



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-02

APPROVED AS TO THE FORM BY THE
DIRECTOR OF LANDS PURSUANT TO THE
WESTBANK FIRST NATION LAND RULES

Signature: *J. M. Maudsley*
Date: *April 29, 2014*

GENERAL INSTRUMENT - PART 1

(This area for Westbank Lands Office use)

Page 1 of 28 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

PUSHOR MITCHELL LLP, Lawyers, 301 - 1665
Ellis Street, Kelowna, British Columbia V1Y 2B3
Phone (250) 762-2108 File No. 38038.19

Laurel Reading
Signature of Applicant, Applicant's Solicitor or Agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

PIN LEGAL DESCRIPTION
SEE SCHEDULE SEE SCHEDULE

3. NATURE OF INTEREST: DOCUMENT REFERENCE PERSON ENTITLED TO INTEREST

DESCRIPTION (page and paragraph) TRANSFEREE
Modification of Lease 206130 Modified ENTIRE INSTRUMENT
by 207868, 208500, Assigned by SG00411, Modified by SG00412

4. TERMS: Part 2 of this instrument consists of (select one only)

- | | | |
|---|---|---|
| <input type="checkbox"/> Lease | <input type="checkbox"/> Agreement for Sale | <input type="checkbox"/> Licence |
| <input type="checkbox"/> Sublease | <input type="checkbox"/> Assignment of Mortgage | <input type="checkbox"/> Easement |
| <input type="checkbox"/> Assignment of Lease | <input type="checkbox"/> Discharge of Mortgage | <input type="checkbox"/> Release |
| <input type="checkbox"/> Assignment of Sublease | <input type="checkbox"/> Permit | <input checked="" type="checkbox"/> Other – Modification of Lease |

Part 2 includes any additional or modified terms referred to in Item 7 or in a schedule attached to this instrument. If discharge of mortgage or release is selected, the interest described in Item 3 is released or discharged from the land described in Item 2.

5. TRANSFEROR(S): WESTBANK FIRST NATION, Suite 301 – 515 Highway 97 S., Kelowna, British Columbia, V1Z 3J2

6. TRANSFEREE(S): including occupation(s), postal address(es) and postal code(s)

BAYVIEW HOMEOWNERS MANAGEMENT CORP. (Incorporation No. 419609) having an office at 215 – 1511
Sutherland Avenue, Kelowna, British Columbia, V1Y 5Y7

7. ADDITIONAL OR MODIFIED TERMS: None

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument and acknowledge(s) receipt of a true copy of the instrument described in Item 4.

EXECUTION DATE

Y	M	D
14	APR 28	2014

Officer Signature(s)

Kevin Kingston
KEVIN KINGSTON
LEGAL COUNSEL

301 – 515 Highway 97 South
Kelowna, BC V1Z 3J2

Party(ies) Signature(s)

WESTBANK FIRST NATION

J. M. Maudsley
Print Name:

Print Name:

OFFICER CERTIFIED

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies that there has been compliance with the Westbank First Nation Land Rules.




WESTBANK FIRST NATION

**Westbank Lands Register
Form No. WFN-05**

EXECUTIONS CONTINUED

Officer Signature(s)



As to both signature(s)


**ANDREA EAST
BARRISTER & SOLICITOR
3RD FLOOR - 1665 ELLIS STREET
KELOWNA, BC V1Y 2B3
PHONE: (250) 762-2108**

EXECUTION DATE

Y	M	D
14	04	24

Party(ies) Signature(s)




**BAYVIEW HOMEOWNERS
MANAGEMENT CORP.**


Print Name: TERRY TURCAN


Print Name: CHRIS FABIG

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act, R.S.B.C. 1996, c. 124*, to take affidavits for use in British Columbia and certifies that there has been compliance with the Westbank First Nation Land Rules.

SIGNED BY THE WESTBANK FIRST NATION DIRECTOR OF LANDS PURSUANT TO THE WESTBANK FIRST NATION LAND RULES	
	Signature 
	Date 



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 3 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(PIN)	(LEGAL DESCRIPTION)
902516700	Lot 4-2-370 Tsinstikeptum Indian Reserve No. 9 CLSR Plan 83480
902516701	Lot 4-2-371 Tsinstikeptum Indian Reserve No. 9 CLSR Plan 83480
902516702	Lot 4-2-372 (road) Tsinstikeptum Indian Reserve No. 9 CLSR Plan 83480



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 4 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

TERMS OF INSTRUMENT – PART 2

MODIFICATION OF LEASE (Amended and Restated)

BETWEEN:

WESTBANK FIRST NATION,
As represented by its duly elected Council
#301-515 Highway 97 South
Kelowna, BC V1Z 3J2

(the “Lessor”)
OF THE FIRST PART

AND:

BAYVIEW HOMEOWNERS MANAGEMENT CORP.
Incorporation No. 419609
a British Columbia company, having its registered and records
office at 215 – 1511 Sutherland Avenue, in the City of Kelowna,
in the Province of British Columbia, V1Y 5Y7

(the “Lessee”)
OF THE SECOND PART

BACKGROUND:

- A. Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development (“Her Majesty”) granted a Lease made the 6th day of May 1991 but effective as of the 1st day of January, 1991 to Artisan Management Inc., a company duly incorporated under the laws of the Province of British Columbia (Incorporated No. 401786), then having a registered and records office at 3610 Devonshire Drive, Surrey, British Columbia, V48 3E3 (“Artisan”) for a term of 99 years commencing January 1, 1991 respecting lands situate on the Tsinstikeptum Indian Reserve No. 9 (the “Reserve”), in the Province of British Columbia, more particularly described as:

Lot 4-2-3 in the Tsinstikeptum Indian Reserve No. 9, Province of British Columbia as shown on RSBC Plan of Survey No. 1046 (now shown on Plan 74340 deposited in the Canada Lands Surveys Records at Ottawa, Ontario)

(“Lot 4-2-3”)



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 5 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

which Lease was registered at the Indian Land Registry at Ottawa on the 19th day of August, 1991 under No. 206130 (the "Head Lease");

B. Lot 4-2-3 was subsequently subdivided and is now legally described as:

Lots 4-2-370, 4-2-371 and 4-2-372 (road)
Tsinstikeptum Indian Reserve No. 9
CLSR, Plan No. 83480

(the "Lands")

C. The Head Lease was amended by a Modification of Lease dated for reference the 1st day of February, 1992 which was registered at the Indian Land Registry on the 21st day of April 1992 under No. 207868, which Modification of Lease was effective the 31st day of March, 1992;

D. The Head Lease was further amended by a Modification of Lease dated for reference the 29th day of May, 1992 which was registered in the Indian Land Registry on the 16th day of July, 1992 under No. 208500, which Modification of Lease was effective the 1st day of May, 1992;

E. As a result of the provisions of the Westbank First Nation Self-Government Agreement entered into by Westbank and Her Majesty on the 3rd day of October, 2003, the *Westbank First Nation Self-Government Act*, S.C. 2004, c.17, which came into force on the 1st day of April 2005, Westbank has assumed all land management powers of Her Majesty respecting the Reserve, including acting in the stead of Her Majesty and the Minister in relation to all matters concerning the Lands and the Head Lease.

