

**SUBLEASE**

THIS SUBLEASE is made in quadruplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

BETWEEN:

**SIENNA RIDGE LIMITED PARTNERSHIP**, a British Columbia limited partnership registered under no. LP704210, having its registered office at #201 45793 Luckakuck Way, Chilliwack, British Columbia, V2R 5S3

(the “Sublessor”)

OF THE FIRST PART

AND:

*[INSERT NAME], located at [INSERT ADDRESS]*

(the “Sublessee”)

OF THE SECOND PART

AND:

**SIENNA RIDGE HOMEOWNERS CORPORATION**, a body corporate duly incorporated pursuant to the laws of the Province of British Columbia under registration no. BC1109521, having its registered office at #201 45793 Luckakuck Way, Chilliwack, British Columbia, V2R 5S3

(the “Homeowners Corporation”)

OF THE THIRD PART

WHEREAS:

A. By a lease dated for reference the 27<sup>th</sup> day of April, 2017 (the “Headlease”) between Her Majesty the Queen in Right of Canada (“Her Majesty”), the Sublessor, Sienna Ridge Homeowners Corporation (and with covenants and agreements in favour of Tk’emlúps te Secwépemc and Helen Vivian Jules) and registered under Number 6099627, Her Majesty leased to the Sublessor those lands legally described as:

Kamloops Indian Reserve No. 1 Lot HJ-2-1 RSBC2872R

(the “Original Lands”)

for a term of 49 years, ending on May 13, 2066;

B. By Plan CLSR 106545 registered on September 12, 2017, the Original Lands were subdivided into \_\_\_\_\_ lots, being described as:

Kamloops Indian Reserve No. 1 Lots \_\_\_ and \_\_\_ CLSR\_\_\_ (the “Retained Lands”);

Kamloops Indian Reserve No. 1 Lot \_\_\_ CLSR\_\_\_ (“Lot \_\_\_”);

C. The Retained Lands are the “Retained Lands” as contemplated in the Headlease and by Lease Modification Agreement dated for reference \_\_\_\_\_, 2017 and registered under Number \_\_\_\_\_ the Headlease was modified by, among other things, removing Lot \_\_\_ from the leased area, leaving Lot \_\_\_ as the leased area;

D. Lot \_\_\_\_\_ is hereinafter called the “Lands”;

E. By Lease Modification Agreement dated for reference \_\_\_\_\_, 2017 and registered under Number \_\_\_\_\_, the Headlease was further modified by extending the term thereof from 49 years to 99 years, now ending on \_\_\_\_\_, 2116;

F. The Sublessee now wishes to sublease the Leased Premises (hereinafter defined) from the Sublessor, on the terms and conditions set out herein;

G. The Sublessee is or will become, a shareholder of the Homeowners Corporation;

H. The Homeowners Corporation has certain obligations in respect of the Common Areas and the Common Facilities, and the Sublessee has certain obligations to the Homeowners Corporation.

NOW THEREFORE THIS SUBLEASE WITNESSES that in consideration of the premises, the covenants, agreements, representations and warranties set out herein, the Sublessor and the Sublessee covenant and agree as follows:

## **1. SCHEDULES**

1.1 List of Schedules – The Schedules which form part of this Sublease consist of:

Schedule A - Plan of Development

Schedule B - Leased Premises

Schedule C - Computation of Prepaid Rent

## **2. DEFINITIONS**

2.1 Definitions – In this Sublease, unless there is something in the context inconsistent therewith, the following words will have the following meanings:

- (a) “Additional Rent” means all sums of money, whether or not designated as Additional Rent, to be paid by the Sublessee to the Sublessor or to any other person pursuant to this Sublease, save and except Basic Rent and Prepaid Rent;

- (b) “Adjustment Date” means the first day in each calendar year during the Term;
- (c) “Applicable Laws” means in respect of the Lands any applicable laws, statutes, bylaws, ordinances, regulations or lawful requirements of the federal, provincial or municipal government or authority, the Band or its council or any public utility lawfully acting under statutory power;
- (d) “Assessments” means the costs and levies assessed by the Homeowners Corporation to the Sublessee, and payable by the Sublessee, pursuant to this Sublease;
- (e) “Band” means the Tk'emlups te Secwepemc (formerly Kamloops Indian Band);
- (f) “Basic Rent” means the rent provided for in Section 4.1(b);
- (g) “Bylaws” means the bylaws approved from time to time by the Sublessor or the Homeowners’ Corporation governing the use of the Leased Premises and the Lands (including the Common Areas and the Common Facilities) by the Sublessee;
- (h) “Common Areas” means those areas of the Development that are not part of the Leased Premises or a Home, including those areas designated by the Sublessor as common areas, which designation may be reasonably changed from time to time by the Sublessor prior to the Completion Date, including but not limited to landscaped areas, parking areas, roadways, sidewalks and any amenity buildings;
- (i) “Common Costs” means the total of the reasonable costs (without duplication) incurred by the Sublessor or the Homeowners Corporation to operate, manage, insure, repair, maintain and replace the Development (including the Common Areas and the Common Facilities), including without limitation:
  - (i) all costs and expenses to repair, maintain, replace and decorate the Common Areas and the Common Facilities;
  - (ii) the Cost of Insurance;
  - (iii) the Tax Cost for Common Areas and Common Facilities;
  - (iv) all costs and expenses for gardening and landscaping, line painting and repainting, rental of equipment, garbage removal, sanitary control or removal, snow removal and cleaning of Common Areas and Common Facilities;
  - (v) wages and other amounts paid for maintenance, security and operating personnel;

- (vi) all accounting and other professional fees, costs and expenses relating to the operation, management, insurance, repair, maintenance and replacement of the Common Areas and the Common Facilities;
- (vii) water and sewer for the Development;
- (viii) reasonable management fees for any third party property managers; and
- (ix) all costs of utilities, taxes and other amounts payable in connection with the Common Areas and the Common Facilities;

together with a contingency reserve fund for each Lease Year as reasonably determined by the Sub-Sublessor or the Homeowners Corporation, but not less than five percent (5%) of the costs and expenses described above;

- (j) “Common Facilities” means those facilities within the Development that are designated by the Sublessor as common facilities, which designation may be reasonably changed from time to time by the Sublessor prior to the Completion Date, including but not limited to any amenity buildings, roads, electrical and mechanical systems, drainage and sewer systems, waterworks, elevators, fire prevention and security systems primarily located in the Common Areas;
- (k) “Completion Date” is the date which is six (6) months after the earlier of the completion of construction of the last Home to be built on the Lands, or the abandonment of the construction of the Development by the Sublessor;
- (l) “Cost of Insurance” means the annual cost to take out and maintain the insurance required to be taken out and maintained under the terms of the Headlease and/or the Sublease and such other insurance as the Sublessor prior to the Completion Date or the Homeowners Corporation on or after the Completion Date shall deem necessary, or be obligated to obtain, from time to time;
- (m) “CPI” means the Consumer Price Index, All Items index, for Vancouver, British Columbia, published by Statistics Canada, or if such index is not published, such other index measuring consumer prices as selected by the Sublessor;
- (n) “CPI Adjustment” means an annual adjustment equal to the greater of 2% and the percentage calculated by the following formula:

$$\frac{(A - B)}{B}$$

where:

A = the CPI for the month of December immediately preceding the Adjustment Date, and

B = the CPI for the month of December that is one year prior to the month of December used in determining A above.

