

7.3

REPORT TO COUNCIL



Date: November 8, 2011
File: 0870-20
To: City Manager
From: Manager, Property Management
Subject: Lease to Justice Institute of British Columbia
Report Prepared by: Graham Hood, Property Officer

Recommendation:

THAT Council approves the City entering into a three (3) year Lease Agreement with The Justice Institute of British Columbia, for the use of City-owned property located at 825 Walrod Street (previous Walrod School site), with the option to renew for two (2) annual additional terms, in the form attached to the Report of the Manager, Property Management, dated November 8, 2011;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents associated with this transaction.

Purpose:

To renew a lease with the Justice Institute of British Columbia for the purpose of operating an educational facility using the previous Walrod School site for operations.

Background:

The Justice Institute of British Columbia ("Lessee") has operated from this City-owned facility since 2005. The Tenant has complied with all terms and conditions of the previous lease agreement.

In 2010 the City and the Justice Institute of British Columbia agreed that the City could take control of the on-site trailers for the City's exclusive use. This space was used for the storage of artifacts from the Laurel Packinghouse while it was under renovation.

Financial/Budgetary Considerations:

The Lessee agrees to pay \$52,740.00 per year for the exclusive use the facility for the initial 3 years of the lease renewal. The two annual lease extension payments would be \$53,794.00 and \$54,869.00, if exercised. The lease compensation represents fair market value for the space.

Legal/Statutory Authority

Section 26(3) of the Community Charter

Legal/Statutory Procedural Requirements:

Disposition must be published in a weekly newspaper for two (2) consecutive weeks and posted on the public notice posting place

Internal Circulation:

Manager, Risk Management
Manager, Building Services
Manager, Financial Planning

Considerations not applicable to this report:

Existing Policy:

Financial/Budgetary Considerations:

Personnel Implications:

External Agency/Public Comments:

Community & Media Relations Considerations:

Alternate Recommendation:

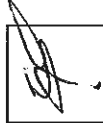
In light of the above, the Real Estate and Building Services department requests Council's support of this lease.

Submitted by:



Ron Forbes, Manager
Property Management

Approved for inclusion:



Doug Gilchrist, Director Real Estate & Building Services

cc: Director, Financial Services
Manager, Risk Management
Manager, Building Operations
Manager, Financial Planning



WALROD SCHOOL LEASE

BETWEEN:

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

(the "Landlord")

OF THE FIRST PART

AND:

Justice Institute of British Columbia
715 McBride Boulevard
New Westminster, B.C. V3L 5T4

(the "Tenant")

OF THE SECOND PART

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THIS LEASE, dated the 1st day of December, 2010, is made and entered into by the Landlord and Tenant named herein who, in consideration of the covenants herein contained, agree as follows:

1. BASIC TERMS, SCHEDULES, AND DEFINITIONS

1.1 Basic Terms

- (a) Landlord: CITY OF KELOWNA
Address of Landlord: City Hall, 1435 Water Street
Kelowna, B.C. V1Y 1J4
- (b) Tenant: Justice Institute of British Columbia
Address of Tenant: 715 McBride Boulevard
New Westminister, BC V3L 5T4
- (c) Premises: Walrod School Building & portables
825 Walrod Street, Kelowna
(see Schedule A)
- (d) License Area: Parking Area and Landscaped Area adjacent to the
Premises
(see Schedule A)
- (e) Initial Term: 3 years
Commencement Date: December 1, 2010
- (f) Renewal Term (if any): Two optional Renewal Terms of 1 year each,
as outlined in clause 3.2.
- (g) Annual Base Rent:

The Tenant shall pay during the Initial Term of this Lease, and any applicable Renewal Term, unto the Landlord, rent, in advance on the first day of each month, as follows (not including applicable HST):

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- i. from December 1, 2010 to November 30, 2013 the sum of Fifty-two Thousand, Seven Hundred and Forty dollars and zero cents (\$52,740.00) per year, payable in monthly instalments of \$4,395.00.
 - ii. from December 1, 2013 to November 30, 2014 the sum of Fifty-three Thousand, Seven Hundred Ninty Four Dollars and zero cents (\$53,794.00) per year, payable in monthly installments of \$4,482.83, if lease option per 3.2 is excercised.
 - iii. from December 1, 2014 to November 30, 2015 the sum of Fifty-four Thousand, Eight Hundred and Sixty-nine dollars and zero cents (\$54,869.00) per year, payable in monthly instalments of \$4,572.42, if lease option per 3.2 is excercised.
- (h) Permitted Use: for the purpose of the conduct of the Tenant's business as a educational institute.
- (i) Parking Entitlement: as outlined in the License Area shown on Schedule A.

The foregoing Basic Terms are approved by the parties. Each reference in this Lease to any of the Basic Terms shall be construed to include the provisions set forth above as well as all of the additional terms and conditions of the applicable sections of this Lease where such Basic Terms are more fully set forth.

1.2 Schedules

All Schedules to this Lease are incorporated into and form an integral part of this Lease and are as follows:

SCHEDULE SUBJECT

- A Site Plan(s) of Premises and License Area
- B Definitions

1.3 Definitions

In this Lease, the words, phrases and expressions set forth in Schedule B are used with the meanings defined therein.

2. PREMISES AND LICENSE AREA

In consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed, and performed, the Landlord hereby demises and leases to the Tenant, and the Tenant leases from the Landlord, the Premises.

The Landlord furthermore grants a license (the "License") to the Tenant to use the parking area and landscaped area outlined as the License Area in Schedule A, for purposes necessarily related to the permitted use of the Premises.

The Tenant permits the Landlord exclusive use of the trailers located site as outlined in Schedule A. The Landlord has unlimited access to the trailers at all times. The Landlord may at its sole discretion remove the trailers from the site. If the Landlord removes the trailers from the site the Landlord will be responsible to remediate the site with grass or gravel as determined by the Landlord.

3. TERM

3.1 Term

The Term of this Lease, and the related License, shall be for the initial term of three (3) years, beginning on the Commencement Date, and subject to earlier termination or renewal on the terms and conditions as set out herein.

3.2 Option to Renew

The Landlord covenants with the Tenant that if:

- (a) at the end of year two (2) the Tenant gives notice to the Landlord that the Tenant wishes to renew the Lease for year four (4); and
- (b) at the time of giving such notice, the Tenant is not in breach of any covenant or condition herein contained and which has not been remedied within the time provided for in this Lease; and
- (c) the Tenant has duly and regularly throughout the initial term of three (3) years observed and performed the covenants and conditions herein contained

then the Landlord shall grant to the Tenant at the Tenant's expense a renewal lease of the Premises and License Area for the Renewal Terms of a fourth year from December 1, 2013 to November 30, 2014, upon the same terms and conditions as are herein contained; and if

- (d) at the end of year three (e) the Tenant gives notice to the Landlor that the Tenant wishes to renew the Lease for year five (5); and
- (e) at the time of giving such notice, the Tenant is not in breach of any covenant or condition herein contained and which has not been remedied within the time provided for in this Lease; and
- (f) the Tenant has duly and regularly throughout the initial term of three (3) years observed and performed the covenants and conditions herein contained

then the Landlord shall grant to the Tenant at the Tenant's expense a renewal lease of the Premises and License Area for the Renewal Terms of a fifth year from December 1, 2015 to November 30, 2016, upon the same terms and conditions as are herein contained.

