7.02 and may postpone payment thereof to the extent permitted by law if the Tenant is diligently proceeding with an appeal, provided that (i) such postponement does not render the Premises, or any part thereof, subject to sale or forfeiture and does not render the Landlord liable to prosecution, penalty, fine or other liability, (ii) the Tenant provides such security in

respect of the amount postponed as the Landlord may reasonably require and (iii) upon final determination of such appeal, the Tenant promptly pays the amount determined to be payable.

**7.04 Information to Landlord.** Whenever requested by the Landlord, the Tenant shall deliver to the Landlord copies of receipts for payment of all Property Taxes, Common Area Taxes and Business Taxes and other taxes, rates, duties, levies and assessments payable by the Tenant under this Article and furnish such other information in connection therewith as the Landlord may reasonably require. The Tenant shall keep the Landlord informed of all discussions and proposed negotiations with all public authorities relating to taxes, rates, duties and assessments, with the intent that the ~~Landlord shall have the right to participate in any discussions and negotiations which~~ might affect its rights or obligations.

**7.05 Change in Tax Structure.** In the event that there shall be any change in the basis upon which any of the taxes, rates, levies, duties or assessments referred to in Article 7 hereof are calculated, levied or assessed, or in the event that any new business transfer taxes, goods and services taxes, sales taxes, value added taxes, ad valorem taxes or any other taxes, rates, levies, duties or assessments imposed on the Landlord with respect to the Rent payable by the Tenant or in respect of the rental of space under this Lease or in whole or in part on the value of the Premises and any licence fee measured by rent payable by occupants of the Premises are created by any federal, provincial or municipal authority, parliamentary or otherwise, then in either or both of such events, all such taxes, rates, levies, duties and assessments shall be paid by the Tenant. It is the intention of the parties hereto that save and except any taxes assessed or levied personally against the Landlord on account of income and capital taxes, all taxes, rates, levies, duties and assessments validly assessed against or in connection with the Premises or the business operations of the Landlord carried out thereupon and therein or the rents and revenues of the Premises, shall be borne by the Tenant. Notwithstanding any other provision of this Lease to the contrary, the amount payable by the Tenant under this section shall be deemed not to be Rent but the Landlord shall have all of the same remedies for and rights of recovery of such amount as it has for recovery of Rent under this Lease.

**7.06 Operating Costs.** The Tenant shall pay all of the costs, expenses, fees, rentals, disbursements and outlays (in Sections 7.06, 7.07 and 7.08 referred to collectively as "Operating Costs") of every kind paid, payable or incurred by the Tenant or the Landlord or otherwise in the ownership, rental, maintenance, repair, operation, administration and management of the Premises (including any amounts payable under any Shared Facilities Agreement) including, without limiting the generality of the foregoing:

- (a) all salaries, wages, fringe benefits, severance pay and termination payments paid to or for all personnel, including supervisory personnel and managers, and all costs of obtaining such personnel, in connection with the ownership, rental, maintenance, repair, operation, administration or management of the

Premises or any part thereof or of the Shared Common Areas and Facilities, and amounts paid to professionals and independent contractors, including any management companies, for any services provided in connection with the maintenance, repair, operation, administration or management of the Premises or any part thereof or of the Shared Common Areas and Facilities;

- (b) costs of providing security, supervision, traffic control, janitorial, landscaping, window cleaning, waste collection, disposal and recycling, and snow removal services and the costs of machinery, supplies, tools, equipment and materials used in connection with the Premises or of the Shared Common Areas and Facilities or any rentals thereof;
- (c) costs of providing electric light and power, fuel, heat, processed air, water, telephone, steam, gas, sewage disposal and other utilities and costs of replacing building standard electric light fixtures, ballasts, tubes, starters, lamps, light bulbs and controls;
- (d) costs of all insurance which the Tenant is obligated or permitted to obtain under this Lease;
- (e) sales, value added and excise or other taxes on goods and services provided in connection with the leasing, maintenance, repair, operation, administration or management of the Premises or of the Shared Common Areas and Facilities;
- (f) costs of all maintenance, repairs and replacements (including those required to comply with Applicable Laws or the requirements of the Building's insurers) of every nature and kind whatsoever including, without limitation, repairs and replacements to the footings, foundations, structural columns and beams, structural subfloors, bearing walls, exterior walls and windows, and roofs of the Building;
- (g) management fees or management agent fees and administrative charges of a management company, if any, for the Premises or any part of it or of the Shared Common Areas and Facilities; and
- (h) amounts of every nature and kind whatsoever payable by the Landlord to the lessor under the Ground Lease including, without limitation, all items of rent payable thereunder.

**7.07 Reimbursement to Tenant.** The following shall be reimbursed by the Landlord to the Tenant:

- (a) net insurance proceeds received by the Landlord to the extent (but only to the extent) that such proceeds reimburse the Tenant for costs of repair and

replacement which have been paid by the Tenant as Operating Costs in respect of the Premises, all in accordance with Section 11.05; and

- (b) net recoveries, if any, by the Landlord in respect of warranties or guarantees relating to the construction of the Building to the extent (but only to the extent) that the repair costs in respect of the work covered by such warranties or guarantees have been paid by the Tenant as Operating Costs in respect of the Premises.

**7.08 Change of Law or Circumstances. If:**

- (a) the introduction of or any change in any present or future law, regulation, rule or official directive (whether or not having the force of law) or interpretation thereof by any governmental or regulatory authority charged with the interpretation or administration thereof:
  - (i) subjects the Landlord to any tax with respect to payments of Rent or any portion thereof other than tax on the overall net income or capital of the Landlord; or
  - (ii) changes the basis of taxation of payments to the Landlord in respect of Rent; or
  - (iii) imposes, modifies or deems applicable any reserve and/or special deposit requirement in respect of this Lease; or
  - (iv) directly or indirectly affects the cost to the Landlord of leasing the Premises to the Tenant; and
- (b) the Landlord complies with any request, law, regulation, rule or directive from any applicable fiscal or monetary authority of competent jurisdiction (whether or not having the force of law);

and, as a result of the foregoing,

- (c) the cost to the Landlord of leasing the Premises to the Tenant is increased; or
- (d) the amount receivable by the Landlord or its effective rate of return on or by reference to any amount receivable hereunder is reduced;

then in any such case,

- (e) the Landlord shall notify the Tenant in writing of such event (which notification shall include a certificate of the Landlord setting out the basis for such calculation and the required terms of payment, the Landlord's

certificate setting out the basis for such calculation being *prime facie* evidence thereof) as soon as possible; and

- (f) the Tenant shall pay to the Landlord on each day when Rent or any portion thereof would otherwise be payable hereunder, in addition to all other amounts payable hereunder, such amount as shall compensate the Landlord for such increased cost, reduction in payment or other reduction in return from the date of such notice.

The Landlord and Tenant acknowledge that for the purposes of the foregoing the Building is qualified as a "Class 1" Building under the Draft Amendments to the Regulations under the *Income Tax Act (Canada)* released December 16, 1987. If the Building is not so qualified or the classification is changed, it shall be deemed to be a change in present law for the purposes of the foregoing.

**7.09 Joint Elections.** The Tenant covenants and agrees to join in or make such joint elections under the *Income Tax Act (Canada)* with the Landlord as the Landlord may from time to time require in order to protect the economic interests of the Landlord under this Lease.

**7.10 Environmental Indemnity.** The Tenant hereby agrees to indemnify the Landlord, its officers, directors, employees and agents and agrees to save each of them harmless from and against any and all losses, liabilities, damages (including, without limitation, the costs of defending and/or counter-claiming, cross-claiming or claiming over against third parties in respect of any action or matter and any costs, liabilities or damages arising out of a settlement of any action entered into by the Landlord with the consent of the Tenant, which consent shall not be unreasonably withheld or delayed) which at any time or from time to time may be paid, incurred or asserted against any of them for, with respect to, or as a direct or indirect result of the presence on, in or under, or the seepage, leakage or spillage into, through or upon any land, the atmosphere, or any water course, body of water or wetland, of any Hazardous Material except insofar as the losses referred to above are solely attributable to the acts of the Landlord, its officers, its directors, employees, or agents. Furthermore, if the Landlord or its agents or any receiver, manager, receiver-manager, liquidator or similar Person takes possession of the Premises or any part thereof, the Tenant hereby agrees to indemnify and save harmless each such Person in the manner set out above except insofar as the losses referred to above are solely attributable to the acts of such Person or to the Landlord, its officers, directors, employees or agents. The provisions of this Section 7.10 shall continue in full force and effect for so long as the possibility as any such liability, claim or loss exists.

## ARTICLE 8

### USE OF PREMISES

8.01 Permitted Business. The Tenant shall use the Premises solely as business offices (or any other use lawfully permitted and to which the Landlord has consented which consent shall not be unreasonably withheld) in a first class and reputable manner. The Tenant shall not in any event use or allow the use of the Premises, or any part thereof, for any other purpose without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

8.02 Nuisance. The Tenant shall not carry on any business or do or suffer any act or thing which constitutes a nuisance. For the purposes hereof, the construction of the Stage II Building and the Tower shall be deemed not to be a nuisance, provided the same is carried out in a timely and efficient manner.

8.03 Compliance with Laws. The Tenant shall promptly comply with and conform to all Applicable Laws affecting the Premises or the Leasehold Improvements therein and shall construct the Stage II Building in accordance with all Applicable Laws. If any obligation to modify, extend, alter or replace any part of the Premises or any Leasehold Improvements, trade fixtures, furniture or equipment in the Premises is imposed upon the Landlord, the Landlord may at its option either do the necessary work, at the expense of the Tenant, or forthwith give notice to the Tenant to do such work within the requisite period of time and the Tenant shall thereupon do such work within the requisite period of time. The Tenant shall pay to the Landlord the cost of any work done by the Landlord together with an administrative fee equal to 15% of the cost of such work as Additional Rent.

8.04 Compliance with Rules and Regulations. The Landlord shall have the right from time to time during the Term to make rules and regulations and amendments, deletions and additions to such rules and regulations in the interests of the Premises or the Development. Such rules and regulations, together with all amendments, deletions and additions made thereto by the Landlord, acting reasonably, and of which notice shall have been given to the Tenant, shall be deemed to be part of this Lease, provided that in the event of a conflict with any other provisions of this Lease the other provisions of this Lease shall govern.

8.05 Disfiguration, Overloading. The Tenant shall not commit, do or suffer any waste, damage, disfiguration or injury to the Building and shall not permit or suffer any overloading of the floors thereof or the bringing into any part of the Building, any articles or fixtures that by reason of their weight, use or size might damage or endanger the structure or any of the Building Systems.

8.06 Remedial Action. If the Tenant is in breach of any of the provisions of this Article 8, the Landlord may, in addition to any other remedies that it may have



hereunder, enter upon the Building and take such remedial action as is necessary to remedy the breach and repair any damage caused thereby and the Tenant shall pay forthwith to the Landlord the Landlord's costs incurred in connection therewith as Additional Rent together with interest thereon at the Prime Rate plus 3% per annum calculated daily with interest on overdue interest at the same rate.

## ARTICLE 9

### INSURANCE, LIABILITY AND INDEMNITY

9.01 Tenant's Insurance. The Tenant shall effect and maintain with insurers of recognized responsibility who have been approved by the Landlord, and shall pay for during the Term:

- (a) "all risks" insurance which shall insure the Premises and Leasehold Improvements for an amount not less than the replacement cost thereof from time to time, against loss or damage by perils now or hereafter from time to time embraced by or defined in a standard all risks insurance policy including fire, explosion, impact by aircraft or vehicles, lightning, riot, vandalism or malicious acts, smoke, leakage from fire protective equipment, windstorm or hail, collapse or earthquake;
- (b) during any period of construction of the Stage II Building and the Leasehold Improvements, builders "all risks" and "general risks" insurance including, without limitation, flood and earthquake with respect to the Development and any on-site and off-site work and materials related thereto protecting the Tenant and the Landlord and all contractors and sub-contractors, in an amount not less than the full replacement cost of the Building and such on-site and off-site work, materials and equipment related thereto in the case of on-site, and with customary limits in the case of off-site, which policy shall make provision for vacancy;
- (c) broad form boiler and machinery insurance on objects defined in a standard broad form boiler and machinery policy including, without limitation, Leasehold Improvements, against accidents as defined therein, with limits of not less than \$10,000,000, which coverage shall include, without limitation, loss or damage of whatsoever kind or nature by reason of explosion or collapse by vacuum or cracking, burning, or bulging of any steam or hot water boilers, pipes and accessories;
- (d) comprehensive general liability insurance against claims for bodily injury (including death), personal injury and property damage in or about the Premises, in amounts from time to time satisfactory to the Landlord, acting reasonably, but in any event in an amount not less than \$1,000,000 per

occurrence as basic coverage together with an umbrella coverage in an amount of not less than \$10,000,000 per occurrence. All such liability insurance shall also comply with the terms of the Ground Lease, Article Ten of the City Development Agreement and any other applicable Underlying Agreement;

- (e) any other form of insurance that the Landlord or any Mortgagee or any third party which is a party to an agreement with either the Landlord or the Tenant relating to the Premises may reasonably require from time to time in form, amounts and for insurance risks acceptable to the Landlord and any Mortgagee,

with such reasonable deductions and exclusions as the Landlord may from time to time approve, acting reasonably.

#### 9.02 Form of Policies.

- (a) Each policy required pursuant to Section 9.01 shall be in form and with insurers acceptable to the Landlord. The insurance described in Subsections 9.01(a), (c) and (d) shall name as an additional insured the Landlord and anyone else with an interest in the Premises from time to time designated in writing by the Landlord. All property damage and liability insurance shall contain provisions for cross-liability and severability of interests as between the Landlord and the Tenant. Each policy maintained pursuant to Subsections 9.01(a), (c) and (d) shall contain a waiver of any rights of subrogation which the insurer may have against the Landlord and those for whom the Landlord is in law responsible whether the damage is caused by the act, omission or negligence of the Landlord or such other Persons.
- (b) The insurance described in Subsections 9.01(a) and (b) shall provide that any proceeds recoverable in the event of damage to the Building and any proceeds in excess of \$250,000 in respect of damage to Leasehold Improvements shall be payable to the Landlord. The Landlord agrees to make available such proceeds, subject to the holdback requirements of the Builders Lien Act (Alberta), as amended or replaced from time to time, toward repair or replacement of the insured property if this Lease is not terminated pursuant to any other provision of this Lease. All such proceeds shall be held by the Landlord to be applied in instalments from time to time to the cost of repair, restoration, reconstruction or replacement of the Premises against the certificates of the engineer in charge of such repair, restoration, reconstruction or replacement, having first received evidence satisfactory to the Landlord that the Premises are not subject to any construction liens and that the Tenant has borne or can and will bear all costs incurred which are in excess of such proceeds, all in accordance with Section 11.05.

- (c) Each policy required pursuant to Section 9.01 shall provide that the insurer must notify the Landlord and any Mortgagee in writing at least 30 days prior to any material change, expiry or cancellation thereof and that the policy shall not be invalidated in respect of the interests of the Landlord and any Mortgagee by reason of any breach or violation by the Tenant of any warranties, representations, declarations or conditions contained in such policies, and the policy will be considered as primary insurance and shall not call into contribution any other insurance that may be available to the Landlord.

9.03 Evidence of Policies. The Tenant shall furnish to the Landlord, prior to the commencement of the Term, evidence satisfactory to the Landlord that each policy required by Section 9.01 has been obtained. The Tenant shall provide written evidence of the continuation of such policies not less than 2 Business Days prior to their respective expiry dates.

9.04 Payment of Premiums. The cost or premium for each and every such policy shall be paid by the Tenant. If the Tenant fails to maintain such insurance the Landlord shall have the right, but not the obligation, to do so, and to pay the cost or premium therefor, and in such event the Tenant shall repay to the Landlord, as Additional Rent, forthwith on demand the amount so paid.

9.05 Insurance Risks. The Tenant shall not do, omit to do, or permit to be done or omitted to be done upon the Lands or the Building anything that may contravene or be prohibited by any of the Tenant's insurance policies in force from time to time covering or relevant to any part of the Lands or the Building or which would prevent the Tenant from procuring such policies with companies acceptable to the Landlord.

9.06 Limitation of Landlord's Liability. The Landlord, its agents, officers, employees and other Persons for whom the Landlord is legally responsible shall not be liable for:

- (a) damage to or destruction or loss of (i) any property of the Tenant entrusted to the care or control of the Landlord or (ii) the Premises (including Leasehold Improvements) or any property in or upon the Premises; or
- (b) any bodily injury (including death), personal injury, damages for personal discomfort or illness or consequential injury or damage (including, without limitation, loss of business income) sustained by the Tenant or any of its agents, officers, employees, customers, invitees or licensees or any other Person who may be in or upon the Premises or any other part of the Development;

whether or not caused by (i) the negligence, any act or omission of the Landlord, its agents, officers, employees or other Persons for whom the Landlord is legally responsible

or (ii) the operation, faulty operation, interruption or breakdown of any of the Building Systems or services including, without limitation, electricity interruption, "brown-outs" or surges.

**9.07 General.** The Tenant covenants with the Landlord that the Tenant shall indemnify and save harmless the Landlord from any and all manner of actions, causes of action, suits, damages, loss, costs, claims and demands by third parties of any nature whatsoever and howsoever caused ("Claims") or by or on behalf of the Tenant, its agents, officers, directors, shareholders or employees, and relating to or arising by reason of events during the Term out of:

- (i) any breach, violation or nonperformance of any covenant, condition or agreement of this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed or performed; or
- (ii) the use or occupation of the Premises by the Tenant or as permitted by the Tenant; or
- (iii) any and all acts performed or omitted to be performed by or on behalf of the Tenant, its agents, officers, directors, shareholders, employees, independent contractors, subcontractors, subtenants and licensees; or
- (iv) any injury to person or persons, including death or damage to property resulting at any time therefrom, occurring in or about the Premises; or
- (v) actions by the Landlord, its servants, agents or contractors.

The obligations of the Tenant to indemnify the Landlord under the provisions of this section with respect to liability by reason of any matter arising prior to the termination of this Lease shall survive any termination of this Lease, anything in this Lease to the contrary notwithstanding. The Tenant shall, in any and every event in which the Landlord is made a party to any action, suit or proceeding in respect of a claim to which the Tenant's obligation to indemnify the Landlord under the provision of this section extends, if so requested by the Landlord, defend such action, suit or proceeding in the name of the Landlord and shall pay all costs, expenses and reasonable legal fees of the Landlord in connection with the litigation, provided that the Tenant may, in any such event, elect to pay and satisfy any such claim. The Tenant hereby releases the Landlord from all liability for loss or damage, however caused, with respect to any loss or damage required to be insured by the Tenant hereunder and agrees that neither the Tenant nor its insurers by subrogation shall have any claim against the Landlord in respect thereto.

**9.08 Limitation.** Section 9.07 is intended to protect the Landlord against any claims which may be made against the Landlord solely because the Landlord has an interest in

the Premises. Section 9.07 does not apply to any claims which would have occurred if the Landlord had not had such an interest and, without prejudice to the generality of the foregoing, it does not apply to claims caused by wrongful act or neglect of the Landlord, or material breach by the Landlord of this Lease or other agreement related to the Premises which is not caused by a breach of the obligations on the part of the Tenant or its employees, servants, agents, subcontractors or persons for whom it is responsible.

**9.09 Construction Liens.** The Tenant shall promptly pay for all materials supplied and work done in respect of the Building so as to ensure that no lien or claim of lien is registered against any portion of the Premises or against the Landlord's or Tenant's interest therein. The Tenant shall not suffer or permit any lien under the *Builders' Lien Act* or any similar statute to be filed or registered against the Landlord's or Tenant's estate or interest in the Premises by reason of work, labour, services or materials supplied to the Tenant or anyone holding any interest in the Premises or any part thereof or under this Lease. If a lien or claim of lien is registered or filed, the Tenant shall discharge it at its expense within 30 days after notice from the Landlord, failing which the Landlord may at its option discharge the lien or claim of lien by paying the amount claimed to be due into court and the amount so paid and all expenses of the Landlord including legal fees (on a solicitor and client basis) shall be paid by the Tenant to the Landlord as Additional Rent. Should the Tenant desire to contest in good faith the amount or validity of any such claim for payment for work or materials supplied to the Premises then the Tenant may do so only by paying into court an amount sufficient to ensure always that neither the Premises nor any part thereof, nor the Landlord's or Tenant's interest therein, shall thereby become subject to any lien or liable to forfeiture or sale. Nothing herein contained shall authorize the Tenant, or imply any consent or agreement on the part of the Landlord, to subject the Landlord's estate and interest in the Premises to any lien.

## ARTICLE 10

### MAINTENANCE, REPAIR AND ALTERATIONS

**10.01 Maintenance by Tenant.** Subject to Article 11, the Tenant covenants to maintain and repair and replace the Premises and all parts thereof as would a prudent owner of a comparable development of similar size and location in the City of Edmonton in order to maintain the same as a first class building; without limitation, such covenant extends to:

- (a) all parts of the Building, including without limitation the Building Systems and the footings, foundations, structural columns and beams, structural subfloors, bearing walls, exterior walls, windows and roofs of the Building;
- (b) the Leasehold Improvements; and

- (c) any other improvements or other structures located in, on or around the Lands.

The full cost of such repairs, replacements or alterations shall be paid by the Tenant.

**10.02 Landlord's Remedies.** The Landlord may enter the Premises at all reasonable times to view its condition and the Tenant shall maintain and repair according to notice in writing from the Landlord. If the Tenant fails to carry out any maintenance, repairs, replacements or work required to be carried out by it under this Lease within five Business Days (or such longer period of time as may be necessary in the circumstances to make or carry out such maintenance, repairs, replacements or other work provided the Tenant has commenced to perform such maintenance, repairs, replacements or other work within such five Business Day period and thereafter proceeds diligently to perform to completion such maintenance, repairs, replacements or other work) after receipt of Notice from the Landlord stipulating such failure to the reasonable satisfaction of the Landlord, the Landlord may (but shall not be obligated to) at its option carry out such maintenance, repairs, replacements or work without any liability for any resulting damage to the Tenant's property or business. The cost of such maintenance, repairs, replacements or work shall be paid by the Tenant to the Landlord together with an amount equal to 15% of the cost of such maintenance, repairs, replacements or work to compensate the Landlord for administrative costs incurred by it in performing the Tenant's obligations hereunder as Additional Rent. At the expiration or earlier termination of the Term, the Tenant shall surrender the Building to the Landlord in as good condition and repair as the Tenant is required to maintain the Building throughout the Term.

**10.03 Approval of Tenant's Additions and Alterations.**

- (a) The Tenant will not require approval of the Landlord for any alterations, improvements, repairs or replacements to the Building after the commencement of the Term which do not affect the structure of the Building or any of the Building Systems and which do not require a building permit, provided the Tenant has given written notice with reasonable detail of the proposed work to the Landlord in advance. All other alterations, improvements, repairs or replacements after the commencement of the Term will require the Landlord's prior written approval, not to be unreasonably withheld.
- (b) Wherever the Landlord's approval is required pursuant to subsection 10.03(a), the Tenant shall submit to the Landlord details of the proposed work and a reasonable number (as required by the Landlord) of copies of drawings and specifications for such work prepared by qualified architects or engineers. The Tenant shall pay to the Landlord its then current charge and all disbursements incurred by the Landlord for the review of such drawings and specifications. The Landlord shall respond to any request for approval within 30 days of receipt of all required details, drawings and

specifications and provide details of any changes required. The Tenant shall incorporate such changes into such drawings and specifications and resubmit them for approval. The Tenant shall not apply for a building permit prior to receiving the Landlord's approval of the drawings and specifications.

- (c) All additions, alterations, improvements, repairs and replacements shall be performed:
- (i) at no cost to the Landlord;
  - (ii) in a good and workmanlike manner;
  - (iii) by contractors and workmen approved by the Landlord, acting reasonably (except where the approval of the Landlord is not required as set out in subsection 10.03(a));
  - (iv) in accordance with the drawings and specifications approved by the Landlord (except where the approval of the Landlord is not required as set out in subsection 10.03(a));
  - (v) in accordance with all Applicable Laws and requirements of the Building's insurers;
  - (vi) subject to the reasonable regulation, supervision, control and inspection of the Landlord; and
  - (vii) subject to such indemnification against liens and expenses as the Landlord reasonably requires.
- (d) If the Tenant installs Leasehold Improvements or makes alterations, improvements, repairs or replacements which depart from the standard for the Building, and which restrict access by the Landlord or any Person to whom the Landlord has granted an easement, right-of-way or other interest in the Premises or any part thereof to any of the Building, Building Systems or Shared Common Areas or Facilities, then the Tenant shall be responsible for all costs incurred by the Landlord or any Person to whom the Landlord has granted an easement, right-of-way or other interest in the Premises or any part thereof in obtaining access to the Building, Building Systems or Shared Common Areas and Facilities.
- (e) Upon the request of the Landlord, the Tenant shall assign to the Landlord, as collateral security for the obligations of the Tenant under this Lease, any contract entered into by the Tenant with any Person for the making of any additions, alterations, improvements, repairs and replacements.

**10.04 Removal of Improvements and Fixtures.** All Leasehold Improvements shall immediately upon their placement become the Landlord's property without compensation to the Tenant. Except as otherwise agreed by the Landlord in writing, no Leasehold Improvements or trade fixtures shall be removed from the Building by the Tenant either during or at the expiry or earlier termination of the Term except that:

- (a) the Tenant may, during the Term, in the usual course of its business, remove its trade fixtures, provided that the Tenant is not in default under this Lease; and
- (b) the Tenant shall, at its sole cost remove such of the Leasehold ~~Improvements and trade fixtures in the Building as the Landlord shall~~ require to be removed, such removal to be completed by the later of (i) the date of expiry or earlier termination of the Term, or (ii) the day which is 30 days after the receipt by the Tenant of written notice from the Landlord of such requirement, such notice to be given no later than 30 days prior to the date of expiry of the Term or, in the case of an earlier termination of the Term, no later than 30 days after the date the Landlord recovers possession of the Building unless the Tenant so exercises its election as set out in Section 15.01.

The Tenant shall at its own expense repair any damage caused to the Building by the Leasehold Improvements or trade fixtures or such removal. If the Tenant does not remove its trade fixtures prior to the expiry or earlier termination of the Term, such trade fixtures shall, at the option of the Landlord, become the property of the Landlord and may be removed from the Building and sold or disposed of by the Landlord in such manner as it deems advisable. If the Tenant fails to complete any work referred to in this Section within the period specified, the Tenant shall pay compensation to the Landlord for each day after the expiry of such period until the completion of such work at a rate equal to \$780,000 per month, which sum is agreed by the parties to be a reasonable estimate of the damages suffered by the Landlord for loss of use of the Building.

**10.05 Notice by Tenant.** The Tenant shall promptly notify the Landlord of any accident, defect, damage or deficiency which occurs or exists in any part of the Premises, the Building Systems or in the Shared Common Areas and Facilities which comes to the attention of the Tenant and shall outline in writing the corrective action which the Tenant proposes to take in respect thereto.



ARTICLE 11

EXPROPRIATION, DAMAGE BY FIRE OR OTHER CASUALTY

11.01 Damage to Building. Subject to Section 11.03, if all or part of the Premises is rendered unfit for use by damage from any cause, the Tenant shall with reasonable diligence repair such damage, including damage to its trade fixtures, furniture, equipment and personal property and to the Leasehold Improvements, or rebuild as necessary. The cost of all such repairs or rebuilding made by the Tenant shall, to the extent not paid out of insurance proceeds received by the Landlord or Tenant pursuant to insurance maintained pursuant hereto, be paid by the Tenant.

11.02 Abatement. Subject to Section 11.03, the destruction or damage of the Premises by fire or any other peril shall not terminate this Lease or entitle the Tenant to surrender possession of the Premises or to demand any abatement or reduction of the Rent under this Lease and this Lease shall continue in full force and effect, any law or statute now or in the future to the contrary notwithstanding.

11.03 Major Damage to Building. Notwithstanding Section 11.01, if any substantial part or parts of the Building required for the proper operation of the Building are damaged or destroyed by any cause to the extent that, in the reasonable opinion of a duly qualified Expert as set out in a certificate of such Expert addressed to the Landlord and the Tenant delivered within 30 Business Days of the occurrence of such damage or destruction, the damage or destruction cannot be repaired within 180 days after the occurrence of such damage or destruction, then the Tenant may at its option, exercisable by notice to the Landlord given within 60 days after the occurrence of such damage or destruction, terminate this Lease. Provided that such termination shall not be effective unless the Tenant pays to the Landlord all accrued but unpaid Rent to the date of termination plus the Agreed Casualty Value shown in Schedule D as being applicable for the Lease Year in which the Lease is so terminated. Upon termination of this Lease the Tenant shall deliver up possession of the Premises to the Landlord.

11.04 Tenant Obligations on Rebuilding. In repairing or rebuilding the Premises the Tenant shall use only such drawings, designs, plans and specifications as are approved by the Landlord, in its sole discretion, provided that the Building as altered or relocated shall be substantially the same size and have substantially the same attributes as the original Building.

11.05 Insurance. The insurance to be maintained by the Tenant pursuant to this Lease shall provide for payment of loss to the Landlord or as it may otherwise direct. The proceeds of all fire damage and other property damage insurance shall, unless the Lease is terminated pursuant to Section 11.03, and subject to the holdback requirements of the Builders Lien Act (Alberta), as amended or replaced from time to time, be made available for repair and rebuilding. The Landlord shall release to the Tenant such proceeds of insurance not more frequently than once per month to reimburse the Tenant

for expenditures made in connection with such repair or rebuilding provided that the aggregate amount of funds which the Landlord shall be required to release to the Tenant pursuant hereto shall not exceed the cost of repair and rebuilding in place at the time the request for an advance of such funds from the Tenant and provided that in any event the Landlord shall not be obligated to release any portion of such insurance proceeds unless the amount of such insurance proceeds then being held by the Landlord is equal to or greater than the cost to complete the repair or rebuilding, all as certified to the Landlord by the Expert in charge of such repair or rebuilding. In the event that the Lease is terminated pursuant to Section 11.03, all such insurance proceeds shall be used firstly to pay to the Landlord the Agreed Casualty Value plus all accrued and unpaid Rent hereunder and thereafter shall be released to each of the named insureds as their interest may appear.