- (o) “Development” means the residential housing development to be constructed on the Lands including the buildings, improvements and facilities located thereon from time to time;
- (p) “Environment” means the air, land, water and all other external conditions or influences under which humans, animals and plants live or are developed;
- (q) “Environmental Laws” means any Laws relating, in whole or in part, to the protection and enhancement of the Environment, occupational safety, product liability, public health, public safety, and transportation of dangerous goods;
- (r) “Event of Default” means any of the events of default described in Section 21.1 of this Sublease;
- (s) “Hazardous Substances” means:
  - (i) explosives;
  - (ii) inflammable oils and materials; and
  - (iii) any substance which, when discharged into the Environment is or is likely to injure, damage or endanger land, water, property, animal or plant life or human health or safety.
- (t) “Headlease” means the lease described in Recital A hereto and all modifications thereto;
- (u) “Her Majesty” means the party described in Recital A hereto;
- (v) “Homeowners Corporation” means Sienna Ridge Homeowners Corporation;
- (w) “Home” means a single family detached home in the Development intended for occupation by an individual or individuals as a place of residence or lodging;
- (x) “Lands” means those lands more particularly described in Recital D to this Sublease, and includes without limitation any premises subleased to Sublessees, the Common Areas and the Common Facilities;
- (y) “Lease Year” means a calendar year or such other twelve (12) month period as established by the Sublessor;
- (z) “Leased Premises” means that portion of the Lands more particularly described in Schedule B to this Sublease, together with the Home and any other the improvements located thereon from time to time;

- (aa) “Limited Common Areas and Facilities” means any Common Areas or Common Facilities set aside for the exclusive use of the Sublessee or any group of Sublessees;
- (bb) “Proportionate Share” means an equal share for each of the Subleases, or as otherwise amended from time to time by the Sublessor;
- (cc) “Prepaid Rent” means the rent provided for in Section 4.1(a);
- (dd) “Registry” means the Indian Lands Registry or any successor or replacement registry;
- (ee) “Rent” means the Prepaid Rent, Basic Rent and Additional Rent;
- (ff) “Sublease” means this Sublease and the Schedules attached hereto, together with the Bylaws made from time to time;
- (gg) “Sublessee” means the person named on page 1 of this Sublease, and if the Sublessee so named assigns its interest in this Sublease, the assignor from time to time shall be the Sublessee;
- (hh) “Sublessor” means the person so named on page 1 of this Sublease, and if the Sublessor so named assigns its interest in this Sublease, the assignee from time to time shall be the Sublessor;
- (ii) “Tax Cost” means the total, without duplication, of all taxes, trade licenses, rates, levies, service fees and charges, duties and assessments levied or imposed on or in respect of the Common Areas and Common Facilities, or the Leased Premises, by any competent authority, including without limitation any utilities, service fees or charges and ad valorem fees levied from time to time by competent authorities; and
- (jj) “Term” means the term of this Sublease commencing on the day this Sublease is registered in the Registry and expiring one day prior to the expiry of the Headlease, as extended, unless earlier terminated pursuant to this Sublease.

### **3. DEMISE AND TERM**

3.1 Demise – Subject to the terms and conditions set out in this Sublease, the Sublessor does hereby demise and sublease unto the Sublessee the Leased Premises to have and to hold for and during the Term unless sooner terminated as herein provided, together with:

- (a) the right to use any Limited Common Areas and Facilities which use shall be on the terms established by the Sublessor (or the Homeowners Corporation after the Completion Date); and
- (b) the right in common with others to the non-exclusive use of the Common Areas and Common Facilities.

3.2 Intent – Notwithstanding the fact that a strata plan under the *Strata Property Act* cannot be filed in respect of the Lands, and without limiting the provisions of this Sublease, the parties agree that it is their intention that the Development and the Homeowners Corporation shall operate in a manner essentially similar to that which would exist if a strata plan was filed in respect of the Lands, and the Homeowners Corporation was the strata corporation. In the event of a disagreement as to the applicability of a provision of the *Strata Property Act*, and amendments, replacement legislation or successor statutes, the matter may be referred to arbitration, provided that the provisions of this Sublease are paramount.

3.3 Homeowners Corporation – From and after the Completion Date the Sublessor shall not own or vote shares in the Homeowners Corporation, except that if the Sublessor is also a Sublessee of a portion of the Lands, it may vote a share in the Homeowners Corporation in respect of such sublease

#### **4. RENT AND COMMON COSTS**

4.1 Rent – The Sublessee covenants and agrees to pay to the Sublessor, or as the Sublessor may in writing direct, in lawful money of Canada, without any claim, setoff, compensation or deduction whatsoever, the aggregate of the following sums:

- (a) Prepaid Rent in respect of each year or part of a year of the Term as set out in Schedule C and payable in advance on the date of this Sublease;
- (b) Basic Rent of Two Hundred (\$200) dollars per month payable on the first day of each month of the Term, subject to an annual adjustment, to be made on each Adjustment Date commencing after the first (1<sup>st</sup>) anniversary of the date of this Sublease and payable by automatic debit if so required. On each such Adjustment Date Basic Rent shall be increased from Basic Rent payable immediately before such adjustment, by an amount equal to the CPI Adjustment; and
- (c) Additional Rent, which shall be payable as and when required pursuant to the terms and conditions of this Sublease;

together with such value added, sales, goods and services or other taxes, if any, that may be payable in respect of the Basic Rent and Additional Rent (including without limitation taxes pursuant to the *Excise Tax Act*, R.S.C. 1985, C.E-13, or any other Applicable Laws). The Sublessee will have no right to a refund of, and the Sublessor will not be liable to the Sublessee for refunding, any Rent in the event of the termination of this Sublease.

4.2 Common Costs – The Common Costs for each Lease Year shall be estimated by the Homeowners Corporation (or the Sublessor until the Completion Date) and communicated to the Sublessee. The budget for Common Costs during any Lease Year may be readjusted at any time and specific Common Costs may be reallocated, in whole or in part, to the Sublessee based on a determination by the Homeowners Corporation (or the Sublessor until the Completion Date) that the Sublessee is solely or partially responsible for such costs, in which event the amount payable by the Sublessee as its Proportionate Share of the Common Costs shall be adjusted accordingly. Following the Completion Date the Sublessor reserves the right to estimate, bill, re-estimate and collect Common Costs to the extent such Common Costs have not been charged by

the Homeowners Corporation, or paid by the Sublessee to the Homeowners Corporation, and if the Sublessor bills the Sublessee for the Sublessee's Proportionate Share of such Common Costs, the Sublessee shall forthwith pay such amount to the Sublessor as Additional Rent.

4.3 Payment and Adjustments of Common Costs – The Sublessee will pay its Proportionate Share of the estimated Common Costs for each Lease Year on a monthly basis in advance during each Lease Year. Within a reasonable time period following the end of each Lease Year, the Homeowners Corporation (or the Sublessor prior to the Completion Date or to the extent that the Sublessor otherwise bills the Sublessee for such costs) will advise the Sublessee in writing of the actual amount of the Common Costs for the Lease Year and the actual amount required to be paid as the Sublessee's Proportionate Share of the Common Costs for the Lease Year. In the event that the actual Common Costs for such Lease Year are less than the Common Costs that had been estimated by the Homeowners Corporation or the Sublessor, the overpayment by the Sublessee shall be applied to the Common Costs payable to the Homeowners Corporation or the Sublessor, as the case may be, for the next Lease Year. In the event the actual Common Costs for such Lease Year are greater than the Common Costs that had been estimated by the Homeowners Corporation or the Sublessor, the Homeowners Corporation or the Sublessor shall have the right to either include the amounts in the Common Costs for the upcoming Lease Year or assess the Sublessees for the shortfall, and the Sublessee shall pay such additional amounts at the time or times required by the Homeowners Corporation or the Sublessor.

4.4 Rental for Irregular Periods - All Rent shall be deemed to accrue from day to day and if for any reason it shall become necessary to calculate the Rent for irregular periods of less than one year or one month, as the case maybe, an appropriate pro rata adjustment shall be made on a daily basis in order to compute Rent for such irregular period.