F. The Head Lease, as modified and amended by the 1992 Modifications, was assigned to the Lessee pursuant to an Assignment of Lease dated the 22nd day of August, 2005, and registered in the Westbank Land Register of the First Nations Self-Government Lands Registry in the National Capital Region as Number SG00411;

G. The Head Lease was further amended pursuant to a Modification of Head Lease Agreement dated August 26, 2005 and registered in the Westbank Land Register of the First Nations Self-Government Lands Registry in the National Capital Region as Number SG00412.

H. The Lessor and the Lessee wish to amend and restate the Head Lease as set out below:

NOW THEREFORE THIS INDENTURE OF LEASE WITNESSES that in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Lessee to the Lessor (the receipt whereof is hereby acknowledged) and in further consideration of the rents, covenants and agreements reserved and contained in this Lease, the Parties covenant and agree as follows:



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 6 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

1.00 Definitions

"Federal Court Act"

means the Federal Court Act, R.S.C. 1985 c. F-7, and regulations made thereunder, all as amended or replaced from time to time, and any reference to a section of this Act shall include that section as amended or replaced from time to time,

"First Nation"

means the Westbank First Nation, or any successor to the First Nation pursuant to a federal statute,

"First Nation Council"

means the governing body of the First Nation, elected under the Constitution or otherwise in accordance with applicable laws,

"Improvements"

means all buildings, structures, works, facilities, services, landscaping and other improvements by whomsoever made and which are at any time and from time to time situate on, under or above the Lands including all equipment, machinery, apparatus and fixtures forming part of or attached to the Improvements and all alterations, removals, additions to, replacements and substitutions of the Improvements,

"Indian Act"

means the Indian Act, R.S.C. 1985, c. I-5 as amended, and regulations made thereunder all as amended or replaced from time to time, and any reference to a section of this Act shall include that section as amended or replaced from time to time,

"Lease"

means this Indenture of Lease,

"Lease Date"

means the date on which the Term commences,

"Minerals"

means ore of metal and every natural substance that can be mined and that:

- a) occurs in fragments or particles lying on or above or adjacent to the bedrock source from which it is derived, and commonly described as talus, or
- b) is in the place or position in which it was originally formed or deposited, as distinguished from loose, fragmentary or broken rock or float which by decomposition or erosion of rock, is found in wash, loose earth, gravel or sand, and includes coal, petroleum and all other hydro carbons, regardless of gravity and howsoever and wheresoever recovered, natural gas, building and construction stone, limestone, dolomite, marble, shale, clay, sand and gravel,



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 7 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

"Mortgagees"

means all Mortgagees of the leasehold interest herein granted or granted by a Sublessee of the Lessee and whose mortgages have been registered in the Registry, and includes Canada Mortgage and Housing Corporation and its successors.

"Party"

means a party to this Lease and "Parties" means both of them,

"Person"

includes any natural person, partnership, association or corporation,

"Premises"

means the Lands and the Improvements and every reference in this Lease to the "Premises" includes a reference to every part of the Premises,

"Registry"

means the Register of Westbank Lands established by Canada and held in Ottawa, Ontario, or the successor registry for the Westbank Lands established in accordance with Applicable Laws.

"Rent"

means the rent described in Article 4.00 hereof and other amounts which by the terms of this Lease shall be payable as rent by the Lessee to the Lessor,

"Reserve"

means the Tsinstikeptum Indian Reserve No. 9 of Westbank First Nation,

"Sublessee"

means any Sublessee of a portion of the Lands whose sublease has been registered in the Registry.

"Term"

means the period of time commencing on the effective date of the assignment of this Lease to the Lessee herein and expiring on the 31st day of December, 2089.

2.00 The Demise

2.01 The Lessor leases to the Lessee the Premises, TO HAVE AND TO HOLD the Premises unto the Lessee for the Term, yielding and paying Rent as hereinafter provided, and subject to the terms, conditions, provisos, exceptions and reservations contained in this Lease and the prior termination in the events herein set forth.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 8 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

3.00 Minerals

3.01 The granting of this Lease does not grant any interest in the Minerals or natural resources under the Lands.

4.00 Rent

4.01 The Lessee will pay as rent the following amount in the manner hereinafter provided.

4.02 The Lessee shall pay the sum of ONE DOLLAR (\$1.00) for the term of the Lease in advance on or before the execution hereof by the Lessor.

5.00 Payment of Rent

5.01 The Lessor acknowledges receipt of payment of the Rent in accordance with Section 4.02, and confirms that no other rent of any kind will be payable by the Lessee for the Lands during the Term. The Lessee acknowledges that other monies which may become payable by the Lessee to The Lessor hereunder, if any, while not constituting rent, will be collectable by the Lessor with all remedies available for the collection of rent, including remedies available to the Lessor in the event of the Lessee's default herein.

6.00 Scope of Lessee's Covenants

6.01 All agreements, terms, conditions, provisos, duties and obligations to be performed or observed by the Lessee under this Lease shall be deemed to be Lessee's covenants and all the Lessee's covenants in this Lease are made with the Lessor for the Lessee and for its successors and assigns.

7.00 Assignment

7.01 Except as provided in Article 9.00, the Lessee shall not assign the whole or any part of this Lease without the prior written consent of the Lessor, which consent may not be unreasonably withheld.