4. RENT

4.1 Rent

The Tenant shall yield and pay to the Landlord, in the manner outlined in clause 4.2, at the office of the Landlord's accounts payable division, or at such other place as the Landlord may direct in writing, during the Term in lawful money of Canada without any set-off, abatement, compensation, or deduction whatsoever on the days and at the times hereinafter specified, Rent which shall include the aggregate of the sums specified in sub-clauses (a) and (b) below:

- (a) Annual Base Rent

Annual Base Rent in the amount per annum set out in sub-clause 1.1(g) for each respective Lease Year.

- (b) Additional Rent

In addition, the Tenant is responsible for all operating costs of whatever nature or kind in connection with the Premises and the License Area including all applicable taxes and other charges.

4.2 Payment of Rent

The Rent provided for in this Article 4 shall be paid by the Tenant as follows:

(a) Annual Base Rent

The Annual Base Rent shall be paid in equal consecutive monthly instalments, in the amounts set out in sub-clause 1.1(g), in advance on the first day of each and every month during the Term. The first monthly instalment of the Annual Base Rent shall be paid by the Tenant on the Commencement Date. Where the Commencement Date is the first day of a month such instalment shall be in respect of such month; where the Commencement Date is not the first day of a calendar month, the Annual Base Rent for the period from the Commencement Date to the first day of the next ensuing calendar month shall be pro-rated on a per diem basis and paid on the Commencement Date and the first regular instalment of the Annual Base Rent shall be paid on the first day of the first full calendar month of the Term. Thereafter, subsequent monthly instalments shall each be paid in advance on the first day of each ensuing calendar month during the Term.

(b) Payment Format

The Tenant agrees to pay the Annual Base rent via Bank Transfer on a monthly basis.

4.3 Rent for Irregular Periods

All Rent reserved herein shall be deemed to accrue from day-to-day, and if for any reason it shall become necessary to calculate the Annual Base Rent for irregular periods of less than one year an appropriate pro-rata adjustment shall be made on a daily basis in order to compute the Annual Base Rent for such irregular period.

4.4 Waiver of Offset

The Tenant hereby waives and renounces any and all existing and future claims, offsets, and compensation against any Rent and agrees to pay such Rent regardless of any claim, offset, or compensation which may be asserted by the Tenant or on its behalf.

4.5 Application of Payments

All payments by the Tenant to the Landlord under this Lease shall be applied toward such amounts then outstanding hereunder as the Landlord determines and the Landlord may subsequently alter the application of any such payment.

4.6 Net Lease

The Tenant acknowledges and agrees that it is intended that this Lease shall be a completely net lease for the Landlord except as shall be otherwise provided in the specific provisions contained in this Lease, and that the Landlord shall not be responsible during the Term for any costs, charges, expenses, and outlays of any nature whatsoever arising from or relating to the Premises and License Area, and the Tenant, except as shall be otherwise provided in the specific provisions contained in this Lease, shall pay all charges, impositions, and costs of

every nature and kind relating to the Premises and License Area whether or not referred to herein and whether or not within the contemplation of the Landlord or the Tenant, and the Tenant covenants with the Landlord accordingly.

4.7 Interest on Overdue Rent

Overdue Rent payments shall bear interest at the current Bank of Canada lending rate effective from the date the amount is due.

5. TENANT'S COVENANTS

5.1 Tenant's Covenants

The Tenant covenants with the Landlord as follows:

(a) Rent

To pay the Rent on the days and in the manner provided herein and to pay all other amounts, charges, costs, and expenses as are required to be paid by the Tenant to the Landlord or to others under this Lease.

(b) Occupancy and Permitted Use

To take possession of and occupy the Premises and License Area and commence to carry on business in all or substantially all of the Premises and License Area no later than 30 days after the Commencement Date; to use the Premises and the License Area only for the purpose set out herein and not for any other purpose.

(c) Waste and Nuisance

Not to commit or permit: any waste or injury to the Building or the Premises and License Area including the Leasehold Improvements and the trade fixtures therein; and not to do, suffer or permit anything that may be or become a nuisance or annoyance in, on or from the Premises to the owners, occupiers or users of land adjoining the Premises or to the public generally. This clause is not intended to restrict training activities on site that may include but is not limited to simulation exercises, practical demonstrations, vehicle extractions etc. that are part of the mandate of the Justice Institute.

(d) Insurance Risks

Not to do, omit to do, or permit to be done or omitted to be done upon the Premises and License Area anything which would cause the Landlord's cost of insurance to be increased (and, without waiving the foregoing prohibition, the Landlord may demand, and the Tenant shall pay to the Landlord upon demand, the amount of any such increase of cost caused by anything so done or omitted to be done) or which shall cause any policy of insurance to be subject to cancellation.

(e) Cleanliness

Not to permit the Premises or License Area to become untidy, unsightly, or hazardous, or permit unreasonable quantities of waste or refuse to accumulate therein.

(f) Compliance with Laws

To comply at its own expense with all municipal, provincial, and federal laws, bylaws, regulations, and requirements pertaining to the operation and use of the Premises and License Area, the condition of the Leasehold Improvements, trade fixtures and equipment installed therein, and the making by the Tenant of any repairs, changes or improvements therein.

(g) Installations

To permit the Landlord during the Term, at the Tenant's cost, to install any equipment in or make alterations to the Premises or License Area necessary to comply with the requirements of any statute, law, bylaw, ordinance, order, or regulation referred to in sub-clause 5.1(f) and imposed after completion of the Landlord's original construction of the Building, work to be done on days and times scheduled in agreement of the Tenant acting reasonably.

(h) Overholding

That if the Tenant shall continue to occupy the Premises and License Area after the expiration of this Lease without any further written agreement and without objection by the Landlord, the Tenant shall be a monthly tenant at a monthly base rent equal to the Annual Base Rent in Year payable by the Tenant as set forth in Article 4 during the last month of the Term and (except as to the length of tenancy) subject to the provisions and conditions herein set out.

(i) Signs

Not to display, place, or affix any sign except in accordance with bylaws of the City of Kelowna.

(j) Inspection and Access

To permit the Landlord at any mutually agreeable time to enter and to have its authorized agents, employees, and contractors enter the Premises and License Area for the purpose of inspection, for performing maintenance, or making repairs, alterations, or improvements to the Building, provided a representative of the Tenant is present unless the Tenant has waived the right to have a representative present or it is an emergency.

(k) Showing Premises

To permit the Landlord and its authorized agents and employees to show the Premises and License Area to prospective tenants at a mutually agreeable time during the normal business hours of the last three months of the Term.