**11.06 Expropriation.** If at any time during the Term of this Lease title is taken by the right or exercise of condemnation or expropriation to the whole or such portion of the Building (whether or not including the Premises) which renders the remainder of the Building effectively unusable the Landlord may, at its option, give notice to the Tenant terminating this Lease on the date stated in the said notice. Upon such termination, the Tenant shall immediately surrender the Premises and all its interest therein to the Landlord, and the Rent shall abate and be apportioned to the date of termination and the Tenant shall forthwith pay to the Landlord the apportioned Rent and all other amounts which may be due to the Landlord up to the date of termination. The Tenant shall have no claim upon the Landlord for the value of the unexpired Term of this Lease, but the parties shall each be entitled to separately advance their claims for compensation for the loss of their respective interests in the Premises provided that the Landlord shall be entitled to receive out of any compensation awarded to the Landlord or the Tenant an amount equal to the Agreed Casualty Value and until such time as the Landlord has received such amount, the Tenant shall not be entitled to retain any compensation awarded to it.

## ARTICLE 12

### TRANSFERS

**12.01 Transfers.** The Tenant shall be entitled to make any Transfer without the prior written consent of the Landlord, subject to the conditions hereinafter provided. The Tenant shall not make any transfer which does not comply with the conditions hereinafter provided.

#### **12.02 Conditions of Transfer.**

- (a) If there is a permitted Transfer by way of an assignment (other than by way of security) or subletting, the Landlord may collect Rent from the Transferee and apply the amount collected to the Rent payable under this Lease but no acceptance by the Landlord of any payments by a Transferee

shall be deemed to be a waiver of the Tenant's covenants or any acceptance of the Transferee as a tenant or a release of the Tenant from the further performance by the Tenant of its obligations under this Lease. Any permitted Transfer shall be subject to the Tenant and Transferee executing, prior to the Transfer being made, an agreement with the Landlord agreeing that the Transferee will be bound by all of the terms of this Lease, and except in the case of a sublease, that the Transferee will be so bound as if it had originally executed this Lease as tenant.

- 2
- (b) Notwithstanding any Transfer permitted pursuant hereto the Tenant shall remain liable under this Lease and shall not be released from performing any of the terms of this Lease unless the Landlord agrees in writing, in its sole discretion to release the Tenant from its covenants hereunder, which agreement shall be subject to credit approval by the Landlord of the sublessee or assignee (which credit approval shall not be unreasonably withheld).
- 4
- (c) The minimum and additional rent (of the type contemplated in Section 4.01 and subsections 4.02(a) and 4.02(b) of this Lease) payable by a Transferee which obtains its interest by way of an assignment (other than by way of security) or sub-lease shall not be less than the Minimum Rent and Additional Rent payable by the Tenant pursuant to Section 4.01 and Subsections 4.02(a) and 4.02(b) of this Lease as at the effective date of the Transfer (including any increases provided for in this Lease).
- 2
- (d) If the Tenant receives from any Transferee, either directly or indirectly, any consideration other than minimum rent or additional rent for such Transfer, either in the form of cash, goods or services the Tenant shall forthwith pay to the Landlord an amount equivalent to such consideration. The Tenant and the Transferee shall execute any agreement required by the Landlord to give effect to the foregoing terms.
- (e) Notwithstanding the effective date of any permitted Transfer as between the Tenant and the Transferee, all Rent for the sixth-month period in which such effective date occurs shall be paid in advance by the Tenant so that the Landlord will not be required to accept partial payments of Rent for such sixth-month period from either the Tenant or Transferee. ★
- (f) The agreements referred to in this Section 12.02 shall be prepared by the Tenant or its solicitors at the Tenant's cost.
- (g) The Tenant shall not assign or otherwise encumber its interest under this lease by way of Security for any indebtedness of the Tenant or any other Person.

12.03 Assignment by Landlord. Subject to Article 15, the Landlord shall have the unrestricted right to sell, transfer, lease, charge or otherwise dispose of all or any part of its interest in the Premises or the Development or any interest of the Landlord in this Lease. In the event of any sale, transfer, lease, charge or other disposition to the extent that the assignee from the Landlord agrees with the Landlord and the Tenant to assume the obligations of the Landlord under this Lease, the Landlord shall thereupon, and without further agreement, be released of all liability under this Lease save in respect of defaults of the Landlord existing prior to that time.

12.04 Exhibiting Premises. The Landlord and its agents, upon 24 hours prior written notice to the Tenant, may exhibit the Premises during Business Hours to prospective tenants for such space or to prospective purchasers or Mortgagees.

### ARTICLE 13

#### STATUS CERTIFICATES, SUBORDINATION, ATTORNMENT

13.01 Status Certificates. The Landlord and the Tenant shall at any time and from time to time execute and deliver to the other or as the other may direct within 2 days after it is requested a statement in writing, in the form supplied by the requesting party, certifying that this Lease is unmodified and in full force and effect (or if modified, stating the modification and stating that the Lease is in full force and effect as modified), the Commencement Date, the amount of the Minimum Rent and other Rent then being paid hereunder, the dates to which such Rent hereunder has been paid, whether or not there is any existing default on the part of the requesting party of which the other party is aware and any other particulars that the requesting party may reasonably request.

13.02 Subordination and Attornment. This Lease and the rights of the Tenant hereunder shall be subject and subordinate to all existing or future Mortgages and to all renewals, modifications, consolidations, replacements and extensions thereof. Whenever requested by the Landlord or a Mortgagee, the Tenant shall, within five (5) days after such request, enter into an agreement with the Mortgagee whereby the Tenant postpones and subordinates this Lease to the interest of any stipulated Mortgagee and agrees that whenever requested by such Mortgagee it shall attorn to and become the Tenant of such Mortgagee, or any purchaser from such Mortgagee in the event of the exercise by the Mortgagee of its power of sale, for the then expired residue of the term upon all the terms and conditions of this Lease provided that such Mortgagee recognizes the Tenant's rights under this Lease and agrees not to disturb the Tenant's occupancy of the Premises so long as the Tenant is not in default under this Lease. In addition, the Tenant shall, upon request of the Landlord or the lessor under the Ground Lease, enter into an agreement with such lessor to the effect that it shall attorn to and become the Tenant of such lessor, or any successor or assign, if the lessor or any successor or assign shall take possession of the Adjacent Lands as a result of a default under the Ground Lease

for the then unexpired residue of the Term on all the terms and conditions of this Lease and the Ground Lease.

## ARTICLE 14

### REMEDIES OF LANDLORD

14.01 Events of Default. Any of the following constitutes an Event of Default under this Lease:

- (a) any Rent is in arrears and is not paid within 5 days after written demand by the Landlord;
- (b) the Tenant has breached any of its obligations in this Lease and, if such breach is capable of being remedied and is not otherwise listed in this Section 14.01, after notice in writing from the Landlord:
  - (i) the Tenant fails to remedy such breach within 15 days (or such other period as may be provided in this Lease); or
  - (ii) if such breach cannot reasonably be remedied within 15 days or such other period, the Tenant fails to commence to remedy such breach within such 15 days or other period or thereafter fails to proceed diligently to remedy such breach;
- (c) the Tenant becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, an assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any Person for the dissolution, winding-up or other termination of the Tenant's existence or the liquidation of its assets (other than pursuant to a bona fide corporate reorganization permitted hereunder where the successor corporation is subject to all of the obligations of the Tenant hereunder and has the same credit worthiness (in the Landlord's opinion, acting reasonably) as the Tenant prior to reorganization);
- (d) a trustee, receiver, receiver/manager, or a Person acting in a similar capacity is appointed with respect to the business or assets of the Tenant and such appointment is not vacated within 30 days of the making of such appointment;
- (e) the Tenant makes a sale in bulk of all or a substantial portion of its assets other than in conjunction with a Transfer permitted hereby;

- (f) this Lease or any of the Tenant's assets are taken under a writ of execution and such writ is not stayed or vacated within 15 days after the date of such taking;
- (g) the Tenant makes a Transfer other than in compliance with the provisions of this Lease;
- (h) an event of default, as defined in any material agreement or instrument relating to the borrowing of money by the Tenant, shall have occurred and be continuing and the indebtedness of the Tenant in any aggregate principal amount of not less than \$5,000,000 in Canadian dollars or the equivalent thereof in other currencies under such agreement or instrument shall have been declared or become due and payable prior to its stated maturity in accordance with the terms thereof and the time for payment of such indebtedness shall not have been effectively extended;
- (i) the Tenant is a party to any merger, consolidation, reconstruction or amalgamation, other than such a transaction solely with one or more of its subsidiaries, if, in the opinion of the directors of the Tenant, the ability of the Tenant to pay such term obligations as they become due hereunder would be materially and adversely affected thereby;
- (j) the Tenant abandons or attempts to abandon the Building or the Building becomes vacant or substantially unoccupied for a period of 30 consecutive days or more (after the Tenant has taken occupation thereof) without the consent of the Landlord; and
- (k) any insurance policy covering any part of the Building is, or is threatened to be, cancelled or adversely changed as a result of any action or omission by the Tenant or any Person for whom it is legally responsible.

**14.02 Default and Remedies.** If and whenever an Event of Default occurs, then without prejudice to any other rights which it has pursuant to this Lease or at law, the Landlord shall have the following rights and remedies, which are cumulative and not alternative:

- (a) to terminate this Lease by notice to the Tenant or to re-enter the Premises and repossess them and, in either case, enjoy them as of its former estate, and the Landlord may remove all Persons and property from the Premises and store such property at the expense and risk of the Tenant or sell or dispose of such property in such manner as the Landlord sees fit without notice to the Tenant;
- (b) to complete construction of the Stage II Building and to make all payments in connection therewith and for such purposes the Landlord shall be entitled, but shall not be obligated, to apply the whole or any portion of the unpaid purchase price pursuant to the Purchase Agreement thereto and

any amount payable by the Landlord to the Tenant pursuant to the Purchase Agreement shall be reduced by any amount so applied;

- (c) to enter the Premises as agent of the Tenant and to relet the Premises for whatever length, and on such terms as the Landlord in its discretion may determine and to receive the rent therefor and as agent of the Tenant to take possession of any property of the Tenant in the Premises to store such property at the expense and risk of the Tenant or to sell or otherwise dispose of such property in such manner as the Landlord sees fit without notice to the Tenant; to make alterations to the Premises to facilitate its reletting; and to apply the proceeds of any such sale or reletting first, to the payment of any expenses incurred by the Landlord with respect to any such reletting or sale second, to the payment of any indebtedness of the Tenant to the Landlord other than Rent and third, to the payment of Rent in arrears, with the residue to be held by the Landlord and applied to payment of future Rent as it becomes due and payable; provided that the Tenant shall remain liable for any deficiency to the Landlord;
- (d) to remedy or attempt to remedy any default of the Tenant under this Lease for the account of the Tenant and to enter upon the Premises for such purposes; and no notice of the Landlord's intention to remedy or attempt to remedy such default need be given the Tenant unless expressly required by this Lease; and the Landlord shall not be liable to the Tenant for any loss, injury or damages caused by acts of the Landlord in remedying or attempting to remedy such default and the Tenant shall pay to the Landlord all expenses incurred by the Landlord in connection therewith;
- (e) to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of any default by the Tenant including, if the Landlord terminates this Lease, any deficiency between those amounts which would have been payable by the Tenant for the portion of the Term following such termination and the net amounts actually received by the Landlord during such period of time with respect to the Premises;
- (f) to recover from the Tenant the full amount of the Rent for the current semi-annual period, all of which shall accrue on a day to day basis and shall immediately become due and payable as accelerated rent; and
- (g) to recover from the Tenant the amount payable by the Tenant pursuant to Section 15.02.

**14.03 Distress.** Notwithstanding any provision of this Lease or any provision of applicable legislation, none of the goods and chattels of the Tenant in the Building at any time during the Term shall be exempt from levy by distress for Rent in arrears, and the Tenant waives any such exemption. If the Landlord makes any claim against the goods and chattels of the Tenant by way of distress this provision may be pleaded

as an estoppel against the Tenant in any action brought to test the right of the Landlord to levy such distress.

14.04 Costs. The Tenant shall pay to the Landlord all damages, costs and expenses (including, without limitation, all legal fees on a solicitor and client basis) incurred by the Landlord in enforcing the terms of this Lease, or with respect to any matter or thing which is the obligation of the Tenant under this Lease, or in respect of which the Tenant has agreed to insure or to indemnify the Landlord.

14.05 Survival of Obligations. The indemnity provisions of this Lease and the Landlord's rights in respect of any failure by the Tenant to perform any of its obligations under this Lease shall remain in full force and effect notwithstanding the expiration or earlier termination of the Term.

14.06 Remedies Cumulative. Notwithstanding any other provision of this Lease, the Landlord may from time to time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Lease, by statute or common law, all of which rights and remedies are intended to be cumulative and not alternative, and the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord hereunder, by statute or the general law.

## ARTICLE 15

### SPECIAL PROVISIONS

15.01 Election re: Title. In the event that the Tenant renews this Lease in accordance with the provisions of Section 3.02 for the Renewal Term then the Tenant may elect within the 30 day period immediately following the end of the 35th year of the Renewal Term to have the interest of the Landlord in the Building and Building Strata Parcel transferred to it on the terms and conditions hereinafter provided. If the Tenant wishes to make the election provided by this Section 15.01, it shall give notice in writing to the Landlord on or before the end of the 30 day period referred to above of such desire whereupon the Tenant shall be bound to accept such transfer and pay the amounts herein provided, provided such notice shall be accompanied by a certified cheque payable to the Landlord in an amount equal to \$390,000. The transfer of the interest of the Landlord in the Building and Building Strata Parcel to the Tenant shall be completed on the 30th Business Day following the receipt by the Landlord of written notice of the election of the Tenant pursuant to this Section 15.01. It shall be a pre-condition to the exercise by the Tenant of its election pursuant to this Section 15.01 that the Tenant pay to the Landlord an amount equal to the Landlord's administrative costs incurred in connection with the maintenance of this Lease, which the Landlord and the Tenant reasonably estimate and agree shall be the amount of \$1,560,000 which amount, less the amount received by the Landlord with the notice from the Tenant referred to



above, shall be payable by cash or certified cheque on the date set for the transfer to the Tenant of the interest of the Landlord in the Premises as stipulated above. The Tenant shall also be responsible for all costs associated with the transfer of title to the Tenant including, without limitation, legal fees, registration fees and land transfer taxes, if any. In no event shall the Tenant be entitled to a whole or partial refund or abatement of any Rent prepaid in respect of the Renewal Term. In the event that the Landlord is, at the end of the Renewal Term, also the owner of the Adjacent Lands, the Tenant shall have the option, exercisable in the same 30 day period in which it may elect to have title to the Building and Building Strata Parcel transferred to it, of acquiring the Adjacent Lands from the Landlord for an amount equivalent to the Fair Market Value of the Adjacent Lands at such time. For the purposes hereof, the Fair Market Value of the Adjacent Lands at such time shall be the average of two appraisals of the Fair Market Value of the Adjacent Lands prepared by two duly qualified Experts, one selected by the Landlord and one selected by the Tenant. The closing of the sale of the Adjacent Lands shall take place contemporaneously with the closing of the transfer of the Building and Building Strata Parcel as provided above and otherwise on the same terms and conditions as outlined in this Section 15.01.

**15.02 Tenant's Liability For Failure to Maintain, Repair, Replace and Modify.** If the Residual Value of the Building is less than \$15,600,000 on: (i) the date upon which this Lease is terminated by the Landlord pursuant to Section 11.06 or Section 14.02(a) or (ii) on the last day (the "Last Leasing Day") of the Original Term if the Lease is not renewed for the Renewal Term pursuant to Section 3.02, then the Tenant acknowledges that such deficiency shall be deemed to be and is in fact a direct result of and constitutes between the parties absolute and conclusive evidence of a failure by the Tenant in the performance of its obligations under Sections 5.01, 6.01, 6.03, 8.03, 8.05, 10.01, 10.03(c) and 10.04 and as a result of excessive wear and tear inflicted by the Tenant. The Tenant shall, as a consequence of such failure and excessive wear and tear, in the event that the Tenant does not elect to exercise its option to renew this Lease for the Renewal Term as provided in Section 3.02, pay to the Landlord on the Last Leasing Day, or, in the event this Lease is terminated by the Landlord pursuant to Section 11.06 or Section 14.02(a), pay to the Landlord, within five Business Days of the determination of the Residual Value, an amount (which the Landlord and Tenant agree has been calculated as a pre-determination of liquidated damages and not as a penalty) equal to the lesser of:

- (i) \$15,600,000 less the Residual Value of the Building; and
- (ii) \$7,800,000;

For the purposes of the foregoing, the Residual Value of the Building at any time shall be determined by an independent duly qualified appraiser (i) appointed by the Landlord and Tenant jointly within 15 days of the last day upon which the Tenant is entitled to exercise its option to renew for the Renewal Term pursuant to Section 3.02 failing which the Landlord shall appoint the said appraiser, or (ii) in the event this Lease is terminated by the Landlord pursuant to Section 11.06 or Section 14.02(a), appointed by

the Landlord alone, and in each case the decision of such appraiser as to Residual Value shall be made within 15 days of the appointment of such appraiser and shall, subject to the provisions below dealing with adjustment after sale, be final and binding on both the Landlord and the Tenant. If no appraiser is appointed or if the appraiser appointed as aforesaid is unable to determine Residual Value or fails to deliver his determination of Residual Value within the time period specified above, Residual Value shall, for the purposes of this Section 15.02 but subject to readjustment as hereinafter provided, be deemed to be \$7,800,000. If, upon the completion of a sale of the Building and the Building Strata Parcel by the Landlord, the net proceeds (the "Net Proceeds") received and retained by the Landlord from the sale of the Building and the Building Strata Parcel are less than the Residual Value of the Building determined as aforesaid, ~~the Tenant shall, at the same time the proceeds of sale are distributed in accordance~~ with the Purchase Agreement, pay to the Landlord an amount equivalent to the amount by which the Residual Value of the Building determined as aforesaid exceeds the Net Proceeds received and retained by the Landlord. If, upon the completion of the sale of the Building and the Building Strata Parcel by the Landlord, the Net Proceeds received and retained by the Landlord are greater than the Residual Value of the Building determined as aforesaid, the Landlord shall, at the same time the proceeds of sale are distributed in accordance with the Purchase Agreement, pay to the Tenant an amount equivalent to the amount by which the Net Proceeds received and retained by the Landlord exceed the Residual Value of the Building determined as aforesaid. The payment from the Tenant to the Landlord or from the Landlord to the Tenant, as the case may be, shall be made together with interest at an annual rate equal to the Prime Rate calculated daily and compounded monthly in arrears. In no event shall the amount payable by the Tenant to the Landlord pursuant to this Section 15.02 exceed \$7,800,000 in the aggregate, plus interest as aforesaid.

**15.03 Performance of Ground Lease.** The Tenant hereby covenants and agrees to perform each and every obligation of the Landlord under the Ground Lease (both monetary and non-monetary) and hereby agrees to indemnify and save harmless the Landlord from any and all manner of loss, cost, damage, liability, claims, demands, suits and actions of every nature and kind whatsoever that the Landlord may suffer, incur or be put unto in connection therewith or the Tenant's failure to perform such obligations. To the extent that the provisions of this Lease and Ground Lease are inconsistent, the Tenant shall perform the more onerous of the obligations contained in this Lease and the Ground Lease.

**15.04 Supplemental Security.** The Tenant hereby covenants and agrees to deposit with the Trustee, as collateral security for the obligations of the Tenant to the Landlord pursuant to this Lease, cash collateral (the "Cash Collateral") in the amount stipulated below upon the occurrence of any one or more of the following events:

- (a) the credit rating of any of the Tenant's debt provided by Dominion Bond Rating Service ("DBRS") is reduced to BBB (low) or lower; or

- (b) a credit watch in respect of any of the Tenant's debt is instituted by DBRS when the credit rating of any of the Tenant's debt is BBB or lower; or
- (c) in the event that:
  - (i) DBRS no longer provides a credit rating of any of the Tenant's debt; or
  - (ii) DBRS is no longer in existence,

the credit rating system utilized by such other independent, nationally recognized credit rating service agreed to by the Landlord and the Tenant, both acting reasonably shall be substituted for that of DBRS for the purpose of this Section 15.04 utilizing credit rating categories deemed by such other credit rating service to be equivalent to the categories utilized by DBRS or

- (iii) failing such agreement; or
- (iv) if there is no independent credit rating service providing a credit rating of any of the debt of the Tenant,

the Landlord determines, acting reasonably, that the creditworthiness of the Tenant is at a level which, if any of the debt of the Tenant was being rated by DBRS, would result in DBRS issuing a credit rating for any of the debt of the Tenant of BBB (low) or lower or issuing a credit watch in respect of any of the debt of the Tenant with a credit rating of BBB or lower; or

- (d) the Fair Market Value of the Building and the Building Strata Parcel is at any time determined to be less than \$7,800,000 and for the purposes of calculating the same, the Landlord shall be entitled to cause from time to time (but not more frequently than once per year) appraisals of the Building and Building Strata Parcel to be prepared, at the Tenant's expense, by duly qualified Experts.

Upon the occurrence of any of the events referred to in subsections (a) to (c) above, the amount of the Cash Collateral shall be an amount equal to the amount by which \$20,800,000 exceeds the Fair Market Value at such time of the Building and Building Strata Parcel provided that in no event shall the amount of Cash Collateral exceed \$15,600,000. Upon the occurrence of the event referred to in subsection (d) above, the amount of the Cash Collateral deposited with the Trustee shall be \$7,800,000.

Notwithstanding that more than one of the events in subsection (a) to (c) above occur and continue at the same time, in no event shall the Tenant be obligated to have on deposit with the Trustee Cash Collateral in excess of the amount provided above.

In the event that any one of the events in subsections (a) to (c) above occurs and the event in paragraph (d) also occurs at such time, the Tenant shall be required to deposit with the Trustee Cash Collateral in the amount specified for events listed in subsections (a) to (c) above.

In the event that the Fair Market Value of the Building and Building Strata Parcel changes from the Fair Market Value of the Building and Building Strata Parcel at the time of the most recent determination of the amount of the Cash Collateral required to be held by the Trustee, the Tenant shall deposit with the Trustee additional Cash Collateral or the Trustee shall release to the Tenant sufficient Cash Collateral to reflect such change in Fair Market Value. The Trustee shall, not less frequently than annually, release to the Tenant all interest which has accrued on the Cash Collateral which has not, prior to that date, been released to the Tenant provided that to the extent the Tenant is required to deposit with the Trustee additional Cash Collateral as hereinbefore provided, the Trustee may apply such interest to satisfy such obligation of the Tenant. The Fair Market Value of the Building and Building Strata Parcel shall be reviewed not less frequently than annually following the initial deposit of Cash Collateral with the Trustee to determine the adequacy of the amount of the Cash Collateral then being held by the Trustee.

The Cash Collateral held by the Trustee may be drawn on by the Landlord upon the occurrence of any Event of Default by the Tenant hereunder or, notwithstanding the absence of an Event of Default, in the event that the Tenant does not exercise its option to renew the Lease for the Renewal Term pursuant to Section 3.02 of this Lease. If the Tenant has failed to exercise its right to renew the Lease for the Renewal Term pursuant to Section 3.02 of this Lease and the Landlord wishes to draw upon the Cash Collateral on or before the last day of the Original Term, the Landlord shall give notice to the Tenant advising the Tenant that the Lease has not been renewed and that the Landlord wishes to draw upon the Cash Collateral. The Tenant shall thereafter have a period of five (5) Business Days following receipt of such notice within which to renew the Lease notwithstanding that the last date for doing so has passed, provided that the Tenant shall not be permitted to renew the Lease if the Original Term has expired. If the Tenant has failed to exercise its right to renew the Lease for the Renewal Term pursuant to Section 3.02 of this Lease, the Landlord shall not be permitted to draw upon the Cash Collateral on or before the last day of the Original Term unless it complies with the provisions of this paragraph. Any amount of the Cash Collateral so drawn by the Landlord may be applied to any outstanding obligations of the Tenant under this Lease including the obligation of the Tenant to make payment to the Landlord of the amount provided in Section 15.02.

The Trust Agreement shall be terminated following payment of the final instalment of the capital rent payments required to be made during the Renewal Term as set out in Schedule E, provided that at such time no Event of Default or no event, which, with the giving of notice or lapse of time, or both, would constitute an Event of Default, has occurred which is continuing.

The Landlord, the Tenant and the Trustee shall enter into the Trust Agreement on or prior to the time of the initial deposit of Cash Collateral with the Trustee as herein provided.

**ARTICLE 16**

**MISCELLANEOUS**

16.01 **Notices.** Any notice, demand, statement or request (in this Section referred to as "notice") herein required or permitted to be given under this Lease shall be in writing and shall be deemed to have been sufficiently and effectively given if signed by or on behalf of the party giving the notice and personally delivered or mailed by registered prepaid post or sent by telecopy:

- (a) in the case of notice to the Landlord, to it at:

London Life Insurance Company  
255 Dufferin Avenue  
London, Ontario  
N6A 4K1

Attention: Vice-President, Private Placements  
Telecopy No. (519) 432-9035; and

- (b) in the case of notice to the Tenant, to it at:

the Building

Attention: Business Manager, Edmonton Journal  
Telecopy No. (403) 429-5130

with a copy to the Tenant's Toronto office at:

150 Bloor Street West  
Suite 900  
Toronto, Ontario  
M5S 2Y8

Attention: Vice-President and Treasurer  
Telecopy No. (416) 927-8741

Any such notice given as aforesaid shall be deemed to have been given, if delivered, on the date of such delivery or, if mailed, on the fifth day following the date of such mailing or, if telecopied, on the Business Day next following the date of transmission of

such notice. The Landlord may from time to time by notice change the address to which notices to it are to be given. Notwithstanding the foregoing, during any interruption, threatened interruption or substantial delay in postal services, any notice shall be personally delivered or sent by telecopy. If a copy of any notice to the Tenant is to be sent to a second address or to another Person other than the Tenant, the failure to give any such copy shall not vitiate the delivery of the notice to the Tenant.

**16.02 Registration of Lease.** Neither the Tenant nor anyone on the Tenant's behalf or claiming under the Tenant shall register this Lease or any other instrument pertaining to this Lease against the Lands. The Landlord may, in its discretion, register a copy of this Lease against the Lands and the Tenant, upon request of the Landlord, shall join in the execution of a notice of this Lease solely for the purpose of supporting an application for registration of this Lease or any subsequent dealing therewith.

**16.03 Overholding - No Tacit Renewal.** If the Tenant remains in possession of the Premises or any part thereof after the end of the Term with the consent of the Landlord but has not executed and delivered a new lease, there shall be no tacit renewal of this Lease or the Term, notwithstanding any statutory provisions or legal presumption to the contrary, and the Tenant shall be deemed to be occupying the Premises as a tenant from month to month at a monthly Minimum Rent payable in advance on the first day of each month equal to one-twelfth of an amount equal to 150% of the Annual Minimum Rent paid in the last year of the Term or Renewal Term, as the case may be, and otherwise upon the same terms, covenants and conditions as are set forth in this Lease insofar as these are applicable to a monthly tenancy but, for greater certainty, including liability for all Additional Rent. In the event that the Tenant has title to the Building Strata Parcel and the Building transferred to it in accordance with Section 15.01, the requirement that the Tenant pay Minimum Rent pursuant to this Section 16.03 shall be waived.

**16.04 Unavoidable Delay.** If and to the extent that either the Landlord or the Tenant shall be prevented, delayed or restricted by reason of Unavoidable Delay in the fulfilment of any obligation hereunder, then either the Landlord or the Tenant, as the case may be, shall be deemed not to be in default in the performance of such covenant or obligation and any period for the performance of such obligation shall be extended accordingly and the other party to this Lease shall not be entitled to compensation for any loss, inconvenience, nuisance or discomfort thereby occasioned, provided that in no event will the Tenant be relieved of its obligation to pay Rent as it becomes due. Notwithstanding the foregoing, the date on which the Tenant is obligated to complete construction of the Stage II Building shall not in any event be extended beyond December 31, 1991.

**16.05 Waiver.** If either the Landlord or Tenant excuses or condones any default of the other of any obligation under this Lease, no waiver of such obligation shall be implied as a result of any continuing or subsequent default.

16.06 Partial Payment of Rent. Acceptance by the Landlord of a lesser amount than the monthly payment of Rent herein stipulated and any endorsement or statement on any cheque or documentation accompanying any payment of Rent shall not be deemed an acknowledgement of full payment or an accord and satisfaction, and the Landlord may accept such payment without prejudice to the Landlord's right to recover the balance of such Rent or to pursue any other remedy provided in this Lease.

16.07 Planning Act. This Lease is expressly conditional upon compliance with the *Planning Act* (Alberta) and any amendments thereto.

16.08 Decision of Expert. The decision of any Expert whenever provided for under this Lease and any certificate related thereto shall be final and binding on the parties hereto and there shall be no further right of dispute or appeal.

16.09 Quiet Enjoyment. If the Tenant pays the Rent, fully performs all its obligations under this Lease and there has been no Event of Default which is continuing, then the Tenant shall be entitled, subject to the provisions of this Lease to peaceful and quiet enjoyment of the Premises for the Term without interruption or interference by the Landlord or any Person claiming through the Landlord.

16.10 Survival. The obligations of the Tenant under this Lease shall survive the termination or permitted assignment or partial assignment of this Lease.

16.11 Interest on Overdue Obligations. Each of the Landlord and the Tenant agree that, to the extent not otherwise provided herein, any amounts payable by one to the other pursuant to the provisions of this Lease shall bear interest at a rate per annum equal to the Prime Rate plus 2%, calculated daily and compounded monthly in arrears, from and after the date any such payment was due to and including the date upon which such payment is ultimately made, with interest on overdue interest at the same rate, both before and after demand, default and judgment.

16.12 Governing Law. This lease shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein.

IN WITNESS WHEREOF the parties hereto have executed this Lease under seal.

LONDON LIFE INSURANCE COMPANY

by T. W. Chapman  
Richard S. [Signature] C.S.

SOUTHAM INC.

by [Signature]  
Brian L. [Signature] C.S.