7.02 Consent to any assignment shall not be construed as consent to any other assignment.

7.03 Without limiting Section 7.01, the Lessee will obtain from any proposed assignee of the whole or any part of this Lease a written agreement, under seal and in a form approved by the Lessor, whereby the Assignee covenants and agrees with the Lessor that upon the Lessor's consent to the assignment it will observe and perform all of the covenants and agreements to be observed or performed by the Lessee under this Lease, and the Lessee will deliver the agreement to the Lessor prior to obtaining the Lessor's consent to the assignment.

8.00 Subletting

8.01 Except as provided in Article 9.00 and provided the Lessee is not in default under this Lease, the Lessee shall not sublet or part with possession of the whole or any part of the Premises without the prior written consent of the Lessor, which consent may not be unreasonably withheld.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 9 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

8.02 Notwithstanding the consent of the Lessor to any sublease or parting with possession, the sublease and parting with possession shall always be subject to this Lease.

9.00 Mortgage

9.01 Notwithstanding anything or any other provision in this Lease, the Lessee shall not mortgage the whole or any part of the interest of the Lessee in this Lease by any means without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

9.02 Notwithstanding anything else in this Lease, any mortgage and any consent of the Lessor to a mortgage shall be subject to the following conditions:

- (a) if the Mortgagee takes possession of the Premises or acquires the Lessee's equity of redemption then the Mortgagee shall covenant and agree under seal with the Lessor to perform and observe all the Lessee's covenants and agreements under the Lease until the Lease is duly assigned to an assignee with the Lessor's consent and the assignee covenants and agrees as provided in paragraph 9.02(c);
- (b) the Mortgagee of the Lease will cause any assignee of the leasehold interest under an assignment to agree in writing to assume, perform and observe all of the Lessee's covenants and agreements and upon registration of the assumption agreement in the Registry and delivery of the assumption agreement to the Lessor, the Mortgagee of the Lease will be deemed to be released from any and all obligations hereunder; and
- (c) the Mortgagee of the Lessee's interest (excluding a Mortgagee of a Sublessee's interest) shall covenant not to disturb the Sublessee's rights once the Sublease is registered in the Registry;

9.03 If any of the conditions in Section 9.02 are not observed or performed then consent to the mortgage will be deemed not to have been given and a failure to observe or perform a covenant of this Lease as referred to in Article 34.00 will be deemed to have occurred.

9.04 Subject to Sections 9.02 and 9.03, consent by the Lessor to any mortgage shall be deemed to include consent to the right of the Mortgagee to exercise any power of sale or any other remedy with respect to the leasehold interest under the mortgage not inconsistent with the provisions of this Lease.

10.00 Consent and Registration

10.01 The Lessee will provide the Lessor with four copies of every document with respect to a disposition of the leasehold which is referred to in Articles 7.00, 8.00 or 9.00 as requiring the Lessor's consent. These copies shall be originally executed copies or copies of the duly executed documents certified as true copies by a solicitor for one of the parties to the document and shall be in a form acceptable for registration in the Registry.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 10 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

- 10.02 The Lessor's consent to any disposition of the leasehold shall not constitute any assurance to anyone that the disposition will be registered in the Registry or relieve the Lessee from the obligation to provide the form of document required for registration.
- 10.03 Neither the granting of this Lease nor anything contained in it shall be construed as an agreement or assurance by the Lessor that this Lease or any assignment, sublease, mortgage or other disposition of the leasehold can or may be registered in the Provincial Land Title Office.
- 10.04 Sublessees may without the consent of the Lessor assign or sublet all or portions of their respective subleases and mortgage their respective subleases.

11.00 Utilities

- 11.01 The Lessee is responsible for providing at its expense all services and facilities required by it for use of the Premises.
- 11.02 Without limiting the generality of the foregoing the Lessee will pay for all water, gas, telephone, light, power, heat, air-conditioning, sewer and garbage disposal services and facilities for use of the Premises.
- 11.03 No interruption of any service or facility provided to the Premises which is not caused by the Lessor, or its employees or agents will be deemed to be a disturbance of the Lessee's enjoyment of the Premises or render the Lessor liable for injury to or in damages to the Lessee or relieve the Parties from their obligations under this Lease.

12.00 Taxes

- 12.01 Without limiting the generality of Article 13.00, the Lessee will pay on or before the due date in each and every year during the Term all taxes, trade licenses, rates, levies duties and assessments of any kind lawfully imposed by any competent authority, whether in respect of the Premises, fixtures, machinery, equipment or business relating to the Premises or in respect of occupation of the Premises by anyone.
- 12.02 Without relieving or modifying the obligation of the Lessee to comply with Section 12.01, the Lessee may at its expense, contest or appeal the validity or amount of any tax, trade license, rate, levy, duty or assessment PROVIDED that the Lessee commences any proceedings to contest or appeal the validity or amount forthwith and continues with the proceedings with all due diligence.
- 12.03 The Lessee will upon request by the Lessor and within thirty (30) days after the date taxes, trade licences, rates, levies, duties or assessments are due provide the Lessor with official receipts of the competent authority or other proof satisfactory to the Lessor evidencing payment.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 11 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

13.00 Compliance with Laws

- 13.01 The Lessee will at its expense observe and perform all of its obligations and all matters and things necessary or expedient to be observed or performed by it by virtue of any applicable law, statute, by-law, ordinance, regulation or lawful requirement of the federal, provincial or municipal government or authority, the First Nation Council or any public utility company lawfully acting under statutory power.
- 13.02 If any statutory notice is given lawfully requiring the execution of works by the Lessee at the Premises during the Term, and
- (a) if notice is served upon the Lessee, the Lessee will forthwith forward it to or a copy of it to the Lessor and will (unless a certificate of exemption is obtained from the respective statutory authority) forthwith, at its expense, execute such works as are necessary to comply with the notice, or
 - (b) if the notice is served upon the Lessor, the Lessor will forthwith forward it or a copy of it to the Lessee and thereupon the Lessee will, forthwith, at its expense, execute such works as are necessary to comply with the notice, and
 - (c) the Lessee will forthwith upon completion of the works required by statutory notice, provide evidence satisfactory to the Lessor of compliance with the terms of the statutory notice, including any certificates of inspection issued in respect of the works.