4.5 Place of Payment - All payments required to be made to the Sublessor pursuant to this Sublease shall be made at the address of the Sublessor referred to in Part 29 unless otherwise directed by the Sublessor. All payments required to be made to the Homeowners Corporation pursuant to this Sublease shall be made at the address of the Homeowners Corporation referred to in Part 29 unless otherwise directed by the Homeowners Corporation. At the request of the Sublessor, or the Homeowners Corporation, the Sublessee shall establish an automatic pre-authorized payment plan that will be used to make payments due under this Sublease.

## **5. USE OF THE LEASED PREMISES**

5.1 Permitted Use – The Sublessee covenants that it will only use the Leased Premises for residential purposes (which includes the use of part of the Leased Premises for a home office) and will not carry on, or permit to be carried on, on the Leased Premises any activity which is a nuisance and prohibited by either the Headlease or the Sublease or which is illegal.

5.2 Soil Condition and Floodplain Restrictions - Based on a physical examination of the Lands, the Sublessor is not aware of any hazards or dangers to the Lands with regard to soil conditions. The main living floor elevation of all of the Homes is designed above the 200 year



Flood Construction Level (“FCL”). Space below the FCL is non-habitable area. The Sublessor does not offer basement finishing. Any basement finishing is constructed at the Sublessee’s risk.

## **6. REPAIRS TO THE LEASED PREMISES**

6.1 Sublessee’s Obligation to Repair – The Sublessee covenants that it will at all times during the Term, at its own cost and expense, repair, renew, replace and maintain the Leased Premises in good and tenantable condition in every respect as would a careful owner in possession. At the end of the Term or earlier termination of this Sublease, the Sublessee will deliver to the Sublessor vacant possession of the Leased Premises in the condition which the Sublessee is required to maintain the Leased Premises by the terms of this Sublease.

6.2 Access – The Sublessee will provide the Sublessor its officers, employees, agents, contractors and subcontractors, and those allowed access pursuant to the Headlease, with or without vehicles and equipment, convenient access to the Leased Premises at all reasonable times on reasonable prior notice, except in the case of an emergency, for the purposes of viewing the Leased Premises, otherwise determining that the Sublessee’s covenants are being duly observed and performed and, at the Sublessor’s sole option, performing any covenant of the Sublessee contained in this Sublease that the Sublessee has failed to perform, after thirty (30) days written notice of such failure has been given to the Sublessee.

## **7. COMMON AREAS AND COMMON FACILITIES**

7.1 Use of Common Areas and Common Facilities – The Sublessee covenants that:

- (a) the Sublessor will have the right to control the use of the Common Areas and the Common Facilities, to grant exclusive rights to use parking spaces that are part of the Common Areas and Common Facilities and to alter and/or expand the location, area, arrangement or composition of the Common Areas and Common Facilities. The Sublessor may delegate all or part of such control and rights to the Homeowners Corporation from time to time;
- (b) the Sublessee, its tenants and guests shall only use the Common Areas and Common Facilities in accordance with this Sublease, including without limitation the Bylaws in force from time to time; and
- (c) the Sublessee will not do or omit, or permit to be done or omitted, anything which shall cause the Common Costs to be increased, and if the Common Costs shall be so increased the Sublessee shall pay the amount of such increase upon demand.

## **8. BYLAWS**

8.1 Power to Make Bylaws – The Homeowners Corporation shall have the right from time to time to make Bylaws relating to the use of the Leased Premises, the Common Areas and the Common Facilities by the Sublessee. Such Bylaws shall be deemed to form a part of this Sublease and be incorporated herein. The Homeowners Corporation will communicate any amendments or changes to the Bylaws to the Sublessee in writing and upon receipt of notice of any such amendment or change, the amended Bylaws shall be in force until further notice or

amendment thereof. The Sublessor shall not be responsible to the Sublessee for the non-observance or violation of the Bylaws by any of the other Sublessees.

8.2 Adherence to Bylaws – The Sublessee shall abide by any and all Bylaws which may from time to time be established under this Sublease and shall pay to the Homeowners Corporation, as an Assessment, any fines or penalties imposed by it, on the Sublessee, pursuant to the Bylaws.

## 9. UTILITIES

9.1 Payment for Utilities – The Sublessee is responsible for paying for all services, utilities and facilities required by it for its use of the Leased Premises. Without limiting the generality of the foregoing, the Sublessee will pay for all water, telephone, internet, cable, light, power, heat, air-conditioning, sewer and garbage disposal services and facilities for its use of the Leased Premises. To the extent any such service, utility or facility is provided to the Development as a whole, the Sublessee shall pay its Proportionate Share of the cost thereof, or, if the Sublessee's use of such service, utility or facility is disproportionately higher than the average of other Sublessees, the Sublessee shall pay any additional amount billed to it by the Sublessor or the Homeowners Corporation to reflect such use.

9.2 Interruption of Services – No interruption of any service or facility provided to the Leased Premises will be deemed to be a disturbance of the Sublessee's enjoyment of the Leased Premises or render Her Majesty or the Sublessor liable for injury to or in damages to the Sublessee or relieve the parties from their obligations under this Sublease.

## 10. TAXES, SERVICE FEES AND OTHER FEES AND CHARGES

10.1 Liability for Taxes – Without limiting the generality of Part 12, the Sublessee will pay on or before the due date in each and every year during the Term all taxes, trade licenses, rates, levies, service fees and charges, duties and assessments of any kind lawfully imposed by the Band or any competent authority, whether in respect of the Leased Premises, fixtures, machinery, equipment or business relating to the Leased Premises or in respect of the occupation of the Leased Premises by anyone.

10.2 Right to Contest the Validity of Taxes – Without in any way relieving or modifying the obligation of the Sublessee to comply with Section 10.1, the Sublessee may, at its expense, contest or appeal the validity or amount of any tax, trade license, rate, levy, service fee or charge, duty or assessment, provided that the Sublessee commences any proceedings to contest or appeal the validity or amount within the time permitted by the relevant statute or bylaw and continues with the proceedings with all due diligence.

10.3 Evidence of Payment - The Sublessee will, upon request by the Sublessor and within thirty (30) days after the date taxes, trade licenses, rates, levies, service fees and charges, duties or assessments are due, provide the Sublessor with official receipts of the competent authority or other proof satisfactory to the Sublessor evidencing payment.

## **11. SECURITY FOR UTILITIES AND TAXES**

11.1 Utilities and Taxes – The Sublessee shall pay all utilities, taxes, service fees, costs and charges and, if applicable, ad valorem fees, and shall provide such security as may be required by the Band or any other competent authority in this regard.

## **12. COMPLIANCE WITH LAWS**

12.1 Obligation to Comply with Applicable Laws – The Sublessee will at its expense observe and perform all of its obligations under, and all matters and things necessary or expedient to be observed or performed by it, by virtue of any Applicable Laws.

## **13. NUISANCE**

13.1 Obligation not to Cause a Nuisance – The Sublessee will not cause, permit or suffer any nuisance in, on or about the Leased Premises or on the Development.

13.2 Noise – Without limiting Section 13.1 the Sublessee will not permit any persons within the Leased Premises, nor will it permit itself or any invitee of the Sublessee to cause any noise, disturbance or disruption to other Sublessees, or their invitees, whether from the Leased Premises or the Common Areas or the Common Facilities.

13.3 Termination of Nuisance – Without limiting Sections 13.1 and 13.2, the Sublessee will, upon written notice from the Homeowners Corporation, abate any nuisance arising directly or indirectly out of the use or occupation of the Leased Premises or the Development by the Sublessee, by any family member, guest, tenant, contractor, agent or invitee of the Sublessee or by any other person.

## **14. WASTE**

14.1 Obligation Not to Cause Waste – The Sublessee will not cause, permit or suffer the commission of any waste on the Leased Premises or on the Development.