SCHEDULE A-1

BUILDING STRATA PARCEL

STRATA BLOCK A  
PLAN 9023628, EDMONTON

RESERVING THEREOUT ALL MINES AND MINERALS

SCHEDULE A-2

GROUND STRATA LANDS

LOT A, BLOCK 1  
PLAN 9023625, EDMONTON  
EXCEPTING THEREOUT STRATA BLOCKS A AND B AS SHOWN ON  
STRATA PLAN 9023628  
(HUDSON'S BAY RESERVE)

RESERVING THEREOUT ALL MINES AND MINERALS

SCHEDULE A-3

TOWER STRATA PARCEL

STRATA BLOCK B  
PLAN 9023628, EDMONTON

RESERVING THEREOUT ALL MINES AND MINERALS

SCHEDULE B

PHASE II LANDS

LOTS 73 AND 74  
BLOCK 1, PLAN B, EDMONTON  
(HUDSON'S BAY RESERVE)

RESERVING THEREOUT ALL MINES AND MINERALS

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**SCHEDULE C**

**AGREED CASUALTY VALUE**

**LEASE YEAR**

**CASUALTY VALUE**

1	\$16,141,000
2	16,375,000
3	16,597,000
4	16,810,000
5	17,010,000
6	17,200,000
7	17,375,000
8	17,440,000
9	17,370,000
10	17,265,000
11	17,140,000
12	16,985,000
13	16,800,000
14	16,565,000
15	16,105,000

**SCHEDULE D**

**Minimum Rent**

<u>Rental Payment Payment Date</u>	<u>Minimum Rent Payment For Building</u>	<u>Minimum Rent Payment For Land</u>	<u>Aggregate Minimum Rent Payment</u>
September 30, 1991	\$834,700	\$75,000	\$ 909,700
March 31, 1992	834,700	75,000	909,700
September 30, 1992	834,700	75,000	909,700
March 31, 1993	834,700	75,000	909,700
September 30, 1993	834,700	75,000	909,700
March 31, 1994	834,700	75,000	909,700
September 30, 1994	834,700	75,000	909,700
March 31, 1995	834,700	75,000	909,700
September 30, 1995	834,700	75,000	909,700
March 31, 1996	834,700	75,000	909,700
September 30, 1996	834,700	75,000	909,700
March 31, 1997	834,700	75,000	909,700
September 30, 1997	834,700	75,000	909,700
March 31, 1998	834,700	75,000	909,700
September 30, 1998	959,905	75,000	1,034,905
March 31, 1999	959,905	75,000	1,034,905
September 30, 1999	959,905	75,000	1,034,905
March 31, 2000	959,905	75,000	1,034,905
September 30, 2000	959,905	75,000	1,034,905
March 31, 2001	959,905	75,000	1,034,905
September 30, 2001	959,905	75,000	1,034,905
March 31, 2002	959,905	75,000	1,034,905
September 30, 2002	959,905	75,000	1,034,905
March 31, 2003	959,905	75,000	1,034,905
September 30, 2003	959,905	75,000	1,034,905
March 31, 2004	959,905	75,000	1,034,905
September 30, 2004	959,905	75,000	1,034,905
March 31, 2005	959,905	75,000	1,034,905
September 30, 2005	959,905	75,000	1,034,905
March 30, 2006	959,905	75,000	1,034,905

## MINIMUM RENT

Note: Confirm that the foregoing Minimum Rent includes the following:

- I. Ground Lease Rent;
- II. Rent referable to purchase price paid for Stage I;
- III. Rent referable to purchase price paid for Stage II (factored in commencing with the June 30, 1991 rental payment).

## SCHEDULE E

### Minimum Rent - Renewal Term

<u>Rental Payment Date</u>	<u>Capital Rent Payments</u>	<u>Outstanding Balance of Capital</u>	<u>Minimum Rent Payment</u>
--	--	\$15,600,000	See below*
September 30, 2006	1,240,200	14,359,800	
March 31, 2007	1,302,288	13,057,512	
September 30, 2007	1,367,340	11,690,172	
March 31, 2008	1,435,824	10,254,348	
September 30, 2008	1,507,584	8,746,764	
March 31, 2009	1,582,932	7,163,832	
September 30, 2009	1,662,024	5,501,808	
March 31, 2010	1,745,172	3,756,636	
September 30, 2010	1,832,376	1,924,260	
March 31, 2011	1,924,260	---	
And September 30 and March 31 of each year thereafter for the balance of the Renewal Term	---	---	

\* The semi-annual Minimum Rent payments to be made during the Renewal Term shall be equal to the sum of:

- (a) an amount equivalent to the semi-annual capital rent payments to be made on the relevant rental payment date as outlined above; plus
- (b) an amount equal to the Rate of Return (as hereinafter defined) on the outstanding balance of the capital invested by the Landlord at the commencement of the semi-annual period in respect of which such minimum rent payment is being made as outlined above; plus
- (c) if the Landlord is the owner, a lessee or a sub-lessee of the Adjacent Lands, an amount equivalent to the then fair market rental, as agreed upon between the Landlord and the Tenant, for the Adjacent Lands, whether the Landlord is at such time the owner of the Adjacent Lands or is merely a lessee or sub-lessee of the Adjacent Lands. If the Landlord and the Tenant are unable to agree upon the fair market semi-annual rental for the Adjacent Lands, the fair market semi-annual rental for the Adjacent Lands shall be deemed to be the amount stipulated by the Landlord as such.

For the purposes of determining Minimum Rent, the "Rate of Return" shall mean the average of the two highest of three quotes obtained by the Tenant from recognized independent Canadian investment dealers selected by the Tenant of the annualized yield to maturity at which such investment dealers would be prepared to advance to the Tenant, for a term of 5 years, an amount equivalent to the cost to the



Landlord of the Building and the Building Strata Parcel including, without limitation, any land transfer or other taxes, royalty fees and commissions paid or payable by the Landlord in connection with the acquisition by it of the Building and the Building Strata Parcel plus one-eighth of one percent.

## SCHEDULE F

The following is a complete list of the documents prepared by the firm of Schmidt, Feldberg, Croll, Henderson, (Architects and Engineers), dated 88/05/20:

- (i) Existing Context Plan and Issues;
- (ii) Proposed Public Improvements;
- (iii) Landscape and Legal Plot Plan;
- (iv) Parking Level 1 and Parking Level 2;
- (v) First Floor Plan;
- (vi) Second Floor Plan;
- (vii) Third Floor Plan;
- (viii) Fourth Floor Plan;
- (ix) Fifth Floor Plan;
- (x) Penthouse/Roof Plan;
- (xi) Typical Floor Plan/Future Office Tower;
- (xii) Section A-A;
- (xiii) Section B-B;
- (xiv) Section C-C;
- (xv) McDonald Drive South Elevation;
- (xvi) 101 Street East Elevation;
- (xvii) Lane North Elevation and Lane West Elevation;
- (xviii) Project Phasing (Phases 1, 2, 3 and 4); and
- (xix) Plan (showing topographical & detailed survey of lots 84 to 88 inclusive, in block 1, Plan B).

The following is a complete list of the documents prepared by the firm of Schmidt, Feldberg, Croll, Henderson, (Architects and Engineers), dated 88/03/21:

- (i) Level 1;
- (ii) Level 2;
- (iii) Level 3;
- (iv) Level 4;
- (v) Level 5;
- (vi) Ground Floor Plan;
- (vii) Second Floor Plan;
- (viii) First Basement;
- (ix) Plans Showing Straight Modifications and Improvements on 101 and 102 Streets and McDonald Drive;
- (x) Landscape Plan;
- (xi) Third Floor Plan;
- (xii) Site Plan;
- (xiii) Photograph of Model;
- (xiv) Level 1 (at Phases 1 and 2);
- (xv) Level 2;
- (xvi) Level 3;
- (xvii) Level 4;
- (xviii) Level 5.

The following is a complete list of the Project specifications compiled by the Schmidt, Feldberg, Croll, Henderson (Architects and Engineers), including an addendum thereto:

- (i) Instructions to Bidders;
- (ii) Tender Security;
- (iii) Stipulated Price Tender Form;
- (iv) List of Subcontractors and Cost Breakdown;
- (v) General Conditions of the Contract;
- (vi) Supplementary General Conditions;
- (vii) List of Drawings;
- (viii) Summary of Work;
- (ix) PC Sums/Contingencies;
- (x) Co-ordination;
- (xi) Field Engineering;
- (xii) Regulatory Requirements;
- (xiii) General Instructions;
- (xiv) Submittals;
- (xv) Quality Control;
- (xvi) Construction Facilities;
- (xvii) Protection of Work;
- (xviii) Material and Equipment;
- (xix) Contract Closeout;
- (xx) Take-Over Procedures;
- (xxi) Foundation Report;
- (xxii) Site Preparation;
- (xxiii) Selective Demolition;
- (xxiv) Excavation and Backfill;
- (xxv) Site Grading;
- (xxvi) Subgrade Preparation;
- (xxvii) Granular Base;
- (xxviii) Cast-In-Place Concrete Piles;
- (xxix) Asphalt Paving (Repairs);
- (xxx) Concrete Paving;
- (xxxi) Cast-In-Place Concrete;
- (xxxii) Concrete Finishes;
- (xxxiii) Unit Masonry;
- (xxxiv) Granite;
- (xxxv) Structural Steel;
- (xxxvi) Metal Decking;
- (xxxvii) Custom Steel Fabrications;
- (xxxviii) Rough Carpentry;
- (xxxix) Finish Carpentry;
- (xl) Cast Filled Acrylic Fabrication;
- (xli) Damproofing & Waterproofing;

29

30

31

32

(xlii)	Insulation;	
(xliii)	Metal Cladding;	
(xliv)	Roofing;	21
(xlv)	Metal Flashings;	
(xlvi)	Sealants;	30
(xlvii)	Hollow Metal Frames;	
(xlviii)	Hollow Metal Doors	3
(xlix)	Aluminum Doors, Sidelights and Screens;	
(l)	Special Doors;	3
(li)	Finish Hardware;	
(lii)	Glass and Glazing;	
(liii)	Curtain Wall, Windows and Awnings;	
(liv)	Door Schedule;	
(lv)	Gypsum Wallboard;	
(lvi)	Ceramic Tile;	
(lvii)	Acoustic Unit Ceilings;	
(lviii)	Interior Granite;	
(lix)	Resilient Flooring;	
(lx)	Carpet;	
(lxi)	Site Painting and Finishing;	
(lxii)	Finish Schedule;	
(lxiii)	Fabric Wall Covering;	
(lxiv)	Vinyl Wall Covering;	
(lxv)	Metal Washroom Partitions and Screens;	
(lxvi)	Access Flooring;	
(lxvii)	Accordion Doors;	
(lxviii)	Washroom Accessories;	
(lxix)	Miscellaneous Specialties;	
(lxx)	Window Washing Davits;	
(lxxi)	Parkade Equipment;	
(lxxii)	Venetian Blinds and Window Blinds;	
(lxxiii)	Sound Isolation Control;	
(lxxiv)	Elevators;	
(lxxv)	Alternative Equipment and Suppliers;	
(lxxvi)	Unit Prices;	
(lxxvii)	General Mechanical Provisions;	
(lxxviii)	Mechanical Identification;	
(lxxix)	Documentation;	
(lxxx)	Mechanical Spare Parts & Maintenance Materials;	
(lxxxi)	Motors;	
(lxxxii)	Testing;	
(lxxxiii)	Mechanical Systems Balancing;	
(lxxxiv)	Chemical Treatment and Procedures;	
(lxxxv)	Pipe and Pipe Fittings;	
(lxxxvi)	Pipe and Duct Penetrations;	
(lxxxvii)	Ceiling and Wall Penetrations;	

xxviii)	Pipe and Equipment Supports;	
xxix)	Valves	
(xc)	Pressure Gauges and Thermometers;	29
(xci)	Meters;	
(xcii)	Pumps;	30
(xciii)	Reciprocating Air Compressors & Accessories;	
(xciv)	Expansion Compensation;	
(xcv)	Tanks;	31
(xcvi)	Mechanical Vibration Control;	
(xcvii)	Piping and Equipment Insulation;	32
(xcviii)	Ductwork and Breeching Insulation;	
(xcix)	Plumbing Specialties;	3
(c)	Plumbing Fixtures and Trim;	
(ci)	Wet Pipe Sprinkler Systems;	3
(cii)	Standpipe and Hose Systems;	
(ciii)	Hand Held Fire Extinguishers;	
(civ)	Hot Water Packaged Water Tube Boilers;	
(cv)	Direct Expansion Refrigeration Systems;	
(cvi)	Centrifugal Chillers;	
(cvii)	Packaged Induced Draft Cooling Tower;	
(cviii)	Glycol System;	
(cx)	Hydronic Systems Specialties;	
(cxi)	Shell and Tube Heat Exchangers;	
(cxii)	Terminal Heat Transfer Units;	
(cxiii)	Coils;	
(cxiiii)	Air Handling Units;	
(cxv)	Single Duct Air Terminal Units;	
(cxvi)	Packaged Terminal Air Conditioning Units;	
(cxvii)	Computer Room Air Conditioning Units (Larger than 17 kW);	
(cxviii)	Evaporative Media Humidifier;	
(cxviiii)	Direct Gas Fired Air Units;	
(cxix)	Fans;	
(cxx)	Ductwork;	
(cxxi)	Breeching and Chimneys;	
(cxxii)	Duct Accessories;	
(cxxiii)	Air Outlets and Inlets;	
(cxxiv)	Air Filters;	
(cxxv)	Silencers;	
(cxxvi)	Controls;	
(cxxvii)	BMCS General Provisions;	
(cxxviii)	Field Instrumentation;	
(cxxix)	Remote Processing Unit;	
(cxxx)	Input/Output Communication Devices; and	
(cxli)	Point Schedules and Control Sequences.	



THIS ASSUMPTION AND GUARANTEE AGREEMENT made as of October 30, 2000.

AMONG:

THE EDMONTON JOURNAL GROUP ULC  
("EJGI")

- and -

LONDON LIFE INSURANCE COMPANY  
("London Life")

- and -

CANWEST GLOBAL COMMUNICATIONS CORPORATION  
(the "Guarantor").

RECITALS:

- A. CanWest Global Communications Corporation ("CanWest") has advised London Life of a pending transaction between CanWest and Hollinger International Inc., and certain of its affiliates, whereby CanWest through a subsidiary ("Global Communications Limited"), will purchase ("Purchase") certain of Hollinger's Canadian newspaper assets (collectively, the "Hollinger Canadian Newspaper Interests") including the assets of Southam Inc. ("Southam") described hereinafter.
- B. The Purchase will be effected by a series of related transactions (the "Reorganization"), including the following:
- (i) Southam and its affiliates will transfer the assets used in each separate newspaper business, including the Edmonton Journal business, to a number of new corporations (each a "Newco"), in the case of the Edmonton Journal business to "The Edmonton Journal Group ULC";
  - (ii) The shares of each Newco will be transferred to a new corporation to be incorporated by Southam or an affiliate (each a "Holdco"), the shares of each of which will be acquired by Global Communications Limited. The Newco and Holdco referable to each business unit will amalgamate and continue under the *Canada Business Corporations Act* (each an "Amalco"). In the case of the Edmonton Journal business, the Amalco is expected to be called "The Edmonton Journal Group Inc.";
  - (iii) Global Communications Limited, EJGI and all other Amalcos including EJGI will grant security interests in their respective assets in favour of certain Senior Secured Lenders (the "Secured Lenders") in connection with the financing of the Purchase ("Financing");

- (iv) Global Communications Limited, will hold all of the shares of each Amalco, and through each Amalco, will operate the transferred businesses and carry out, or cause the applicable Amalco to carry out, all of the obligations of Southam which related to such businesses prior to their transfer.

C. The assets of Southam which will be transferred and ultimately held by EJGI as part of the Reorganization include the following:

- (i) Southam's interest in the Ground Strata Lands and Tower Strata Parcel, each defined and described in Schedule "A" hereto (collectively, the "Lands");
- (ii) Southam's interest as ground landlord in a ground lease ("Ground Lease") dated April 1, 1991, pursuant to which the Ground Strata Lands and Tower Strata Parcel were leased to London Life;
- (iii) Southam's interest, as tenant, under a building operating lease (the "Building Operating Lease") dated April 1, 1991, pursuant to which the Ground Strata Lands and Tower Strata Parcel were sublet by London Life, as landlord, to Southam, and London Life's interest in the Journal Building ("Building") and related Building Strata Parcel (defined and described in Schedule "A") was leased to Southam;
- (iv) Southam's interest in the agreement made between London Life and Southam dated April 1, 1991 ("London Life Purchase Agreement");
- (v) Southam's interest in the agreement made between the City of Edmonton and Southam dated December 22, 1988;

(collectively, the "Underlying Agreements");

D. Each of the Ground Lease and the Building Operating Lease require the consent of London Life to any financing of the Lands, Southam's interest as Landlord in the Ground Lease, and Southam's interest as tenant in the Building Operating Lease (collectively, the "Land Interests").

E. Each of the Ground Lease, and the London Life Purchase Agreement requires the consent of London Life to the transfer by Southam of its interests therein pursuant to the Purchase.

F. The parties have agreed to enter into this Agreement.

**THEREFORE** in consideration of other good and valuable consideration and the sum of \$10.00 now paid by each party to each other party hereto, the receipt and sufficiency of which are hereby acknowledged by all parties hereto, the parties agree as follows:



**1. Effective Date**

This Agreement shall come into full force and effect upon the date the Purchase is completed ("Effective Date").

**2. EJGI's Covenants and Representations**

EJGI covenants and agrees with and represents to London Life that:

- (a) notwithstanding any act of EJGI, the Underlying Agreements are good, valid and subsisting agreements; and
- (b) EJGI has not assigned, sublet, charged or otherwise dealt with its interest in the Underlying Agreements, save and except in favour of the Secured Lenders pursuant to the terms of the Financing which will come into effect upon the Effective Date.

**3. EJGI's Covenants**

EJGI covenants with London Life that, from and after the Effective Date, EJGI will assume and be bound by the Underlying Agreements and all other agreements affecting the Lands, the Building and the Building Strata Parcel to the extent such agreements comprise obligations of Southam, either as owner, landlord or tenant of the Land Interests and, without limitation will pay the rent and other amounts payable by Southam under the Underlying Agreements and perform the obligations of Southam under the Underlying Agreements .

**4. London Life's Consent**

- (a) London Life consents to:
  - (i) the transfer of the Land Interests and waives its rights pursuant to Article Six of the London Life Purchase Agreement to receive an offer to sell as a consequence of the Purchase and Reorganization relating to the Land Interests to be transferred to EJGI ("Transferee"), provided that nothing herein shall waive the requirement of the Transferee to comply with the provisions of Article Six of the London Life Purchase Agreement with respect to any further transfer of the Land Interests by the Transferee; and
  - (ii) the transfer of the Land Interests and the interest of the Landlord under the Ground Lease to the Transferee pursuant to Section 5.02(3) of the Ground Lease, provided that nothing herein shall waive the requirement of the Transferee to comply with the provisions of Section 5.02(3) of the Ground Lease with respect to any further transfer of the Land Interests and interest of the Landlord under the Ground Lease by the Transferee.
- (b) The consents in Section 4(a) are subject to the condition that London Life's consent does not extend to any further or other assignment or subletting or parting with possession of all or any part of the Land Interests.

London Life agrees that it will not unreasonably withhold its consent to a further transfer of the Land Interests and Underlying Agreements to a direct or indirect affiliate of CanWest or an entity which is a successor by amalgamation to EJGI provided in each case such successor and the Guarantor enter into an agreement with London Life on the terms of this Agreement with necessary modifications.

**5. London Life's Acknowledgement**

London Life acknowledges that to the best of its knowledge the Underlying Agreements are good, valid and subsisting agreements and have not been amended or supplemented and that there is no existing default under the Underlying Agreements by any of the parties thereto of which London Life is aware.

**6. Guarantee and Indemnity**

- (a) The Guarantor hereby unconditionally and irrevocably guarantees to London Life, its successors and assigns, due and punctual payment and performance to London Life upon demand of all debts, liabilities and obligations of or owing by EJGI at any time and from time to time, present and future, direct and indirect, absolute and contingent, matured or not, arising from the obligations of EJGI under this Assumption and Guarantee Agreement (collectively, the "Obligations").
- (b) In addition to the guarantee contained herein, the Guarantor hereby covenants and agrees to indemnify and save London Life harmless from and against all costs, losses, expenses and damages it may suffer as a result of EJGI's default in the performance of any of the Obligations, including without limitation, legal fees (on a solicitor and client basis) incurred by or on behalf of London Life resulting from any action instituted on the basis of this Guarantee.

**7. Principal Obligor**

The Guarantor acknowledges and confirms that its liability will not be affected or discharged by, and that it will not raise, advance or rely upon, any defence that would not have been available to it if it had been principal debtor, for any amounts guaranteed hereunder.

**8. Payment and Interest**

- (a) The Guarantor shall unconditionally render any payment or performance guaranteed hereunder, upon demand made in accordance with the terms hereof, if EJGI fails or refuses to punctually make such payment or performance.
- (b) Nothing but payment and satisfaction in full of the Obligations shall release the Guarantor from the Guarantor's obligations hereunder.

**9. Continuing Obligation, Authority and Enforceability**

- (a) No document, proof or other action other than as specifically provided herein is necessary as a condition of the Guarantor honouring its obligations hereunder.

The Guarantee shall be a continuing guarantee, shall cover all the Obligations, and shall apply to and secure any ultimate balance due or remaining unpaid to London Life.

- (b) The Guarantee shall be a continuing guarantee regardless of:
- (i) whether any other person or persons (an "Additional Guarantor") shall become in any other way responsible to London Life for, or in respect of, the Obligations, or any part thereof;
  - (ii) whether any such Additional Guarantor shall cease to be so liable; or
  - (iii) the enforceability, validity, perfection or effect of perfection or non-perfection of any security interest securing the Obligations, or the validity or enforceability of any of the Obligations.

The Guarantee shall not be determined or affected, or the rights of London Life hereunder prejudiced by, the termination of any Obligations by operation of law or otherwise, including without limitation, the bankruptcy, insolvency, dissolution or liquidation of EJGI, any change in the name, business, powers, capital structure, constitution, objects, organization, directors or management of EJGI, with respect to transactions occurring either before or after such change. The Guarantee is to extend to the person or persons for the time being and from time to time carrying on the business now carried on by EJGI, notwithstanding any reorganization of EJGI or the Guarantor or the amalgamation of EJGI or the Guarantor with one or more other corporations (in this case, this Guarantee shall apply to the liabilities of the resulting corporation and the term "EJGI" shall include such resulting corporation) or the sale or disposal of EJGI's or the Guarantor's business in whole or in part to one or more other persons. The Guarantor hereby agrees that the manner in which London Life may now or hereafter deal with the Additional Guarantor shall have no effect whatsoever on the continuing liability of the Guarantor hereunder.

- (c) By execution of this agreement, the Guarantor represents and warrants to London Life that it has obtained all corporate and other authorizations, consents and approvals necessary for the granting and performance of this Guarantee and that the Guarantee is enforceable against the Guarantor in accordance with its terms. London Life shall not be concerned to see or inquire into the powers of EJGI or any of its directors or other agents, acting or purporting to act on its behalf, and all liabilities and obligations of EJGI to London Life shall be deemed to form part of the Obligations notwithstanding any lack or limitation of status or power, incapacity of EJGI or of the directors, or that EJGI may not be a legal entity capable of being sued, or any irregularity, defect or informality in the borrowing or obtaining of such moneys, advances, renewals or credits, whether known to London Life or not.

10. **Postponement of Claims and Subrogation**

- (a) All claims against EJGI relating to the Underlying Agreements now or hereafter held by the Guarantor and all rights of subrogation of the Guarantor with respect thereto (all such claims and rights being hereinafter referred to as the "Claims") shall be for the security of London Life and, as between the Guarantor and London Life, the same are hereby postponed to the repayment and performance of the Obligations. Until all of the Obligations shall have been satisfied in full, any money received by the Guarantor in respect of any such Claims shall be received by the Guarantor in trust for London Life and shall be paid forthwith to London Life to be applied against, or held as security for, payment of the Obligations, all without prejudice to and without in any way affecting, relieving, limiting or lessening the liability of the Guarantor hereunder.
- (b) As security for and for the purpose of giving effect to the postponement of the Claims, the Guarantor hereby assigns, transfers and sets over and unto London Life all of the Claims and hereby irrevocably constitutes and appoints the officers from time to time of London Life and each of them to be attorneys of the Guarantor in the name of and on behalf of the Guarantor to collect, and enforce or prove any such Claims, and for that purpose to execute and do in the name and on behalf of the Guarantor, all deeds, documents, transfers, assignments, assurances and things, and to commence and prosecute, at the election of and in the sole discretion of London Life, any or all proceedings which may appear to London Life to be necessary or desirable.
- (c) In the event of the bankruptcy, winding up or distribution of the assets of EJGI, the Guarantor or any Additional Guarantor, the rights of London Life shall not be affected or impaired by its omission to prove its claim in full or otherwise and it may prove such claim as it sees fit and may refrain from proving any claim in its sole discretion; and it may but shall not be obliged to prove in respect of the Claims hereby assigned as a debt owing to it by EJGI and London Life shall be entitled to receive all amounts payable in respect thereof, such amounts to be applied on such part or parts of the monies payable from time to time on account of the Obligations as London Life shall in its absolute discretion see fit until all of the Obligations shall have been paid in full and thereafter the Guarantor shall be entitled to the balance, if any, of such amounts; all of which London Life may do without in any way affecting, relieving, limiting or lessening the Guarantor's liability to London Life hereunder.
- (d) The Guarantor acknowledges and agrees that it shall not have any rights of subrogation or indemnification unless it pays the Obligations in full. The Guarantor shall not prove a claim in the bankruptcy of EJGI unless and until the Obligations are repaid in full.
- (e) London Life shall have no duty, obligation or liability whatsoever as a result of the assignment to London Life of the Claims to protect, preserve or to ensure that the Claims do not become prescribed by statute or otherwise invalidated or rendered unenforceable.

11. Amendments and Waivers

- (a) The Guarantor authorizes London Life, at any time and from time to time, without notice to the Guarantor and without affecting, relieving, limiting or lessening the liability of the Guarantor hereunder, to alter the terms of all or any part of the Obligations and any security and guarantees therefor.
- (b) The Guarantor hereby waives each of the following, to the fullest extent allowed by law:
  - (i) all statutes of limitations as a defence to any action brought by London Life against the Guarantor;
  - (ii) any defence based upon:
    - A. the unenforceability or invalidity of all or any part of the Obligations, or any security or other guarantee for the Obligations or any failure of London Life to take proper care of any security for the Obligations;
    - B. any act or omission of EJGI or any other person that directly or indirectly results in the discharge or release of EJGI or any other person or any of the Obligations or any security therefor; or
    - C. London Life's present or future method of dealing with EJGI; .
  - (iii) any right (whether now or hereafter existing) to require London Life, as a condition to the enforcement of this Guarantee:
    - A. to accelerate the Obligations or proceed and exhaust all recourse against EJGI or any other person;
    - B. to realize on any security that it holds;
    - C. to marshal the assets of either EJGI or the Guarantor; or
    - D. to pursue any other remedy that the Guarantor may not be able to pursue itself and that might limit or reduce the Guarantor's burden;
  - (iv) presentment, demand, protest and notice of any kind including, without limitation, notices of default and notice of acceptance of this Guarantee;
  - (v) all suretyship defences and rights of every nature otherwise available under Ontario law and the laws of any other jurisdiction; and
  - (vi) all other rights and defences (legal or equitable) the assertion or exercise of which would in any way diminish the liability of the Guarantor hereunder.

- (c) London Life may deal with EJGI, the documents creating or evidencing the Obligations and the security now or hereafter held by London Life (including without limitation, all modifications, extensions, replacements, amendments, renewals, restatements, supplements to such documents or security) as London Life may see fit, without notice to the Guarantor and without in any way affecting, relieving, limiting or lessening the liability of the Guarantor hereunder. Without limiting the generality of the foregoing, London Life may:
- (i) grant time, renewals, extensions, indulgences, releases and discharges to EJGI;
  - (ii) take new or additional security (including, without limitation, other guarantees) from EJGI;
  - (iii) discharge or partially discharge any or all existing security;
  - (iv) elect not to take security from EJGI or not to perfect security;
  - (v) cease or refrain from giving credit or making loans or advances to EJGI;
  - (vi) accept partial payment or performance from EJGI or otherwise waive compliance by EJGI with the terms of any of the documents or security;
  - (vii) assign any such document or security to any person or persons; or
  - (viii) apply all dividends, compositions and moneys at any time received from EJGI or others or from the security upon such part of the Obligations.

No loss of or in respect of any securities received by London Life from EJGI or others, whether occasioned by the fault of London Life or otherwise, shall in any way affect, relieve, limit or lessen the liability of the Guarantor hereunder.

- (d) No term, condition or provision hereof or any right hereunder, or in respect thereof, shall be, or shall be deemed to have been, waived by London Life, except by express written waiver signed by London Life, all such waivers to extend only to the particular circumstances therein specified.
- (e) Except as provided at law, no action or omission on the part of London Life in exercising or failing to exercise its rights hereunder or in connection with or arising from the Obligations or any part thereof shall make London Life liable to the Guarantor for any loss thereby occasioned to the Guarantor.

## 12. Demand

London Life may make demand in writing to the Guarantor at any time and from time to time, each such written demand to be accepted by the Guarantor as complete and satisfactory evidence of any default by EJGI and the extent thereof, and of the obligations of the Guarantor to make a

payment hereunder and the amount thereof. The Guarantor shall pay to London Life such amount or amounts as are payable hereunder forthwith upon such written demand.

**13. No Representations**

The Guarantor acknowledges that the Guarantee has been delivered free of any conditions and that there are no representations which have been made to the Guarantor affecting the liability of the Guarantor under the Guarantee save as may be specifically embodied herein and agrees that this Guarantee is in addition to and not in substitution for any other guarantee(s) held or which may hereafter be held by or for the benefit of London Life.

**14. Severability**

Any provision of this Agreement prohibited by law or otherwise unenforceable shall be ineffective only to the extent of such prohibition or unenforceability and be severable without invalidating or otherwise affecting the remaining provisions hereof.

**15. Obligations of EJGI under this Agreement**

EJGI hereby agrees to cause The Edmonton Journal Group Inc. (or such other entity as may be amalgamated with EJGI as contemplated in recital B(ii) of this Agreement) forthwith upon completion of its amalgamation and continuance under the *Canada Business Corporations Act* to agree with each of the other parties to this Agreement that such entity is bound by the obligations of EJGI under this Agreement in the same manner and to the same extent as if it had entered into this Agreement in the place and stead of EJGI.

**16. Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Guarantor agrees that any legal suit, action or proceeding arising out of or relating to the Guarantee may be instituted in the courts of the Province of Ontario and the Guarantor hereby accepts and irrevocably submits to the non-exclusive jurisdiction of the said courts and acknowledges their competence and agrees to be bound by any judgment thereof.