14.00 Non-Disturbance

- 14.01 The Sublessees may peaceably and quietly possess, hold and enjoy their subleased lands during the term of the Lease and their sublease without interruption or disturbance by the Lessor, or anyone claiming under it, despite any default by the Lessee of its obligations hereunder.
- 14.02 Notwithstanding anything to the contrary herein, the Lessor hereby covenants to and in favour of and for the benefit of every Sublessee that should for any reason the Lessee has ceased to exist, at the time this Lease is declared cancelled, any Sublessee may require a new lease directly from the Lessor upon the cancellation of this Lease for any reason prior to the expiry of the Term and the Lessor will grant to such Sublessee a new lease on the same terms as contained in any sublease held by such Sublessee in the Lands, provided:
- (a) that such new lease shall be for nominal consideration only not exceeding the sum of \$10.00;
 - (b) that the default in respect of which the Lease is cancelled has been cured in relation to that part of the Lands comprised by the sublease held by such Sublessee;
 - (c) that the covenants and obligations contained in the new lease to be issued shall not be inconsistent with the covenants and obligations of the Lessee herein to the Lessor as they relate to the subleased premises;



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 12 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

- (d) that the terms of the said new leases shall contain such arrangements as are reasonably required to ensure that the new leases make appropriate arrangements for the use, maintenance and payment for all common parts and facilities or infrastructure required for the use and occupation of the Lands demised by the said new leases;
- (e) any new Lease granted shall be granted subject to the interests of any Mortgagee of such sublease to reflect the interests, and rights of the Mortgagee of such sublease prior to the termination of the Lease or the request for the grant of the new lease as appropriate;
- (f) the reasonable legal and consulting costs of the Lessor required to issue such lease shall be payable by the party to whom the new lease is to be granted.

14.03 The Lessor hereby covenants and agrees with the intention that such covenant and agreement shall be enforceable by any Sublessee (the "Interested Party") that the provision of the Lease expressed to be for the benefit of any Interested Party shall be and enure for the benefit of any Interested Party and shall be fully enforceable by any Interested Party notwithstanding that such Interested Party is not a party to the terms of the Lease and the Lessor shall not do anything or make any argument to prevent or obstruct whether directly or indirectly any Interested Party in taking the benefit of and enforcing the provisions of the Lease expressed to be for the benefit of any Interested Party based upon the fact that such Interested Party is not a party to the terms of the Lease.

15.00 Nuisance

15.01 The Lessee will not cause, permit or suffer any nuisance at the Premises.

15.02 Without limiting Section 15.01, the lessee will, upon written notice from the Lessor, abate any nuisance arising directly or indirectly out of the use or occupation of the Premises by the Lessee or someone else. Written notice under this Section will be deemed to be an order of the Lessor for the purposes of Article 33.00.

15.03 The normal carrying on at any time by the Lessee of the uses permitted by Section 14.01 to the standards required of it under the provisions of this Lease will not be considered to be a nuisance for the purpose of this Section.

16.00 Waste

16.01 Except as permitted by Section 16.02, the Lessee will not cause, permit or suffer the commission of any waste of the Premises.

16.02 Except as required by construction and installations expressly permitted by this Lease, and except as permitted in writing by the Lessor, the Lessee will not cause, permit or suffer the removal of any sand, gravel, marl, topsoil, or other material constituting part of the Premises.



WESTBANK FIRST NATION

Westbank Lands Register Form No. WFN-06

SCHEDULE

Page 13 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

17.00 Rubbish

17.01 Without limiting Article 15.00, the Lessee will not cause, permit or suffer any rubbish or debris to be placed or left at the Premises except as is reasonably necessary in accordance with the uses permitted by Section 14.01 or as permitted in writing by the Lessor.

18.00 Alterations and Additions

18.01 The Lessee will at its expense complete or cause to be completed all alterations, removals, additions, replacements and substitutions in accordance with the provisions of Article 19.00 and Section 19.01, except as provided under this Section and in Articles 20.00 and 28.00, the Lessee will not construct any new buildings, structures or other improvements on, under or above the lands.

19.00 New Improvements

19.01 Except as provided under this Article and Articles 18.00, 20.00 and 28.00, the Lessee will not construct any new buildings, structures or other improvements on, under or above the Land.

19.02 The Lessee will submit complete and detailed plans and specifications for the construction of all permitted improvements referred to in Article 14.00, including the following plans and specifications and all other documents as may be required by the Lessor to enable him to determine conveniently whether the works will comply with the provision of Article 21.00, all of which plans, specifications and other documents shall be hereinafter collectively called the Development Plan;

SITE All site plans drawn to scale, including any as constructed plans where available, showing the following required features with appropriate dimensions:

- (a) Boundary lines with dimensions and acreage;
- (b) Natural and artificial features of subject property and adjacent property, including improvements (buildings, easements, railway lines, pipelines, watercourses, culverts, ditches, etc.);
- (c) "North" arrow;
- (d) Title block including drawing scale, date, developer's name and address, reference numbers;

ROADS

- (a) Location, dimension and size;
- (b) Construction specifications.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 14 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

BUILDINGS

- (a) Location, dimension and size (number of units, number of storeys, floor area, number of rooms) of all proposed buildings and accessory facilities;
- (b) Dimensions of frontyard, sideyards, rear yard;
- (c) Construction specifications.

SANITARY DISPOSAL

- (a) Location and size of on-site sanitary sewer connections;
- (b) Construction specifications.

WATER SUPPLY

- (a) Location and size of existing and/or proposed water mains;
- (b) constructions specifications

- 19.03 Unless and to the extent the Lessor otherwise agrees in writing, the Development Plan shall be prepared by a professional architect or engineer licensed to practice as an architect or engineer in British Columbia.
- 19.04 The Lessor may approve the Development Plan as submitted, or may require amendments or revisions to the Development Plan to ensure compliance with the provisions of Article 21.00. Such amendment or revision must be completed within thirty (30) days of the date of notice in writing of such requirement being received by the Lessee and the Development Plan as amended or revised must be re-submitted to the Lessor for approval.
- 19.05 No approval or failure to approve by the Lessor of the Development Plan will be construed as an assumption of responsibility in any way by the Lessor for the Development Plan or any work completed in accordance with the Development Plan.
- 19.06 Upon receipt of the Lessor's approval of the Development Plan the Lessee will promptly carry out only such work as provided in the Development Plan and of which the Lessor approved. Once the Lessee has commenced the work it will proceed with all due diligence to completion.
- 19.07 Without limiting the foregoing, the Lessee shall and hereby agrees to develop the Premises in accordance with the Development Plan as approved by the Lessor and the provisions of Article 21.00.
- 19.08 Upon completion of each stage of construction, commencing with the construction of foundations and including the lockup stage, the rough completion stage and the final completion stage, the Lessee will provide the Lessor with a certificate prepared by an engineer licensed to practice as an engineer in British Columbia, certifying that



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 15 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

the work has been completed in accordance with the standards set forth in Article 21.00 herein.