## **15. RUBBISH**

15.1 Obligations relating to Refuse – Without limiting Parts 13 or 14, the Sublessee will not cause, permit or suffer any refuse, rubbish or debris to be placed or left in, on or about the Leased Premises or the Development, and will take all necessary precautions to protect the Leased Premises and the Development against fire.

## **16. ENVIRONMENT**

16.1 General Obligations to Comply with Environmental Legislation – Without limiting the generality of Part 12, the Sublessee will at all times use and occupy the Leased Premises and the Development in strict compliance with all applicable Environmental Laws.

16.2 Hazardous Substances – The Sublessee will not use or permit or suffer the use of the Leased Premises to generate, manufacture, refine, treat, transport, store, handle, dispose of,

transfer, produce or process any Hazardous Substances except in strict compliance with Environmental Laws and with the prior written consent of the Sublessor, which consent may be unreasonably and arbitrarily withheld.

16.3 Report of Release – Upon the Release of Hazardous Substances, or discovery of a Release of Hazardous Substances, by the Sublessee in, on or under the Leased Premises, the Sublessee will:

- (a) immediately deliver written notice to the Sublessor and any appropriate Authority of the occurrence of the Release and details relating to the Release including, without limitation, the time of the Release, the estimated amount of Hazardous Substances which were released, and remedial action taken prior to the delivery of the notice, the remedial action which the Sublessee intends to take in order to contain or rectify the Release and any Persons observed who appeared to have caused or who were in the vicinity of the Release;
- (b) at its own expense, immediately take all remedial action necessary, in compliance with all Environmental Laws, to fully rectify the effects of the Release;
- (c) provide the Sublessor with an independent audit, satisfactory to the Sublessor, of its activities under Section 16.3(b) and the state of the Leased Premises after such activities compared with the state of the Leased Premises prior to the Release; and
- (d) do such further activities as the Sublessor may reasonably require, based on the audit referred to in Section 16.3(c), to rectify the Release.

16.4 Removal of Hazardous Substances – If requested by the Sublessor or any Authority, the Sublessee will at its own expense remove from the Leased Premises any Hazardous Substances which are or have been located, stored or incorporated in, on or under the Leased Premises. Prior to the end of the Term, the Sublessee will at its own expense remove from the Leased Premises any Hazardous Substances which are or have been located, stored or incorporated in, on or under the Leased Premises.

16.5 Increased Risks – The Sublessee will not carry out any operations or activities or construct any alterations or improvements which materially increase the risk of liability to the Sublessor (whether direct or indirect) as a result of the application of Environmental Laws (as determined by the Sublessor acting reasonably).

16.6 Inspection - The Sublessor may, at any time during the Term, inspect the Leased Premises in order to assess the existence of any Hazardous Substances and to conduct an environmental site assessment, environmental audit or any other testing or investigations which the Sublessor deems reasonably necessary in order to ascertain the compliance of the Sublessee's operation on the Leased Premises with Environmental Laws and to determine the extent of any contamination of the Leased Premises due to the presence of any Hazardous Substances in, on or under the Leased Premises. The reasonable costs to the Sublessor of conducting any of the

foregoing will be deemed to be Additional Rent payable by the Sublessee upon the Sublessor delivering notice of its costs.

16.7 Title to Hazardous Substances - The Sublessee acknowledges and agrees that, notwithstanding any rule of law to the contrary, any Hazardous Substances, which are located, stored or incorporated in, on or under the Leased Premises remain the sole and exclusive property of the Sublessee and will not become the property of the Sublessor regardless of any degree of affixation of the Hazardous Substances to the Leased Premises. This section will survive the expiration or earlier termination of this Sublease, save only that, to the extent that the performance of any obligation pertaining to it requires access to or entry upon the Leased Premises after the expiration or earlier termination of this Sublease, the Sublessee will have entry and access only at such times and upon such terms and conditions as the Sublessor may from time to time specify in writing.

16.8 Additional Rights - Without limiting Part 21, upon:

- (a) the breach by the Sublessee of any provision contained in this Part; or
- (b) the Sublessor becoming aware of a breach of Environmental Laws with respect to the Leased Premises or the presence of any Hazardous Substances on, in or under the Leased Premises which is not present in strict compliance with Environmental Laws and which raises a material risk of liability to the Sublessor, as determined by the Sublessor;

such event will constitute a default for the purposes of Section 21.1 of this Sublease.

16.9 Environmental Indemnity - The Sublessee hereby indemnifies and saves harmless the Sublessor and Her Majesty from and against all claims, demands, actions, suits or other proceedings, judgments, damages, penalties, fines, costs, liabilities and losses (including any diminution in the market value of the Leased Premises, based on the highest and best use of the Leased Premises, as opposed to the uses permitted by this Sublease), sums paid in settlement of any claims, reasonable legal, consultant and expert fees or any costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any authority) which arise during or after the Term and are in any way based upon, arise out of or are connected with:

- (a) the presence or suspected presence of Hazardous Substances in, on or under the Leased Premises or in the soil, groundwater or surface water in, on, under or near the Leased Premises as a result of the actions or omissions of the Sublessee; or
- (b) the Release of any Hazardous Substances in, on or under the Leased Premises by or at the direction of the Sublessee;

unless the presence of the Hazardous Substances is solely attributable to the negligence or wilful misconduct of the Sublessor. This indemnity will survive the expiration or earlier termination of this Sublease.

## **17. ALTERATIONS AND ADDITIONS**

17.1 Permitted Alterations – The Sublessee may from time to time, at its expense, paint and decorate the interior of the Leased Premises and make such changes, additions, alterations and improvements in and to the interior of the Leased Premises as will in the judgment of the Sublessee better adapt the Leased Premises for the purpose of the Sublessee, provided however that no structural changes, additions, alterations or improvements shall be made to the structure, load bearing walls, perimeter walls, exterior, roof or any other portion of the Common Areas or Common Facilities, without the prior written consent of the Homeowners Corporation or the Band if so required.

17.2 Standards – All construction and other work on the Leased Premises will be carried out and completed to a standard and quality at least as high as those of any improvements which are being repaired, restored, renewed, replaced or substituted. All alterations to the Leased Premises shall be carried out without interference or disruption of other Sublessees, and both before, during, and after such alterations the Sublessee shall comply with all provisions of this Sublease.

## **18. INSURANCE**

18.1 Provision of Insurance – The Sublessor has obligations, pursuant to the Sublease, in respect of insurance, and certain of those obligations will be satisfied by the insurance to be provided by the Sublessees. To assist in the orderly administration of insurance, each Sublessee will be required to obtain the insurance required by this Sublease, from an insurance broker designated by the Homeowners Corporation, and the insurance policies issued to the Sublessees shall have a common expiry date. The insurance shall comply in all respects with the requirements of the Sublease.

18.2 Sublessee Insurance – The Sublessee covenants with the Sublessor that it will take out and maintain in force during the Term the following insurance:

- (a) an “All Risks” policy covering the buildings and improvements on the Leased Premises against fire and other perils (including earthquake) from time to time included in standard fire insurance policies affecting similar properties in British Columbia (with extended or additional perils supplemental coverage) and as would be insured against by a prudent owner, including loss or damage by fire, explosion, impact by aircraft or vehicles, lightning, riot, vandalism or malicious acts, smoke, leakage from fire protection equipment, windstorm, hail and such other perils as the Sublessor may reasonably require to be insured against, in an amount not less than the replacement cost of such buildings and replacements (including, in the case of coverage for earthquake and collapse, the cost of excavation and foundations); and
- (b) a comprehensive general liability policy or a personal liability policy against claims for personal injury, sickness, illness, disease or disability, death or property damage or loss (including liability coverage for pollution, to the extent such coverage is available) arising out of the ownership, occupation, maintenance

and use of the Leased Premises by the Sublessee, in an amount not less than Two Million Dollars (\$2,000,000.00) in respect of any one accident or occurrence, or such higher amount as the Sublessor may require from time to time, such policy to name the Sublessor and Her Majesty as additional insureds.