**17. Miscellaneous**

(a) Any word herein contained importing the singular number shall include the plural and vice versa, and any word importing any gender will include the masculine, feminine, and neuter genders and any word importing a person will include a corporation, a partnership and any other entity.

(b) Time is and shall be in all respects of the essence hereof.

**18. Notices**

Except as otherwise specifically provided herein, any notice or consent including any invoice, statement or request or other communication (a "Notice") herein required or permitted to be given by either party to the other shall be in writing and shall be delivered by hand or sent by

registered mail (except during a postal disruption or threatened postal disruption) or by telecopier to the applicable address (and telecopier number, if applicable) set forth below:

- (a) in the case of London Life, to:

Suite 2990 Stock Exchange Tower  
300 - 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta, T2P 3C4

Attention: James Midwinter, Vice President Alberta &  
Development Western Canada

Facsimile: (403) 269-3266

- (b) in the case of EJGI to:

C/o CanWest Global Communications Corporation  
31<sup>st</sup> Floor  
Toronto Dominion Centre  
201 Portage Avenue  
Winnipeg, Manitoba, R3B 3L7

Attention: Vice President and General Counsel

Facsimile: (204) 947-9841

- (c) in the case of the Guarantor, to :

31<sup>st</sup> Floor  
Toronto Dominion Centre  
201 Portage Avenue  
Winnipeg, Manitoba, R3B 3L7

Attention: Vice President and general Counsel

Facsimile: (204) 947-9841

Any Notice delivered by hand shall be deemed to have been validly and effectively given on the day of such delivery if delivered before 4:00 p.m. on a Business Day or on the next Business Day if delivered on a non-Business Day or after 4:00 p.m. on the previous Business Day. Any Notice sent by registered mail (except during a postal disruption or threatened postal disruption) shall be deemed to have been validly and effectively given on the third Business Day following the date of mailing. Any Notice sent by telecopier shall be deemed to have been validly and effectively given on the day it was sent if sent before 4:00 p.m. on a Business Day or on the next Business Day if sent on a non-Business Day or after 4:00 p.m. on the previous Business Day.



Any party may from time to time by Notice to the other parties change its address for service hereunder.

**19. Successors and Assigns**

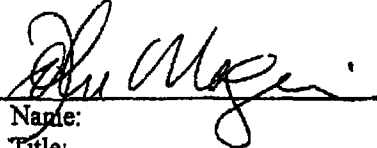
This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

**20. Further Assurances**

Each of the parties hereto agrees to do, make and execute all such further documents, agreements, assurances, acts, matters and things and take such further action as may be reasonably required by any other party hereto in order to more effectively carry out the true intent of this Agreement.



**IN WITNESS OF WHICH** the parties have duly executed this Agreement.

**THE EDMONTON JOURNAL GROUP  
ULC**

By:   
Name:  
Title:

I have authority to bind the corporation.

**LONDON LIFE INSURANCE COMPANY**

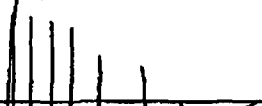
By:   
Name:  
Title:  
By:   
Name: **W. Hrab, CA**  
Title: **Vice President**  
**GWL Realty Advisors Inc.**

KS

I/We have authority to bind the corporation.

**CANWEST GLOBAL  
COMMUNICATIONS CORP.**

By:

  
\_\_\_\_\_  
Name:  
Title:

By:

\_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the corporation.

**SCHEDULE "A"**

10006-101 Street N.W.  
Edmonton, Alberta  
Plan 9023625  
Block 1  
Lot A  
Except: Plan 9023628, Strata Block A and Strata Block B  
Excepting all mines and minerals

("Ground Strata Lands")

10006-101 Street N.W.  
Edmonton, Alberta  
Plan 9023628  
Strata Block B  
Excepting all mines and minerals

("Tower Strata Parcel")

10006-101 Street N.W.  
Edmonton, Alberta  
Plan 9023628  
Strata Block A  
Excepting all mines and minerals

("Building Strata Parcel")

# APPENDIX "G"

**LEASE**

**LANDLORD:** **SODICAN (B.C.) INC.**  
**TENANT:** **LOWER MAINLAND PUBLISHING GROUP INC**  
**ADDRESS OF PREMISES:** # 100 – 126 East 15<sup>th</sup> Street, North Vancouver, B.C. V7L 2P9  
**DATE OF LEASE:** March 10, 2005  
**LEASE COMMENCEMENT:** April 12, 2005  
**LEASE EXPIRES:** March 31, 2015

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**SCHEDULE "A" - THE PREMISES**

**SCHEDULE "B" - RULES AND REGULATIONS**

**SCHEDULE "C" - ESTOPPEL CERTIFICATE**

**SCHEDULE "D" - LANDLORD'S WORK AND TENANT'S WORK**

THIS LEASE dated for reference the 10<sup>th</sup> day of March, 2005 is made

BETWEEN:

SODICAN (B.C.) INC., of 300 – 224 West Esplanade, North Vancouver,  
British Columbia V7M 3M6 (Fax No.: 604.988.0629)

(the "Landlord");

AND:

LOWER MAINLAND PUBLISHING GROUP INC., whose address for  
purposes hereof until the Commencement Date, being 3355 Grandview  
Highway, Vancouver, B.C. (Fax No.: 604.985.3227) and thereafter  
being that of the Premises (Fax No.: 604.985.3227)

(the "Tenant");

WHEREAS:

A. The Landlord is the registered owner of the Lands; and

B. The Tenant has agreed to lease space in part of the Building which is defined herein as the Premises for the Term and at the rental and subject to the terms, covenants, conditions and agreements contained in this Lease.

WITNESSES THAT:

### 1. BASIC TERMS

The parties to this Lease approve the following terms ("**Basic Terms**") and agree that each reference in this Lease to the Basic Terms includes the provisions set out in this Section 1 as well as all the additional terms and conditions in this Lease where the Basic Terms are more fully set out:

a) Tenant's Operating Name:	LOWER MAINLAND PUBLISHING GROUP INC.
b) Project:	the Lands and the Building
c) Lands:	126 East 15 <sup>th</sup> Street, British Columbia and more particularly described as: <b>Strata Lots 1 – 8, District Lot 549, Group 1, New Westminster District, Strata Plan VR 1152</b>
d) Building:	An office <i>[and commercial/retail]</i> building and related improvements on the Lands
e) Premises:	# 100 and # 301 – 126 East 15 <sup>th</sup> Street, North Vancouver, British Columbia, being the portion of the Building outlined in heavy black on the plan attached hereto as Schedule "A"
f) Area of	Approximately 11,511 square feet <b>and approximately 664 square feet for a total of</b>

	Premises:	<b>approximately 12,175 sq.ft.</b>					
g)	Initial Term:	<b>10 years</b>					
h)	Commencement Date:	<b>April 12, 2005</b>					
i)	Base Rent:						
	Lease Year:	<u>1</u>	<u>2-3</u>	<u>4</u>	<u>5</u>	<u>6-8</u>	<u>9-10</u>
	Per year:	\$133,925.00	\$146,100.00	\$158,275.00	\$170,450.00	\$182,625.00	\$194,800.00
	Per month:	\$11,160.42	\$12,175.00	\$13,189.58	\$14,204.17	\$15,218.75	\$16,233.33
	Per square foot per year:	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00	\$16.00
	Storage	The Tenant will have exclusive use of the 567 square foot storage unit on the first floor during the Term of the lease at \$10.00 per sq.ft. per annum not subject to additional rent.					
j)	Permitted Use:	The premises are to be used as office for administrative and publishing of the North Shore News papers or any other publication and any associated uses, and for no other purposes without the prior approval of the Landlord, not to be unreasonably withheld, as set out in the Lease					
k)	Parking Stalls:	24 reserved parking stalls in the Building during the Term of the Lease at \$75.00 per month per stall for the first five years of the Term and \$ 85.00 per stall per month for the balance of the Term. The Landlord will also provide the Tenant the option to have an additional 25 reserved parking stalls in the Building, subject to availability, during the Term of the Lease and any option thereafter at then prevailing market rates, currently \$ \$75.00 per stall, per month, plus taxes.					
l)	Deposit:	\$23,453.18 including GST to be applied to the first months rent.					
m)	Right to Extend / Extension Term:	The tenant shall have two (2) options to extend the Term for ten (10) years each.					
n)	Offer to Lease	Offer to Lease dated March 8, 2005 and made between the Landlord and the Tenant with respect to the Premises.					
o)	Additional Rent	The additional rent payable is currently estimated at \$11.85 per square foot per annum					

## 2. DEFINITIONS

In this Lease, the following expressions will have the following meanings:

## 2.1 Additional Rent

“Additional Rent” means the payment of Operating Costs and Taxes and all other sums of money which the Tenant is required to make under this Lease, whether or not the same are designated as “Additional Rent” or payable to the Landlord or otherwise.

## 2.2 Additional Services

“Additional Services” means the services and supervision supplied by the Landlord and referred to in Section 7.6 or in any other provision hereof as Additional Services, and any other services which from time to time the Landlord supplies to the Tenant and which are additional to the janitor and cleaning and other services which the Landlord has agreed to supply pursuant to the provisions of this Lease and to like provisions of other leases of the Building or may elect to supply to be included within the standard level of services available to tenants generally and includes janitorial and cleaning services in addition to those normally supplied, the provision of labour and supervision in connection with deliveries, supervision in connection with the moving of any furniture or equipment of ~~any tenant~~ the Tenant and the making of any repairs or alterations by ~~any tenant~~ the Tenant and maintenance or other services not normally furnished to tenants generally.

## 2.3 Architect

“Architect” means the architect, engineer, surveyor or quantity surveyor selected by the Landlord from time to time for the purposes of making any determinations hereunder.

## 2.4 Area of Premises

“Area of Premises” means the aggregate of the area(s) specified in Section 1(f) as may be amended by the Landlord from time to time which area(s) is an estimate of the area described in the part of the definition of Rentable Area in Section 2.37(a)(i) if the Premises occupy an entire floor or an estimate of the area described in Section 2.37(b)(i) if the Premises consist of part of a floor.

## 2.5 Authority

“Authority” means any federal, provincial, regional or municipal government, ministry, department, board, agency, court or other authority (including suppliers of public utilities) having or claiming jurisdiction over the Premises, the parties hereto or any other matter contemplated herein.

## 2.6 Base Rent

“Base Rent” means the rent payable by the Tenant pursuant to Section 4.2.

## 2.7 Building

“Building” means all buildings (including the building described in Section 1(d) and the Common Areas), structures, improvements, facilities, equipment and appurtenances now or hereafter located on the Lands from time to time, all as may be expanded, reduced or altered from time to time.

## 2.8 Commencement Date

“Commencement Date” means the earliest of:

- (a) the date the Tenant commences to carry on business in, from or on the Premises or any part thereof; and

(b) the date set out in Section 1(h).

## 2.9 Common Areas

**"Common Areas"** means the areas, facilities, utilities, improvements, equipment, furniture, furnishings, fixtures and installations in, on or outside of the Building, as are provided or designated (which designation may be changed from time to time) by the Landlord as common areas for the common or joint use or benefit of the Tenant in common with others entitled to the use or benefit of the same, including corridors, elevators, foyers, service stairways, signs, lamp standards, rest rooms, mechanical rooms, electrical and telephone rooms, janitor closets, refuge areas, vending areas, electronic systems such as music, fire prevention and security systems, electrical, plumbing, drainage, mechanical and other installations, heating and ventilation systems, roof, roof membrane, exterior walls, structural components and bearing walls, foundations, sub-floors, sidewalks, landscaped areas and parking areas, whether they are owned by the Landlord, any Owner or are areas, facilities, utilities, improvements, equipment, furniture, furnishings, fixtures and installations which the Landlord has the right to use.

## 2.10 Cost of Additional Services

**"Cost of Additional Services"** means, in the case of Additional Services provided by the Landlord, a reasonable charge made therefor by the Landlord which shall not exceed the cost of obtaining such services from independent contractors, and in the case of Additional Services provided by independent contractors, the Landlord's total cost of providing such Additional Services to the Tenant including the cost of all labour (including salaries, wages and fringe benefits), materials and other direct expenses incurred, the cost of supervision and other indirect expenses capable of being allocated thereto (such allocation to be made by the Landlord on a reasonable basis) and all other out-of-pocket expenses made in connection therewith including amounts paid to independent contractors; ~~plus in either case, a sum equal to 15% of the cost thereof or monies expended therefor for the Landlord's overhead, administration and supervision.~~ A report of the Landlord's independent accountant as to the amount of any Cost of Additional Services will be conclusive, should a dispute arise hereunder.

## 2.11 Deposit

**"Deposit"** means the sum set out in Section 1(l).

## 2.12 Environmental Claims

**"Environmental Claims"** means any and all enforcement, cleanup, removal, remedial, or other governmental or regulatory actions instituted or contemplated pursuant to any Environmental Laws.

## 2.13 Environmental Laws

**"Environmental Laws"** means all laws, statutes, bylaws, rules, regulations, orders, ordinances, codes, guidelines, policies, notices, directions, directives, standards, permits, approvals, consents, judgments, injunctions, awards, decrees or other requirements of any Authority having jurisdiction, (including all common law) as any of the foregoing may be amended, supplemented or replaced from time to time relating to the environment and health and safety of the workplace, or any Hazardous Substances or the environmental conditions on, under or about the Premises including soil, groundwater, and indoor and ambient air conditions.

## 2.14 Fiscal Period

**"Fiscal Period"** means a calendar year or such other accounting period, not exceeding 16 months, as the Landlord may adopt from time to time for the Project.

## 2.15 Hazardous Substances

“Hazardous Substances” means:

- (a) any oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, or pollutants which pose a hazard to all or any part of the Project, or any person, business or occupant or user of the Project; or which cause all or any part of the Project or any user or occupant of the Project to be in violation of any Environmental Laws; or
- (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation or transformers; or
- (c) any chemical, material or substance defined as or included in the definition of “dangerous goods”, “deleterious substance”, “extremely hazardous wastes”, “restricted hazardous waste”, “toxic substances”, “waste” or words of similar import under any applicable local, provincial or federal law or under the rules, regulations, policies and criteria adopted or publications promulgated thereunder from time to time; or
- (d) any substance, product, good or other material which is now or hereafter prohibited, controlled or regulated under any Environmental Laws.

## 2.16 Including

“Including” means including without limitation, and “includes” and similar terms have corresponding meanings.

## 2.17 Initial Term

“Initial Term” means the initial term of this Lease set out in Section 1(g) from the Commencement Date.

## 2.18 Interest

“Interest” means interest, calculated and compounded monthly, at a rate per annum which is six percentage points above the Prime Rate.

## 2.19 Lands

“Lands” means those lands described in Section 1(c).

## 2.20 Laws

“Laws” means all laws, statutes, bylaws, rules, regulations, orders, ordinances, codes, guidelines, policies, notices, directions, directives, standards, permits, approvals, consents, judgments, injunctions, awards, decrees or other requirements of any Authority, (including all common law) as well as all rules and regulations of any insurance company or insurance underwriter, as any of the foregoing may be amended, supplemented or replaced from time to time affecting in any way:

- (a) the Tenant; or
- (b) the whole or any part of the Premises or the Project; or

- (c) the whole or any part of the Leasehold Improvements, trade fixtures, furniture and equipment installed by or on behalf of the Tenant;

or the construction, condition, maintenance, use or occupation of any of the items in Sections 2.20(b) or (c) above.

#### **2.21 Lease**

“Lease”, “hereof”, “herein”, “hereunder” and similar expressions mean or refer to this document, all Schedules attached hereto and the Rules and Regulations, together with every properly executed instrument which by its terms amends, modifies or supplements this document.

#### **2.22 Lease Year**

“Lease Year” means a 12-month period beginning on the Commencement Date or the anniversary of that date.

#### **2.23 Leaseable Premises**

“Leaseable Premises” means those premises (including the Premises) in the Building that are, or are intended, from time to time to be occupied by tenants or other occupants.

#### **2.24 Leasehold Improvements**

“Leasehold Improvements” means all fixtures, improvements, installations, alterations and additions from time to time made, erected or installed by or on behalf of the Tenant or any previous occupant of the Premises (whether or not supplied by the Landlord) including signs and lettering, partitions, doors and hardware however affixed and whether or not movable, all mechanical, electrical and utility installations and all carpeting and drapes with the exception only of the Tenant’s trade fixtures or furniture and equipment not of the nature of fixtures, and includes all wall-to-wall carpeting or other flooring (whether or not supplied by the Landlord), and all window coverings supplied by the Landlord.

#### **2.25 Municipality**

“Municipality” means the municipality in which the Lands are located.

#### **2.26 Normal Business Hours**

“Normal Business Hours” means the hours from 7:30 a.m. to 6:00 p.m., Monday to Friday, inclusive, of each week, statutory holidays in British Columbia excepted.

#### **2.27 Offer to Lease**

“Offer to Lease” means the offer to lease, if any, entered into prior to this Lease and as more particularly described in Section 1(n).

#### **2.28 Operating Costs**

“Operating Costs” means the total of all expenses, costs and outlays of every nature paid or payable, whether by the Landlord or others on behalf of the Landlord, in the maintenance, repair, replacement, operation, insuring, administration and management of the Project and/or the carrying out of the Landlord’s obligations under this Lease and/or similar tenant leases, and/or for services provided generally to tenants, all calculated in accordance with generally accepted accounting principles. Without

limiting the generality of the foregoing, Operating Costs includes all expenses, costs and outlays or any kind whatsoever relating to the following:

- (a) cleaning and janitorial service, pest control, recycling, garbage and waste collection and disposal;
- (b) cost of cleaning windows, and window and floor coverings if not included in janitorial contracts;
- (c) operating and servicing elevators;
- (d) all Utilities;
- (e) security (including rental of security equipment), policing, supervision and traffic control;
- (f) all insurance required to be carried by the Landlord pursuant hereto and all other insurance relating to the Project as placed by the Landlord from time to time in the Landlord's sole discretion (including insurance premiums, all amounts falling below the level of the Landlord's insurance deductibles which are paid by the Landlord in connection with claims made against it and all costs and expenses incurred by the Landlord for defending and paying such claims);
- (g) repairs (including major repairs) and replacements to the Building and its components and all replacements and modifications to the Building or such components, including those made by the Landlord in order to comply with Laws affecting the Building or those intended to reduce operating costs, improve the operation of the Building or maintain its operation as a first class building;
- (h) accounting and auditing;
- (i) provision of heating, cooling, ventilation and air conditioning;
- (j) all amounts paid to employees, personnel or third parties relating to work performed in relation to the Project including, in the case of employees or personnel (including management and other supervisory personnel), all salaries, wages, pension plan contributions, contributions and premiums for unemployment insurance and workers compensation insurance and similar contributions and premiums, fringe benefits, severance pay and termination payments;
- (k) should the Landlord elect to manage and administer the Building or the Project itself, a fee for such management and administration calculated at 4% of the total rent payable by all tenants of the Project;
- (l) supplies and materials used in the operating, cleaning, repairing and maintenance of the Project;
- (m) rental of equipment, machinery, supplies, tools and signs used in the operating, cleaning, repairing and maintenance of the Project;
- (n) uniforms;
- (o) provision of a building superintendent and associated personnel including a reasonable rental value for office space used by those persons and related expenses;



- (p) all outdoor maintenance including landscaping and snow removal;
- (q) maintenance of any atrium area and any plants located therein;
- (r) cost of decoration, repair, operation and maintenance of Common Areas;
- (s) operation and maintenance of parking area (including reasonable depreciation and materials for resurfacing the parking area);
- (t) preventative maintenance and inspection;
- (u) costs of all service contracts, legal, engineering and other professional and consulting services (including fees and disbursements);
- (v) taxes (other than the Landlord's income taxes), including Sales Tax, if levied;
- (w) cost of each "major expenditure" (as hereinafter defined) as amortized over the period of the Landlord's reasonable estimate of the economic life of the item acquired, but not to exceed 15 years, using equal monthly instalments of principal and interest at 2 percentage points above the average daily Prime Rate per annum compounded semi-annually (the "Interest Rate"), where "major expenditure" means any single expenditure incurred during or subsequent to the Fiscal Period in which the Commencement Date occurs, for replacement of machinery, equipment, building elements, repairs, systems or facilities in connection with whole or any part of the Project, which expenditure is more than 10% of the total Operating Costs for the previous Fiscal Period, or for modifications or additions to the Project if one of the principal purposes of such modification or addition was to reduce energy consumption or Operating Costs or was required by any Authority or Law;
- (x) the amount reasonably allocated from time to time by the Landlord to, or relating to, the Project of any capital tax payable by the Landlord under any provincial or federal legislation imposing taxes on account of capital;
- (y) without duplication depreciation or amortization of:
  - (i) the costs and expenses including repair and replacement, of all operating, maintenance and cleaning equipment and master utility meters;
  - (ii) the costs and expenses incurred at any time for the initial supply and installation and for repairing or replacing all other fixtures, equipment and facilities serving or comprising the Building **excluding structural repairs or replacements** (including the heating, ventilating and air-conditioning and climate control systems serving the Building) which by their nature, require periodic or substantial repair or replacement unless they are charged fully in the year in which they are incurred, in accordance with sound accounting principles;
  - (iii) any other costs and expenses which the Landlord, in accordance with sound accounting principles, elects to amortize in lieu of including the costs and expenses in Operating Costs fully in the Lease Year in which they are incurred;  
**and**  
~~(iv) interest on the undepreciated or unamortized portion of the costs and expenses referred to in the preceding subsections (i) and (ii) above at the Interest Rate; and~~

- (z) office expenses including telephone, stationary and supplies and the fair market rental value (as determined by the Landlord from time to time) of premises and storage areas used by the Landlord or its property manager in connection with the maintenance, repair, replacement, operation, insuring, administration, supervision and management of the Project and furnishings and fixtures for such premises or areas.

**But in all cases, not including any costs applicable to Structural Repairs,**

To the extent that any component or part of Operating Costs should or may be allocated, in the reasonable opinion of the Landlord, to one group of tenants (for example, retail tenants) the Landlord may, but will not be obligated to, allocate the cost of such component of Operating Costs or part thereof to those tenants alone.

A report of the Landlord's auditor or other licensed accountant appointed by the Landlord for the purpose, will be conclusive as to the amount of Operating Costs for any period or any component or part of Operating Costs to which such report relates, should a dispute arise with respect to Operating Costs hereunder.

**2.29 Owner**

"Owner" means the owner or owners from time to time (other than the Landlord) of the freehold or leasehold title of the Project, if such owner or owners differ from the Landlord.

**2.30 Partial Destruction**

"Partial Destruction" means any damage to the Premises by fire, the elements or any other cause or casualty less than Total Destruction, but which renders all or any part of the Premises temporarily unfit for use by the Tenant for the Tenant's business.

**2.31 Permitted Use**

"Permitted Use" means the use specified in Section 1(j).

**2.32 Premises**

"Premises" means the premises described in Section 1(e). The exterior face of the Building and any space in the Premises used for stairways or passageways to other premises, stacks, shafts, pipes, conduits, ducts or other Building facilities, the heating, electrical, plumbing, air-conditioning and other systems in the Building and the use thereof, as well as access thereto through the Premises for the purpose of use, operation, maintenance, replacement and repair, are expressly excluded from the Premises and reserved to the Landlord.

**2.33 Prime Rate**

"Prime Rate" means that rate of interest per annum announced from time to time by the chartered bank of Canada designated by the Landlord from time to time, as a reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans made in Canada.

**2.34 Project**

"Project" means the Lands and the Building.

### 2.35 Proportionate Share

**"Proportionate Share"** means a fraction which has as its numerator the Rentable Area of the Premises and as its denominator the Total Rentable Area of the Building.

### 2.36 Rent

**"Rent"** means all Base Rent and Additional Rent.

### 2.37 Rentable Area

**"Rentable Area"** means:

- (a) in the case of all individual Leaseable Premises occupying an entire floor:
  - (i) all floor area measured from the inside surface of the outer glass or exterior wall of the Building (where such exterior wall has no glass), and to the inside surface of the opposite exterior wall, excluding Common Areas with the exception of those Common Areas which are for the specific use of the particular tenant such as elevator, lobby, special stairs, washrooms, service closets and fan rooms; PLUS
  - (ii) an allocation, as determined by the Architect from time to time, of the square footage of the lobby, vestibules, parkade lobbies, atrium and mail room in the Project, all of which will be included;
- (b) in the case of all individual Leaseable Premises consisting of part of a floor:
  - (i) all floor areas within the inside surface of the outer glass or exterior walls, where such wall has no glass, enclosing the portion of the Leaseable Premises on such floor and measured to the mid-point of the walls separating areas leased by or held for lease to other tenants or from Common Areas, if any, but including a proportionate part of the Common Areas located on such floor based on the ratio which such Leaseable Premises (determined by excluding such Common Areas) bears to the total Rentable Area of such floor (determined by excluding such Common Areas); PLUS
  - (ii) an allocation, as determined by the Architect from time to time, of the square footage of the lobby, vestibules, parkade lobbies and mail room in the Project, all of which will be included;

and in calculating Rentable Area, no deductions from Rentable Area will be made for columns or projections necessary to the Building.

### 2.38 Rules and Regulations

**"Rules and Regulations"** means any rules and regulations attached as Schedule "B" hereto, and such further and other reasonable rules and regulations and amendments and changes thereto as may hereafter be established by the Landlord from time to time for the Project.

### 2.39 Sales Tax

**"Sales Tax"** means any and all goods and services taxes, sales taxes, value added taxes, business transfer

taxes or any other taxes imposed on the Landlord from time to time with respect to Rent payable by the Tenant under this Lease, or in respect of the rental of space under this Lease, whether characterized as a goods and services tax, value added tax, business transfer tax or otherwise.

#### 2.40 Taxes

"Taxes" means the aggregate of all taxes, local improvement or similar rates, duties, levies, charges and assessments whatsoever, municipal realty taxes, water taxes, school taxes, corporation capital tax, or any other taxes, rates, duties, levies, charges and assessments both general or special or any rate, duty, levy, charge or assessment in their place by any taxing authority, whether municipal, provincial, federal or otherwise, levied, imposed or assessed against the whole or any part of the Project or on the Landlord (or any Owner on account of its ownership) in respect thereof or from time to time levied, imposed or assessed in lieu thereof, including those levied, imposed or assessed for education, schools and local improvements, and including:

- (a) all costs and expenses (including legal, appraisal and other professional fees and disbursements, administration and overhead costs, and interest and penalties on deferred payments) incurred, paid or payable, whether by the Landlord or others on behalf of the Landlord, in administering, verifying, reducing, contesting, resisting or appealing any such taxes, rates, duties, levies, charges or assessments, and
- (b) business taxes, if any, charged on the Common Areas, but not including business taxes charged in respect of the business or activities of tenants or others in the Project;

but excluding taxes and license fees in respect of any business carried on by tenants and occupants of the Building (including the Landlord) and income or profits taxes on the income of the Landlord to the extent such taxes are not levied in lieu of taxes, rates, duties, levies, charges and assessments against the Project or on the Landlord in respect thereof and will also include any and all taxes which may be levied in lieu of Taxes as hereinbefore defined.

#### 2.41 Tenant Party

"Tenant Party" means any officer, agent, servant, employee, contractor, invitee or licensee of the Tenant or any other person for whom the Tenant is responsible at law.

#### 2.42 Tenant's Obligations

"Tenant's Obligations" means all obligations of the Tenant under this Lease or as may be established by law, whether expressed as conditions, covenants, provisos, agreements, obligations, representations, undertakings or warranties.

#### 2.43 Term

"Term" means the Initial Term and any extension or renewal thereof made in accordance with the provisions herein, unless sooner terminated as provided in this Lease.

#### 2.44 Total Destruction

"Total Destruction" means any damage to the Premises by fire, the elements or any other cause or casualty that renders the Premises unfit for use by the Tenant for the Tenant's business and which cannot reasonably be repaired within six (6) months of the date of the destruction to the state wherein the Tenant could use substantially all of the Premises for its business.

#### 2.45 Total Rentable Area of the Building

"Total Rentable Area of the Building" means the aggregate of the Rentable Area of all Leaseable Premises (including the Premises) of the Building.

#### 2.46 Transfer

"Transfer" means an assignment of this Lease in whole or in part, a sublease of the whole or any part of the Premises (whether by the Tenant or by a subtenant), any transaction whereby the rights of the Tenant under this Lease or the rights of any subtenant of the Premises are transferred to another, any transaction by which any right of use or occupancy of the whole or any part of the Premises is conferred on anyone, or any mortgage, charge or encumbrance of this Lease (whether by way of assignment or sublease).

#### 2.47 Utilities

"Utilities" means electricity, water, gas, lighting, fuel, power, steam, telephone, internet, communication service, loud speakers, public address and musical broadcast systems, energy conservation equipment and systems, and other utilities and services.

### 3. GRANT AND NET LEASE

#### 3.1 Grant and Term

In consideration of the rents, covenants, agreements and conditions reserved and contained herein on the part of the Tenant to be paid, kept, observed and performed, the Landlord hereby demises and leases unto the Tenant the Premises for the Term from the Commencement Date unless sooner terminated as provided in this Lease. If the Premises are not ready for occupancy by the Commencement Date for any reason, then the Tenant will take possession of the Premises as soon as the same are ready for occupancy, as determined by the Landlord, and this Lease will not be void or voidable nor will the Landlord be liable or responsible for any loss, claims, damages or liabilities in connection therewith or by reason thereof; and in such event, the Initial Term will commence on the Commencement Date but Base Rent will not commence until the Premises are ready and available to the Tenant to commence its fixturing therein.

#### 3.2 Net Lease to Landlord

The Tenant acknowledges and agrees that this Lease shall be a completely net lease for the Landlord except as otherwise expressly herein set out and the Landlord shall not be responsible for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Premises or the Project, or the contents thereof and without limiting the generality of the foregoing, the Tenant shall be liable for the payment of all charges, impositions and expenses of every nature and kind relating to the Premises and the contents thereof and its Proportionate Share of Operating Costs and Taxes. ~~Any obligation, covenant or agreement which is not expressly stated to be that of the Landlord herein will be deemed to be that of the Tenant and deemed to be a Tenant's Obligation.~~

#### 3.3 Licence for Common Areas

The Landlord grants to the Tenant for the Term as an appurtenant part of this Lease, for use by the Tenant and its employees and invitees, in common with the Landlord and other tenants or occupants of the Project and their respective agents, customers, employees, invitees and licensees, the non-exclusive licence to use (and the Tenant accepts such license to use) the Common Areas on the terms and conditions set out in this Lease.