19.09 If the Lessee fails to complete development of the Premises in accordance with the Development Plan, the Lessor may on thirty (30) days written notice to the Lessee terminate the Lease with respect to that portion of the Premises whereon the Development Plan has not been carried through to completion without any apportionment or rebate of the rents paid, and everything herein contained and the estate or term with respect to that portion of the Premises shall absolutely cease, determine and be void with re-entry or any other act or any suit or legal proceedings to be brought or taken, PROVIDED the Lessor shall nevertheless be entitled to recover from the Lessee the rent then accrued or accruing, and moreover that any right of action by the Lessor against the Lessee in respect of any antecedent breach of any of the covenants, provisos, stipulations or conditions contained in this Lease shall not be thereby prejudiced.

20.00 Repair of Premises

20.01.1 Subject to Section 20.02 the Lessee will at all times during the Term at its expense well and substantially repair, renew and maintain all Improvements in a good and tenantable condition in every respect as would a careful owner in occupation excepting reasonable wear and tear only as is not inconsistent with the foregoing.

20.01.2 Without limiting Section 20.01.1, the maintenance of the electrical, heating, ventilating, air conditioner, water and sewer systems will include all inspections, cleaning, oiling and adjustments and all replacements of bulbs, ballasts and filters.

20.01.3 Without limiting Section 20.01.1, the maintenance of any and all lawns and gardens constituting part of the Premises will include all cutting, pruning, cultivating, weeding, fertilizing and watering in order to keep the lawns and gardens in a neat, tidy and healthy condition.

20.02 Whenever repair or renewal pursuant to this Section requires altering, removing, adding to, replacing or making substitutions for the Premises, the Lessee will not undertake the work without first having received the written consent of the Lessor, which consent shall not be unreasonably withheld.

20.03 The Lessee will complete all repair and renewal under this Section in accordance with the provisions of Article 21.00.

21.00 Construction Requirements

21.01 Without limiting Article 13.00, all construction and other work on the 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 and in accordance with the standards set out in Schedule "A" to this Lease, as those standards may be amended or replaced from time to time. If there is a conflict among any of the standards in Schedule "A" or if they cover the same subject matter then the highest standard will apply and if any standard is inapplicable for any reason the remaining standards will continue to apply in full force and effect.



WESTBANK FIRST NATION

Westbank Lands Register Form No. WFN-06

SCHEDULE

Page 16 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

- 21.02.1 Whenever construction or other work under this Lease requires the Lessor's consent, the Lessor may as a prerequisite to deciding whether or not to consent require that the lessee provide him with complete and detailed plans and specifications of the work, including all documents as will enable the Lessor to determine conveniently whether the work will comply with the provisions of this Section.
- 21.02.2 Unless and to the extent the Lessor otherwise agrees in writing all such plans and specifications shall be prepared by a professional architect or engineer licensed to practice as an architect or engineer in British Columbia.
- 21.02.3 If the Lessor requires plans and specifications pursuant to Section 20.02.1 then the Lessee will carry out only such work as provided in the plans and specifications and to which the Lessor has consented. Once the Lessee has commenced the work it will proceed with all due diligence to completion.
- 21.02.4 No consent or failure to consent by the Lessor to plans and specifications referred to in Section 21.02.1 or to the work will be construed as an assumption of responsibility in any way by the Lessor for those plans or specifications or any work completed in accordance with them.

22.00 Signs

- 22.01 The Lessee shall not require during the Term the consent of the Lessor to place any sign or other advertising device on the lands provided they are related to the uses described in Article 14.00.
- 22.02 The Lessee shall be responsible for the repair, maintenance, strengthening or removal of any sign or advertising device.
- 22.03 The Lessor will not be deemed to have acknowledged or admitted any liability or responsibility with respect to the placement, repair, maintenance, strengthening or removing signs on the Lands during the term.

23.00 Liability Insurance

- 23.01 The Lessee will forthwith effect and maintain at its expense comprehensive general liability insurance (the "Liability Insurance") with the Lessor as an additional insured against claims for personal injury, death or property damage or loss occurring at or about the Premises.
- 23.02 The Liability Insurance will provide protection to the limit of not less than One Million Dollars (\$1,000,000.00) in respect of any one occurrence.
- 23.03 The Liability Insurance will contain a provision for cross liability.

24.00 Property Insurance

- 24.01 If applicable the Lessee, acting reasonably, will effect and maintain at its expense property insurance insuring the Improvements against loss or damage by fire and other perils under customary supplementary coverage.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 17 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

25.00 Insurance Provisions

- 25.01 Every insurance policy required under this Lease will to the extent that it is obtainable contain an agreement by the insurer that it will not cancel or substantially alter the policy without first giving each of the insureds at least fifteen (15) days prior written notice.
- 25.02 Notwithstanding the foregoing all insurance obligations of the Lessee shall be waived during such time as title to the Lands is held by Canada Mortgage and Housing Corporation in the event that it has granted or insured a mortgage and subsequently acquired title to the Lands by reason of the default of the Lessee.

26.00 Insurance Validation

- 26.01 The Lessee will not do, permit or suffer anything to be done at the Premises which might cause any policy of insurance required by this Lease to be invalidated or cancelled, and the Lessee will comply forthwith with every notice in writing from the Lessor or any insurer requiring the execution of works or discontinuance of any use of the Premises in order to avoid invalidation or cancellation of any insurance.
- 26.02 The Lessee releases the Lessor, their respective officers, employees, agents or contractors from all liability for loss or damage caused by or resulting from any of the perils or injury against which it has covenanted in this Lease to insure, except if the loss, damage or injury may arise out of the negligence or omission of the Lessor, its officers, employees, agents or contractors, and even though the Lessee has failed to so insure.
- 26.03 The Lessee will, upon request, deliver certificates of insurance evidencing every policy of insurance that is required immediately after the insurance is effected and will, upon request, deliver a certificate of renewal that the insurance has been renewed or replaced at least ten (10) days before the expiry of any policy of insurance in force.
- 26.04 The Lessee will, upon written request, deliver a certified copy of every insurance policy taken out by the Lessee with respect to the Premises.