6. LANDLORD'S COVENANTS

6.1 Landlord's Covenants

The Landlord covenants with the Tenant as follows:

(a) Quiet Enjoyment

Provided the Tenant pays the Rent hereby reserved and performs its other covenants herein contained, the Tenant shall and may peaceably possess and enjoy the Premises and License Area for the Term hereby granted, without any interruption or disturbance from the Landlord or its assigns, or any other person or persons lawfully, claiming by, from, through, or under the Landlord.

7.0 REPAIR, DAMAGE, AND DESTRUCTION

7.1 Landlord's Repairs

The Landlord represents, warrants and covenants with the Tenant that the major Building Systems and components are in a good and reasonable state of repair, consistent with the general standards of structures of similar age and character in Kelowna. This includes the currently existing sub- and super- structures, roof and wall assemblies, and mechanical and electrical systems. The Landlord will be responsible for the maintenance, repair and required replacement of all building systems and components, including distribution systems within building assemblies. Repairs to the building that have been authorized in advance and in writing by the Landlord and paid for by the Tenant shall be reimbursed to the Tenant by the Landlord. Unauthorized repairs, except in a bona fide emergency, will not be reimbursed.

7.2 Tenant's Repairs

The Tenant covenants with the Landlord:

- (a) subject to sub-clause 7.1 and 7.3(b), to perform and pay for regular maintenance of the Premises and License Area including all Leasehold Improvements; all trade fixtures therein; all floor, wall and ceiling coverings; all plumbing and electrical fixtures; and all glass including all glass portions of exterior walls, to keep them in a good and reasonable state of repair subject to reasonable wear and tear;
- (b) that the Landlord may enter and view the state of repair (without having any obligation to do so), and that the Tenant will repair according to notice in writing, and that the Tenant will leave the Premises and License Area in a good and reasonable state of repair, allowing for reasonable wear and tear;
- (c) that the Tenant shall be responsible for all expenses and repairs to all plate glass in the facility.

7.3 Abatement and termination

It is agreed between the Landlord and the Tenant that in the event of damage to the Premises or License Area:

- (a) if the damage is such that the Premises or License Area or any substantial part thereof are rendered not reasonably capable of use and occupancy by the Tenant for the purposes of its business for any period of time in excess of 10 days, then:
 - (i) unless the damage was caused by the fault or negligence of the Tenant or its employees, invitees, or others under its control, from and after the date of occurrence of the damage and until the Premises or License Area are again reasonably capable of use and occupancy as aforesaid, Rent shall abate from time to time in proportion to the part or parts of the

Premises or License Area not reasonably capable of use and occupancy;
and

- (ii) unless this Lease is terminated as hereinafter provided, the Landlord or the Tenant, as the case may be (according to the nature of the damage and their respective obligations to repair as provided in clauses 7.1 and 7.2) shall repair such damage with all reasonable diligence, but to the extent that any part of the Premises or License Area is not reasonably capable of such use and occupancy by reason of damage which the Tenant is obligated to repair hereunder, any abatement of Rent to which the Tenant is otherwise entitled hereunder shall 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; and
- (b) if the Premises or License Area are substantially damaged or destroyed by any cause to the extent such that in the reasonable opinion of the Landlord they cannot be repaired or rebuilt (based on standard hours of construction work) within 240 days after the occurrence of the damage or destruction, then either the Landlord or Tenant may at its option, exercisable by written notice to the Tenant or Landlord, given within 60 days after the occurrence of such damage or destruction, terminate this Lease, in which event neither the Landlord nor the Tenant shall be bound to repair as provided in clauses 7.1 and 7.2, and the Tenant shall instead deliver up possession of the Premises and License Area to the Landlord with reasonable expedition but in any event within 60 days after delivery of such notice of termination, and Rent shall be apportioned and paid to the date upon which possession is so delivered up (but subject to any abatement to which the Tenant may be entitled under sub-clause 7.3(a) by reason of the Premises or License Area having been rendered in whole or in part not reasonably capable of use and occupancy), but otherwise the Landlord or the Tenant as the case may be (according to the nature of the damage and their respective obligations to repair as provided in clauses 7.1 and 7.2) shall repair such damage with reasonable diligence.

7.4 Service Interruptions

The Tenant acknowledges to the Landlord that the operation of systems and the availability of facilities for which the city is responsible under Section 7.1. may be interrupted from time to time in cases of accident and emergency, in order to carry out maintenance, repairs, alterations, replacements, and upgrading, or for any other reasonable reason required by the Landlord.

8.0 UTILITIES AND ADDITIONAL SERVICES

8.1 Utilities and Additional Services

The Tenant shall be responsible for all utilities and services of whatever nature or kind required in connection with the Premises and License Area and the conduct by the Tenant of the Tenant's business as described herein that are customarily required by educational institutions in B.C. on similar properties including without limitation, water, telephone, sewer, hydro, power, garbage disposal, snow clearing, maintenance of parking lot, grass cutting, fertilizing, irrigation, leaf and litter clean up, tree work, heat, light, ventilating, air conditioning, electricity.

Snow clearing, maintenance of parking lot, grass cutting, fertilizing, irrigation, leaf and litter clean up, and tree work services shall be provided by the Landlord and the Tenant shall be responsible for the cost, which shall be included in the "Additional Rent" sub-clause 4.1(b) and 4.2(b).

9.0 LICENSES, ASSIGNMENTS, AND SUBLETTINGS

9.1 General

It is understood and agreed that the Tenant may not assign this Lease, or sublease the Premises or License Area, to another party without the written consent of the Landlord, such consent not to be reasonably withheld. The assignment of lease will not be unreasonably withheld.

9.2 Licenses, Franchises, and Concessions

The Tenant shall not suffer or permit any part of the Premises or License Area to be used or occupied by any persons other than the Tenant, any sub-tenants or licensees permitted under this Article, and the employees, students and invitees of the Tenant, and any such permitted sub-tenant, or suffer or permit any part of the Premises or License Area to be used or occupied by any licensee, franchisee, or concessionaire, or suffer or permit any persons to be upon the Premises other than the Tenant, such permitted sub-tenants and licensees, and their respective employees, customers, and others having lawful business with them unless agreed to by the Landlord.

9.3 Assignment and Subletting

The Tenant shall not, without first obtaining the written consent of the Landlord, assign this Lease or sublet the whole or any part of the Premises or License Area.

- (a) it shall have received or procured a bona fide written offer to take an assignment or sub-lease which is not inconsistent with, and the acceptance of which would not breach any provision of, this Lease if this clause is complied with, and which the Tenant has determined to accept subject to this section being complied with; and
- (b) it shall have first requested and obtained the consent in writing of the Landlord thereto.

9.4 Request for Consent

Any request for such consent shall be in writing and accompanied by a true copy of such offer, and the Tenant shall furnish to the Landlord all information available to the Tenant and requested by the Landlord as to the responsibility, reputation, financial standing, and business of the proposed assignee or sub-tenant.