### **3.4 Parking**

If any parking spaces are expressly set out in Section 1(k), the Landlord grants to the Tenant for the Term as an appurtenant part of this Lease a license to use, and the Tenant accepts such license to use, the number of parking spaces set out in Section 1(k) in such location(s) as designated by the Landlord from time to time in its sole discretion. The Tenant will pay all fees and operating costs for such parking space(s) whether invoiced by the Landlord or by a parking manager or other person. The Tenant will only park vehicles in and within the space(s) designated by the Landlord from time to time and the right of the Tenant to park in such space(s) will be subject to the Tenant complying with any and all rules, regulations, bylaws and other provisions concerning parking contained or referred to in this Lease.

### **3.5 Adjustment of Area of Premises**

If either the Landlord or the Tenant claims that the Area of Premises as set out in Section 1(f) or the Rentable Area of the Premises is incorrect, then the Landlord may at any time and the Tenant may, within 30 days of taking possession of the Premises, cause the Premises to be measured, at its own expense by the Architect whose measurement will be final and binding on the parties to this Lease and, if there is a discrepancy, the Area of Premises or the Rentable Area of the Premises, as the case may be, will be revised with a corresponding adjustment in the Base Rent or Additional Rent (as applicable) as calculated by the Landlord, which adjustment will be retroactive if the measurement does not occur until after the Commencement Date.

### **3.6 Adjustment of Rentable Area**

If either the Landlord or the Tenant claims that the Rentable Area of any part of the Project (excluding the Premises) or the Total Rentable Area of the Building is incorrect, it may cause that part of the Project to be measured at its own expense by the Architect, whose measurement will be final and binding on the parties to this Lease and, if there is a discrepancy, the Rentable Area of such part of the Project or the Total Rentable Area of the Building, as the case may be, will be revised retroactively with a corresponding adjustment in the Base Rent or Additional Rent (as applicable) as calculated by the Landlord. The Rentable Area of any part of the Project (including the Premises, if applicable) or the Total Rentable Area of the Building may be adjusted from time to time by the Landlord (and the cost of calculating such adjustment will be included as part of Operating Costs) to give effect to any structural, functional or other change in the Project and Base Rent and Additional Rent (as applicable) will be adjusted effective the date on which such change occurred. The Landlord may at any time convert all measurements relating to this Lease to metric measurements and this Lease will be appropriately modified.

## **4. RENT**

### **4.1 Rent**

The Tenant shall pay the Rent hereby reserved, and all other sums payable hereunder to the Landlord, promptly on the days and at the times and in the manner specified herein, without demand, deduction, abatement, compensation or set-off whatsoever and in lawful money of Canada except to the extent it may be abated pursuant to Section 8.3. The Tenant hereby waives and renounces any and all existing and future claims, offsets and compensation against any Rent and the benefit of any and all existing and future statutory or other rights in respect of deduction, abatement, compensation or set-off in its favour and agrees to pay such Rent regardless of any claim, offset or compensation which may be asserted by the Tenant or on its behalf.

#### 4.2 Base Rent

From and after Commencement Date, the Tenant covenants and agrees to pay to the Landlord, or as the Landlord may in writing direct, Base Rent in and for each Lease Year in the amount per year set out in Section 1(i) for the respective Lease Year payable strictly in advance on the first day of each calendar month during the Term in equal consecutive monthly instalments in the amount set out in Section 1(i) (or such other amount (if any) determined in accordance with Section 16.1 for any Extension Term), with the first instalment to be paid on or before the Commencement Date. If the Commencement Date is not the first day of a calendar month or the Term terminates on other than the last day of a calendar month, then the instalment or instalments so prorated on a per diem basis (based on a period of 365 days) will be paid in advance. The Tenant acknowledges, covenants and agrees with the Landlord that the Base Rent during the Initial Term is calculated on the basis of the Rentable Area of the Premises (not the Area of Premises) as is set out in Section 1(i) at a rate per year for each square foot of the Rentable Area of the Premises as set out in Section 1(i) labelled "Per square foot per year". The Tenant covenants and agrees that the Base Rent will be adjusted if the Area of Premises is found to be different than as stated in Section 1(i) or if the Area of Premises or the Rentable Area of the Premises are adjusted pursuant to Sections 3.5 or 3.6.

#### 4.3 Additional Rent

From and after Commencement Date, the Tenant covenants and agrees to pay to the Landlord as Additional Rent the Tenant's Proportionate Share of Operating Costs and of Taxes, and all other sums to be paid by the Tenant hereunder whether or not designated as Additional Rent, and the Landlord will have the same remedies for default for the payment of Additional Rent as are available to the Landlord in the case of default in the payment of Base Rent.

#### 4.4 Estimate of Additional Rent

The Landlord may, in respect of any or all of the items of Additional Rent, estimate the amount the Tenant would be required to pay and such estimate may be for such period as the Landlord may determine and may from time to time and at any time, in the Landlord's sole discretion, re-estimate any or all of such items of Additional Rent in such amount and for such period as the Landlord may determine. With respect to any item of Additional Rent the Landlord estimates pursuant to the foregoing in this Section, the Tenant covenants and agrees to pay to the Landlord such amount in advance in equal consecutive monthly instalments on the same day as the Tenant pays the monthly instalments of Base Rent. With respect to any item of Additional Rent the Landlord has not estimated pursuant to this Section, the Tenant covenants and agrees to pay to the Landlord the amount of such item of Additional Rent within ten (10) days after receipt of an invoice for the amount unless a shorter period for payment of such amount is specified elsewhere in this Lease.

#### 4.5 Adjustment for Additional Rent

Within 150 days, or as soon thereafter as possible of the conclusion of each Fiscal Period during the Term, the Landlord will furnish to the Tenant a statement ("Statement") of the Landlord's actual Operating Costs and Taxes for such Fiscal Period or portion thereof, as the case may be. If the Tenant has paid less than a Statement specifies for such Fiscal Period, the Tenant will pay to the Landlord the deficiency with the next monthly instalment of Base Rent. If the Tenant has paid more than a Statement specifies for such Fiscal Period, the Landlord will have the option (at its sole discretion) to apply the excess in payment of amounts owing by the Tenant, apply the excess in reduction of future Rent due under this Lease or refund the excess to the Tenant within a reasonable time after the Tenant's receipt of such Statement. The obligations contained in this Section will survive the expiry of the Term or any earlier termination of this Lease. Failure of the Landlord to render any Statement will not prejudice the Landlord's right to render a Statement thereafter or with respect to any other period. The rendering of any Statement will also not affect the Landlord's right to subsequently render an amended or corrected

Statement. The Tenant shall not have ~~ne~~the right to inspect or audit the Landlord's books and records, but may require (at ~~the~~ Tenant's cost and expense) that the Landlord provide a certified statement as to the accuracy of ~~such~~ notice from the Landlord's accountant or auditor.

#### ~~4.6 Building Not Fully Occupied~~

~~Notwithstanding anything herein otherwise expressed or implied it is agreed that in the event the Building is not 90% occupied by tenants during any Fiscal Year during the Term, an adjustment will be made in computing the Operating Costs and Taxes for such Fiscal Year so that the Operating Costs and Taxes will be computed for such Fiscal Year as though the Building has been 100% occupied by tenants during such Fiscal Year.~~

#### 4.74.6 Direct Assessment

The Tenant covenants to pay promptly:

- (a) when billed, all taxes, rates duties or charges levied imposed or assessed on its personal property, its use or occupation of the Premises, the business carried on therein, all fixtures, equipment, machinery of the Tenant therein or from time to time levied, imposed or assessed in the future in lieu thereof; and any Taxes levied, imposed or assessed on all Leasehold Improvements in the Premises; and
- (b) in the event of a direct assessment of any Taxes in respect of the Premises, the amount of such direct assessment, when billed (and to provide a copy of such assessment notice to the Landlord with evidence of such payment), ~~not billed directly to the Tenant plus its Proportionate Share of all Taxes on areas of the Project not demised specifically to tenants-~~

#### 4.84.7 Allocation of Taxes

If a separate allocation of Taxes is not issued by the relevant taxing Authority with respect to any Leasehold Improvements, the Landlord or the Tenant may from time to time apply to the Authority for a determination of the portion of Taxes attributable to such Leasehold Improvements, which determination will be conclusive for the purposes of this Section. In the event that no such determination may be obtained from the Authority, the Landlord will establish the portion of Taxes attributable to such Leasehold Improvements using the then current established principles of assessment used by the Authority, or such other method which is reasonable, as determined by the Landlord.

#### 4.94.8 Sales Tax

Notwithstanding anything herein contained to the contrary, the Tenant will pay to the Landlord an amount equal to any and all Sales Tax, it being the intention of the parties that the Landlord will be fully reimbursed by the Tenant with respect to any and all Sales Tax at the full tax rate applicable from time to time in respect of Rent or the rental of the Premises pursuant to this Lease, without reference to any GST tax credits available to the Landlord. The amount of the Sales Tax so payable by the Tenant will be calculated by the Landlord in accordance with the applicable legislation and the Tenant will pay the Sales Tax so payable to the Landlord at the same time as the amounts to which such Sales Tax apply are payable to the Landlord under the terms of this Lease or on demand at such other time or times as the Landlord from time to time determines. Despite any other provision in this Lease, the amount payable by the Tenant under this Section will be deemed not to be Rent, but the Landlord will have all of the same remedies for and recovery of such amount as it has for recovery of Base Rent under this Lease.



#### ~~4.10 Electronic Funds Transfer or Post-Dated Cheques~~

~~Unless otherwise required by the Landlord, the Tenant will pay to the Landlord all monthly instalments of Basic Rent and Additional Rent, plus Sales Tax, required to be paid by the Tenant hereunder, in advance, by way of a pre-authorized bank debit payment system. Concurrently with the execution and delivery of this Lease by the Tenant to the Landlord, and from time to time throughout the Term as required by the Landlord, the Tenant will execute and deliver to the Landlord all pre-authorization documentation as may be required by the Landlord or as may otherwise be necessary in order to enable the Landlord to debit the Tenant's bank account on the first day of each and every month throughout the Term.~~

~~At the request and sole election of the Landlord at any time and from time to time, the Tenant will immediately deliver to the Landlord a series of monthly post-dated cheques for the next ensuing twelve month period, for the total of the monthly payments of Base Rent and any Additional Rent estimated by the Landlord in advance. The Tenant will deliver to the Landlord twelve additional post-dated cheques when the dates on ten of the cheques previously given to the Landlord have passed.~~

#### ~~4.114.9 Rent Past Due~~

~~If the Tenant fails to pay, when the same is due and payable, any Base Rent or Additional Rent, such unpaid amounts will bear interest thereon from the due date thereof to the date of actual receipt of payment by the Landlord of the unpaid amount and interest due hereunder.~~

#### ~~4.124.10 Deposit~~

~~The Tenant will, immediately on execution hereof, pay to the Landlord the Deposit in the amount set out in section 1(1) which amount shall be applied to the first months rent, which will be held by the Landlord without interest to the Tenant as a security deposit for the faithful observance and performance by the Tenant of the Tenant's Obligations. The Tenant will not have the right to direct that the Landlord apply the Deposit to Rent. Any part or the whole of the Deposit may be applied, at any time during the Term or thereafter, by the Landlord at the Landlord's sole discretion to any one or more of the following:~~

~~(a) to rectify any damage to the Premises or the Project howsoever caused, directly or indirectly, by the Tenant or any Tenant Party; or~~

~~(b) against any amounts owing by the Tenant under this Lease from time to time; or~~

~~(c) as compensation to the Landlord for any loss, damage or expense sustained by the Landlord attributable to the Tenant's default or breach hereunder;~~

~~and if the Deposit is so applied, in whole or in part, by the Landlord during the Term, the Tenant covenants to replace the whole or the portion of the Deposit so applied with the Landlord within five (5) days after demand in the form of lawful money of Canada or certified cheque. The Tenant's liability will not be limited to the amount of the Deposit.~~

~~On the expiry of the Term or any earlier termination of this Lease and provided the Tenant has vacated the Premises in the manner provided for herein and has otherwise duly observed and performed all of the Tenant's Obligations, the Landlord will refund any remaining portion of the Deposit, without interest, to the Tenant within 90 days after the expiry of the Term or any earlier termination of this Lease. The Tenant agrees that the Landlord may deliver the Deposit to any purchaser of the interest of the Landlord~~

~~or any Owner in the Premises or the Project and if the purchaser agrees to assume the Landlord's obligations hereunder, the Landlord will thereafter, without further written agreement, be relieved of all liability with respect to the Deposit.~~

## 5. TENANT'S COVENANTS

### 5.1 Occupancy

From the commencement of, and throughout, the Term to continuously occupy the Premises, the Tenant will not vacate all or any part of the Premises and to continuously, diligently and actively carry on in whole of the Premises the business comprising the Permitted Use in a reputable and first class manner consistent with the best interests of the Project as a whole and subject to the provisions hereof.

### 5.2 Permitted Use

The Tenant will use the Premises only for the Permitted Use which use the Tenant represents will not unreasonably interfere with normal use of a first-class building similar in use to the Building; and not to use or permit to be used the Premises or any part thereof for any other purpose or business whatsoever.

### 5.3 No Overloading

The Tenant will not:

- (a) place a load on any portion of any floor, ceiling or other part of the Premises which exceeds the floor, ceiling or other load which the area of such floor, ceiling or other part of the Premises being loaded was designed to carry having regard to the loading of adjacent areas and that which is allowed by Law;
- (b) install equipment that overloads the capacity of the heating, ventilation and air conditioning system or any utility, electrical or mechanical facility in the Premises or the Project;
- (c) bring into the Premises any utility, electrical or mechanical facility or service of which the Landlord does not approve.

The Landlord reserves the right to prescribe the weight and position of all safes and heavy installation which the Tenant wishes to place in the Premises, so as to distribute properly the weight thereof and the Tenant will pay for all costs incurred by the Landlord and the Architect in making such assessment. If damage is caused to the Premises or the Project as a result of a contravention of the foregoing Sections 5.3(a), (b) or (c) by the act, neglect, fault, want of skill or misuse of or by or for the Tenant, any Tenant Party or any person having business with the Tenant, the Tenant will repair the damage or, at the Landlord's sole option, pay to the Landlord on demand the cost for or incurred by the Landlord to repair the damage, ~~plus a sum equal to 15% of such cost for the Landlord's overhead, administration and supervision.~~

### 5.45.4 Condition

The Tenant will not permit, in the opinion of the Landlord, the Premises to become untidy, unsightly, offensive or hazardous or permit unreasonable quantities of waste or refuse to accumulate therein.

#### **5.55.5 Garbage and Debris**

The Tenant will not **place**, leave or permit to be placed or left, any debris, garbage, trash or refuse on any part of the Project **outside** the Premises but will deposit them in areas and at times and in a manner designated by the **Landlord** from time to time. If any debris, garbage, trash or refuse is of a perishable nature, then the Tenant must keep these items in a properly refrigerated area provided at its sole cost and expenses. If there are any costs for removal of debris, garbage, trash or refuse additional to the removal service provided by the Municipality or if the Municipality charges for such service, then the Tenant will pay for such costs as an Additional Service.

#### **5.65.6 Work and Nuisance**

The Tenant will not **carry on**, perform, suffer, commit or permit any waste or damage to the Project, including the Leasehold Improvements, fixtures and trade fixtures therein, any nuisance or menace therein, anything which may be deemed a nuisance or menace, or any use or manner of use causing annoyance to other tenants and occupants of the Building and not to use or permit to be used all or any part of the Premises for any trade or business which is, in the sole and absolute opinion of the Landlord, dangerous, noxious, annoying or offensive in any manner whatsoever; and not to place any objects on or otherwise howsoever **obstruct** the heating or air-conditioning vents within the Premises.

#### **5.75.7 Noxious Fumes and Odours**

The Tenant will use the Premises in a manner so that noxious or objectionable fumes, vapours and odours shall not occur beyond the extent to which they are discharged or eliminated by means of the flues and other devices provided in the Building by the Landlord and will prevent any such noxious or objectionable fumes, vapours and odours from entering into the air conditioning or being discharged into other vents or flues of the Building or annoying any of the tenants or occupants in the Building. Any discharge of fumes, vapours and odours shall be permitted only during such period or periods, to such extent, in such conditions and in such manner as directed by the Landlord from time to time.

#### **5.85.8 Hazardous Substances**

(b)The Tenant will, at its sole cost and expense:

- a) **comply with all Environmental Laws;**
- b) **keep the Premises free of Hazardous Substances;**
- (e)c) promptly, on the request of the Landlord, provided a certificate confirming that to the best of its knowledge the Tenant, any Tenant Party or any person having business with the Tenant, has not introduced any Hazardous Substances on, under or about the Premises or the Project;
- (d) immediately on being made aware, notify the Landlord in writing, of the existence of any Environmental Claim or any Hazardous Substances on the Premises or the Project, or any discharges, emissions or spill of Hazardous Substances on, under, about or from the Premises or the Project; and
- (e) promptly provide the Landlord with copies of all notices issued pursuant to any Environmental Laws and evidence the Tenant is responding to such notices in a responsible manner.

The Landlord may, at any reasonable time, cause an environmental audit or such tests and investigations of the Premises or the Project to determine the existence of any Hazardous Substances, provided that such tests and investigations are carried out with minimal interference with the Tenant's business. The costs of such tests will be included in the Operating Costs unless the tests confirm the existence of Hazardous Substances placed by the Tenant, any Tenant Party or any person having business with the Tenant, in which case the costs will be paid by the Tenant to the Landlord on demand and if not paid on demand will be Additional Rent.

The Tenant will be liable for any and all costs (including all legal costs on a solicitor and own client basis) directly or indirectly arising out of or attributable to the presence of Hazardous Substances on, under, about or from:

- (f) the Premises at any time during the Term or during such other time as the Tenant occupies the whole or any part of the Premises; or
- (g) elsewhere on the Project in any way directly or indirectly caused by the Tenant, any Tenant Party or any person having business with the Tenant;

and all such Hazardous Substances shall remain the property of the Tenant, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding the degree of their affixation to the Premises or the Project.

Notwithstanding anything to the contrary contained in this Lease, the Tenant must, at its sole expense within 20 days of the expiry of the Term or any earlier termination of this Lease, remove any and all Hazardous Substances from the Premises and immediately repair, at the Tenant's expense, all damage to the Premises or the Project caused by such removal. If the Tenant fails to do so, then the Landlord may cause such removal and repairs to be undertaken and Section 13.2 will apply. The obligations contained in this Section 5.8 will survive the expiry of the Term or any earlier termination of this Lease.

#### 5.9.9 Laws

The Tenant will promptly, and to the best of its knowledge, at its sole cost and expense, comply with and observe all Laws as well as all rules and regulations of any insurance company or insurance underwriter and with the requirements of all insurance companies having policies of any kind whatsoever in effect covering the whole or any part of the Project which are communicated to the Tenant. In so doing, the Tenant will be required to promptly, at its sole cost and expense, make any necessary alterations, repairs, additions or deletions in, on or used in connection with or appurtenant to the whole or any part of the Premises. If the Tenant fails to comply with the foregoing provisions, the Landlord may rectify the situation and collect the expense for such work from the Tenant in the same manner as arrears in Rent.

#### 5.10.10 Rules and Regulations

The Tenant will observe, and cause its employees, invitees and all others over whom the Tenant can reasonably be expected to exercise control to observe the Rules and Regulations. The Landlord will communicate any such further or amendments or changes in the Rules and Regulations attached as Schedule "B" hereto to the Tenant in writing and after such communication, such further, amended or changed Rules and Regulations will be deemed to be incorporated into and form part of this Lease and will be those in force until further amendment and notice of the amendment. For the enforcement of the Rules and Regulations, the Landlord will have available to it all remedies in this Lease provided for a breach hereof and all legal remedies whether or not provided for in this Lease, both at law and in equity. The Landlord will not be responsible or liable to the Tenant for the non-observance or violation by any other tenant or person of any Rules and Regulations or the non-enforcement as against other tenants or

persons of any Rules and Regulations or any loss or damage arising out of the same. The Landlord will, to the best of their ability, enforce all Rules and Regulations on the tenants, its employees and invitees.

#### 5.11.11 Inspection and Access

The Tenant will permit the Landlord and any agents, employees, servants and contractors of the Landlord to enter the Premises at any time and from time to time for the purpose of:

- (a) examining the state of maintenance, repair, decoration and order of the Premises, all equipment and fixtures within the Premises, and any improvements now or hereafter made to the Premises. The Landlord may give notice to the Tenant requiring that the Tenant perform such maintenance or effect such repairs, replacements or decorations as may be found necessary from such examination. The failure of the Landlord to give such notice does not however relieve the Tenant from the Tenant's Obligations to maintain, repair, keep or decorate the Premises and appurtenances in good order and repair as required by this Lease and to make such replacements as may be necessary;
- (b) window cleaning, maintenance, providing janitor or cleaning services, making repairs, alterations or improvements to the whole or any part of the Premises, the Project or any property adjoining the Premises or the Project;
- (c) having access to make repairs, alterations or improvements in Utilities and services (including subfloor, overhead ducts, air conditioning, heating, plumbing, electrical and telephone facilities and access panels, all of which the Tenant agrees not to obstruct);
- (d) determining the electric light and power or other Utilities consumption of the Tenant in the Premises;
- (e) ensuring compliance by the Tenant with the Tenant's Obligations; and/or
- (f) removing any article or remedy any condition which, in the opinion of the Landlord, would be likely to lead to cancellation of any policy of insurance on the whole or any part of the Project;

and such entry by the Landlord shall not be deemed to be a re-entry. The Landlord may elect to effect the maintenance and repair work required to be effected and paid for by the Tenant, and the Landlord, if it so elects, may enter into contracts for the performance of all or part of the maintenance and repair work, provided that in such event, the Landlord will notify the Tenant of any and all such contracts with details of the work to be performed thereunder and provided further that the Tenant will, on notice, pay to the Landlord the Landlord's costs therefor and the Landlord's cost will be deemed to be Additional Rent. The Tenant will provide free and unhampered access for such purposes and will not be entitled to compensation for any inconvenience, nuisance and discomfort or loss caused thereby, but the Landlord, in exercising its rights under this Section 5.11, will proceed to the extent reasonably possible so as to minimize interference with the Tenant's use and enjoyment of the Premises permitted hereunder.

#### 5.12.12 Showing Premises

At any time within 6 months prior to the Expiration of the Lease the Tenant will allow the Landlord or its agents to enter and exhibit the Premises, upon prior notice to the Tenant, and to bring others at all reasonable hours for the purpose of offering the Premises for rent or sale, and to place on the Premises a notice(s) of reasonable dimensions and reasonably placed stating that Project or the Premises are for sale or for let, which notice(s) the Tenant will not remove or obscure or permit to be removed or

obscured.

#### **5.135.13 Signs and Directory**

The Tenant will not ~~paint~~, display, inscribe, place or affix, or suffer to be painted, displayed, inscribed, placed or affixed, or ~~maintain~~ any sign, symbol, notice, decoration, advertising or lettering of any nature or kind whatsoever ~~anywhere~~ outside the Premises (whether on the outside or inside of the Building) or within the Premises so as to be visible from the outside of the Premises, with the exception only of a building standard interior identification sign at or near the entrance of the Premises, ~~the permissible signage as set out in Section 16.05~~ and such other signs as the Landlord may permit ~~and a directory listing in the main lobby of the Building~~, in each case containing only the name of the Tenant and such other names as the Landlord may permit, and to be subject to the written approval of the Landlord as to design, size, location and content in each instance. Such identification sign and directory listing will be installed at the sole expense of the Tenant, and the Landlord reserves the right to install them as an Additional Service. All signs which are the property of the Tenant shall be removed by the Tenant, at its sole expense, on the expiry of the Term or any earlier termination of this Lease in a workmanlike manner and to the satisfaction of the Landlord, and any damage to the Premises or the Project as a result of the installation or removal thereof shall be immediately repaired by the Tenant at the Tenant's sole cost and expense.

#### **5.145.14 Name of Building**

The Tenant will not refer to the Building by any name other than that designated from time to time by the Landlord, nor use such name for any purpose other than that of the business address of the Tenant.

#### **5.155.15 Fire Exit Doors**

The Tenant will permit the Landlord to install all doors in the exterior wall of the Premises necessary to comply with the requirements of any Law and to permit ingress and egress to and from the Premises by the Landlord or by other tenants of the Landlord or by their respective employees, servants, workmen and invitees, by use of such doors in case of fire or emergency.

#### **5.165.16 Management of Project**

The Tenant acknowledges and agrees that the Landlord may appoint a manager of the Project and on notice to the Tenant of any such appointment from time to time; such manager will be the person for the Tenant to deal with with respect to the Project.

### **6. LANDLORD'S COVENANTS**

#### **6.1 Quiet Enjoyment**

The Landlord covenants and ~~agrees~~ agrees with the Tenant that if the Tenant pays the Rent hereby reserved at the times and in the manner set out in this Lease and observes and performs each and every Tenant's Obligation, the Tenant will and may peaceably and quietly possess and enjoy the Premises for the Term hereby granted without any interruption from the Landlord or any other person lawfully claiming by, through, or under the Landlord.

The Landlord also covenants to maintain and operate the Building as a first class office building and in connection therewith, to provide all necessary supplies therefore with such work to be carried out at the Landlord's discretion without interference by the Tenant.

## 6.2 Landlord's Tax Obligation

The Landlord covenants with the Tenant, subject to the provisions of Sections 4.3 and 4.7, to pay the Taxes. The Landlord will have the right to appeal any Taxes assessed or levied against the Project or the Premises but will not be obligated to so do. The costs and expenses incurred by the Landlord to contest the Taxes will be included in the amount of Taxes.

## 6.3 Interior Climate Control

The Landlord will maintain in the Premises, during Normal Business Hours and to the extent permitted by Law by means of a heating and cooling system, conditions of reasonable temperature as determined by the Landlord in accordance with standards of interior climate control generally pertaining to occupancy of premises for purposes similar to that of the Building, but the Landlord will have no responsibility for any inadequacy of performance of the such system if the Premises depart from the design criteria for such system as determined by the Architect. If the use of the Premises or the location of the partitions therein do not accord with the said design criteria and changes in the system are feasible and desirable to accommodate such use or location, the Landlord may make such changes and the Tenant will pay, within 10 days after receipt of any invoice from the Landlord, all costs thereof including any consulting fees to the Landlord, ~~plus a sum equal to 15% of such costs or monies expended for the Landlord's overhead, administration and supervision.~~ So long as the Landlord makes reasonable efforts to maintain a reasonable temperature in the Premises as required above in this Section, the Landlord will not be liable to the Tenant for any failure to so maintain the same and in particular, but without limiting the foregoing, in the event any such system becomes inoperative, requires repairs or maintenance or alterations (as determined by the Landlord in its sole discretion) or is damaged or destroyed, the Landlord will have a reasonable time within which to repair, maintain, alter or replace such system; PROVIDED ALWAYS that in any event as aforesaid the Landlord will not be liable for indirect or consequential damages or other damages for personal discomfort or illness. On written request from the Tenant to the Landlord, climate control will be provided to the Premises (and to such parts or the whole of the Project as is determined by the Landlord in its sole discretion as being necessary for the Tenant's use of the Premises) at times other than Normal Business Hours (except during the making of repairs, maintenance or alterations by the Landlord or for reasons beyond the Landlord's reasonable control) as an Additional Service provided the Tenant will pay for such extra climate control to the Premises and to the Project as an Additional Service.

## 6.4 Elevators

If the Premises are in part of the Building which requires or has access by way of an elevator, the Landlord will furnish for use by the Tenant and its employees and invitees in common with other persons entitled thereto passenger elevator service to the floor on which the Premises or portions thereof are located, and to furnish for the use of the Tenant in common with others entitled thereto at reasonable intervals and at such hours as the Landlord may select, elevator service for the carriage of furniture, equipment, deliveries and supplies, provided however, that if any elevator becomes inoperative, requires repairs or maintenance or alterations (as determined by the Landlord in its sole discretion) or is damaged or destroyed, the Landlord will have a reasonable time within which to repair such damage or maintain, alter or replace such elevator or any system ancillary thereto, PROVIDED ALWAYS that in any event, the Landlord will not be liable for indirect or consequential damages or other damages for personal discomfort or illness.

## 6.5 Entrances, Lobbies

The Landlord will permit the Tenant and its employees and invitees to have the use, during Normal Business Hours in common with others entitled thereto, of the common entrances, lobbies, stairways and corridors of the Building giving access to the Premises (subject to the Rules and Regulations and such

other reasonable limitations as the Landlord may from time to time impose); and to permit access to the Premises outside of Normal Business Hours by the Tenant and its authorized employees subject to such reasonable restrictions for security purposes as the Landlord may impose and the Tenant will pay for such access outside of Normal Business Hours as an Additional Service.

## 6.6 Washrooms

The Landlord will permit the Tenant and its employees and invitees, during Normal Business Hours in common with others entitled thereto, to use the washrooms in the Building on the floor or floors on which the Premises are situated or on any other floor within a reasonable proximity of the Premises and designated by the Landlord as being for the use of the Tenant (which designation may be changed by the Landlord from time to time); to provide therein normal washroom supplies; and to permit the use of such washrooms outside of Normal Business Hours as the Landlord may permit and subject to such reasonable restrictions for security purposes as the Landlord may impose. If the Landlord permits the Tenant to use such washrooms outside of Normal Business Hours, the Tenant will for such use as an Additional Service.

## 7. UTILITIES AND ADDITIONAL SERVICES

### 7.1 Utilities

The Tenant will pay for the cost of all Utilities provided to or consumed in the Premises, for the costs of any other charges levied or assessed in lieu of or in addition to such Utilities as determined by the Landlord, and for all business taxes, licence fees, rates, charges, garbage and other like services and levies of any nature or kind levied or assessed on or in respect of the Tenant, the business carried on in or from the Premises, including laboratory work and any special systems servicing its own computers or any other machinery, properties, fixtures or apparatus of the Tenant installed in the Premises or elsewhere in the Project.