18.3 Covenants Relating to Insurance – The Sublessee covenants and agrees as follows:

- (a) to deliver to the Sublessor from time to time, on request, certificates from its insurers evidencing each such policy of insurance to be taken out and maintained by the Sublessee pursuant to this Sublease, and also to deliver evidence of the renewal of such policies at least ten (10) days prior to the time for the renewal of the same;
- (b) not to do, permit or suffer anything to be done or omitted on the Leased Premises or the Development which might cause any policy of insurance (including the insurance of the Sublessor) to be invalidated or cancelled, and to comply forthwith with any and every written notice from the Sublessee or any insurer requiring the execution of works or the discontinuance of any use of the Leased Premises in order to avoid the invalidation or cancellation of any insurance; and
- (c) to release the Sublessor and Her Majesty from any and all liability for loss and damage caused at any time by any of the perils against which the Sublessee has covenanted to insure under this Sublease, and (except for fraudulent acts of the Sublessor) to indemnify and hold harmless the Sublessor and Her Majesty from and against all manner of actions, suits, damages, losses, costs, claims and demands of any nature whatsoever relating to such loss or damage.

18.4 Payment of Loss Under Insurance – The Sublessee covenants and agrees as follows with respect to the use of insurance proceeds:

- (a) all proceeds from insurance policies shall be applied to the repair, replacement, reconstruction or restoration of the property damage for which such proceeds have become payable. Any such repair, replacement, reconstruction or restoration shall be carried out so as to repair, replace, reconstruct or restore the Leased Premises to the same condition as the Sublessee is required to maintain the same pursuant to this Sublease immediately prior to such damage or destruction. All repair, replacement, reconstruction and restoration shall be completed in accordance with this Sublease, and the Sublessee will be responsible for the repair, replacement, reconstruction and restoration of the Leased Premises whether or not the cost of such work exceeds the insurance proceeds;
- (b) if the Sublessor and all mortgagees of the Sublease have consented in writing to the payment of insurance proceeds to the Sublessee, then the proceeds shall be paid to the Sublessee in trust to apply to the costs of repairing, replacing, reconstructing and restoring the Leased Premises, and the Sublessee will be

responsible for the repair, replacement, reconstruction and restoration of the Leased Premises whether or not such work exceeds the insurance proceeds.

## **19. DAMAGE OR DESTRUCTION**

19.1 Rights on Damage or Destruction – In the event of damage or destruction to the Leased Premises at any time during the Term, the Rent shall not abate and this Sublease shall not terminate unless the Headlease or the Sublease is terminated pursuant to the respective terms and conditions thereof.

## **20. EXCLUSION OF LIABILITY AND INDEMNITY**

20.1 Release in Favour of the Sublessor – Except and to the extent that such injury, loss or damage is caused by the negligence of the Sublessor, the Sublessor, its directors, officers, agents, servants, employees or invitees shall not be liable or responsible in any way for any injury that may be suffered or sustained by the Sublessee, or any family member, guest, tenant, contractor, agent or invitee of the Sublessee, or for any loss of or damage to any property belonging to the Sublessee or to any other person (including without limitation any family member, guest, tenant, contractor, agent or invitee of the Sublessee) while such property is on the Development or the Leased Premises, and in particular, but without limiting the generality of the foregoing, the Sublessor shall not be liable for any damage or inconvenience caused by the failure to supply utilities to the Leased Premises but the Sublessor shall use all reasonable diligence to remedy such failure or interruption of service if it is within its power and obligation to do so.

20.2 Indemnity – The Sublessee covenants with the Sublessor to indemnify and save harmless the Sublessor, Her Majesty, the Band and their respective directors, officers, agents, servants, employees and invitees, from any and all claims for personal injury or property damage arising from any default by the Sublessee in the observance or performance of the covenants and agreements on its part to be observed and performed pursuant to this Sublease or from any act or omission of the Sublessee or any family member, guest, tenant, contractor, agent or invitee of the Sublessee and from all costs, fees and expenses incurred as a result of any such claim or any action or proceeding brought in connection with such claim and this indemnity shall survive the expiration or sooner termination of the Term.

## **21. SUBLESSOR'S RIGHTS AND REMEDIES**

21.1 Events of Default – It shall be an Event of Default under this Sublease if the Sublessee:

- (a) fails to pay any Rent or any other sum required to be paid by the Sublessee when due under this Sublease, whether demanded or not or purports to set off, withhold or deduct any amount of Rent due;
- (b) fails to perform or observe any other term, agreement, condition, covenant, warranty or proviso of this Sublease (including without limitation the Schedules hereto, the Bylaws and the covenant in respect of the Headlease and the Sublease contained in Section 26.2), whether demanded or not; or



- (c) fails to pay any Assessment when due to the Homeowners Corporation, whether demanded or not.

21.2 Rights and Remedies Upon Default – Upon the happening of an Event of Default, the Sublessor shall have the following rights and remedies:

- (a) in the case of an Event of Default which constitutes a default under the terms and conditions of the Headlease, the Sublessor shall have the right to re-enter and re-take possession of the Leased Premises and terminate this Sublease if such default is not remedied within 30 days from receipt of written notice from the Sublessor advising of the default or if the default is not reasonably capable of being cured in such time, if the Sublessee fails to commence to cure the default within 30 days of receipt of the notice and to proceed to cure it with all due diligence to completion;
- (b) in the case of an Event of Default which constitutes a default under the terms and conditions of the Headlease, the Sublessor shall have the right to re-enter and re-take possession of the Leased Premises for the purpose of re-leasing the same as agent for the Sublessee if such default is not remedied within 30 days from receipt of written notice from the Sublessor advising of the default or if the default is not reasonably capable of being cured in such time, if the Sublessee fails to commence to cure the default within 30 days of receipt of the notice and to proceed to cure it with all due diligence to completion, in which event all money received by the Sublessor from such re-leasing (but excluding any ongoing Rent from the date of the re-leasing which will continue to accrue to the Sublessor) shall be applied, first, to the payment of any indebtedness due under this Sublease from the Sublessee to the Sublessor, second, to the payment of all costs and expenses incurred by the Sublessor in re-leasing the Leased Premises (including brokerage and lawyer's fees and the cost of any alterations and repairs to the Leased Premises) third, to the payment of any indebtedness of the Sublessee to the Homeowners Corporation and, fourth, as to the balance of the money, if any, to the Sublessee (provided that if there are any financial charges registered in the Registry against the interest of the Sublessee at the time of the disbursement of monies, the amount payable to the Sublessee shall first be applied to satisfy the Sublessee's obligations to such financial chargeholders in accordance with their priority and any balance shall then be paid in accordance with this Sublease);
- (c) in the case of an Event of Default which does not constitute a default under the terms and conditions of the Headlease, the Sublessor shall have the right to re-enter and re-take possession of the Leased Premises and terminate this Sublease if such default is not remedied within ninety (90) days from receipt of written notice from the Sublessor advising of the default;
- (d) in the case of an Event of Default which does not constitute a default under the terms and conditions of the Headlease, the Sublessor shall have the right to re-enter and re-take possession of the Leased Premises for the purpose of re-leasing the same as agent for the Sublessee if such default is not remedied

within ninety (90) days from receipt of written notice from the Sublessor advising of the default, in which event all money received by the Sublessor from such re-leasing shall be applied as set out in Subsection 21.2(b);