9.5 If Landlord Consents

If the Landlord consents to any proposed assignment or subletting, the Tenant shall assign or sublet, as the case may be, only upon the terms set out in the offer submitted to the Landlord as aforesaid and not otherwise. As a condition of the Landlord's consent, the assignee or sub-tenant, as the case may be, shall agree (and will be deemed to have agreed) with the Landlord to observe the obligations of the Tenant under this Lease as the same relate to the space assigned or sublet (except, in the case of a sub-lease, the Tenant's covenant to pay Rent) by entering into an assumption agreement with the Landlord and the Tenant, in the Landlord's then-standard form, and shall pay the Landlord's then-current processing charge and solicitor's fees and disbursements for preparing such agreement. The Tenant further agrees that if the Landlord consents to any such assignment or subletting, the Tenant shall be responsible for and shall hold the Landlord harmless from any and all capital costs for Leasehold Improvements and all other expenses, costs, and charges with respect to or arising out of any

such assignment or subletting. Notwithstanding any such consent being given by the Landlord and such assignment or subletting being effected, the Tenant shall remain bound to the Landlord for the fulfilment of all the terms, covenants, conditions, and agreements herein contained. Any consent by the Landlord to any assignment or subletting shall not constitute a waiver of the requirement for consent by the Landlord to any subsequent assignment or subletting by either the Tenant or any assignee or sub-tenant.

9.6 Landlord Not to Unreasonably Withhold Consent

If the Tenant complies with clauses 9.3 and 9.4 and the Landlord does not exercise an option provided to the Landlord under clause 9.4, then the Landlord's consent to a proposed assignment or sublet shall not be unreasonably withheld. The Tenant acknowledges that the Landlord shall not be liable to the Tenant in damages, where, in giving good faith consideration to any request of the Tenant hereunder, it withholds its consent to a proposed assignment or sublease.

9.7 Terms of Consent

If the Landlord consents in writing to an assignment or sub-lease as contemplated herein, the Tenant may complete such assignment or sub-lease subject to the following covenants and conditions:

- (a) no assignment or sub-lease shall be valid and no assignee or sub-tenant shall take possession of the Premises and License Area or any part thereof until an executed duplicate original of such assignment or sub-lease has been delivered to the Landlord; and
- (b) all "Excess Rent", as hereinafter defined, derived from such assignment or sub-lease shall be payable to the Landlord. The Excess Rent shall be deemed to be and shall be paid by the Tenant to the Landlord as Rent. The Tenant shall pay the Excess Rent to the Landlord immediately as and when such Excess Rent is receivable by the Tenant.

As used herein, "Excess Rent" means the amount by which the total money and other economic consideration to be paid by the assignee or sub-tenant as a result of an assignment or sub-lease, whether denominated as Rent or otherwise, exceeds, in the aggregate, the total amount of Annual Base Rent and Additional Rent which the Tenant is obligated to pay to the Landlord under this Lease, pro-rated for the portion of the Premises being assigned or sublet, less the reasonable costs paid by the Tenant for additional improvements installed in the portion of the Premises subject to such assignment or sub-lease by the Tenant at the Tenant's sole cost and expense for the specific assignee or sub-tenant in question, reasonable leasing costs (such as brokers' commissions and the fees payable to the Landlord under clause 10.1) paid by the Tenant in connection with such assignment or sub-lease, and the amount of Annual Base Rent and Additional Rent the Tenant is obligated to pay the Landlord under this Lease, pro-rated for the portion of the Premises being assigned or sublet that is not occupied or used by the Tenant, until the date of such assignment or sub-lease. In determining the amounts to be deducted from Excess Rent in each monthly payment period in respect of the Tenant's costs of assigning or sub-leasing, such costs shall be amortized without interest over the Term (in the case of an assignment) or Term of the sub-lease (in the case of a sub-lease) on a straight line basis. However, if the excess rent is earned due to improvements made by the Tenant, then the Tenant should receive the benefit.

10.0 FIXTURES AND IMPROVEMENTS

10.1 Installation of Fixtures and Improvements

The Tenant will not make, erect, install, or alter any Leasehold Improvements in the Premises and License Area, any safe or special lock in the Premises, or any apparatus for illumination, air conditioning, cooling, heating, refrigerating, or ventilating the Premises, in any case without having requested and obtained the Landlord's prior written approval, which the Landlord shall not unreasonably withhold. In making, erecting, installing, or altering any Leasehold Improvements, the Tenant shall comply with the tenant construction guidelines as established by the Landlord from time to time, and shall obtain all required building and occupancy permits and comply with all laws of all authorities having jurisdiction. The Tenant's request for any approval hereunder shall be in writing and be accompanied by a reasonably detailed description of the contemplated work and, where appropriate, plans, working drawing, and specifications. All work to be performed in the Premises or License Area shall be performed by competent contractors and subcontractors and shall be performed and completed in a good and workmanlike manner.

10.2 Liens and Encumbrances on Fixtures and 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 License Area, the Tenant shall comply with all of the provisions of the *Builders Lien Act*, S.B.C. 1997, c. 45 and amendments thereto, and other statutes from time to time applicable thereto (including any provision requiring or enabling the retention of portions of any sums payable by way of holdbacks), shall permit the Landlord to take all steps to enable the Landlord to obtain the benefit of the provisions of the *Builders Lien Act*, and, except as to any lawful holdback, shall promptly pay all accounts relating thereto. The Tenant shall not create any mortgage, conditional sale agreement, general security agreement under the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 and amendments thereto, or other encumbrance in respect of its Leasehold Improvements or trade fixtures, or permit any such mortgage, conditional sale agreement, general security agreement under the *Personal Property Security Act*, or other encumbrance to attach to the Premises.

10.3 Discharge of Liens and Encumbrances

If and when 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 shall arise or be filed or any such mortgage, conditional sale agreement, general security agreement under the *Personal Property Security Act*, or other encumbrance shall attach, the Tenant shall within 20 days after receipt of notice thereof procure the discharge thereof, including any certificate of action registered in respect of any lien, 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 clause 14.1 and may make any payments required to procure the discharge of any such liens or encumbrances, and shall be entitled to be reimbursed by the Tenant as provided in clause 14.1, and its right to reimbursement shall 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.

10.4 Removal of Fixtures and Improvements

All Leasehold Improvements in or upon the Premises and License Area made by the tenant during their occupancy shall immediately upon affixation be and become the Landlord's property without compensation therefor to the Tenant. Except to the extent otherwise expressly agreed by the Landlord in writing, no Leasehold Improvements shall be removed by the Tenant from the Premises or License Area either during or at the expiration or sooner termination of the Term, except that:

- (a) the Tenant may at the end of the Term remove its trade fixtures;
- (b) the Tenant shall at the end of the Term remove such of the Leasehold Improvements and trade fixtures as the Landlord shall require to be removed; and
- (c) the Tenant shall remove its furniture and equipment at the end of the Term, and also during the Term in the usual and normal course of its business where such furniture or equipment has become excess for the Tenant's purposes or the Tenant is substituting therefor new furniture and equipment.