### 7.2 Metering for Utilities

The Landlord may from time to time determine the Tenant's consumption of Utilities in the Premises on whatever reasonable basis may be selected by the Landlord, including the metering of some or all Utilities either to the Premises or to special equipment therein or by estimating the consumption of the Premises or any special equipment therein having regard to capacity and hours of use. If there are separate meters in the Premises which permit direct payment of any Utilities to the supplier of such Utilities, then the Tenant covenants and agrees to pay for all such metered Utilities consumed in the Premises directly to such suppliers. For any Utilities which are not so separately metered in the Premises, the Tenant covenants and agrees to pay the costs of such Utilities to the Premises as determined by the Landlord and will, at the Landlord's option, form part of Operating Costs or be paid by the Tenant to the Landlord in equal consecutive monthly instalments in advance simultaneously with the Tenant's payment of Base Rent based on estimates of the Landlord and subject to final adjustment within a reasonable time after the period for which the estimate has been made. If the Landlord wishes to install in the Building or Premises, for the purposes of assisting in determining the consumption of any Utility in the Premises, the Landlord may install at the Tenant's sole cost and expense, or require the Tenant to install at the Tenant's sole cost and expense, separate check meters or other measuring devices in the Premises or elsewhere; and in that event the Tenant will pay to the Landlord (or, as required by Law, directly to the supplier of the applicable Utility) as and when due from time to time any and all charges for the consumption of such Utility which the Landlord has required to be metered, as well as the cost of such metering. ~~Any determination by the Landlord made under this Section may, at the Landlord's sole option, be verified by an engineer selected by the Landlord (who may be an employee of the Landlord) and being so verified, will be binding on the parties hereto.~~ Any determination made under this Section may be verified by an independent engineer as agreed to by the Landlord and Tenant, whose determination shall be



binding on the parties hereto.

#### 7.37.3 Excess Use

The Tenant's use of Utilities in the Premises will only be for the operation of normal office electrical fixtures, lights, lamps, typewriters, photocopiers, bookkeeping machines, telexes, telecopiers, adding machines and similar small office machines for Tenant's own use solely (the Landlord to determine, in its sole discretion, what equipment is characterizable as "small office machines" and "normal office" equipment) and will not at any time exceed the capacity of any of the Utilities conductors or equipment in or otherwise serving the Premises unless the Tenant obtains the Landlord's prior written consent to operate equipment which is not a small office machine or normal office equipment. As a condition of granting such consent, the Landlord may require the Tenant to pay as Additional Rent the cost of all additional risers and other equipment required therefor as well as the increased cost to the Landlord of the Utilities and the Additional Services to be furnished by the Landlord in connection therewith.

#### 7.47.4 Lamps

The Tenant will pay throughout the Term promptly to the Landlord when demanded or the Landlord may, at its option, include such costs in the Operating Costs, the cost of maintaining and servicing in all respects all lighting fixtures in the Premises including the cost of replacement on a regular basis or otherwise of bulbs, tubes, starters and ballasts. Such maintaining, servicing and replacing will be within the exclusive right of the Landlord and will be carried out at reasonably competitive rates provided that the Landlord may, at its option, request that the Tenant replace bulbs, tubes, starters and ballasts which are not standard for the Building in which case the Tenant will replace the same promptly on the Landlord's request and at the Tenant's sole cost and expense.

#### 7.57.5 Janitorial Services

The Tenant agrees that the Landlord shall have the exclusive right to provide cleaning and janitorial services throughout the Building (including the Premises) in accordance with its cleaning schedule, which schedule will be reasonable and will be carried out with minimal interference to the Tenant's business (which schedule the Landlord may modify from time to time) provided that the Tenant shall, at the end of each day, leave the Premises in a reasonably tidy condition. With the exception of the obligation to cause the janitorial work described above in this Section to be done, the Landlord will not be responsible for any act or omission on the part of the person or persons, firm or corporation employed to perform such work, and such work will be done at the Landlord's direction, without interference by the Tenant, any Tenant Party or any person having business with the Tenant. The Tenant will provide access to the Premises necessary for the performance of the janitorial services described above in this Section.

#### 7.67.6 Additional Services

If from time to time requested in writing by the Tenant to the Landlord and to the extent that it is reasonable able to do so, the Landlord may elect, and will have the exclusive right, by way of Additional Services, to provide or have its agents or contractors designated by the Landlord from time to time provide any janitorial, cleaning or other services to the Premises required by the Tenant which are additional to those required to be provided by the Landlord under Sections 7.4 and 7.5 including:

- (a) cleaning and janitorial services provided by or for the Landlord if the Tenant fails to leave the Premises in a reasonably tidy condition at the end of each day;
- (b) services performed at the Tenant's request and any and all additional costs and expenses of the Landlord of any nature or kind whatsoever which may arise in respect of the use by the Tenant of the Premises or any part of the Project outside Normal Business Hours,

including heating, ventilating, air-conditioning services outside of Normal Business Hours, excess quantities of Utilities, maintenance, repair, special janitorial or cleaning services and construction of Leasehold Improvements after the Commencement Date;

- (c) services provided at the Landlord's discretion including supervising the moving of furniture, freight, supplies or equipment for the Tenant and the making of repairs, alterations, work or other improvements conducted within the Premises, and to supervise or make deliveries to the Premises; and
- (d) performance by the Landlord on behalf of the Tenant of any of the Tenant's Obligations set out in this Lease which the Tenant fails to perform provided that nothing herein will obligate the Landlord to perform any of such Tenant's Obligations;

PROVIDED ALWAYS that the Tenant will pay to the Landlord, promptly on receipt of invoices therefor, the Cost of Additional Services so provided and at such rates as the Landlord may from time to time establish. ~~The Landlord may include as part of its costs of rendering such Additional Services plus a sum equal to 15% of the cost thereof or monies expended therefor for the Landlord's overhead, administration and supervision.~~ Costs of Additional Services recovered directly from the Tenant and other tenants will not be included in computing Operating Costs.

#### 7.7.7 Energy Conservation

The Tenant covenants with the Landlord that:

- (a)a the Tenant will cooperate with the Landlord in the conservation of all forms of energy in the whole or any part of the Project, including the Premises;
- (b)b the Tenant will comply with all Laws relating to the conservation of energy and affecting the whole or any part of the Premises or the Project;
- (c)c the Tenant will, at its sole cost and expense, comply with all reasonable requests and demands of the Landlord made with a view to such energy conservation provided that such requests would be made by a prudent owner of like property of like age; and
- (d)d any and all costs and expenses paid or incurred by the Landlord in complying with such Laws so far as the same shall apply to or reasonably be apportioned to the Building or the Project by the Landlord, will be included in the Operating Costs.

The Landlord will not be liable to the Tenant in any way for any loss, costs, damages or expenses whether direct or consequential paid, suffered or incurred by the Tenant as a result of any reduction in the services provided by the Landlord to the Tenant or to the Building or the Project as a result of the Landlord's compliance with such Laws.

## 8. REPAIR, DESTRUCTION, LANDLORD'S ALTERATIONS AND EXPROPRIATION

### 8.1 Landlord's Repairs

The Landlord will, subject to Sections 8.3(c), 8.3(d) and 10.5 and except for reasonable wear and tear and damage not covered by insurance normally maintained by prudent landlords, keep in a good and substantial state of repair the Common Areas and the cost thereof will be included in Operating Costs unless any of the Common Areas require repair or replacement or become damaged or destroyed through the negligence, carelessness, misuse or wrongful act or omissions of the Tenant or any Tenant Party or any person having business with the Tenant in which case the cost of the resulting repair, replacement or

alteration plus a sum equal to 15% of the cost for the Landlord's overhead, administration and supervision will be paid by the Tenant to the Landlord within five (5) days after receipt of an invoice for the amount.

## 8.2 Tenant's Repairs

The Tenant covenants with the Landlord that:

- (a) the Tenant will, at all times during the Term and at the Tenant's sole cost and expense subject to Sections 8.3(c) and (d), to repair, maintain and keep in good order, repair and decoration as a prudent owner would do, the Premises including all Leasehold Improvements;
- (b) the Tenant will, at all times during the Term and at the Tenant's sole cost and expense subject to Sections 8.3(c) and (d), repair, maintain and keep all equipment and fixtures (including trade fixtures) in the Premises in good order and repair and to replace them when necessary, as a prudent owner would do, including exterior and interior doors, windows, glass partitions, heating, ventilating, air-conditioning, plumbing and electrical equipment and fixtures within the Premises, and keep any improvements now or hereafter made to the Premises, equipment and fixtures in good order and repair, as a prudent owner would do, and the Tenant covenants to perform such maintenance, to effect such repairs and replacements and to decorate at the Tenant's sole cost and expense as and when necessary or reasonably required so to do by the Landlord;
- (c) the Tenant will promptly make whole, at its sole cost and expense, all damaged glass in or on the Premises;
- (d) if any part of the Building including the structure or the structural elements of the Building, any concrete floor, or the systems for climate control or for the provision of utilities or services fall into disrepair, or become damaged or destroyed through the negligence, misuse or excessive use (as determined by the Landlord) of the Tenant, any Tenant Party or any other person over whom the Tenant can reasonably be expected to exercise control, the expense of repairs or replacements thereto necessitated thereby will be paid by the Tenant at the Landlord's actual cost, plus a sum equal to 15% of the cost thereof or monies expended therefor for the Landlord's overhead, administration and supervision;
- (e) the Tenant will notify the Landlord immediately on the Tenant becoming aware of any defect in the Premises or of any other condition which may cause damage to the Premises or the Building; and
- (f) the Tenant will, when necessary, and whether on receipt of notice from the Landlord or not, effect and pay for such maintenance, repair, replacement or decoration as may be the Tenant's Obligation; provided, however, that all such work will comply with the provisions in Section 8.2. In fulfilment of the foregoing Tenant's Obligations, the Tenant covenants to enter into a maintenance contract with such firm or person which may be designated by the Landlord (which designation will be made in the Landlord's sole discretion and may be changed by the Landlord from time to time) to regularly maintain and service such equipment however, the Tenant may enter into a maintenance contract with a service provider of their own choosing for repairs or replacement of any equipment or fixtures installed by the Tenant, in any event, the Tenant must use such firm or person which may be designated by the Landlord for all base building equipment or fixtures and will, within 14 days after request to do so, provide the Landlord with written evidence that the Tenant has so entered into such contract and

covenants to pay when due all sums owing to such firm or person thereunder. In the event that the Tenant fails to comply with the Landlord's request to effect maintenance, repair, replacement or decoration within the time provided for by the Landlord, then the Landlord may cause such maintenance, repair, replacement or decoration to be undertaken and the provisions in Section 13.2 will apply.

### 8.3 Damage and Destruction

The Tenant covenants and agrees with the Landlord that:

- (a) In the event of Partial Destruction, if the Partial Destruction is such that, in the opinion of the Architect:
  - (i) the Premises cannot be used for the Tenant's business until repaired, the Base Rent and the Tenant's Proportionate Share of Operating Costs and of Taxes will abate as hereinafter provided until the repair has been made; or
  - (ii) the Premises may be partially used for the Tenant's business while the repairs are being made, then the Base Rent and the Tenant's Proportionate Share of Operating Costs and Taxes will abate in the proportion that the part of the Premises rendered unusable bears to the whole of the Premises,

PROVIDED ALWAYS that if the part of the Premises rendered unusable exceeds one-half of the Area of Premises, there will be a total abatement of Base Rent and the Tenant's Proportionate Share of Operating Costs and of Taxes until the repairs have been made unless the Tenant, with the prior written permission of the Landlord, in fact uses the undamaged part in which case the Tenant will pay proportionate Base Rent and the Tenant's Proportionate Share of Operating Costs and of Taxes for the part so used (being in the same proportion to the Base Rent and the Tenant's Proportionate Share of Operating Costs and of Taxes, as the area in square feet of the part of the Premises being used together with the area described in Section 2.37(a)(ii) or 2.37(b)(ii) (as the case may be) bears to the Rentable Area of Premises). A certificate of the Architect certifying whether "Partial Destruction" has occurred and if so, certifying the extent of the part of the Premises rendered unusable, will be binding and conclusive on both Landlord and Tenant for the purposes hereof. Notwithstanding anything to the contrary herein, if the Partial Destruction is repaired within 15 days after the date of destruction there will be no abatement of Rent.

- (b) In the event of Partial Destruction, the Landlord will, to the extent of proceeds of insurance it receives, repair and restore the Premises according to the nature of the damage with all reasonable diligence, except for improvements installed by or on behalf of the Tenant (including Leasehold Improvements, any Landlord's Work and any Tenant's Work) which the Tenant will repair and restore, in both cases, to substantially the condition the Premises and those improvements were in immediately before such Partial Destruction occurred, but to the extent that any part of the Premises is not reasonably capable of use by reason of damage which the Tenant is obligated to repair hereunder, any abatement of Rent to which the Tenant is otherwise entitled hereunder will not extend later than the time by which, in the reasonable opinion of the Landlord, repairs by the Tenant ought to have been completed with reasonable diligence. To the extent the Landlord receives, during the Term (subject to any earlier termination of this Lease for any reason whatsoever), proceeds of insurance respecting damage the Tenant is to repair, the Landlord will turn over those proceeds on the Tenant completing such repair in compliance with the provisions in this Lease. Notwithstanding anything herein

- otherwise contained, there will be no abatement of Rent if the damage is caused by wilful act or neglect of the Tenant or any Tenant Party.
- (c) In the event of Total Destruction, the Landlord or Tenant may at its option to be exercised by giving notice to the other party ~~Tenant~~ within 60 days of the date of such Total Destruction, terminate this Lease effective from the date when such Total Destruction occurs. On the Landlord giving of such notice, the Term will immediately terminate and the Tenant will immediately surrender the Premises and all its interest therein to the Landlord and the Tenant will immediately pay the Base Rent and Additional Rent apportioned to the date of such termination; and the Landlord may re-enter and repossess the Premises discharged of this Lease; PROVIDED THAT such termination will not affect the Tenant's Obligations or the obligations of any Indemnifier to the Landlord arising from the Tenant's Obligations existing prior to the date of such termination. If the Landlord or Tenant does not exercise ~~its~~their option of termination under this Section 8.3(c), the provisions of repair and restoration set out in Section 8.3(b) will apply. A certificate of the Architect certifying that "Total Destruction" has occurred will be binding and conclusive on both Landlord and Tenant for the purposes hereof.
- (d) Notwithstanding the foregoing provisions concerning Total Destruction or Partial Destruction of the Premises, in the event of total or partial destruction of the Building of which the Premises forms a part (and whether or not the Premises are damaged or destroyed) to such a material extent or of such a nature that in the opinion of the Landlord the damage to the Building cannot be repaired within ~~180 days~~3 months from the date of destruction or the Building must be or should be totally or partially demolished, whether to be reconstructed in whole or in part or not, then the Landlord or Tenant may, at its option (to be exercised within 60 days from the date of such destruction) give notice to the other party ~~Tenant~~ that this Lease is terminated with effect from the date stated in the notice. If the Tenant is able effectively to use the Premises after such destruction, such date of termination will be not less than ~~30~~90 days from the date of the notice. If the Tenant is unable effectively to use the Premises after such destruction, the date given in the notice will be the date of termination. On such termination, the Tenant will immediately surrender the Premises and all its interest therein to the Landlord and the Tenant will immediately pay the Base Rent and Additional Rent apportioned to the date of termination and the Landlord may re-enter and repossess the Premises discharged of this Lease; PROVIDED THAT such termination will not affect the Tenant's Obligations or the obligations of any indemnifier to the Landlord arising from the Tenant's Obligations existing prior to the date of such termination. The Architect will determine whether the Premises can or cannot be effectively used by the Tenant and his certificate thereon will be binding and conclusive on both the Landlord and the Tenant for the purposes hereof.
- (e) In none of the cases described above in this Section 8.3 will the Tenant have any claim on the Landlord for any damages sustained by the Tenant nor will the Landlord be obligated to rebuild the whole or any part of the Building or any part thereof in accordance with the original plans and specifications therefor. No damages, compensation or claim whatsoever will be payable by the Landlord for inconvenience, loss of business or annoyance or other loss or damage whatsoever arising from the occurrence of any such damage or destruction of the Premises or of the Building and/or the repair or restoration thereof.
- (f) Subject to the above in this Section 8.3, the Tenant and Landlord understand and agree that in the event of damage or destruction as contemplated in any of the above in this

Section 8.3, the Tenant will, at its sole cost and expense and at the request of the Landlord, repair and rebuild all Building fixtures, alterations and additions (including Leasehold Improvements) installed by or on behalf of the Tenant and will replace all furniture and equipment in the Premises.

- (g) Nothing in this Section 8.3 obligates the Landlord to rebuild the Building or any part of the Project and if the Landlord elects to rebuild, then it may make such changes, alterations, modifications, adaptations or extensions in, to or of the original Building or such structures as form part of the Project as it in its unfettered and sole discretion sees fit.

#### 8.4 Variations of Form and Siting of Premises

The Landlord may make minor variations in the form or siting of the Premises and, notwithstanding anything contained in this Lease and any rule of law or equity to the contrary, such minor variations do not render this Lease void or voidable.

#### 8.5 Landlord's Alterations

Where the Landlord is required by Law or an Authority to make alterations to the Premises, then in each Lease Year of the Term after completion of such alterations (but not after the cost thereof has been repaid to the Landlord) the Tenant will pay to the Landlord not less than 10% of all costs to the Landlord of making such alterations, and if the Landlord is required to make similar alterations to other portions or areas of the Building or the Project, the cost of so doing will be reasonably apportioned by the Landlord to each of the premises.

#### 8.6 Landlord's Use of Project

Nothing contained in this Lease will be construed so as to prevent the Landlord from varying or altering the location or size of parking areas, driveways, sidewalks or Common Areas from time to time or from erecting additional Buildings or extending Buildings after the Commencement Date provided that in no event shall any such variation or alteration result in a material adverse effect on the Tenant's use, enjoyment and access to the Building or Project. Without limiting the foregoing, the Landlord will have the unrestricted right to add lands to the Lands which will be included within the definition of "Lands" herein, to construct additional Buildings from time to time on the Lands, add or change any Building, or alter the ingress and egress to the Lands, the Building or Premises, or change the loading or unloading facilities and service entrances from time to time without in any way being responsible to the Tenant, provided only that the Landlord will, at all reasonable times, provide reasonable access to the Premises for the Tenant. Subject to the foregoing, the Landlord may transfer or dispose of portions of the Project to the owners of abutting property or dedicate or transfer to the Municipality or other governmental authorities, lands for road widening or other purposes, and when and so often as the Landlord will dispose or transfer or dedicate any portion of the Project, then the reference in this Lease to "Lands", "Building" or "Project" will mean and refer to the portion of the Lands, Building or Project remaining after any such transfer, disposition or dedication together with any adjacent land which may be acquired by the Landlord on any such transfer, disposition or dedication.

#### 8.7 Expropriation

The Landlord and the Tenant agree to co-operate with the other regarding any expropriation of the whole or any part of the Premises or the Project so that each may receive the maximum award to which they are respectively entitled at law. To the extent that any part of the Building or the Project, other than the Premises, is expropriated, then the full proceeds accruing or awarded as a result will belong to the Landlord and the Tenant will abandon or assign to the Landlord any rights which the Tenant may have or

acquire by operation of law to those proceeds or awards and will execute all such documents as in the opinion of the Landlord are necessary to give effect to this intention.

## 9. ACCEPTANCE OF PREMISES, IMPROVEMENTS, SURRENDER AND OVERHOLDING

### 9.1 Acceptance of Premises

The Tenant acknowledges and agrees that the Landlord is providing the Premises to the Tenant on an "as is" basis, with the exception of the Landlord's Work as defined and set out in the attached Schedule "D". The Tenant will examine the Premises before taking possession and the taking of possession of the whole or any part of the Premises by the Tenant will be conclusive evidence as against the Tenant that at the time thereof the Premises were in good order and satisfactory physical and environmental condition on such date of taking possession and will constitute an acknowledgement by the Tenant that the Premises are in the condition called for by this Lease and that all alterations, remodelling, decorating and installation of equipment and fixtures required to be done by the Landlord hereunder, if any, have been satisfactorily completed save only for such list in writing prepared by the Tenant and consented to in writing by the Landlord during a joint inspection by the Landlord and Tenant at the time of taking such possession. Any dispute as to any aspects of work expressly required hereunder to be done to the Premises by the Landlord's prior to the Commencement Date or the completion or adequacy of the Building, the Premises or any part thereof will be determined by the Architect.

### 9.2 Installation of Fixtures and Improvements

- (a) The Tenant will not begin any work in the Premises and will not make, erect, install or alter any Leasehold Improvements or trade fixtures in the Premises without having requested and obtained the Landlord's prior written consent, which the Landlord will not unreasonably withhold and having obtained, at the Tenant's sole cost and expense, all required approvals and permits from all applicable Authorities. The Tenant will fully equip the Premises with all trade equipment, lighting fixtures, furniture, operating equipment, furnishings, fixtures, floor coverings and any other equipment necessary for the proper operation of the Tenant's business.
- (b) In doing any work in the Premises or making, erecting, installing or altering any Leasehold Improvements or trade fixtures, the Tenant will not alter or interfere with any installations which have been made by the Landlord without the prior written consent of the Landlord, and in no event will the Tenant alter or interfere with or affect the structural elements or the strength, concrete floor, roof or outside appearance of the Building, or the mechanical, electrical, sprinklers, plumbing and climate control systems thereof or the window coverings installed by the Landlord on exterior and atrium windows.
- (c) The Tenant's request for any consent under this Section 9.2 will be in writing and accompanied by an adequate description of the contemplated work and, where appropriate, working drawings and specifications therefor. Approval of drawings and specifications, if required, will be granted by the Landlord within 3 business days of the Tenant's submission. Any out-of-pocket expense incurred by the Landlord in connection with any such request for consent will be deemed incurred by way of an Additional Service. All such work to be performed will comply with all applicable Laws and will be performed by competent contractors and subcontractors of whom the Landlord has consented to (such consent not to be unreasonably withheld), but provided that the Landlord may require that the Landlord's contractors and subcontractors be engaged for any mechanical or electrical work) and by workmen whose labour affiliations are compatible with those of workmen employed by the Landlord and its

~~contractors and subcontractors.~~ At the option of the Landlord, all such work will be subject to inspection by and the reasonable supervision of the Landlord, as an Additional Service, and will be performed in accordance with any reasonable conditions or regulations imposed by the Landlord (including the examination by the Architect or other experts of the detailed drawings and specifications as an Additional Service and contractor's liability insurance in reasonable amounts) and completed in a good workmanlike manner in accordance with the description of the work consented to by the Landlord under this Section 9.2. The Tenant will pay to the Landlord the amount of the increase for any insurance coverage or Taxes to the extent that such increase is directly attributable to any action by the Tenant under this Section 9.2, and the Tenant covenants that such insurance will not thereby be made liable to avoidance or cancellation by the insurer by reason of any work described in this Section 9.2.

- (d) At the request of the Landlord, the Tenant will promptly remove, at the Tenant's sole cost and expense, any work in the Premises made by the Tenant without the prior consent of the Landlord or not made in accordance with the drawings and specifications consented to by the Landlord hereunder.
- (e) The Tenant and all Tenant Parties are expressly prohibited from entering onto the roof of the Building for any reason whatsoever. Without limiting the foregoing, the Tenant will not make any repairs, openings or additions to any part of the exterior of the Premises without the prior written consent of the Landlord (which consent may be arbitrarily withheld), failing which the Tenant will be held responsible for all ensuing costs and damages whether to remove such items or to effect repairs needed as a result of such acts.

### 9.3 Liens and Encumbrances on Fixtures & Improvements

In connection with the making, erection, installation or alteration of Leasehold Improvements and trade fixtures and all other work or installations made by or for the Tenant in the Premises or the Project during the period of construction and fixturing of the Premises or at any other time, the Tenant will comply with all the provisions of the applicable Laws including Laws in respect of builders' lien, worker's compensation and any provision requiring or enabling the retention of portions of any sums payable by way of holdbacks; and except as to any such holdback, will promptly pay all accounts relating thereto. The Tenant will not create, cause to be created or permit, do or cause anything to be done which would allow any mortgage, conditional sale agreement, lease, lien, certificate of pending litigation, judgment or certificate or other encumbrance of any nature whatsoever to be imposed, be attached or remain on the Premises or the Project, or any part thereof. If and whenever any builders' or other lien for work, labour, services or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable or claims therefor will arise or be filed or any such other encumbrance will attach, the Tenant will, at its sole cost and expense, within five (5) days after receipt of notice thereof procure the discharge thereof, including any certificate of pending litigation registered in respect of any lien or encumbrance, by payment or giving security or in such other manner as may be required or permitted by law, and failing which the Landlord may in addition to all other remedies hereunder avail itself of its remedy under Section 13.2 and may make any payments required to procure the discharge of any such lien or encumbrance, and the Tenant will reimburse the Landlord therefor as provided in Section 13.2, and its right to reimbursement will not be affected or impaired if the Tenant shall then or subsequently establish or claim that any lien or encumbrance so discharged was without merit or excessive or subject to any abatement, set-off or defence.

### 9.4 Tenant's Goods

The Tenant will not sell, dispose of or remove any of the trade fixtures, goods or chattels of the Tenant



from or out of the Premises during the Term without the consent of the Landlord, unless the Tenant is substituting new and similar trade fixtures, goods or chattels or is bona fide disposing of individual items which have become excess for the Tenant's purposes in the normal course of its business. The Tenant further covenants that it will, at all times, have and retain full legal and beneficial ownership of its trade fixtures, goods and chattels and will not permit them to be or become subject to any lien, mortgage, charge, encumbrance or title retention agreements except such as are bona fide incurred for the purpose of financing the purchase of such trade fixtures, goods or chattels.

## 9.5 Removal of Fixtures and Improvements

All Leasehold Improvements, fixtures, additions and alterations made to or installed in or on the Premises by or on behalf of the Tenant will, immediately on expiry of the Term or any earlier termination of this Lease, remain upon and be surrendered to the Landlord with the Premises as part of the Premises (without disturbance, molestation or injury) and will be and become the absolute property of the Landlord without any payment, compensation therefor to the Tenant or any indemnity by the Landlord. Except to the extent herein or otherwise expressly agreed by the Landlord in writing, no Leasehold Improvements, trade fixtures, furniture or equipment will be removed by the Tenant from the Premises either during or at the expiry of the Term or any earlier termination of this Lease, except that (a) the Tenant, if not in default hereunder, may at the end of the Term remove its trade fixtures, furniture and equipment; and (b) the Tenant will at the end of the Term remove such of its trade fixtures, furniture, equipment and Leasehold Improvements installed by it as the Landlord shall require to be removed. The Tenant will, in the case of every removal either during or at the end of the Term, make good any damage caused to the Premises and/or the Building by the installation and removal.

## 9.6 Surrender, Overholding

On the expiry of the Term or any earlier termination of this Lease, the Tenant will peaceably quit and surrender to the Landlord the Premises (and all improvements thereon) in vacant and clean possession and in good order, repair, decoration, and in the condition and state of repair that they were required to be maintained during the Term and will remove all its property therefrom, except as otherwise provided in this Lease. The Landlord shall become the owner of all right, title and interest in and to the Premises and such improvements thereon free and clear of all encumbrances except to the extent the Landlord has agreed in writing (in its sole and absolute discretion) to be bound thereby, without any payment having to be made to the Tenant and without the need for the execution or delivery of any further documents by the Tenant to the Landlord. The Tenant's Obligation to observe or perform its covenants set out in this Section will survive the expiry of the Term or any earlier termination of this Lease. If the Tenant continues to occupy or remain in possession of the Premises after the expiry of the Term or any earlier termination of this Lease without the execution and delivery of a new lease, there will be no tacit renewal or extension of the Term hereby granted, and the Tenant will be deemed to be occupying the Premises as a Tenant from month-to-month tenant at a monthly rent payable in advance on the first day of each month equal to ~~double~~125% of the Base Rent payable during the last month of the Initial Term (or any extension thereof made in accordance with the provisions of this Lease), and 1/10<sup>th</sup> of the Additional Rent paid during the last month of the Initial Term (or any extension thereof made in accordance with the provisions of this Lease); and otherwise on and subject to the terms, provisions and conditions herein set out insofar as they are applicable to a monthly tenancy.

## 10. INSURANCE, LIABILITY AND INDEMNITY

### 10.1 Landlord's Insurance

The Landlord will throughout the Term (subject to any earlier termination of this Lease) carry or cause to be carried:

- (a) fire insurance (including standard extended coverage endorsement perils and leakage from fire protective devices) or alternatively at Landlord's option, all risk insurance in respect of the Building and its fixed improvements including all Leaseable Premises (including the Premises) but excluding tenant's fixtures and (except to the extent that the Landlord elects to insure them) Leasehold Improvements installed or constructed by tenants including the Tenant;
- (b) loss of rental income insurance relating to rental abatement contemplated in Section 8.3;
- (c) if any boilers or pressure vessels are operated in the Building other than in any Leaseable Premises therein, boiler and pressure vessel insurance with respect thereto;
- (d) comprehensive general business liability insurance with respect to the operation of the Project for personal and bodily injury or death and damage to property of others; and
- (e) insurance against any other occurrences and for such coverage as the Landlord may see fit in its sole discretion.

Insurance effected by the Landlord under this Section shall be in amounts which the Landlord may from time to time determine as being reasonable and sufficient, will be subject to such reasonable deductibles and exclusions as the Landlord may determine, and will otherwise be on such terms and conditions as the Landlord may from time to time determine as being reasonable and sufficient.

## 10.2 Tenant's Insurance

The Tenant will, throughout the Term and during such other time as the Tenant occupies the whole or any part of the Premises, take out and keep in force:

- (a) "all risks" insurance (including extended coverage endorsement perils, earthquake, flood and sewer backup perils, leakage from fire protective devices and water damage generally) in respect of the Tenant's fixtures, furniture, equipment, inventory and stock-in-trade, the Leasehold Improvements to the extent that the Landlord has not elected to insure them pursuant to Section 10.1, and such other property in or forming part of the Premises (not being property which the Landlord is bound to insure pursuant to Section 10.1) as the Landlord may from time to time require, all to their full insurable value;
- (b) insurance on all glass and plate glass in or on the Premises, whether provided by the Landlord or the Tenant, to their full replacement costs;
- (c) if any boiler, pressure vessel or machinery is in the Premises, broad form boiler and pressure vessel insurance with respect thereto with limits for each accident in an amount not less than full replacement costs of all Leasehold Improvements and of all such boiler, pressure vessel or machinery;
- (d) comprehensive general business liability insurance, including non-owned automobile liability insurance and owned automobile insurance (provided the owned automobile insurance may be covered under a policy separate from the comprehensive general business liability policy), against claims for fire, personal and bodily injury or death, damage or loss on, in or about the Premises or otherwise however arising out of the operations of the Tenant or any person conducting the business carried on from the Premises and the Tenant's use of the Common Areas or of any other part of the Project to

- the combined limit of not less than \$5,000,000 or such other amount as the Landlord may reasonably require from time to time on not less than 30 days' notice;
- (e) tenant's legal liability insurance on an "all risk" format in an amount not less than the full replacement cost of the Premises, including Leasehold Improvements;
  - (f) business interruption insurance for a minimum period of twelve months in such amounts as will reimburse the Tenant for direct or indirect loss of earnings and extra expenses attributable to all perils insured against under Section 10.2(a) or attributable to prevention of access to the Premises or the Building as a result of any such perils; and
  - (g) such other insurance in such amounts and on such terms as the Landlord may reasonably require on not less than 30 days' notice.