- (e) in the case of an Event of Default which constitutes a default under the Bylaws, impose any fines or penalties as set out in the Bylaws;
- (f) the Sublessor may, but shall not be obliged to, itself observe and perform any covenant or agreement in respect of which the Sublessee has made default and for such purpose may enter onto the Leased Premises without liability to the Sublessee, provided that such performance by the Sublessor shall not in any way relieve the Sublessee from its obligations and liabilities with respect to the performance of the covenant or agreement;
- (g) the Sublessor shall have the right to collect from the Sublessee any and all costs and expenses incurred by the Sublessor in enforcing the covenants and agreements set out in this Sublease and in performing the covenants and agreements of the Sublessee set out in this Sublease, including without limitation legal fees as between solicitor and his own client, together with interest thereon at the rate set out in Subsection 21.2(h) from the date that the costs and expenses are incurred to the date the same are paid by the Sublessee;
- (h) the Sublessor shall have the right to claim from the Sublessee interest at the rate equal to five percent (5%) per annum above the prevailing prime lending rate for commercial loans in Canadian dollars then being published by the Sublessor's bankers on all amounts which are due and owing by the Sublessee to the Sublessor (and a certificate signed by an officer of a bank that the Sublessor designates as its bank, shall be conclusive evidence of such rate); and
- (i) the Sublessor shall be entitled to such other rights and remedies as may be available to it pursuant to this Sublease, at law or in equity, including without limitation rights of distress, the right to claim damages against the Sublessee and the right to seek and obtain injunctive or other equitable relief upon the happening of an Event of Default.

21.3 Rights of the Sublessee on Termination for Default - In the case of an Event of Default and the termination of this Sublease pursuant to the terms and conditions of Section 21.2, then the Sublessor shall use its reasonable efforts to lease the Leased Premises through the issuance of another sublease for the Leased Premises to a third party lessee on terms and conditions substantially the same as set out in this Sublease in which event all money received by the Sublessor from such sublease (but excluding any ongoing Rent from the date of such sublease) shall be applied, first, to the payment of any indebtedness due under this Sublease from the Sublessee to the Sublessor, second, to the payment of all costs and expenses incurred by the Sublessor in re-leasing the Leased Premises (including brokerage and lawyer's fees and the cost of any alterations and repairs to the Leased Premises) third, to the payment of any indebtedness of the Sublessee to the Homeowners Corporation and fourth, as to the balance of the money, if any, to the Sublessee (provided that if there are any financial charges registered in the Registry

against the interest of the Sublessee at the time of the disbursement of monies, the amount payable to the Sublessee shall first be applied to satisfy the Sublessee's obligations to such financial chargeholders in accordance with their priority and any balance shall then be paid in accordance with this Sublease).

21.4 Rights and Remedies Cumulative – All rights and remedies of the Sublessor in this Sublease shall be cumulative and not alternative.

21.5 Remedy of Defaults by Mortgagees – If a mortgage of the Sublessee's interest in this Sublease has been registered in the Registry then the mortgagee thereunder shall be entitled to receive notice of and cure any Event of Default pursuant to and within the applicable time frame provided for in Section 21.2 or, in the event any default is not reasonably capable of being remedied within the time frame set out in Section 21.2, within such longer time period as is reasonable in the circumstances provided the mortgagee immediately commences to cure the default and then diligently prosecutes to conclusion all acts necessary to cure the default. Any curing of an Event of Default by the mortgagee shall be construed as a curing of the Event of Default by the Sublessee. No notice of an Event of Default shall be effective as against any such mortgagee unless and until a copy of such notice has been provided to the mortgagee at the address specified by the mortgagee as set out above, and any such notice to the mortgagee shall be provided as set out in Part 29 of this Sublease.

21.6 Notices of Defaults under the Headlease or Sublease – Upon receipt of notice of default under the Headlease or the Sublease by the Sublessor, the Sublessor shall promptly provide a copy of such notice to the Sublessee and any mortgagee(s) of the Sublessee's interest in this Sublease or the Leased Premises, where such mortgagee has registered its mortgage in the Registry.

21.7 Non-Waiver – No condoning, excusing or overlooking by the Sublessor or the Sublessee of any default, breach or non-observance by the other in respect of any covenant, proviso or condition herein contained shall operate as a waiver of the Sublessor's or the Sublessee's rights hereunder 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 Sublessor or the Sublessee in respect of any continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by the Sublessor or the Sublessee, save only express waivers in writing.

## **22. ASSIGNMENTS BY THE SUBLESSOR**

22.1 Right of Sublessor to Assign – The rights of the Sublessor herein may be assigned to an assignee subject to the provisions of the Headlease. In the event of any assignee duly entering into possession of the Sublessor's interest in the Sublease, the Sublessee agrees to attorn to and become Sublessee of such assignee pursuant to the terms of this Sublease.

22.2 Release of Sublessor upon Assignment – In the event of an assignment by the Sublessor of its interest in this Sublease and to the extent that the assignee assumes the covenants, agreements, obligations and liabilities of the Sublessor contained in this Sublease, the

Sublessor shall without further written agreement be released and relieved of and from any and all obligations and liabilities whatsoever relating to this Sublease and the Development.

**23. ASSIGNMENT AND SUBLETTING BY THE SUBLESSEE**

23.1 Right to Assign – The Sublessee may assign or transfer the whole or any part of its interest in this Sublease and the Leased Premises, subject to the following terms and conditions:

- (a) the assignment or transfer of the Sublease must be completed on a form acceptable for registration in the Registry;
- (b) the assignment or transfer must include covenants and agreements pursuant to which the assignee or transferee covenants and agrees in writing, with the Sublessor and the Homeowners Corporation, to be bound by and liable under all terms, conditions, covenants and agreements of the Sublessee under this Sublease;
- (c) the Sublessee shall not be in default of its covenants and agreements set out in this Sublease, and in particular shall have paid its Proportionate Share of all Common Costs and shall have paid to the Homeowners Corporation all Assessments for the period to and including the date of the assignment or transfer;
- (d) the share in the capital of the Homeowners Corporation held by the Sublessee must be assigned to the assignee or transferee at the same time as the Sublease is assigned, provided that in the event the Sublessee fails to effect the transfer of the share in the Homeowners Corporation at the time of the assignment or transfer of this Sublease, the Sublessor or the Homeowners Corporation shall be irrevocably appointed the attorney of the Sublessee with the full power to execute and deliver a transfer of the share in the name of the Sublessee and any transfer documentation executed and delivered by the Sublessor or Homeowners Corporation under such power of attorney shall be binding upon the Sublessee without liability to the Sublessor or the party signing on behalf of the Sublessor; and
- (e) prior to any assignment or transfer the Sublessee shall request a certificate from the Sublessor confirming that to the Sublessor's knowledge the Sublease is in good standing, and upon the assignment or transfer shall pay the Sublessor an administration fee. Such administration fee shall be equal to .4% (four tenths of one percent) of the greater of the sale price or the most recent tax assessed value of the Leased Premises.

23.2 Release on Assignment – Upon the assignment or transfer of this Sublease by the Sublessee, the Sublessee shall be released from its obligations pursuant to this Sublease as they relate to the period following the date of the assignment or transfer and the assignee or transferee shall assume all obligations of the Sublessee under this Sublease.

## **24. RIGHT TO MORTGAGE BY SUBLESSEE**

24.1 Right to Mortgage – The Sublessee shall have the right, at any time, and from time to time, to grant a mortgage of this Sublease.

24.2 Mortgagee’s Remedies - The mortgagee under any mortgage granted by the Sublessee may exercise any remedies available to it under its mortgage, and in particular, without limiting the generality of the foregoing, may enforce the mortgage and acquire title to this Sublease in any lawful way, directly, by its representative or by a receiver, as the case may be, and in such event may take possession of and manage the Leased Premises and sell or assign this Sublease, and subject to the requirements set out in Section 23.1, in which case the assignee or transferee of the Sublease shall be liable to assume, abide by and perform the covenants, agreements, obligations and liabilities imposed on the Sublessee by this Sublease so long as such assignee or transferee has ownership or possession of the Leased Premises.