The Tenant shall, in the case of every removal either during or at the end of the Term, immediately make good any damage caused to the Premises or License Area by the installation and removal unless otherwise permitted by the City..

10.5 Alterations by Landlord

The Landlord reserves the right from time to time to make alterations and additions to the Building, provided that in exercising any such rights, the Landlord will take reasonable steps to minimize any interference caused to the Tenant's operations in the Premises and License Area, but by exercising any such rights, the Landlord shall not be deemed to have constructively evicted the Tenant or otherwise to be in breach of this Lease, nor shall the Tenant be entitled to any abatement of Rent or other compensation from the Landlord.

10.6 Parking Area

The Landlord agrees to permit the Tenant, at the Tenants discretion, to construct parking within their License Area, subject to the fact that any parking the Tenant wishes to construct must meet City zoning regulations or an approved variance. Construction of this area will be solely at the expense of the Tenant. Maintenance of this area, once constructed, will be solely at the expense of the Tenant. Normal maintenance to usual city standards is the responsibility of the Tenant, once constructed.

11.0 INSURANCE AND LIABILITY

Landlord's Coverage

The landlord during the term of the lease shall maintain the following:

1. Property and boiler and machinery insurance as would be carried by a prudent landlord in respect of the building and fixed improvements in the building including the common facilities, excluding tenant's fixed improvements and tenant's property, to an amount which the landlord shall from time to time determine as reasonable or sufficient and other such risks as are normally insured against in the circumstances by prudent landlords of similar property.

-
2. General liability coverage against claims for bodily injury, personal injury and property damage occurring out of the operations of the landlord in the building in an amount, which the landlord shall from time to time determine as reasonable.

The Tenant agrees to pay for their proportionate share of the above-noted insurance on the building.

Tenant's Insurance

The tenant during the term of the lease shall maintain the following:

1. All risk property and boiler and machinery (if applicable) insurance in respect of the tenant's inventory and stock in trade, furniture and fixtures and such other property in or forming part of the leased premises (fixed improvements) to the full replacement cost value. The policy shall waive its rights of subrogation against the landlord.
2. General liability insurance including bodily injury, and property damage on an occurrence basis with respect to the business carried on or in or from the tenant's leased premises and tenant's use and occupancy thereof. The limit of such insurance shall be for not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence or such higher limits as may be required by the landlord from time to time. This insurance shall name the landlord as an additional insured, shall include a cross liability clause and tenants legal liability insurance in the minimum amount not less than the actual cash value of the building.
3. Such other insurance of the premises and business conducted as would be carried by a prudent operator of premises similar in use type and location.

All such policies of insurance shall provide the landlord with thirty (30) days notice of material change or cancellation and be placed with insurers licensed in British Columbia and with companies satisfactory to the landlord and tenant. The tenant shall provide the landlord with evidence of all required insurance annually following renewal, in the form of an insurance certificate. If the tenant fails to insure, or to file satisfactory proof of insurance promptly when so required, or should any such insurance not be approved by the landlord and the tenant does not rectify the deficiency within two (2) business days after notice by the landlord, the landlord, may without notice to the tenant, purchase such insurance and recover any premiums paid therefore from the tenant on demand.

These certificates should be issued by the insurer or insurance broker of the tenant and must contain the following information:

1. Name of insurance company and the binder or policy number.
2. Name and address of the Insured (user group).
3. Policy period (covering at least the period the agreement is in place).
4. Description of coverage.
5. Policy limits.
6. Description of insured operations and location(s).

7. Signature of authorized representative and date

11.3 Limitation of Landlord's Liability

The Tenant agrees that:

(a) the Landlord shall not be liable for any for any interruption of any business carried on in the Premises, economic loss or *consequential damages*, and, without limiting the generality of the foregoing, in no event shall the Landlord be liable:

(i)

(ii) for any damage, injury, or death caused by anything done or omitted by the Tenant or any of its servants or agents or by any other tenant or person in the Building;

(iii) for the non-observance or the violation of any provision of any of the rules and regulations of the Landlord in effect from time to time or of any lease by another sub-tenant of premises in the Building or any concessionaire, employee, licensee, agent, customer, officer, contractor, or other invitee of any of them, or by anyone else;

(iv) for any act or omission (including theft, malfeasance, or negligence) on the part of any agent, contractor, or person from time to time employed by the Tenant to perform janitorial services, security services, supervision, or any other work in or about the Premises or the Building;

(b) The Tenant releases and discharges the Landlord from any and all action, causes of action, claims, damages, demands, expenses, and liabilities which the Tenant now or hereafter may have, suffer, or incur which arise from any matter for which the Landlord is not liable under subclause 11.3(a), notwithstanding that negligence or other conduct of the Landlord or anyone for whose conduct the Landlord is responsible may have caused or contributed to such matter.

11.4 Indemnity of Landlord

The Tenant agrees to indemnify and save harmless the Landlord in respect of all claims for bodily injury or death, property damage, or other loss or damage arising from the conduct of any work by or any act or omission of the Tenant or any assignee, sub-tenant, agent, employee, contractor, , or licensee of the Tenant, and in respect of all costs, expenses, and liabilities incurred by the Landlord in connection with or arising out of all such claims, including the expenses of any action or proceeding pertaining thereto, and in respect of any loss, costs, expense, or damage suffered or incurred by the Landlord arising from any breach by the Tenant of any of its covenants and obligations under this Lease. This indemnity excludes any losses that arise from the acts or omissions of the Landlord. This indemnity shall survive the expiry or termination of this Lease.

12.0 SUBORDINATION, ATTORNMENT, REGISTRATION, AND CERTIFICATES

12.1 Tenant's Covenants

The Tenant agrees with the Landlord that:

(a) Sale or Financing of Building

The rights of the Landlord under this Lease may be mortgaged, charged, transferred, or assigned to a purchaser or purchasers, or to a mortgagee or trustee for bond holders, and 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, as the case may be, duly entering into possession of the Building or the Premises, the Tenant agrees to attorn to and become the tenant of such purchaser or purchasers, mortgagee, or trustee under the terms of this Lease.

(b) Registration

The Tenant agrees that the Landlord shall not be obliged to deliver this Lease in form registrable under the *Land Title Act*, R.S.B.C. 1996, c. 250 and covenants and agrees with the Landlord not to register this Lease. If the Tenant desires to register under the *Land Title Act*, R.S.B.C. 1996, c. 250, then all costs of preparing and registering all documents in connection therewith are to be borne by the Tenant.

(c) Certificates

The Tenant agrees with the Landlord that the Tenant shall promptly whenever requested by the Landlord from time to time 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) or prospective purchaser (as designated by the Landlord) a certificate in writing as to the status of this Lease at that time, 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, and any other matters pertaining to this Lease as to which the Landlord shall request a certificate. If the Tenant fails to do so within seven days after the Tenant receives the form of certificate, the Tenant hereby irrevocably and conclusively authorizes the Landlord to complete, execute, and deliver the certificate for, on behalf of, in the name of, and as agent of, the Tenant.