Insurance effected by the Tenant under this Section 10.2 will:

- (h) be with insurers duly licensed to transact insurance in British Columbia;
- (i) be in such amounts and on such terms and conditions which the Landlord may from time to time reasonably require;
- (j) permit the release of the Landlord from certain liability as set out in Section 10.5;
- (k) name the Landlord, any Owner and any other person with an interest in the Project from time to time designated by the Landlord as an additional insured as their interests may appear; and
- (l) provide that the insurer will not have any right of subrogation against the Landlord, any Owner or the Landlord's directors, officers, employees, servants, agents, strata council members (if any) or other persons for whom the Landlord is responsible in law, on account of any loss or damage covered by such insurance or on account of payments made to discharge claims against or liabilities of the Landlord or Tenant covered by such insurance; and
- (m) will provide an undertaking by the insurance company to notify the Landlord in writing 30 days prior to any material change in, lapse, non-renewal or cancellation of any such policies.

The Tenant agrees to provide the Landlord with a certified copy of each of the insurance policies described in this Lease within 14 days of obtaining or renewing such policies. In addition, at the request of the Landlord, the Tenant will provide the Landlord with a certified copy of current policies or certificates or other proofs as may be required to establish the Tenant's insurance coverage in effect from time to time and the payment of premiums thereon, and if the Tenant fails to insure or pay premiums or to provide satisfactory proof thereof as so required, the Landlord may without notice to the Tenant, effect such insurance and recover any premiums paid therefor from the Tenant on demand. To the extent applicable, the Tenant agrees to use the proceeds of insurance to restore the Premises to the condition existing immediately prior to any loss or damage.

### **10.3 Activities Which Increase Insurance Rates**

The Tenant will not do, omit to do or permit to be done, to the best of its knowledge on the Premises anything which would or might cause or have the effect of causing the Landlord's cost of insurance (whether fire, liability or other) to be increased (and, without waiving the foregoing prohibition, the

Landlord may demand, and the Tenant will pay to the Landlord as Additional Rent on demand, the amount of any such increase of cost).

#### 10.4 Cancellation of Insurance

If any policy of insurance on the Project from time to time effected by the Landlord is cancelled or is about to be cancelled by the insurer or an insurer refuses or declines to place or renew insurance by reason of the use or occupation of the Premises by the Tenant, any Tenant Party or any assignee, subtenant or licensee of the Tenant or anyone permitted by the Tenant to be on the Premises and the Tenant after receipt of notice from the Landlord fails to take such immediate steps in respect of such use or occupation as shall enable the Landlord to reinstate, renew, replace or avoid cancellation of (as the case may be) such policy of insurance, without limiting any other right or remedy of the Landlord under this Lease, the Landlord may at its option, at any time and without notice or any form of legal process, immediately enter upon the Premises and remove the said use or condition in which event the Tenant will immediately on demand pay to the Landlord the cost to the Landlord related to such removal together with a fee equal to the sum of 15% of such cost thereof or monies expended therefor for the Landlord's overhead, administration and supervision and with Interest on the aggregate of the foregoing from the date funds were expended by the Landlord or its agents or servants until actual payment thereof is received by the Landlord from the Tenant.

#### 10.5 Limitation of Landlord's Liability

It is agreed between the Landlord and the Tenant, or those for whom the Landlord may be responsible at law, will not be liable or in any way responsible to the Tenant in respect of any loss, injury or damage suffered by the Tenant or any Tenant Party, or others unless resulting from the actual negligence of the Landlord but in no event will the Landlord be liable for loss, injury, death or damage:

- (a) to any property of the Tenant or others from theft, damage or any other cause even if entrusted to the care or control of the Landlord;
- (b) caused to any persons or property by fire, explosion, falling plaster, falling ceiling tiles or fixtures and diffuser coverings, escaping steam or gas, electricity, water, rain, snow, flood, or leaks from any part of the Project including the Common Areas or from any pipes, sprinklers, roofs, windows, subsurface of any floor or ceiling, appliances or plumbing works therein, or by dampness or by or attributable to the condition or arrangement of any electric or other wiring or for damage caused by anything done or omitted by the Tenant or any Tenant Party;
- (c) caused by other tenants, occupants, persons or the public in or about the Project or caused by operations in the conduct of any private or public work;
- (d) of the nature of indirect or consequential loss, injury, death or damage of any nature whatsoever including damages for personal discomfort, illness or inconvenience, interruption of business, loss of income or matters affected by interruptions in the supply of water, electricity, heating, ventilation, air conditioning and other utilities; or
- (e) required to be insured by the Tenant under the provisions of Section 10.2.

#### 10.6 Indemnity

Notwithstanding any other provision of this Lease to the contrary, the Tenant will be liable to the Landlord for and will assume the defence of, hold harmless and indemnify the Landlord from and against all costs, liabilities, claims, damages, expenses, suits or actions (including direct losses, costs, damages

and expenses of the Landlord and legal costs of the Landlord on a solicitor and own client basis) in any way directly or indirectly resulting from:

- (a) any breach, violation, or non-performance of any Tenant's Obligation;
- (b) any damage to property, including property of the Landlord, occasioned by the operation of the Tenant's business on, or the Tenant's occupation of, the Premises or arising out of any work done by, or any act, neglect or omission of the Tenant or any Tenant Party in or about the Project; and/or
- (c) any injury to person or persons, including death at any time resulting therefrom, occasioned by the operation of the Tenant's business on, or the Tenant's occupation of, the Premises or arising out of any work done by, or any act, neglect or omission of the Tenant or any Tenant Party in or about the Project;

and such covenant of the Tenant under this Section 10.6 will survive the expiry of the Term or any earlier termination of this Lease.

## 11. LICENSES, ASSIGNMENT AND SUBLETTING

### 11.1 Licenses

The Tenant will not suffer or permit any part of the Premises to be used or occupied by any licensee or concessionaire or any person other than the Tenant, any assignees or subtenants permitted under Section 11.2 and their respective employees, customers and others having lawful business with them.

### 11.2 Assignment and Subletting by Tenant

- (a) The Tenant will not enter into, consent to or permit any Transfer without having first requested and obtained the consent in writing of the Landlord thereto in each instance, but the consent is subject to the Landlord's rights under this Section 11.2. If the Tenant intends to effect a Transfer, the Tenant must give prior written notice to the Landlord of such intent specifying the identity of the proposed transferee, the type of Transfer contemplated, the portion of the Premises affected by the transfer and such other information relating to the proposed transferee and its principals or business as the Landlord requires and the financial and other terms of the Transfer and must provide such financial, business or other information relating to the proposed transferee and its principals or business as the Landlord, acting reasonably requires, together with a true copy of any offer or agreement to enter into the Transfer or any documents which record the particulars of the proposed Transfer.
- (b) If the Landlord consents to the Tenant's request for consent to the Transfer, which consent may not be arbitrarily withheld, the Landlord may impose such terms and conditions relating to its consent as the Landlord may see fit; PROVIDED THAT no such Transfer will:
  - (i) in any manner or extent release or relieve the Tenant from the performance or observance of any of the Tenant's Obligations including the performance or observance of the Tenant's Obligations required to be performed or observed during any renewal or extension of the Initial Term in accordance with the provisions of this Lease, notwithstanding that such renewal or extension arises after the date of such assignment, mortgaging or subletting and notwithstanding that the Base Rent is increased for such period of renewal or extension.

Notwithstanding a Transfer, the Tenant will be jointly and severally liable with the transferee on this Lease;

- (ii) in the case of an assignment or subletting, be made other than to responsible persons, firms, partnerships or bodies corporate who undertake by agreement in writing with the Landlord to perform and observe the Tenant's Obligations;
- (iii) be made unless the Tenant is not in default of any of the Tenant's Obligations;
- (iv) in the case of an assignment or subletting, be made to any person, firm, partnership or body corporate who intends to or does use the Premises for any business or use which is prohibited hereunder or which the Landlord is obliged to restrict by reason of any other lease or contract relating to the Project, or any use, purpose or business (other than the Permitted Use) to which the Landlord in its sole discretion may object; and

PROVIDED THAT no such Transfer by way of a mortgage of this Lease will be made unless the mortgagee covenants in writing with the Landlord:

- (i) to pay to the Landlord all sums payable by the Tenant hereunder (including all arrears) during any period the mortgagee actually or constructively occupies the Premises and to otherwise perform and observe the Tenant's Obligations during any such period; and
  - (ii) that any assignment or sublease the mortgagee may wish to make will be subject to all the same terms affecting a Transfer made or intended to be made by the Tenant under this Lease.
- (c) The Landlord's consent to any Transfer will not be or operate as a consent to any further Transfer; and the Landlord's prior consent in writing will be required for each and every Transfer.
- (d) Notwithstanding anything to the contrary set out above in this Section 11.2, after the Landlord receives a request from the Tenant for consent to a Transfer and the required information related thereto in writing, the Landlord will have the right to elect, by written notice to the Tenant within 30 days after the receipt of such request and all required information, to cancel this Lease, as to the whole or part, as the case may be, of the Premises affected by the proposed Transfer or to take over the position of the proposed transferee with respect to the Transfer such that the Landlord becomes the assignee or subtenant, as the case may be, of the Tenant on the financial terms set out in the notice. If the Landlord elects to terminate this Lease as aforesaid, it must stipulate in its notice the termination date and this date must be not less than 30 days and not more than 90 days following the giving of the notice; and the Tenant must notify the Landlord within 15 days after receipt of such notice of termination, of the Tenant's intention whether to refrain from the Transfer or to accept the termination of this Lease or the portion of this Lease in respect of which the Landlord has exercised its rights. If the Tenant fails to deliver such notice within those 15 days or notifies the Landlord that the Tenant accepts the Landlord's termination, then this Lease will, as to the whole or the affected part of the Premises, as the case may be, be terminated on the date of termination stipulated by the Landlord in its notice of termination. If the Tenant notifies the Landlord within those 15 days that it intends to refrain from the proposed Transfer, then the Tenant will not proceed with such Transfer, the notice of termination will be null and void and this Lease will continue in full force and effect in accordance with its terms.

- (e) If the Tenant is a corporation, **effective control or beneficial ownership of the corporation may be changed directly or indirectly** ~~other than a corporation with shares listed on any recognized stock exchange, effective control or beneficial ownership of the corporation shall not be changed directly or indirectly~~ at any time during the Term whether by a sale, merger, amalgamation, encumbrance or other disposition of shares or otherwise howsoever as long as the transfer or assignment is to an affiliate, **provided the Tenant shall continue to be bound by the provisions of the Lease.** ~~will be deemed to be a transfer of the rights of the Tenant under this Lease and, accordingly, a breach of the above in this Section 11.2 unless the Tenant first obtains the written consent of the Landlord.~~
- (f) Whether or not the Landlord consents to any request of the Tenant for a Transfer, the costs incurred by the Landlord in considering and processing the request for consent and in completing any of the documentation involved in implementing such Transfer and consent thereto will be for the Tenant's account and payable immediately by the Tenant to the Landlord on demand.

### 11.3 Assignment by Landlord

The Landlord and any Owner may sell, transfer, assign, lease, mortgage, encumber or otherwise deal with the whole or any part of the Project or any interest or rights therein or under this Lease, in every case without the consent of ~~the Tenant, but with notice to the Tenant within a reasonable time hereof, or notice to the Tenant, and~~ without restriction, and to the extent that any purchaser, transferee, assignee or lessee has assumed the covenants and obligations of the Landlord under this Lease, then the Landlord will, without further written agreement, be freed and relieved of all liability with respect to its covenants and obligations. In the event of a sale or of default by the Landlord under any mortgage, trust deed or trust indenture and the purchaser, mortgagee or trustee for bond holders, as the case may be, duly entering into possession of the Project or the Premises, the Tenant covenants and agrees to attorn to and become the tenant of such purchaser, mortgagee or trustee under the terms of this Lease.

## 12. SUBORDINATION, ATTORNMENT, REGISTRATION AND CERTIFICATES

### 12.1 Subordination and Attornment

The Tenant agrees with the Landlord that this Lease will, at the option of the Landlord or the mortgagee under any mortgage or the trustee under any trust deed or trust indenture, now or hereafter existing, (such mortgagee or trustee in this Section is called the "Holder" and such mortgage or trust deed or trust indenture and all renewals, modifications, consolidations, replacements and extensions thereof is called the "Security") affecting the whole or any part of the Project, exercisable at any time and from time to time by the Landlord or such Holder, be either subject and subordinate to such Security and accordingly not binding on such Holder or, alternatively, prior to such Security and binding on such Holder. Promptly on request by the Landlord at any time and from time to time, the Tenant will either postpone and subordinate this Lease with the intent and effect that this Lease and all rights of the Tenant will be subject to the rights of such Holder as fully as if the Security, regardless of when made, had been made prior to the making of this Lease or, alternatively, to attorn to such Holder and become bound to it as its tenant of the Premises for the then unexpired residue of the Term and on the terms and conditions contained in this Lease, in each case as the Landlord or such Holder may require, without limiting the foregoing (and notwithstanding that any previous attornment or subordination in favour of such Holder has been given) the Tenant will execute promptly any instrument or certificate of postponement and subordination or alternatively any instrument or certificate of attornment, as the case may be, which may from time to time be requested by the Landlord or such Holder in order to give effect to the foregoing. ~~The Tenant hereby irrevocably appoints the Landlord as the attorney for the Tenant with full power and authority to execute~~

and deliver such instruments or certificates for and in the name of the Tenant.

Upon the Tenant providing any attornment or subordination under this Section 12.1, the Landlord will obtain from the Holder a non-disturbance agreement which permits the Tenant to continue in possession of the Premises in accordance with the terms of this Lease as long as the Tenant duly and regularly pays the Rent reserved hereby and performs and observes all of the Tenant's Obligations.

## 12.2 Registration

The Landlord will not be obliged to deliver this Lease in registrable form. The Tenant covenants and agrees with the Landlord not to register this Lease or any notice of this Lease in any land title office. If the Landlord requires this Lease to be registered subject or in priority to, as the Landlord may direct, any mortgage, trust deed or trust indenture which may now or anytime hereafter affect the whole or part of the Premises or the Project and whether or not any such mortgage, trust deed or trust indenture affects only the Premises or the Project or affects other premises as well, the Tenant will execute, promptly on request by the Landlord and at the Tenant's Landlord's sole cost and expense, any certificate, tripartite agreement or other instrument which may from time to time be requested by the Landlord to register this Lease.

## 12.3 Certificates

The Tenant will, within 10 days after request therefor, execute and deliver to the Landlord and if required by the Landlord, to any mortgagee (including any trustee under a trust deed or trust indenture) designated by the Landlord a confirmation or certificate in writing as to the status of this Lease, including as to whether it is in full force and effect, is modified or unmodified, confirming the rental payable hereunder and the state of the accounts between the Landlord and Tenant, the existence or non-existence of defaults, the Rentable Area of the Premises, that there are no defences or offsets or prepayments to this Lease and any other information requested by the Landlord. Such certificate is to be substantially in the form attached hereto as Schedule "C" or such other form as may be requested by the Landlord from time to time.

## 13. TENANT'S DEFAULT AND LANDLORD'S REMEDIES

### 13.1 Default

If and whenever any one or more of the following events occur:

- (a) the Rent hereby reserved, or any part thereof, is not paid on the day appointed for its payment hereunder, whether lawfully demanded or not, or there is non-payment of any other sum which the Tenant is obligated to pay under any provisions hereof, and in either case such default continues for 10 days after notice to the Tenant; or
- (b) the Term or any goods, chattels, equipment or other personal property of the Tenant is at any time taken or exigible in execution or attachment or if a writ of execution is issued against the Tenant, or the Tenant attempts or threatens to move its goods, chattels or equipment out of the Premises (other than in the ordinary course of its business or as permitted hereunder); or
- (c) the Tenant fails to conduct the Permitted Use, and only the Permitted Use, from the Premises for a period of 10 consecutive days (without the prior written consent of the Landlord); or
- (d) the Premises is vacant, abandoned or remains unoccupied for 10 consecutive days; or



- (e) the Tenant or a person carrying on business in any part of the Premises:
  - (i) becomes insolvent or commits an act of bankruptcy or becomes bankrupt; or
  - (ii) takes the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors or makes application for relief from creditors under the provisions of any statute or makes any proposal, assignment or arrangement with its creditors; or
  - (iii) makes or attempts to make any bulk sale other than in conjunction with a Transfer consented to by the Landlord in accordance with the provisions in Section 11.2; or
  - (iv) if it is a corporation, takes steps or proceedings for the winding up, dissolution or other proceeding for the termination of its corporate existence; or
  - (v) has a receiver or receiver-manager appointed for all or any part of its business, property, affairs or revenues; or
  - (vi) has any Authority take possession of its business or property; or
- (f) without the written consent of the Landlord, the Premises are used by any person other than the Tenant or its permitted assigns or subtenants or for any purpose other than the Permitted Use, or is occupied by any person whose occupancy is prohibited by this Lease; or
- (g) the Tenant assigns or sublets or purports to assign or sublet any portion or all of the Term or the Premises without the written consent of the Landlord or control of the Tenant, if a corporation, is changed without the prior written consent of the Landlord, in either case as required pursuant to Section 11.2; or
- (h) the Tenant fails to remedy any condition giving rise to cancellation, threatened cancellation, reduction or threatened reduction of any insurance policy on the Project or any part thereof within 24 hours after notice thereof to the Tenant; or
- (i) the Tenant commits a breach or fails to observe or perform any other Tenant's Obligation not otherwise expressly described above in this Section 13.1 that is capable of remedy and fails to remedy the breach or failure within for 10 days after notice to the Tenant (or in the case of any such breach or failure which would reasonably take more than 10 days to remedy, the Tenant fails to start remedying the breach or failure within the said 10 day period or fails to thereafter promptly, diligently and continuously complete the remedy); or
- (j) the Tenant commits a breach or fails to observe or perform any other Tenant's Obligation not otherwise expressly described above in this Section 13.1 that is not capable of remedy and has received notice of such breach or failure; and remains uncured for 30 days following notice of such breach to the Tenant;

then and in any of such case, at the sole option of the Landlord, this Lease shall cease and terminate and the Term will immediately become forfeited and void and the full amount of the then current month's and the next three months' monthly Basic Rent and Additional Rent will immediately become due and be paid and the Landlord may immediately claim that Rent together with any arrears then unpaid and any other amounts owing by the Tenant under this Lease; and the Landlord may remove, seize and/or sell the Tenant's goods, chattels and equipment from the Premises or any place to which the Tenant or any other

person may have removed them in the same manner as if they had remained and been distained upon the Premises, any rule of law or equity to the contrary notwithstanding, or the Landlord may store the same in a public warehouse or elsewhere at the sole cost and for the account of the Tenant, all without service of notice or resort to legal process and without the Landlord being considered guilty of trespass or becoming liable for any loss or damage which may be occasioned.

### 13.2 Remedying by Landlord, Non-payment and Interest

In addition to all rights and remedies of the Landlord available to it under this Lease, by statute, at law or in equity, in the event of any default described in Section 13.1 or any other default by the Tenant by statute or common law, the Landlord:

- (a) will have the right (but will not be obligated to), at all times and from time to time without waiving or releasing the Tenant from the Tenant's Obligations, to remedy or attempt to remedy any such default or to observe or perform or attempt to observe or perform the Tenant's Obligation in respect of which the Tenant has made default, and in so doing may make any payments due or alleged to be due by the Tenant to third parties and may enter the Premises to do work or other things therein, and in such event the Tenant covenants with the Landlord that the Tenant will pay to the Landlord all costs and expenses of the Landlord in remedying or attempting to remedy such default immediately on demand (including legal costs on a solicitor and own client basis), together with:

- ~~(i) a fee in an amount equal to 15% of the cost of repairs or other work carried out by or under the supervision of the Landlord for the Landlord's overhead, administration and supervision which amount will be in addition to the incurred costs of such work; and~~

- ~~(ii) Interest on the aggregate of the foregoing from the date funds were expended by the Landlord until actual payment thereof is received by the Landlord from the Tenant;~~

- (b) may recover as Additional Rent due and payable to the Landlord hereunder all sums paid or expenses incurred hereunder by the Landlord, which ought to have been paid or incurred by the Tenant, or for which the Landlord hereunder is entitled to reimbursement from the Tenant, and any interest owing to the Landlord hereunder by any and all remedies available to it for the recovery of Base Rent in arrears;
- (c) if the Tenant fails to pay any Rent or other amount from time to time payable by it hereunder promptly when due, will be entitled to Interest thereon from, except where Interest commences to accrue earlier pursuant to Section 13.2(a), the date on which the same was due until actual payment thereof is received by the Landlord from the Tenant.

### 13.3 Right of Re-entry on Termination

If this Lease is terminated pursuant to any provision hereof, or if the Landlord is entitled to terminate this Lease and has given notice terminating it pursuant to any provision hereof, then and in every such case it will be lawful for the Landlord thereafter to, without notice or any form of legal process, immediately enter into and upon and take possession of the Premises or any part thereof in the name of the whole and the Landlord to have again, repossess and enjoy as of its former estate, notwithstanding anything to the contrary contained in this Lease.

#### **13.4 Termination on Re-entry**

If and whenever the Landlord is entitled to or does re-enter the Premises or any part thereof under any provision of this Lease, the Landlord will have the right to terminate this Lease immediately by leaving on the Premises notice in writing of such termination, and in such event the Tenant will immediately vacate and surrender the Premises.

#### **13.5 Right to Re-let**

If and whenever the Landlord is entitled to or does re-enter the Premises or any part thereof under any provision of this Lease, the Landlord will have the right to enter the Premises, as agent of the Tenant, either by force or otherwise without being liable to any prosecution therefor or for any loss or damage occasioned thereby and to relet or sublet the whole or any part of the Premises as the agent of and at the risk of the Tenant and to receive the proceeds therefor and may apply the proceeds thereof and any rent derived therefrom, after deducting its costs of retaking and reletting (including legal costs on a solicitor and own client basis), on account of the Rent due and to become due under this Lease and the Tenant will be liable to the Landlord for the deficiency of any Rent and the Landlord may recover from the Tenant the Rent due for the remainder of the Term in the event the Landlord has not so re-let or if the Landlord has re-let, to recover from the Tenant the difference in rent payable by the new tenant(s) of the Premises for the balance of the Term, notwithstanding in either case that the Term will have ceased and the Tenant covenants to pay promptly on demand any amount so determined.

#### **13.6 Distress**

The Tenant waives and renounces the benefit of any present or future law taking away or limiting the Landlord's right against the Tenant and, notwithstanding any such law or equity to the contrary, the Landlord may seize and sell all of the Tenant's goods and property, except records and reports of a confidential nature, whether within the Premises or at any place to which the Tenant or any other person may have removed them from the Premises in the same manner as if such goods and property had remained on the Premises and apply the proceeds of such sale on Rent and on the cost of the seizure and sale in the same manner as might have been done if such law had not been passed. For the purposes of making any such distress and notwithstanding any law or equity to the contrary, the Landlord, by itself, its agents and bailiffs may store the goods and property of the Tenant in a public warehouse or elsewhere at the sole cost and for the account of the Tenant and may break open any door or window and enter the Premises at any time after Rent or other monies will accrue due, all without service of notice or resort to legal process and without the Landlord being considered guilty of trespass or becoming liable for any loss or damage which may be occasioned. Any sale of the goods and property of the Tenant hereunder may be effected either by public auction or by private treaty, and either in bulk or by individual item, or partly by one means and partly by another, all as the Landlord in its sole discretion may decide.

#### **13.7 Payment of Rent on Termination**

If the Landlord re-enters the Premises or terminates this Lease, then the Tenant will pay to the Landlord on demand:

- (a) Rent up to the time of re-entry or termination whichever is later, plus accelerated Rent as herein provided;
- (b) such costs and expenses as the Landlord may incur or have incurred in connection with re-entering or terminating and reletting, or collecting sums due or payable by the Tenant or realizing on assets seized including brokerage, legal fees and disbursements (on a solicitor and own client basis), and the expense of keeping the Premises in good order, repairing the same and preparing them for reletting; and

- (c) as liquidated damages for the loss of Rent and other income of the Landlord expected to be derived from this Lease during the period which would have constituted the unexpired residue of the Term had it not been terminated, the amount, if any, by which the rental value of the Premises for such period established by reference to the terms and provisions of this Lease exceeds the rental value of the Premises for such period established by reference to the terms and provisions on which the Landlord relets them, if such reletting is accomplished within a reasonable time after termination of this Lease, and otherwise with reference to all market and other relevant circumstances. Rental value is to be computed in each case by reducing to present worth at an interest rate equal to the then current Prime Rate all Rent and other amounts to become payable for such period and where the ascertainment of amounts to become payable requires it, the Landlord may make estimates and assumptions of fact which shall govern unless found to be unreasonable or erroneous.

### 13.8 Remedies Cumulative

The Landlord may from time to time resort to any or all of the rights and remedies available to it either by any provision of this Lease or by statute, at law or in equity, all of which rights and remedies are intended to be cumulative and not alternative, and the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute, at law or in equity.

## 14. STRATA PROVISIONS

### 14.1 Strata Provisions Apply

If the Premises or any part thereof is or becomes part of a strata lot, common property, limited common property or other property shown on a strata plan, the provisions in this Section 14 will apply.

### 14.2 Strata Definitions

In this Lease and in the circumstances described in Section 14.1, the following expressions will have the following meanings:

- (a) “**Strata Corporation**” means the strata corporation established on the deposit in a land title office of the strata plan of which the Premises forms a part;
- (b) the definition for “**Laws**” set out in Section 2.20 shall include the *Strata Property Act*, S.B.C. 1998, c. 43, regulations made thereunder, bylaws, rules and regulations of the Strata Corporation, each as amended or replaced from time to time; and
- (c) the definition for “**Operating Costs**” set out in Section 2.28 shall include all maintenance payments, fees, assessments, special levies, fines, penalties, move-in/move-out fees, parking fees, collection costs and any other amounts of any nature whatsoever levied or charged by or due or payable to the Strata Corporation in respect of the whole or any part of the Project, the Premises or the Tenant.

### 14.3 Strata Corporation’s Rights

The Tenant acknowledges and agrees that notwithstanding anything to the contrary contained in this Lease:

- (a) nothing in this Lease will be construed to limit or take away from the rights and powers of the Strata Corporation under any Laws (including any rights it may have under any Laws to manage and maintain common property within the Project, to carry on maintenance work, alterations or improvements to the Project which may affect the Premises, to take out certain insurance, or to rebuild the Building if it is destroyed). If any other provision of this Lease conflicts with, limits or takes away any rights and powers of the Strata Corporation under any Laws, then such rights and powers of the Strata Corporation will prevail to the extent of such conflict. The exercise of such rights and powers of the Strata Corporation will not give the right to any indemnity to the Tenant whatsoever; and
- (b) certain of the Tenant's Obligations are deemed to have been given for the benefit of and may be enforced by both or either the Landlord and/or the Strata Corporation. If any of the Landlord's covenants or obligations hereunder are within the rights, duties or powers of the Strata Corporation, then the Landlord will, without further written agreement, be freed and relieved of all liability with respect to such covenants and obligations.

#### 14.4 General Strata Covenants

Notwithstanding anything to the contrary contained in this Lease:

- (a) the Tenant will, at its sole cost and expense, keep, maintain, repair and replace the parts of the Premises which are the Landlord's responsibility to keep, maintain, repair or replace under the Laws (including those expressly set out in Section 14.2(b));
- (b) without limiting the generality of the provisions in Section 14.4(a), the Tenant will obtain the prior written approval or consent of the Strata Corporation (in addition to any other approvals or consents required hereunder) if such approval or consent of the Strata Corporation is required under any Laws;
- (c) except as expressly provided in Section 8.3, in no event shall Rent abate on account of any repairs, alterations, improvements or any work of any nature within the Premises or the Project carried out by or on behalf of the Strata Corporation;
- (d) if the Building or the Premises are damaged and the Strata Corporation decides not to repair or replace them under section 150 of the *Strata Property Act*, S.B.C. 1998, c. 43 (as amended or replaced from time to time) or if the Strata Corporation is wound up, terminated or dissolved, the Landlord will have the right to terminate this Lease immediately by leaving on the Premises notice in writing of such termination, and in such event the Tenant will immediately vacate and surrender the Premises; and
- (e) the Landlord's liability under this Lease as to areas under the control of the Strata Corporation are limited to the extent of the Landlord's voting control of the Strata Corporation.

#### 14.5 Voting Rights

The Tenant covenants with the Landlord that, subject to the rights of the Landlord's mortgagees or trustees for bond holder, the Landlord will otherwise retain all voting rights for the Premises and nothing in this Lease will be construed so as to give to the Tenant any voting rights of the Landlord under the *Strata Property Act* and the Landlord specifically reserves unto itself all rights to vote at meetings of the Strata Corporation or its strata council.

#### 14.6 Tenant Forms

The Tenant will execute and deliver any forms required of a tenant under the Laws expressly set out in Section 14.2(b).

#### 15. MISCELLANEOUS

##### 15.1 Notices

Any notice, demand, request, consent, approval, objection and other instrument required, contemplated or permitted to be given or made pursuant to the terms of this Lease:

- (a) will be in writing and will be deemed to have been properly given or made if delivered or sent by facsimile transmission the recipient party at its address set out on page 1 of this Lease (or such other address in British Columbia any party hereto may notify the other(s) in writing) or, in the case of the Tenant, at the Premises in lieu of such address from the Commencement Date;
- (b) will be deemed to be given, made and received on the business day immediately following delivery or successful facsimile transmission; and
- (c) by the Landlord, may be given or made by the Landlord, its lawyer or its manager.