27.00 Indemnity

- 27.01 The Lessee will indemnify and save harmless the Lessor against and from all loss, costs and expense arising out of or related to any breach of a Lessee's covenant and all claims, demands, actions, suits and other proceedings for personal injury, death or property damage or loss arising out of or related to any act or omission of the Lessee, its officials, employees or agents or any act or omission of a Sublessee under this Lease, its officials, employees or agents.
- 27.02 Notwithstanding Section 27.01, the Lessee's covenant to indemnify and save harmless will not apply to any claim, demand, loss, cost, damage, action, suit or other proceeding to the extent that same is occasioned or contributed to by the negligence or willful act or omission of the Lessor, Her officials, employees or agents.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 18 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

28.00 Replacement on Destruction

- 28.01 If during the Term any Improvements (in this Section called the "Damaged Improvements") are damaged or destroyed by fire or any other cause so as to render the Premises or any part thereof unfit for the purposes of the Lessee as provided in Article 14.00 the provisions of this Section will have effect.
- 28.02 The Rent will not abate whether the Damaged Improvements are rendered partially or wholly unfit for the purposes of the Lessee.
- 28.03 The Lessee may in its discretion determine whether or not to restore and repair the Damaged Improvements PROVIDED that it notifies the Lessor of its decision in that regard within sixty (60) days of the damage or destruction occurring and PROVIDED further that notice to the Lessor of the Lessee's decision not to restore or repair will not be considered valid or effective unless it includes the written consent of all Mortgagees to whose mortgages the Lessor has consented.
- 28.04.1 If the Lessee determines to restore or repair the Damaged Improvements or if it fails to give the Lessor notice as provided in Section 28.03 then it will provide the Lessor with complete and detailed plans and specifications of the proposed restoration or repair together with an estimate of the full cost of the restoration or repair and will restore or repair the Damaged Improvements to the same as or better condition than that which existed immediately prior to the damage or destruction without allowance for deterioration and will carry out the work with diligence and dispatch.
- 28.04.2 The plans and specifications and the cost estimate referred to in Section 28.04.1 will be prepared and signed by an architect or engineer licensed to practise in British Columbia.
- 28.04.3 Without limiting the foregoing, the Lessee will at its expense complete all restoration and repair in accordance with the provisions of Article 21.00.

29.00 Insurance Proceeds

- 29.01 If the Lessee has determined to restore or repair or has failed to give notice as provided in Section 28.03 and if the Lessor has consented in writing to the payment of insurance proceeds to the Lessee then the proceeds shall be paid to the Lessee in trust to apply to the costs of restoration or repair of the Premises. The cost of the repairs or restoration shall be borne by the Lessee whether or not it exceeds the insurance proceeds.
- 29.01.1 If the Lessee has determined to restore or repair or has failed to give notice as provided in Section 28.03 and if the Lessor has required in writing that insurance proceeds be paid to either the Receiver General for Canada ("Receiver General") or a trustee then the proceeds shall be paid to the Receiver General or a trustee, appointed by the Lessor, to hold on behalf of the Lessor, the Lessee and any leasehold Mortgagees to whose mortgages the Lessor has consented and to be applied in accordance with the provisions of this Section. The Lessee will do all things necessary or convenient to facilitate this payment.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 19 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

- 29.01.2 Work in progress shall be paid for in installments as progress payments out of the insurance proceeds, PROVIDED that the Receiver General or the trustee at all times shall retain sufficient of the insurance proceeds to pay for the estimated cost of the restoration or repair remaining to be completed and any trustee fees and costs remaining to be paid at the date the payment is made. The lessee shall pay and be responsible for the cost of the restoration or repair and the fees and costs of any trustee in excess of the insurance proceeds.
- 29.01.3 Any progress payments to be made under this Section by the Receiver General or the trustee to the Lessee shall not be made without the submission of a statement, certified by an architect or engineer for the Lessee stating the estimated amount required to complete the restoration or repair at the date of the certificate, the amount claimed by individual contractors at that date, the amount owing on work already done, and the amount of any payments made at the date of the certificate for work already done, and verifying the standard and quality of the work already done.
- 29.02 Before any contract is entered into by the Lessee for the carrying out of any restoration or repair work pursuant to Article 28.00, copies of the estimates for the work and the contracts for the completion of the work shall be submitted by the Lessee to the Lessor, the leasehold Mortgagees to whose mortgages the Lessor has consented and any trustee appointed pursuant to Section 29.01.1.
- 29.03 If this Lease expires or is otherwise terminated for whatever cause, insurance proceeds remaining with the Receiver General or the trustee after payment of any trustee fees and costs shall be paid to the Lessor for the Lessor's use and benefit.

30.00 Removal of Buildings, Fixtures and Chattels

- 30.01 At any time during the Term or within one hundred twenty days (120) after the expiration or sooner termination of this Lease, the Lessee may, if not in default hereunder, at the Lessee's own expense remove from the Premises all the Lessee's moveable goods, chattels and trade fixtures and all buildings and improvements placed on the Premises by the Lessee PROVIDING the following conditions are met:
- (a) The Lessee has not earlier than ninety days (90) and not later than sixty days (60) before the expiration or earlier termination of this Lease, given to the Lessor written notice of its intention to remove the buildings, fixtures and improvements; and
 - (b) The Lessee has given to the Lessor a performance bond in such amount as the Lessor may require to cover the costs of improvements and to enable the Lessor to complete their removal and to restore the premises to a neat, clean and tidy state; and
 - (c) The Lessee completes the work of removal not later than one hundred twenty days (120) after expiry or the termination date of the term.
- 30.02 Subject to Section 30.03, the Lessee shall upon the expiration or earlier termination of this Lease, or upon removal of buildings, fixtures and improvements pursuant to Section 30.01, whichever is later, leave the Premises in good and substantial repair and condition and free of all debris to the reasonable satisfaction of the Lessor.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 20 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

30.03 Upon written demand by the Lessor given on or before the ninetieth day after the expiration or earlier termination of this Lease, the Lessee will at the Lessee's own expense immediately upon the expiration or earlier termination of this Lease or upon demand being given, whichever is later, remove from the Premises all buildings and other improvements constituting part of the Premises including without limiting the generality of the foregoing, all the Lessee's moveable goods, chattels and trade fixtures, or such of them as the Lessor may require to be removed from the Premises and leave the remainder of the Premises in good substantial repair and condition and free from all debris to the reasonable satisfaction of the Lessor.