(d) Assignment by Landlord

In the event of the sale by the Landlord of the Building or a portion thereof containing the Premises or the assignment by the Landlord of this Lease or any interest of the Landlord hereunder, and to the extent that such purchaser or assignee has assumed the covenants and obligations of the Landlord hereunder, the Landlord shall, without further written agreement, be freed and relieved of liability upon such covenants and obligations.

13.0 OCCURRENCE OF DEFAULT

13.1 Unavoidable Delay

Except as herein otherwise expressly provided, if and whenever and to the extent that either the Landlord or the Tenant shall be prevented, delayed, or restricted in the fulfilment of any obligations hereunder in respect of the supply or provision of any service or utility, the making of any repair, the doing of any work or any other thing (other than the payment of Rent) by reason of civil commotion, war-like operation, invasion, rebellion, hostilities, sabotage, strike, or work stoppage, or being unable to obtain any material, service, utility, or labour required to fulfill such obligation or by reason of any statute, law, or regulation of or inability to obtain any permission from any governmental authority having lawful jurisdiction preventing, delaying, or restricting such fulfilment, or by reason of other unavoidable occurrence other than lack of funds, the time for fulfilment of such obligation shall be extended during the period in which such circumstance

operates to prevent, delay, or restrict the fulfilment thereof, and the other party to this Lease shall not be entitled to compensation for any inconvenience, nuisance, or discomfort thereby occasioned, nor shall Rent abate; but nevertheless the Landlord will use reasonable efforts to maintain services essential to the use and enjoyment of the Premises and License Area.

13.2 No Admission

The acceptance of any Rent from or the performance of any obligation hereunder by a person other than the Tenant shall not be construed as an admission by the Landlord of any right, title, or interest of such person as a sub-tenant, assignee, transferee, or otherwise in the place and stead of the Tenant.

13.3 Part Payment

The acceptance by the Landlord of a part payment of any sums required to be paid hereunder shall not constitute waiver or release of the right of the Landlord to payment in full of such sums.

14.0 TENANT'S DEFAULT, REMEDIES OF LANDLORD, AND SURRENDER

14.1 Remedying by Landlord, Non-payment, and Interest

In addition to all the rights and remedies of the Landlord available to it in the event of any default hereunder by the Tenant, either by any other provision of this Lease or by statute or the general law, and the event of default is not remedied within the respective time period for doing so, the Landlord:

- (a) shall have the right at all times to remedy or attempt to remedy any default of the Tenant, and in so doing may make any payments due or alleged to be due by the Tenant to third parties and may enter upon the Premises and License Area to do any work or other things therein, and in such event all expenses of the Landlord in remedying or attempting to remedy such default together with an administrative charge equal to 15% of the total of such expenses shall be payable by the Tenant to the Landlord forthwith upon demand;
- (b) shall have the same rights and remedies in the event of any non-payment by the Tenant of any amounts payable by the Tenant under any provision of this Lease as in the case of non-payment of Rent; and
- (c) shall be entitled to be reimbursed by the Tenant, and the Tenant shall forthwith pay the Landlord, the amount of all costs and expenses (including, without limitation, legal costs on a solicitor and own-client basis) incurred by the Landlord in connection with the default or in efforts to enforce any of the rights, or to seek any of the remedies, to which the Landlord is or may be entitled hereunder.

14.2 Remedies Cumulative

The Landlord and the Tenant 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 or the Landlord, as the case may be, either by any provision of this Lease or by statute or the general law, all of which rights and remedies are intended to be cumulative and not alternative, as 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 or the Tenant, as the case may be, by statute or the general law.

14.3 Right of Re-entry on Default

Provided and it is expressly agreed that:

- (a) if and whenever the Rent hereby reserved or other moneys payable by the Tenant or any part thereof, whether lawfully demanded or not, are unpaid and the Tenant shall have failed to pay such Rent or other moneys within ten days after the Landlord has given to the Tenant notice requiring such payment; or
- (b) if the Tenant shall breach or fail to observe and perform any of the covenants, agreements, provisos, conditions, and other obligations on the part of the Tenant to be kept, observed, or performed hereunder and such breach or failure continues for 30 days after the Landlord has given the Tenant notice thereof; or
- (c) if without the written consent of the Landlord the Premises and License Area shall be used by any other persons than the Tenant or its permitted assigns or permitted sub-tenants or for any purpose other than that for which the Premises were leased, or occupied by any persons whose occupancy is prohibited by this Lease and the default is not remedied within 15 days of the Tenant being notified in writing; or
- (d) if the Premises shall be vacated or abandoned or remain unoccupied for 15 days or more while capable of being occupied, unless the Tenant is doing so for bona fide business reasons e.g. renovations or no requirement to run classes and is not part of a plan to avoid its obligations; or
- (e) if any of the goods and chattels of the Tenant shall at any time be seized in execution or attachment and the default is not remedied within 15 days of the Tenant being notified in writing; or
- (f) if a receiver or receiver-manager is appointed of the business or property of the Tenant, or if the Tenant shall make any assignment for the benefit of creditors or any bulk sale, become bankrupt or insolvent or take the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors or (if a corporation) shall take any steps or suffer any order to be made for its winding-up or other termination of its corporate existence and the default is not remedied within 15 days of the Tenant being notified in writing; or
- (g) if any policy of insurance upon the Building from time to time effected by the Landlord shall be cancelled or about to be cancelled by the insurer by reason of the use or occupation of the Premises or License Area by the Tenant or any assignee, sub-tenant, or licensee of the Tenant or anyone permitted by the Tenant to be upon the Premises or License Area and the Tenant after receipt of notice in writing from the Landlord shall have failed to take such immediate steps in respect of such use or occupation as shall enable the Landlord to reinstate or avoid cancellation of (as the case may be) such policy of insurance; or
- (h) if the Landlord shall have become entitled to Terminate this Lease or to re-enter the Premises or License Area under any provision hereof and the default is not remedied with 15 days of the Tenant being notified in writing;

then and in every such case it shall be lawful for the Landlord thereafter to enter into and upon the Premises and License Area or any part thereof in the name of the whole and the same to have again, repossess, and enjoy as of its former estate, anything in this Lease to the contrary notwithstanding. The Landlord may use such force as it may deem necessary for the purpose of gaining admittance to and re-taking possession of the Premises and License Area, and the Tenant hereby releases the Landlord from all actions, proceedings, claims, and demands

whatsoever for and in respect of any such forcible entry or any loss or damage in connection therewith, except those which have resulted from the Landlord not having met its standard of care as a prudent landlord.