24.3 Obligations of a Mortgagee in Possession – If the mortgagee takes possession of the Leased Premises, or acquires the Sublessee’s equity of redemption, or a receiver or receiver-manager is appointed by or at the request of the mortgagee, then the mortgagee will, or will cause the receiver or receiver-manager to, perform and observe all of the Sublessee’s covenants and agreements under this Sublease until either the mortgagee ceases to be a mortgagee in possession, the receiver or receiver-manager ceases to be in possession or this Sublease is duly assigned or transferred to an assignee or transferee and the assignee or transferee covenants and agrees to assume, abide by and perform the covenants, agreements, obligations and liabilities of the Sublessee under this Sublease.

24.4 Obligations of CMHC if in Possession – If the mortgage is insured by Canada Mortgage and Housing Corporation (“CMHC”), then:

- (a) during such time as CMHC has possession of the Leased Premises or holds the Sublessee’s equity of redemption in the Leased Premises, CMHC shall not be bound to pay Rent referred to in Section 4.1 or to take out or keep in force the insurance referred to in Part 18; and
- (b) the Sublessor must obtain the consent of the mortgagee in the event that the Sublessor intends to exercise its right under Subsection 21.2(b) or (d) of this Sublease.

## **25. SUBLESSOR’S COVENANTS**

25.1 Sublessor’s Obligations – The Sublessor covenants with the Sublessee:

- (a) that if the Sublessee pays the Rent hereby reserved and performs the covenants herein on its part contained, the Sublessee shall, subject to the terms of this Sublease, peaceably possess and enjoy the Leased Premises for the Term without any interruption or disturbance from the Sublessor or any other person or persons lawfully claiming by, from or under it;

- (b) to pay the rent and observe and perform all of the terms, covenants and agreements in the Headlease to be observed and performed by the Sublessor and to indemnify and save harmless the Sublessee, and its permitted assigns and mortgagees, of and from any loss, damage, liability, claim or expense incurred by the Sublessee resulting from the failure to do so, unless the Sublessor's failure is caused or contributed to by a default of the Sublessee under this Sublease; and
- (c) not to amend the Headlease in any manner that will materially adversely affect the rights of the Sublessee, and its permitted assigns or mortgagees, under the terms and conditions of this Sublease.

## **26. COMPLIANCE WITH HEADLEASE**

26.1 Sublease Subject to the Headlease– The Sublessee acknowledges and agrees that this Sublease is expressly subject and subordinate to the Headlease and that this Sublease will terminate upon the termination of the Headlease, except in circumstances described in Schedule “E” to the Headlease .

26.2 Sublessee Not to Breach the Headlease – The Sublessee covenants and agrees with the Sublessor that it will be bound by all terms of the Headlease as they relate to the Leased Premises (with the exception of the Sublessor's obligation to pay rent under the Headlease) and that it will not cause the Sublessor at any time to be in breach of any of the terms, covenants, conditions, provisos and agreements to be kept or observed under the Headlease. Further, in the event of a conflict between the Headlease and this Sublease the provisions of the Headlease will govern.

26.3 Sublessor's Rights – If:

- (a) the Sublessor receives a notice from the Her Majesty alleging a default under paragraph \_\_\_\_\_ of the Headlease;
- (b) the default described above is caused or contributed to wholly, or in part, by a material default of a material obligation of the Sublessee under this Sublease; and
- (c) the Sublessor, acting reasonably, is of the opinion that the default under this Sublease is not being, or will not be, remedied within the time provided in paragraph \_\_\_\_\_ of the Headlease;

the Sublessor may, at its option, do such things as are necessary or appropriate to remedy the default under this Sublease and the Sublessor's reasonable costs of doing such things shall be payable by the Sublessee to the Sublessor, on demand, as Additional Rent.

## **27. HOMEOWNERS CORPORATION**

27.1 Creation – The Homeowners Corporation has been incorporated. One share in the capital of the Homeowners Corporation shall be issued or transferred to the Sublessee. From and after the Completion Date the number of issued shares in the Homeowners Corporation shall equal the number of issued Subleases for the Development (excluding any Subleases issued to

the Homeowners Corporation), and each Sublessee shall own one share. In accordance with the Articles of the Homeowners Corporation, each share of the Homeowners Corporation must be transferred to the assignee of the Sublease in respect of which the share was issued, and no share may be dealt with independently from the Sublease. In the event a mortgagee of a Sublease enforces its mortgage and acquires title to this Sublease in any lawful way and thereafter sells or assigns this Sublease, the share in the Homeowners Corporation held by the Sublessee shall be transferred to the assignee or transferee of this Sublease subject to the requirements set out in Section 23.1 and the directors of the Homeowners Corporation are hereby authorized to approve such share transfer.

27.2 Duties of Homeowners Corporation - The Common Areas and Common Facilities will be subleased by the Sublessor to the Homeowners Corporation. The Homeowners Corporation covenants and agrees with the Sublessor and the Sublessee to control, manage and administer the Common Areas and Common Facilities for the benefit of all Sublessees commencing on the Completion Date. Specific obligations of the Homeowners Corporation are contained in its Articles, a copy of which has been made available to the Sublessee prior to the execution of this Sublease. The rights and obligations of the Homeowners Corporation shall be subject and subordinate to the Sublessor's rights under this Sublease.

27.3 Funding of Homeowners Corporation - The Sublessee acknowledges that the operations of the Homeowners Corporation will be paid for by assessments (the "Assessments") made by the Homeowners Corporation to the Sublessees. The Sublessee covenants and agrees to pay all Assessments made by the Homeowners Corporation when due. Such Assessments shall constitute Additional Rent pursuant to this Sublease, shall bear interest as provided for in this Sublease if not paid when due, and shall afford the Sublessor and the Homeowners Corporation with all remedies available to them pursuant to this Sublease.

27.4 Access - The Homeowners Corporation, and its agents, employees and contractors, shall have the right to enter upon the Leased Premises and the Common Areas and Common Facilities to enable it to carry out its duties and responsibilities in connection with the Common Areas and Common Facilities.

27.5 Right to Suspend/Disconnect Services – Without limiting any right or remedy of the Homeowners Corporation or the Sublessor, if the Sublessee fails to pay an Assessment when due, the Homeowners Corporation may, without notice, temporarily suspend or permanently disconnect the Leased Premises from any one or more service or utility that passes on, over, under or through any Common Area or Common Facility, to the Leased Premises including without limitation the provision of water, sewer, electricity, gas, power, telephone, cable or other service.

27.6 Breach - A breach or default by the Homeowners Corporation of any obligation under this Sublease shall not:

- (a) give the Sublessee any right to terminate this Sublease;
- (b) allow the Sublessee to withhold the Rent or Additional Rent; or
- (c) impose any obligation on the Sublessor.

27.7 Delegation - The Sublessor may, from time to time, delegate to the Homeowners Corporation, all or any part of the Sublessor's rights and obligations hereunder, including, without limitation, the right to grant approvals or consents, and may change such delegation from time to time.

## **28. MISCELLANEOUS**

28.1 No Partnership – It is understood between the Sublessor and the Sublessee that nothing contained in this Sublease shall be deemed to create any relationship between the Sublessor and the Sublessee other than the relationship of sublessor and sublessee.

28.2 Joint and Several Liability – Should the Sublessee comprise two or more persons each of them shall be jointly and severally bound to perform the obligations of the Sublessee hereunder.

28.3 Gender References – References to the Sublessor, the Sublessee or any other party shall be read with such changes in gender as may be appropriate and where appropriate the singular shall mean the plural and vice versa.