31.00 Quiet Enjoyment

31.00 The Lessee by paying the Rent and observing and performing the covenants in this Lease may peaceably and quietly possess, hold and enjoy the Premises during the Term without any interruption or disturbance by the Lessor.

32.00 Forfeiture

32.01.1 If the Lessee:

- (a) fails to pay any Rent when due under this Lease, or
- (b) is in actual material default of a material obligation hereunder

then the Lessor may give the Lessee notice of the default.

32.01.2 If the Lessor gives the Lessee notice of default under Section 32.01.1 and either:

- (a) the default is a default mentioned in paragraph 32.01.1(a) or is reasonably capable of being cured within sixty (60) days after the notice is given and the Lessee fails to cure the default within sixty (60) days; or
- (b) the default is not a default mentioned in paragraph 32.01.1(a) and is not reasonably capable of being cured within sixty (60) days after the notice is given and the Lessee fails to commence to cure the default promptly upon receipt of the notice and to proceed to cure it with all due diligence to completion;

then the Lessor may by notice to the Lessee subject to the provisions of this Article 32 and the rights of the parties under Article 14 and Article 52 declare the Term ended.

32.02.1 If the Lessor declares the Term ended as provided in Section 32.01.2, then except as otherwise expressly provided in this Lease, this Lease and everything contained in it and the Term will thereupon absolutely cease, determine and be void without re-entry or any other act or legal proceedings, and the Lessor may re-enter the Premises and possess and enjoy it as if the Lease had not been made.

32.02.2 Notwithstanding a declaration by the Lessor that the Term has ended, the Lessor will be entitled to recover from the Lessee the Rent then accrued or accruing, and enforce any right of action against the Lessee in respect of any



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 21 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

antecedent breach of any of the Lessee's covenants including a right of action under Article 27.00, subject always to the rights of the parties in Article 14.

- 32.03 No notice to the Lessee will be valid for any purpose unless and until a copy of such notice is also given each Mortgagee and Sublessee. The copy of such notice may be given to a Mortgagee and Sublessee at the address specified by the Mortgagee and Sublessee and otherwise on the same terms and conditions as applicable to notices referred to in Article 53.00.
- 32.04 Any curing of a default by a Mortgagee or a Sublessee will be construed as curing default by the Lessee. The Lessor hereby grants the Mortgagee and Sublessee access to the Premises for the purposes of curing any defaults under the Lease.
- 32.05 If any disagreement arises as to the occurrence or subsistence of a material default hereunder or whether the curing of any default is promptly commenced, has been substantially completed or is proceeding with reasonable diligence, and without limiting any other remedies or relative that might be available to the Lessee, a Mortgagee or Sublessee in accordance with this Agreement or at law, the question may be dealt with in accordance with Article 52.00 of this Lease.
- 32.06 The Lessor acknowledges that in consideration of the Rent, the Lessor will, to the fullest extent reasonably possible, seek recourse in respect of alleged material default by the Lessee hereunder by way of a claim in law against the Lessee for debt or damages, as the case may be, recoverable against the Lands or the rents derived therefrom by the Lessee, or seek an order of a court of competent jurisdiction restraining continuing breach, and will not resort to exercising a right to cancel this Lease and forfeit the Leasehold estate except in respect of a serious or continuing breach of a material covenant hereunder for which a reasonable and adequate alternate remedy has not been or cannot reasonably be obtained.
- 32.07 If the Lessor gives the Lessee notice of a breach of any of the Lessee's obligations and such breach is not rectified within the period set out in Article 32.01.2, then the Lessor, without relieving the Lessee of its obligations under this Lease and without limiting any other right of the Lessor, may undertake the performance of any necessary work in order to complete such obligations of the Lessee but having commenced such work, the Lessor will have no obligation to the Lessee to complete such work. All of the Lessor's costs and expenses of such performance will be expeditiously payable by the Lessee upon the Lessor delivering notice of the Lessor's costs.
- 32.08 All rights and remedies of the Lessor are cumulative and are in addition to and do not exclude any other right or remedy provided in this Lease or otherwise allowed by law. All rights and remedies of the Lessor may be exercised concurrently.
- 33.00 Insolvency**
- 33.01 If the Lessee becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or if it is a corporation and proceedings are begun to wind it up then accelerated Rent for the period of three (3) months next following the date of bankruptcy or other event, calculated at the same rate as would have been payable by the Lessee if no bankruptcy or other event had taken place, shall immediately become due and payable.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 22 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

34.00 Performance of Covenants

- 34.01 If the Lessee fails to perform any Lessee's covenant, then without limiting any other remedy of the Lessor under this Lease the Lessor may order the Lessee in writing to perform the covenant, and if the Lessee does not perform it within thirty (30) days of such order the Lessor may but will not be obligated to do whatever is reasonably necessary to perform it. Any reasonable cost or expense incurred by the Lessor in performing the covenant will be paid by the Lessee to the Lessor forthwith upon demand by the Lessor.
- 34.02 The Lessee will provide the Lessor, his officials, employees and agents convenient access to the Premises at all reasonable times from time to time for the purposes of viewing the Premises and otherwise determining that the Lessee's covenants are being duly observed and performed.
- 34.03 The Lessee will also provide the Lessor, his officials, employees, agents, contractors and subcontractors with and without vehicles and equipment all necessary access to the Premises for the purpose of performing the Lessee's covenants pursuant to Section 34.01.

35.00 Distress

- 35.01 The Lessor will be entitled to levy distress against the chattels and trade fixtures of the Lessee and the Lessor on behalf of the Lessor may use such force as he deems necessary for that purpose and for gaining admittance to the Premises without being liable for any action or for any loss or damage occasioned by the distress or the use of force.