14.4 Termination and Re-entry

If and whenever the Landlord becomes entitled to re-enter upon the Premises and License Area under any provision of this Lease, the Landlord, in addition to all other rights and remedies, shall have the right to terminate this Lease by giving to the Tenant or by leaving upon the Premises notice in writing of such termination. Thereupon, this Lease and the term shall terminate, and the Tenant shall immediately deliver up possession of the Premises and License Area to the Landlord in accordance with clause 14.8.

14.5 Certain Consequences of Termination and Re-entry

If the Landlord re-enters the Premises and License Area or if this Lease is terminated by reason of any event set out in clause 14.3, then without prejudice to the Landlord's other rights and remedies:

- (a) the provisions of this Lease which relate to the consequences of termination, and the provisions of this Lease as they apply with respect to acts, events, and omissions which occurred prior to the termination, shall all survive such termination;
- (b) in addition to the payment by the Tenant of Rent and other payments for which the Tenant is liable under this Lease, Rent for the current month and the next ensuing three months shall immediately become due and be paid by the Tenant or the person then controlling the Tenant's affairs; and
- (c) the Tenant or person then controlling the affairs of the Tenant shall pay to the Landlord on demand such reasonable expenses as the Landlord has incurred, and a reasonable estimate of the Landlord of expenses the Landlord expects to incur, in connection with the re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, and storing and realizing upon assets seized, including without limitation brokerage fees, legal fees, and disbursements, the expenses of cleaning and making and keeping the Premises and License Area in good order, and the expenses of repairing the Premises and preparing them for re-letting.

14.6 Waiver of Distress and Bankruptcy

The Tenant waives the benefit of any present or future statute taking away or limiting the Landlord's right of distress and covenants and agrees that notwithstanding any such statute none of the goods and chattels of the Tenant on the Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears. The Landlord shall not exercise its right of distress unless the Tenant is in unremedied default entitling the Landlord to re-enter the Premises pursuant to the last paragraph of Clause 14.3. The Tenant will not sell, dispose of, or remove any of the 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 fixtures, goods, or chattels of equal value or is bona fide disposing of individual items which have become excess for the Tenant's purposes; and the Tenant will be the owner or lessee of its fixtures, goods, and chattels and will not permit them to become subject to any lien, mortgage, charge, or encumbrance. The Tenant agrees that it will not, without the Landlord's consent, repudiate or disclaim or attempt to repudiate or disclaim or seek any order to permit it to repudiate or disclaim this Lease in any bankruptcy, insolvency, re-organization, or other proceeding or court application, and, if required by the Landlord, waives in favour of the

Landlord the benefit of s. 65.2 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 as amended, and any provision of similar import.

14.7 Re-letting and Sale of Personalty

Whenever the Landlord becomes entitled to re-enter upon the Premises under any provision of this Lease, the Landlord, in addition to its other rights, shall have the right as agent of the Tenant to enter the Premises and License Area and re-let them (for a Term or Terms shorter or longer than the balance of the Term, granting reasonable concessions in connection therewith), and to receive the Rent therefor, and as the agent of the Tenant to take possession of any furniture or other property thereon, and to sell the same at public or private sale without notice, and to apply the proceeds thereof and any Rent derived from re-letting the Premises License Area upon account of the Rent due and to become due under this Lease, and the Tenant shall be liable to the Landlord for the deficiency, if any.

14.8 Surrender on Termination

Forthwith upon the termination of this Lease, whether by effluxion of time or otherwise, the Tenant shall vacate and deliver up possession of the Premises and License Area in a neat and tidy state and in good and substantial repair in accordance with the Tenant's obligation under this Lease to repair the Premises and License Area, but subject to the Tenant's rights and obligations in respect of removal in accordance with clause 11.3 and subject to reasonable wear and tear. At the same time the Tenant shall surrender to the Landlord at the place then fixed for the payment of Rent all keys and other devices which provide access to the Premises and License Area, or any part thereof and shall inform the Landlord of all combinations to locks, safes, and vaults, if any, in the Premises.

15. MISCELLANEOUS

15.1 Notices

Any notice required or contemplated by any provision of this Lease shall be given in writing, and if to the Landlord, either delivered to an executive officer of the Landlord or delivered or mailed (by prepaid registered mail) to the Landlord at the address set out in sub-clause 1.1(a), or if the Landlord has given the Tenant notice of another address in Canada to which notices to the Landlord under this Lease are to be given, then to the last such address of which the Tenant has been given notice; and if to the Tenant, either delivered to the Tenant personally (or to a officer of the Tenant) or delivered or mailed (by prepaid registered mail) to the Tenant at 715 McBride Boulevard, New Westminster, BC V3L 5T4, Attention Vice-President, Finance & Administration. Every such notice shall be deemed to have been given when delivered or, if mailed as aforesaid, upon the third business day after the day of mailing thereof in Canada provided that if mailed, should there be a mail strike, slowdown, or other labour dispute which might affect delivery of such notice between the time of mailing and the actual receipt of notice, then such notice shall only be effective if actually delivered. The contract administrator for the Landlord will be the Civic Properties Manager.

15.2 Extraneous Agreements

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, or conditions expressed or implied relating to this Lease, Premises or License Area save as expressly set out in this Lease and in any agreement to lease in writing between the Landlord and the Tenant pursuant to which this Lease has been executed. In the event of any conflict between the Terms of this Lease and such agreement to lease, the Terms of this Lease shall prevail. This Lease may not be modified except by an agreement in writing executed by the Landlord and the Tenant.

15.3 Time of Essence

Time shall be of the essence of this Lease.

15.5 Successors and Assigns

This Lease and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the Landlord and its heirs, executors, and administrators and the permitted successors and permitted assigns of the Tenant. References to the Tenant shall be read with such changes in gender as may be appropriate, depending upon whether the Tenant is a male or female person or a firm or corporation. If the Tenant is comprised of more than one person or entity, then each such person and entity is jointly and severally bound by the representations, warranties, agreements, and covenants of the Tenant herein and any notice given or deemed to have been given at any time to any such person or entity shall be deemed to have been given at the same time to each other such person and entity.

15.6 Frustration

Notwithstanding the occurrence or existence of any event or circumstance or the non-occurrence of any event or circumstance, and so often and for so long as the same may occur or continue which, but for this clause, would frustrate or void this Lease, and notwithstanding any statutory provision to the contrary, the respective obligations and liabilities of the Tenant and Landlord hereunder shall continue in full force and effect as if such event or circumstance had not occurred or existed.

15.7 Waiver

No condoning, excusing, or overlooking by the Landlord or Tenant of any default, breach, or non-observance by the Tenant or the Landlord at any time or times in respect of any covenant, proviso, or condition herein contained shall operate as a waiver of the Landlord's or the Tenant'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 Landlord or the Tenant herein in respect of any such continuing or subsequent default or breach, and no acceptance of Rent by the Landlord subsequent to a default by the Tenant (whether or not the Landlord knows of the default) shall operate as a waiver by the Landlord, and no waiver shall be inferred from or implied by anything done or omitted by the Landlord or the Tenant save only express waiver in writing.