28.4 Enurement – This Sublease shall enure to the benefit of and be binding upon the Sublessor, its successors and assigns and the Sublessee, its heirs, executors, administrators, successors and permitted assigns.

28.5 Time of the Essence – Time is of the essence in this Sublease.

## **29. NOTICE**

29.1 Notice – Any notice, demand, consent, objection, or request for consent to be given hereunder shall be given in writing and either delivered or sent by registered mail, postage prepaid, addressed to the persons as follows:

- (a) to the Sublessor, addressed to the Sublessor at the address of the Sublessor set out above;
- (b) to the Homeowners Corporation, addressed to the Homeowners Corporation at the address of the Homeowners Corporation set out above; and
- (c) to the Sublessee, addressed to the Sublessee at the Leased Premises;

or to such other address in British Columbia which the persons may from time to time notify each other in writing. The time of giving or making such notice, demand, consent objection or request for consent shall be when delivered, if delivered, and on the fourth business day after the day of the mailing thereof, if mailed, provided that if a notice is sent by mail and there is a mail strike, slowdown or other labour dispute between the time of mailing and the actual receipt of the notice, then such notice shall only be effective if delivered or actually received.



**30. NET SUBLEASE**

30.1 Net Sublease – It is agreed by the Sublessee that this Sublease shall be a completely carefree, net sublease to the Sublessor and that the Sublessor shall not be responsible for any costs, charges, expenses or outlays of any nature whatsoever arising from or related to the Leased Premises or the Development and the Sublessee shall pay all, or a portion of all, costs, expenses, fees and other amounts of every nature and kind arising from or relating to the Leased Premises, the Lands and the Development.

**31. APPLICABLE LAW**

31.1 Applicable Law – This Sublease shall be construed and governed by the Applicable Laws and the Sublessor and Sublessee agree to attorn to the jurisdiction of the British Columbia courts, which (subject to Part 32) shall have the exclusive jurisdiction to determine any dispute arising out of this Sublease.

**32. ARBITRATION**

32.1 Right to Refer Matters to Arbitration – Notwithstanding the provisions of Part 31, the Sublessor and the Sublessee may agree to resolve any dispute relating to this Sublease pursuant to the provisions of the *Commercial Arbitration Act*, R.S.B.C. 1996, c.55, as amended, re-enacted or replaced from time to time. In the event that a mortgage is registered against the Leased Premises, then a copy of the notice of dispute shall be given to the mortgagee at the same time as it is given to the Sublessor or Sublessee, as the case may be, and if the mortgagee considers that the dispute may affect its mortgage security, the mortgagee shall be given the opportunity to participate in the arbitration proceedings.

**33. ENTIRE AGREEMENT**

33.1 Entire Agreement – This Sublease (together with the Schedules attached hereto and Articles of Incorporation and the Bylaws of the Homeowners Corporation) constitutes the entire agreement between the Sublessor and the Sublessee and may not be modified except by agreement in writing signed by the Sublessor and Sublessee. Should any provision of this Sublease be illegal or unenforceable it shall be considered separate and severable from this Sublease and the remaining provisions and conditions of this Sublease shall remain in force and be binding upon the Sublessor and Sublessee as though the illegal or unenforceable provision had not been included.

**34. REGISTRATION OF SUBLEASE**

34.1 Registration – This Sublease shall be registered at the Registry. All costs incurred relating to the registration of this Sublease shall be borne by the Sublessee.

**35. AMENDMENTS**

35.1 Amendments – The Sublessor and the Sublessee may amend this Sublease, by written agreement, and subject to any requirements set out in the Headlease and this Sublease with respect to the amendment of this Sublease from time to time.

### **36. RIGHT OF WAY**

36.1 Grant – The Sublessor and Sublessee jointly and severally HEREBY GRANT AND CONVEY to all public utility companies a statutory right of way on and under all parts of the Common Areas and Common Facilities (hereinafter referred to as the “Right of Way Area”), to install, construct and maintain public utility facilities and such equipment as may be considered necessary or beneficial (hereinafter called the “Facilities”) for the operation and maintenance of underground electrical distribution system, communication facilities, water and sewer systems, gas distribution systems, or any other necessary or desirable utility systems with the right to dig up the soil and rock thereof for the installation of the Facilities, and from time to time to inspect, repair, remove, alter, renew and replace the same or any part or parts thereof, and to clear the Right of Way Area of such growth and material which might interfere with or damage the Facilities.

36.2 No Disturbance – The Sublessor or Sublessee may plant the Right of Way Area to lawn and they agree that the soil will not be disturbed to a depth of more than 10 inches.

36.3 Fence – The Sublessor or Sublessee may install a fence within the Right of Way area provided it does not interfere with the operation or maintenance of the Facilities. The utility companies will be liable for any damage caused by their agents, servants, licensees or workmen to the Lands and will, each time they disturb the Lands, restore the same as near as is reasonably possible to the same condition as before the disturbance.

36.4 Run with the Land – The rights, privileges and easement hereby granted are and shall be of the same force and effect as a covenant running with the Lands, and this Article shall enure to the benefit of and be binding upon the parties hereto, their heirs, administrators, successors and assigns, and wherever the singular or masculine is used herein, it shall be construed as if the feminine, plural and neuter, as the case may be, had been used wherever the context of the parties hereto so require.

### **37. CHANGES TO THE DEVELOPMENT**

37.1 Changes – The plans attached to the Sublease as Schedule “A” setting forth the general layout of the Development shall not be deemed to be a representation by the Sublessor that the Development will be exactly as indicated on such plans and nothing contained in this Sublease shall be construed so as to prevent the Sublessor from altering the location of the Common Areas and Common Facilities or other improvements from time to time, provided that such alterations do not adversely affect the Development or the Sublessee’s enjoyment thereof. The Sublessor shall have the right to alter the ingress or egress to the Lands and the Leased Premises provided that the Sublessor shall at all times provide reasonable access to the Leased Premises across or through the Common Areas.

IN WITNESS WHEREOF the parties have executed this Sublease as of the day and year first above written.

**SIGNED, SEALED AND DELIVERED** )

in the presence of: )

)

)

\_\_\_\_\_ )

Witness )

)

\_\_\_\_\_ )

Name )

)

\_\_\_\_\_ )

Address )

\_\_\_\_\_ )  
«Purchaseronename»

\_\_\_\_\_ )  
«Purchasertwoname»

**SIENNA RIDGE LIMITED PARTNERSHIP,**  
by its Co-Managing General Partners

**SIENNA RIDGE GP LTD.**

Per: \_\_\_\_\_  
Authorized Signatory

**SIENNA RIDGE HOMEOWNERS CORPORATION**

Per: \_\_\_\_\_  
Authorized Signatory

**SCHEDULE A**

**PLAN OF DEVELOPMENT**

**SCHEDULE B**

**LEASED PREMISES**

Lot\_\_\_\_CLSR \_\_,KAMLOOPS IR No. 1, Province of British Columbia, as shown on Plan of Survey deposited in the Canada Lands Surveys Records at Ottawa, Ontario, together with the Home and any other improvements located thereon from time to time

.

**SCHEDULE C**

**PREPAID RENT**

Prepaid Rent referred to in paragraph 4.1(a) shall be the sum of \$ \_\_\_\_\_. All Prepaid Rent shall be payable on the 1<sup>st</sup> day of the Term and it shall be allocated throughout the Term as follows:

- (a) for the period from the date of this Sublease until the following \_\_\_\_\_, \$ ●;
- (b) for each one year period (\_\_\_\_\_ to \_\_\_\_\_) thereafter, \$ ●.

For greater certainty, the Sublessee's obligation to pay Prepaid Rent is in addition to its obligation to pay Basic Rent (as provided for in paragraph 4.1(b)) and to pay Additional Rent (as provided for in paragraph 4.1(c)).