If there is more than one Tenant or more than one person comprising the Tenant hereunder, any notice given to any one of any of them will be deemed to have been to all of them.

##### 15.2 Entire Agreement and No Representation

The Tenant acknowledges that there are no covenants, representations, warranties, agreements or conditions expressed or implied relating to this Lease or the Premises except as expressly set out in this Lease and the Offer to Lease preceding this Lease, if any. Without limiting the generality of the foregoing, the Tenant acknowledges that there are no representations or warranties of the Landlord as to whether the intended use of the Premises contemplated by the Tenant complies with zoning and all other Laws or as to the environmental or physical condition of the Premises or the Project or the presence or absence of any Hazardous Substance therein or thereon and the Tenant hereby acknowledges and agrees that the Landlord has in no way relieved the Tenant from the Tenant's Obligations hereunder to indemnify the Landlord from all manners of action or causes of action, damage, loss, cost or expenses arising from the Tenant's failure to comply with the Laws. The Tenant further acknowledges and agrees that this Lease and any Offer to Lease preceding this Lease constitutes the entire agreement between the parties hereto and may not be modified except as expressly provided in this Lease or except by a subsequent agreement in writing executed by the Landlord and the Tenant. If there is any conflict between any provision in this Lease and those in any Offer to Lease, then the provisions herein will prevail to the extent of such conflict.

##### 15.3 No Offer

The Landlord will not be deemed to have made an offer to the Tenant by furnishing to the Tenant a copy of this Lease with or without particulars inserted. Notwithstanding that the first instalment of Base Rent may be received by the Landlord when this Lease is received by it for signature, no contractual or other rights shall exist or be created between the Landlord and the Tenant until such time as all parties to this Lease have executed and delivered this Lease.

#### **15.4 Unavoidable Delay**

Save and except for the Tenant's Obligations as set out in this Lease to pay Rent, if any party bona fide fails to meet its obligations hereunder within the time prescribed herein, and such failure is caused or materially contributed to by any cause beyond the reasonable control of such party (but lack of funds on the part of such party will be deemed not to be such a cause), such failure will be deemed not to be a breach of the obligations of such party hereunder but such party will use reasonable diligence to put itself in a position to carry out its obligations hereunder, and the time for fulfilment of such obligation will be extended for the period in which such circumstance operates to delay or prevent the fulfilment thereof and the other party to this Lease will not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned and there will be no deduction from Rent by reason of any of these failures or causes.

#### **15.5 Waiver**

No condoning, excusing or overlooking by the Landlord of any default, breach or non-observance of any of the Tenant's Obligations under this Lease at any time or times will be construed or operate as a waiver or relinquishment of the Landlord's rights in respect of any continuing or subsequent default, breach or non-observance, or so as to defeat or affect in any way the rights of the Landlord in respect of any such continuing or subsequent default, breach or non-observance and no waiver will be inferred from or implied by anything done or omitted by the Landlord except if there is an express waiver in writing. The Tenant undertakes and agrees, for itself and for any person claiming to be a subtenant or assignee, that the acceptance by the Landlord of any rent from any person other than the Tenant will not be construed as a recognition of any rights not herein expressly granted, or as a waiver of any of the Landlord's rights, or as an admission that such person is, or as a consent that such person will be deemed to be, a subtenant or assignee of this Lease, irrespective of whether the Landlord or said person claims that such person is a subtenant or assignee of this Lease. The Landlord may accept rent from any person occupying the Premises at any time without in any way waiving any of its rights.

#### **15.6 Joint and Several Obligations**

If there is more than one Tenant or more than one person comprising the Tenant hereunder, each of them, and not one for the other or others, will be jointly and severally bound with the other or others for the due performance of the Tenant's Obligations. If the Tenant named in this Lease is a partnership or other legal entity, the members of which are (by virtue of statute or general law) subject to personal liability, the liability of each such member is joint and several.

#### **15.7 Number and Gender**

Where required by the context of this Lease, the singular will include the plural and the masculine gender will include the feminine or neuter genders, as the case may be, and vice versa.

#### **15.8 Successors and Assigns**

This Lease and everything herein contained will enure to the benefit of and be binding on the parties hereto, the successors and assigns of the Landlord and the heirs, executors, administrators, legal representatives, successors and permitted assigns of the Tenant.

#### **15.9 Covenants**

The Landlord and the Tenant agree that each obligation or agreement in this Lease, even though not expressed as a covenant, will be considered and construed to be a covenant for all purposes.

### 15.10 Governing Law

This Lease will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

### 15.11 Severability

Should any provision or provisions of this Lease or its conditions be illegal or not enforceable, it or they will be considered separate and severable from this Lease and its remaining provisions will remain in force and be binding on the parties hereto as though the said provision or provisions or conditions had never been included.

### 15.12 Headings and Sections

The division of this Lease into articles, sections and schedules and the table of contents, headings and captions appearing in this Lease have been inserted for convenience of reference only and in no way define, limit or enlarge the scope or meaning of this Lease or of any provisions hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to "Articles", "Sections" and "Schedules" are to articles, sections and schedules of this Lease.

### 15.13 Time of Essence

Time shall be of the essence of this Lease.

## 16. SPECIAL PROVISIONS

### 16.1 Extension of Term

Provided the Tenant has duly and punctually paid the Rent and duly and punctually observed and performed all of the Tenant's Obligations contained in this Lease, the Tenant will have the right to extend the Initial Term of this Lease for the Premises for the further term(s) set out in Section 1(m) ("Extension Term") on the same terms and conditions contained herein save and except the Base Rent, any Base Rent or Rent abatement, any fixturing allowance, parking rates, any Tenant inducement and this right to extend and the Tenant will accept the Premises on an "as is" basis with no Landlord's work to be performed. The base rent for the applicable Expansion Term will be the greater of:

- (a) the then current market rental for premises of similar size and use in the general location of the Premises;
- (b) the Base Rent payable during the last year of the then existing Initial Term or Extension Term, as the case may be.

The Tenant will exercise its right to extend by notice in writing given to the Landlord not more than twelve months and not less than six months prior to the expiry of the then existing Initial Term or Extension Term, as the case may be. In the event that the Landlord and the Tenant are unable to agree as to base rent for the applicable Extension Term at least three months prior to the expiry of the then existing Initial Term or Extension Term as the case may be, such base rent shall be determined by arbitration before a single arbitrator pursuant to the *Commercial Arbitration Act (British Columbia)*, as amended or replaced from time to time. If such base rent has not been determined at the commencement of the applicable Extension Term, the Tenant will pay the base rent requested by the Landlord and on such base rent being determined for the applicable Extension Term, an adjusting payment will be made by the Landlord or the Tenant, as the case may be, retroactive to the commencement of the applicable Extension Term. The failure of the Tenant to exercise its right as set out in this Section shall render the same null



and void and of no further force and effect.

#### **16.02 ~~Tenant's Condition~~**

~~This Offer to Lease subject to the following conditions precedents, all of which are for the sole benefit of the Tenant:~~

- ~~a) the Tenant solicitor's review and approval of the Landlord's Lease.~~
- ~~b) the Tenant being satisfied with specific layout of the space by a hired space planner.~~
- ~~e) Tenant and Landlord agreeing on location and design of signage on the exterior of the premises (the "Tenant's Conditions")~~

~~The Tenant's Conditions shall be removed or waived by notice in writing from the Tenant to the Landlord within fifteen (15) business days of acceptance of the offer to lease, failing which the Offer to Lease shall be null and void and of no force or effect.~~

#### **16.0316.02 Exclusivity**

The Landlord shall not allow any other publishing firm to operate in the subject building.

#### **16.0416.03 Tenant's Option to Lease Additional Space**

- a) The Tenant shall have the option to occupy units 200 ~~and 301~~ - 126 East 15<sup>th</sup> Street, North Vancouver comprised of ~~approximately 1,075~~ **approximately 1,739** square feet under the same terms and conditions as set forth in this offer to lease.

The Tenant must notify the Landlord in writing of its intent to lease the above described space no later than 5:00 pm ~~March 31, 2005~~ **April 14, 2005**.

- b) Provided the Tenant has not been in breach of the Lease, the Landlord hereby grants to the Tenant, ~~a one time~~ **the first** option to lease any **additional** space becoming available for lease in the ~~Building~~ **at fair market rents**. The Landlord ~~agrees~~ **agrees** to deliver to the Tenant notice in writing as it receives bonafide offers on the space by other prospective Tenants. The Tenant shall have four (4) business days from the date of such notice within which to exercise the option. The term of the lease of the said **additional** space shall commence on the date specified in the notice and shall terminate on the expiry of the Term of the Lease or any permitted renewal thereof. The Tenant shall not have the right to assign this Option to Lease **Additional** Space except in conjunction with a permitted assignment of all rights under the Lease.

#### **16.0516.04 Signage**

The Tenant is permitted signage as is reasonably required for identification of the Tenant's use, including on the door, windows, fascia of the Premises and/or on the Building directory and must conform with building signage criteria and must be approved, in writing, by the Landlord. All costs are the sole responsibility of the Tenant.

IN WITNESS WHEREOF, the Landlord and the Tenant have executed this Lease the date first above written.

**SODICAN (B.C.) INC.**

Per: 

Name: Linda Urquhart

Title: Asset Manager

I/We have the authority to bind the corporation

**IF A CORPORATE TENANT**

**LOWER MAINLAND PUBLISHING GROUP INC.**

Per: 

Name: Clyde Wicks

Title:

I/We have the authority to bind the corporation

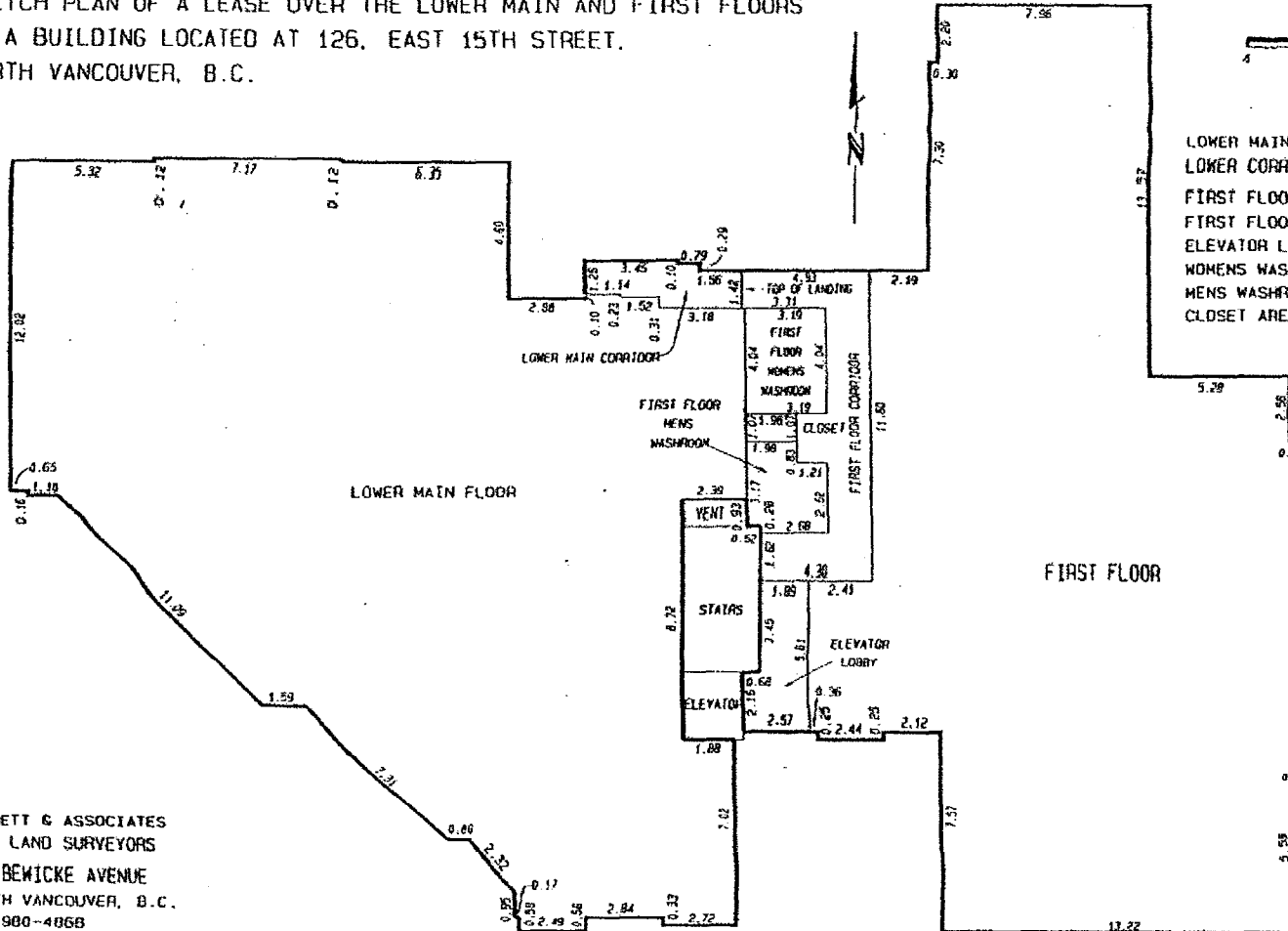
Per: 

Name:

Title:

I/We have the authority to bind the corporation

SKETCH PLAN OF A LEASE OVER THE LOWER MAIN AND FIRST FLOORS  
 OF A BUILDING LOCATED AT 126, EAST 15TH STREET,  
 NORTH VANCOUVER, B.C.



Scale 1:200  
 4 2 0 5 10  
 All distances are in Metres.

LOWER MAIN FLOOR AREA = 541.2m<sup>2</sup> (5825 SQ.FT.)  
 LOWER CORRIDOR AREA = 8.5m<sup>2</sup> (91 SQ.FT.)  
 FIRST FLOOR AREA = 452.6m<sup>2</sup> (4872 SQ.FT.)  
 FIRST FLOOR CORRIDOR AREA = 30.1m<sup>2</sup> (324 SQ.FT.)  
 ELEVATOR LOBBY AREA = 12.1m<sup>2</sup> (130 SQ.FT.)  
 WOMENS WASHROOM AREA = 12.9m<sup>2</sup> (139 SQ.FT.)  
 MENS WASHROOM AREA = 9.9m<sup>2</sup> (107 SQ.FT.)  
 CLOSET AREA = 2.1m<sup>2</sup> (23 SQ.FT.)

TOTAL LEASE AREA =  
 1069.4m<sup>2</sup> (11511 SQ.FT.)

LEASE AREA HAS BEEN CALCULATED  
 ACCORDING TO B.O.M.A. STANDARDS.  
 HEAVY OUTLINE DENOTES TOTAL  
 LEASE AREA.

ALL DIMENSIONS WITHIN THE HEAVY  
 OUTLINE ARE TO THE CENTRELINE  
 OF WALL.

CERTIFIED CORRECT  
 THIS 16<sup>TH</sup> DAY OF DECEMBER, 1997.  
*Richard J. Smith*  
 B.C.L.S.

BENNETT & ASSOCIATES  
 B.C. LAND SURVEYORS  
 343 BEWICKE AVENUE  
 NORTH VANCOUVER, B.C.  
 PH. 980-4868  
 FX. 980-5856  
 FILE WJ2\12104-2.DAT

SCHEDULE "A"  
 THE PREMISES

## SCHEDULE "B"

### RULES AND REGULATIONS

1. The Landlord will have the right to control and operate the public portions of the Building and the public facilities, as well as facilities furnished for the common use of the tenants, in such manner as it deems best for the benefit of the tenants generally. No tenant shall invite to the Premises, or permit the visit of, persons in such numbers or under such conditions as to interfere with the use and enjoyment of the entrances, corridors, elevators and facilities of the Building by other tenants.
2. The Common Area sidewalks, driveways, entrances, vestibules, passages, corridors, halls, elevators, and stairways will not be encumbered or obstructed by tenants or tenants' agents, servants, employees, licensees or invitees, or be used by them for any purpose other than for ingress to and egress from the Premises. Landlord reserves the right to restrict and regulate the use of the aforementioned public areas of the Building by tenants and tenants' agents, employees, servants, licensees and invitees and by persons making deliveries to tenants (including the right to allocate certain elevator or elevators, if any, and the reasonable hours of use thereof for delivery service), and the right to designate which Building entrance(s) or elevator(s) will be used for deliveries or loading and unloading of merchandise, supplies or other chattels.
3. No awnings or other projections will be attached to the outside walls of the Building. No curtains, blinds, shades or screens other than those furnished by Landlord will be attached to, or hung in, or used in connection with, any window or door of the Premises, without the prior written consent of Landlord. Such curtains, blinds, shades, screens and other fixtures must be of a quality, type, design and colour, and attached in the manner approved by Landlord from time to time.
4. No sign, advertisement, notice or other lettering will be exhibited, inscribed, painted or affixed by any tenant on any window or part of the outside or inside of the Premises or the Building without the prior written consent of Landlord. In the event of the violation of the foregoing by any tenant, Landlord may remove same without any liability, and may charge the expense incurred by such removal to such tenant. Interior signs on doors will be inscribed, painted, or affixed for tenants by Landlord or by sign painters, first approved by the Landlord, at the expense of tenants and will be of a size, colour and style acceptable to Landlord.
5. The windows and doors, and, if any, the sashes, sash doors, and skylights, that reflect or admit light and air into the halls, passageways, or other public places in the Building will not be covered or obstructed by tenants, nor will any bottles, parcels, files, papers or other Sections be placed on the windowsills.
6. No showcases or other items will be put in front of or affixed to any part of the exterior of the Building, nor placed in the halls, corridors, or vestibules outside the Premises or visible from outside the Premises without the prior written consent of Landlord.
7. The toilets, urinals, sinks and other water apparatus will not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, coffee grinds, ashes or other substances will be thrown therein. Any damage resulting by misuse will be borne by the tenants by whom or by whose agents, servants, employees, customers or invitees the same was caused. Tenants will not let the water run unless it is in actual use, and will not deface or damage any part of the Building, nor drive nails, spikes, hooks, or screws into the walls or woodwork of

the Building.

8. Tenants will not mark, paint, drill into, or in any way deface any part of the Premises or the Building. No boring, cutting or stringing of wires will be permitted except with the prior written consent of Landlord and as Landlord may direct. Only contractors approved in writing by Landlord may be employed by tenants for making repairs, changes or any improvements to the Premises. Tenants will not (without Landlord's prior consent) lay floor coverings other than unaffixed rugs, so that the same will come in direct contact with the floor of the Premises, and, if wall to wall carpeting, linoleum or other similar floor coverings other than the Building Standard carpet are desired to be used and such use is approved by Landlord, and if such floor coverings are placed or to be placed over tile floorings then an interlining of builder's deadening felt will be first affixed to the floor, by a paste or other material soluble in water, the use of cement or similar adhesive material being expressly prohibited. Metal cabinets will be set on a noncorrosive pad wherever the floors are tile.
9. No bicycles, vehicles, animals or birds of any kind will be brought into or kept in or about the Building or the Premises excepting that those vehicles so authorized by the Landlord may enter and be kept in the Building's parking facilities.
10. No space in the Building will be used for manufacturing or for lodging, sleeping, or any immoral or illegal purposes. No space will be used for the storage of merchandise or for the sale of merchandise, goods or property, and no auction, bulk, fire or bankruptcy sales will be made, by tenants without the prior written consent of Landlord.
11. Tenants will not make or permit to be made, any unseemly or disturbing noises or disturb or interfere with occupants of this or neighbouring buildings or premises or those having business with them whether by the use of any musical instrument, radio, television, talking machine, unmusical noise, whistling, singing or in any other way. Tenants will not throw anything out of the doors, windows, or skylights, if any, or down the passageways, stairs or elevator shafts nor sweep anything into the corridors, hallways, or stairs of the Building.
12. No additional locks or bolts of any kind will be placed on any of the doors or windows by tenants, nor will any changes whatsoever be made to existing locks or the mechanics thereof except by the Landlord, at its option. Tenants will not permit any duplicate keys to be made, but additional keys as reasonably required will be supplied by the Landlord when requested by a tenant in writing and such keys will be paid for by the tenant, and on termination of tenant's lease, the tenant will surrender to the Landlord all keys of the Premises and other part or parts of the Building.
13. The tenants and their agents, servants, contractors, invitees or employees, will not bring in or take out, position, construct, install or move any safe, business machine or other heavy office equipment without first obtaining the consent in writing of the Landlord. In giving such consent, the Landlord will have the right in its sole discretion, to prescribe the weight permitted and the position thereof, and the use and design of plans, skids or platforms to distribute the weight thereof. All damage done to the Building by moving or using any such heavy equipment or other office equipment or furniture will be repaired at the expense of the tenant. The moving of all heavy equipment or other office equipment or furniture will occur only outside of Normal Business Hours or at any other time consented to by the Landlord and the persons employed to move the same in and out of the Building must be acceptable to the Landlord. Safes and other heavy office equipment will be moved through the halls and corridors only on steel bearing plates. No freight or bulky matter of any description will be received into the Building or carried into the elevators, except during hours approved by the Landlord.

14. Tenants will not occupy or permit any portion of the Premises to be occupied for the possession, storage, manufacture, or sale of narcotics or drugs, except as incidental to tenant's main business and which comply with all Laws.
15. Tenants will not use the name of the Building, the owner thereof or the Landlord in any advertising without the express consent in writing of Landlord, which consent may be arbitrarily withheld. Landlord will have the right to prohibit any advertising by a tenant which, in any way, tends to impair the reputation of the Building or its desirability as a building for offices, and on written notice from Landlord, tenants will refrain from or discontinue such advertising.
16. All entrance doors in the Premises will be left locked and all windows will be left closed by tenants when the Premises are not in use.
17. Landlord will be in no way responsible to any tenant for loss of property from the Premises occurring, or for damage done to the furniture or other effects of any tenant by Landlord's agent, janitors, cleaners, employees, or contractors doing work in the Premises. The ~~tenants~~ Tenant will permit window cleaners to clean the windows of the Premises during Normal Business Hours.
18. The requirements of ~~tenants~~ Tenant will be attended to only on application to the Building manager or such other authorized representative as the Landlord may designate in writing. Landlord's employees will not perform any work or do anything outside of their regular duties, unless under specific instructions from the office of the Landlord, from the Building manager or other representatives as aforesaid.
19. Canvassing, soliciting and peddling in the Building are prohibited, and ~~tenants~~ Tenant will cooperate to prevent the same.
20. Any hand trucks, carryalls, or similar appliances used in the Building will be equipped with rubber tires, side guards and such other safeguards as Landlord will require.
21. Without first obtaining Landlord's written permission, tenants will not install, attach, or bring into the Premises any equipment (other than normal office equipment such as electric typewriters, calculators, and the like) or any instrument, duct, refrigerator, air conditioner, water cooler, or any other appliance requiring the use of gas, electric current or water. Any breach of this rule will entitle the Landlord at the tenant's expense to enter the Premises and remove whatever the tenant may have so installed, attached, or brought in.
22. The Landlord reserves the right to exclude from the Building outside of Normal Business Hours all persons not authorized by a tenant in writing, by pass or otherwise, to have access to the Building and the Premises. Each tenant will be responsible for all persons authorized to have access to the Building and will be liable to the Landlord for all of their acts while in the Building. When security service is in effect, entrance to the Building, deliveries, and exits will be made via designated entrances and the Landlord may require all persons to sign a register on entering and leaving the Building.
23. Tenants will at all times keep all drapes, blinds or curtains adjusted to block the direct rays of the sun in order to avoid overloading the air conditioning systems.
24. Neither tenants nor their servants, employees, agents, visitors, or licensees will at any time bring or keep on the Premises any inflammable, combustible or explosive fluid, chemical or substance, nor do nor permit to be done anything in conflict with any insurance policy which may or might be in force on the Building or any part thereof or with the laws relating to fires, or with the regulations of the Fire Department or the Health Department, or with any of the rules, regulations

or ordinances of the Municipality or of any other duly constituted authority.

25. Tenants will **not**, without first obtaining the Landlord's prior written approval, do any cooking, conduct any **restaurant**, luncheonette, or cafeteria for the sale or service of food or beverages to its employees or to others, or cause or permit any odours of cooking or other process or any unusual or objectionable odours to emanate from the Premises. Tenants will not, without first obtaining the Landlord's prior written approval, install or permit the installation or use of any food, beverage, **cigarette**, cigar, or stamp dispensing machine; or permit the delivery of any food or beverage to the Premises, except by such persons delivering the same as will be approved by the Landlord. No food or beverages will be carried in the public halls or elevators except in closed containers.
26. Lists of automobile licence numbers of people working in the Building and the names of people who normally work off-hours may be required by the Landlord, who may also require tenants' employees to **display** a card or sticker as a prerequisite to admission to the parking facility.
27. The Landlord **reserves** the right to promulgate, rescind, alter or waive any rules or regulations at any time prescribed for the Building when is necessary, desirable or proper for its best interest and in the opinion of the Landlord, for the best interest of the tenants.
28. The Landlord **may** publish from time to time emergency fire regulations and evacuation procedures in consultation with the applicable authorities. Each tenant will appoint a premises warden (wardens for multi-floor users) who will be responsible for liaison with building management in all emergency matters and who will be responsible for instructing employees of the tenant in emergency matters.
29. The tenants will promptly notify the Landlord of all requests by any taxing authority for information relating to the Premises (including fixtures, improvements, or machinery and equipment there in) or the tenant's occupation or use thereof and any such information to be given by the tenant to such taxing authority will be forwarded by the tenant to the Landlord for delivery to such taxing authority.
30. If any apparatus used or installed by a tenant requires a permit as a condition for its installations, the tenant must **file** a copy of such permit with the Landlord.
31. Tenants will be responsible for the cleaning of any blinds, drapes and/or curtains that may be installed in their Premises, including those installed by the Landlord.
32. The Landlord **may** designate all or part of the Common Areas to be non-smoking areas.

SCHEDULE "C"

CERTIFICATE  
(PURSUANT TO SECTION 12.3)

THE UNDERSIGNED ("Tenant"), the Tenant in the Lease between \_\_\_\_\_ and the undersigned, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20 ("Lease"), certifies that:

1. the Tenant's obligation to pay rent pursuant to Section 4 of the Lease commenced on \_\_\_\_\_, 20;
2. the Lease has not been altered or amended since the time of execution and is in full force and effect in accordance with its original terms;
3. the Rentable Area of the Premises (as defined and measured in accordance with the Lease) actually comprises an area of \_\_\_\_\_ square feet. The Base Rent reserved pursuant to Section 4.2 of the Lease, adjusted with reference to the above measurement is: \$ \_\_\_\_\_;
4. the Tenant is in possession of the Premises;
5. the Lease is an absolutely net Lease to the Landlord and that the Tenant is paying (and has paid) effective to \_\_\_\_\_, 20, Base Rent (as adjusted) and all other charges, including, without limitation, the Additional Rent referred to in Section 4.3, pursuant to the Lease, and commenced paying the same on the date that the Tenant's obligation to pay rent commenced, as aforesaid;
6. the amount of prepaid rent or security deposit held by the Landlord under Section 4.12 of the Lease is \$ \_\_\_\_\_;
7. the Premises have been completed in accordance with any obligations of the Landlord and the Premises are entirely satisfactory and suitable for the use thereof as contemplated by the Tenant;
8. neither the Landlord nor the Tenant is in default in respect of the Lease;
9. the Tenant has no claims, charges, defences, right to set-off, lien, abatement or counterclaim against the Landlord in respect of Rent or otherwise.

DATED at the City of \_\_\_\_\_, in the Province of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20.



**IF A CORPORATE TENANT**



**Tenant's Name**

**Per:**

\_\_\_\_\_  
Name: Name

Title: Title

I/We have the authority to bind the  
corporation

## SCHEDULE "D"

### LANDLORD'S WORK AND TENANT'S WORK

In this Lease, the following expressions will have the following meanings:

- (a) "Landlord's Work" means the work, if any, set out in Section 1 of this Schedule; and
- (a) "Tenant's Work" means the work set out in Section 2 this Schedule.

#### 1. Landlord's Work

The Landlord will provide the Premises "As Is – Where Is" to the Tenant, and the Tenant will accept the Premises from the Landlord, on an "as is" "where-is" basis, except that the Landlord will, at its sole expense, perform the following work in the Premises prior to the Commencement Date:

- a) the Landlord to ensure that all existing lighting, electrical outlets, plumbing and HVAC are in good working order.
- b) the Landlord will repair or replace all drywall on the interior of the premises to a primed state
- c) the Landlord will replace or repair all ceiling tiles.

#### 2. Tenant's Work

The Tenant will, at its sole cost and expense, complete the following work in the Premises:

- (b) all Leasehold Improvements made or caused to be made to the Premises by the Tenant;
- (c) all Leasehold Improvements and all works described in Section 9.2(a) of the Lease which are necessary for the Tenant's use of the Premises and the operation of the Tenant's business;

except those which are expressly described as the Landlord's Work in Section 1 of this Schedule.

#### 3. Requirements after Performance of Tenant's Work

The Tenant will, on completion of the Tenant's Work and when requested by the Landlord:

- (a) provide the Landlord with a statutory declaration (the "Declaration"):
  - (i) stating that the Tenant's Work has been performed in accordance with all of the provisions of the plans and this Schedule and that all deficiencies (if any) which the Landlord has brought to the Tenant's attention have been corrected;
  - (ii) stating that there are no builders', construction or mechanics' lien or other liens or encumbrances registered or otherwise outstanding against the Premises, the Building, the Lands or any other portion of the Complex in respect of work, services or materials relating to the Tenant's Work and that all accounts for work, services or materials have been paid in full with respect to all of the Tenant's Work;

- (iii) listing each contractor and subcontractor who did work or provided materials in connection with the Tenant's Work; and
  - (iv) confirming the date on which the last work was performed and materials were supplied;
- (b) provide to the Landlord an itemized list certified by the Tenant showing the costs actually expended by the Tenant for the completion of the Tenant's Work;
  - (c) provide to the Landlord a clearance certificate issued under the *Workers Compensation Act* (British Columbia) in respect of each contractor and subcontractor listed on the Declaration;
  - (d) obtain and provide to the Landlord a copy of every occupancy and other permit which may be required by any governmental or other regulatory authority having jurisdiction to permit the Tenant to open for business; and
  - (e) provide the Landlord with a certificate of a professional engineer acceptable to the Landlord certifying that the Tenant's Work has been carried out in accordance with the plans and specifications as approved by the Landlord and the Landlord's engineering consultants.