15.8 Governing Law and Severability

This Lease shall be governed by and construed in accordance with the laws in force in the province of British Columbia. The venue of any proceedings taken in respect of or under this Lease shall be Vancouver, British Columbia as long as such venue is permitted by law, and the Tenant shall consent to any application by the Landlord to change the venue to Vancouver, British Columbia of any proceedings taken elsewhere. The Landlord and the Tenant agree that all the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section hereof. Should any provision or provisions of this Lease be illegal or not enforceable, it or they shall be considered separate and severable from the Lease and its remaining provisions shall remain in force and be binding upon the parties as though the said provision or provisions had never been included.

15.9 Captions

The captions appearing in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit, or enlarge the scope or meaning of this Lease or of any provision thereof.

15.10 Acceptance

The Tenant accepts this Lease of the Premises and License Area, to be held by it as tenant, and subject to the conditions, restrictions, and covenants above set forth. The acceptance of possession of the Premises and License Area shall be conclusive evidence as against the Tenant that at the Commencement Date of the Term the Landlord had duly completed all work required to be completed by the Landlord prior to the Commencement Date of the Term and the Premises and License Area were in good order and satisfactory condition for the commencement of the work and business of the Tenant.

15.11 Expropriation

If at any time during the Term the interest of the Tenant under this Lease or the whole or any part of either the Premises or any other part of the Building shall be taken by any lawful power or authority by the right of expropriation, the Landlord may at its option give notice to the Tenant terminating this Lease on the date when the Tenant or Landlord is required to yield up possession thereof to the expropriating authority. Upon such termination, or upon termination by operation of law, as the case may be, the Tenant shall immediately surrender the Premises and License Area and all its interest therein, Rent shall abate and be apportioned to the date of termination, 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, and clause 14.8 shall apply. The Tenant shall have no claim upon the Landlord for the value of its property or 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, and the parties shall each be entitled to receive and retain such compensation as may be awarded to each respectively. If an award of compensation made to the Landlord specifically includes an award for the Tenant, the Landlord shall account therefor to the Tenant. In this clause the word "expropriation" shall include a sale by the Landlord to an authority with powers of expropriation, in lieu of or under threat of expropriation.

15.12 Statutory Functions

Nothing contained herein shall impair or affect in any way the exercise by either the Landlord or the Tenant of their respective functions and authority under any enactment, constating document, law, bylaw, resolution or other source of authority.

IN WITNESS WHEREOF the parties have executed this Lease.

SIGNED, SEALED AND DELIVERED by the Landlord in the presence of:


In the presence of: (For Landlord)) City of Kelowna by its authorized signatories:
)
)
)
Witness	Name (print)	Mayor
)
)

Address

City Clerk

Occupation(For Tenant)
signatory

Justice Institute of BC by its authorized


WitnessVALERIE JOHNSON
Name (print)
Vice President, Finance & Administration

Address

Schedule A - Page 1.

SCHEDULE A

PLAN OF THE LEASED PREMISES AND THE LICENSE AREA

[Attached is a plan of the relevant floor(s) of the Building and outline the License Area for identification].

SCHEDULE B

To Lease of Premises at Walrod School at 825 Walrod Street, Kelowna, British Columbia

DEFINITIONS

In this Lease the following expressions shall have the following meanings:

"Additional Rent" means all sums of money to be paid by the Tenant, whether to the Landlord or otherwise under this Lease, except for Annual Base Rent and Harmonized Sales Tax payable by the Tenant.

"Annual Base Rent" means the annual Rent set out in sub-clause 1.1(g) and payable by the Tenant as set forth in clause 4.2.

"Basic Terms" means those terms set out in clause 1.1.

"Commencement Date" means the date the Term commences as set forth in or determined under sub-clause 1.1(e) and subject to clause 3.2.

"Harmonized SalesTax" or "HST" means and includes any and all Harmonized Sales Taxes, sales Taxes, value added Taxes, business transfer Taxes, or any other Taxes imposed on the Landlord or the Tenant from time to time in respect of the Rent payable by the Tenant to the Landlord under this Lease 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, whether characterized as a Harmonized Sales Tax, sales, tax, value added tax, business transfer tax, or otherwise.

"Insured Damage" means that part of any damage occurring to any portion of the Premises for which the Landlord is responsible, of which the entire or part of the cost of repair is actually recoverable by the Landlord under a policy of insurance in respect of fire and other perils from time to time effected by the Landlord, or, if and to the extent that the Landlord has not insured and is deemed to be a co-insurer or self-insurer under clause 11.1, would have been recoverable had the Landlord effected insurance in respect of perils, to amounts and on terms for which it is deemed to be insured.

"Land" means that parcel of land, on Walrod Avenue in the City of Kelowna, Province of British Columbia, more particularly described as Lot 1, Plan 8081, Sec. 30, Twp. 26 DL 41, ODYD.

"Lease Year" means, in the case of the first Lease Year, the period beginning on the Commencement Date and terminating 12 months from the last day of the calendar month in which the Commencement Date occurs (except that if the Commencement Date occurs on the first day of a calendar month, the first Lease Year shall terminate on the day prior to the first anniversary of the Commencement Date) and, in the case of each subsequent Lease Year, means each 12-month period after the first Lease Year.

"Leasehold Improvements" means all fixtures, improvements, installations, alterations, and additions now or from time to time hereafter made, erected, or installed, whether by the Tenant, the Landlord or anyone else, in the Premises or in the Building including all partitions however fixed (including movable partitions) and all wall-to-wall carpeting with the exception of such carpeting where laid over vinyl tile or other finished floor and affixed so as to be readily removable without damage but excluding (i) trade fixtures (including unattached free standing furniture and equipment) and (ii) free standing furniture and equipment which are not trade fixtures..

Schedule C - Page 2.

"License Area" means the parking and landscaped area adjacent to the Premises, as set out in sub-clause 1.1(c), shown on Schedule A.

"Premises" means the Walrod School Building and portables the municipal address and located on the site plan set out in sub-clause 1.1(c), shown on Schedule A.

"Prime Rate" means that rate of interest declared from time to time by the main branch, Bank of Montreal, Kelowna, British Columbia, to the Landlord as the annual rate of interest.

"Rent" means and includes the Annual Base Rent, Additional Rent, and all other sums payable by the Tenant to the Landlord under this Lease except for Harmonized Sales Tax payable by the Tenant.

"Taxes" means all Taxes, rates, duties, levies, and assessments whatsoever, whether municipal, parliamentary, or otherwise, which are levied, imposed, or assessed against or in respect of the Building, the Land, which are from time to time levied, imposed, or assessed in the future in addition or in lieu thereof, including, without limitation, those levied, imposed, or assessed for education, schools and local improvements.

"Tax Cost" for any calendar year means an amount equal to the aggregate, without duplication, of all Taxes in respect of such calendar year.

"Tenant's Share" means the proportion of Taxes attributed to the Premises.

"Term" means the Term of this Lease set forth in sub-clause 1.1(e) and any renewal or extension thereof and any period of permitted overholding.