36.00 Right of the Lessor to Relet

- 36.01 If the Premises shall be deserted or vacated, the Lessor shall have the right, at his option, to enter the Premises as the agent of the Lessee either by force or otherwise without being liable for any action or for any loss or damage occasioned by the entry or the use of force and to relet the Premises as the agent and at the risk of the Lessee, and to receive the rent for any reletting.
- 36.02 Rent for any reletting under Section 36.01 may be applied by the Lessor to any expenses incurred by him in the re-entry of the Premises and in the reletting and to any other monies owing to the Lessor under this Lease in such proportions and in such order of priority as the Lessor may decide.
- 36.03 The Lessor will not be construed as re-entering the Premises as agent of the Lessee if prior to the re-entry the Lessor has declared the Term ended.
- 36.04 Notwithstanding a re-entry by the Lessor, the Lessor will be entitled to recover from the Lessee the Rent then accrued or accruing and enforce any right of action against the Lessee in respect of any antecedent breach of any of the covenants of this Lease, including a right of action under Article 27.00.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 23 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

37.00 Intentionally Deleted

38.00 Environment

38.01 Notwithstanding Section 14.01 or any other provision of this Lease, whenever construction or other work under Articles 19.00 or 20.00 requires the Lessor's consent, the Lessor may, as a prerequisite to deciding whether or not to consent, require the Lessee to prepare and submit an environmental impact assessment report on terms of reference and in a form satisfactory to the Lessor.

38.02 Notwithstanding Section 14.01 or any other provision of this Lease, if in the reasonable opinion of the Lessor, the proposed construction or other work under Article 19.00 or 20.00 would have a negative and unmitigatable impact on the environment (to the extent that mitigation would not reduce the impact to an acceptable level), then the Lessor may, upon thirty (30) days written notice to the Lessee, terminate the Lease, and the provisions of Sections 32.02.1, 32.02.2 and 32.03 will apply.

39.00 Intentionally Deleted

40.00 Intentionally Deleted

41.00 Payments by the Lessor Regarded as Rent

41.01 If at any time before or after the expiration of earlier termination of the Term the Lessor suffers or incurs any damage, loss or expense by reason of any failure of the Lessee to perform or observe any of the Lessee's covenants or makes any payment for which the Lessee is liable under this Lease, or if The Lessor is compelled or elects to incur any expense including legal fees in instituting, prosecuting or defending any action or proceeding instituted by reason of any default of the Lessee under this Lease (including any action or proceeding against the Lessee) then in every such case the amount of damage, loss, expense or payment (including legal fees of the Lessor on a solicitor-client basis), together with interest as provided in Article 42.00, will be paid by the Lessee to the Lessor forthwith on demand by the Lessor.

41.02 The amount of any damage, loss, expense or payment referred to in Section 41.01 will be added to the Rent due under the Lease, be due and payable as Rent and be recoverable in the manner provided by law for the recovery of Rent in arrears.

42.00 Arrears to Bear Interest

42.01 If the Rent or any other sum owing by the Lessee to the Lessor under this Lease is not paid within thirty (30) days from the date on which it is due then it will bear interest at the Prime Rate in effect from time to time plus four percent (4%) per annum from the date the Rent or the sum is due until the date of the payment by the Lessee, but this stipulation for interest shall not prejudice or affect any other remedies of the Lessor under this Lease or otherwise, or be construed to relieve the Lessee from any default in making the Rent payment at the time and in the manner specified in this Lease.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 24 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

43.00 Remedies Cumulative

43.01 All rights and remedies of the Lessor are cumulative and are in addition to and do not exclude any other right or remedy provided in this Lease or otherwise allowed by law.

43.02 All rights and remedies of the Lessor may be exercised concurrently.

44.00 Surrender of Possession

44.01 Subject to Article 30.00, when the Term expires or otherwise ends, the Lessee will peaceably surrender the Premises to the Lessor maintained, repaired and renewed as provided in Article 20.00.

45.00 Holding Over

45.01 If the Lessee continues in possession of the Premises after the Term expires by effluxion of time, its status notwithstanding any payment of Rent will be that of a tenant from month to month. The Lessee will not be construed as being in possession of the Premises solely by its exercise of rights under Article 30.00.

45.02 The Lessee will during the continuance of the month to month tenancy referred to in Section 45.01, pay in advance on the first day of each month a Rent in such amount as is agreed between the Lessor and the Lessee. If the Lessee disagrees with the rent set by the Lessor, it shall be resolved pursuant to Article 52.00.

45.03 The month to month tenancy referred to in Section 45.01 will be subject to all the terms and conditions of this Lease except as modified by Sections 45.01 and 45.02 and except as they are inapplicable to the tenancy from month to month.

46.00 Net Lease

46.01 This Lease is to be a completely carefree net Lease for the Lessor and notwithstanding anything to this Lease to the contrary the Lessor is not to be responsible during the Term for any costs, charges, expenses or outlays of any nature in respect of the Premises.

47.00 No Warranties

47.01 No representations, warranties or conditions have been made to the Lessee in respect of the Premises by the Lessor or its employees and agents.

47.02 The Lessee is fully familiar with the Premises and every part and aspect of the Premises and without limiting the generality of the foregoing the Lessee acknowledges that it has carried out a full inspection of the Premises and takes the Premises as is in reliance of its own inspection and not relying on any representations or warranties of the Lessor or its employees or agents.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 25 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

48.00 Corporate Authority

48.01 If the Lessee is one or more corporations, the Lessee warrants and represents to the Lessor that:

- (a) the Lessee has the corporate authority pursuant to its Memorandum and Sections to enter into this Lease and to perform all the covenants and agreements contained herein; and
- (b) the Lessee is a Company duly incorporated under the laws of the Province of British Columbia, is not a reporting Company and is a valid and subsisting Company in good standing with respect to the filing of the annual reports at the office of the Registrar of Companies of British Columbia.

49.00 Headings

49.01 All headings in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit, enlarge, modify or explain the scope or meaning of the Lease or any of its provisions.

49.02 Any reference in this Lease to an article, section, paragraph or clause shall mean an article, section, paragraph or clause of this Lease unless otherwise expressly provided.

49.03 Any reference in this Lease to Lessee's covenants will be deemed to include all terms and conditions to be performed or observed by the Lessee under this Lease.

50.00 Amendments

50.01 This Lease constitutes the entire agreement between the Parties with respect to the subject matter of this Lease and no modification, or waiver of any provision of the Lease will be inferred from anything done or omitted by either of the Parties except by an express waiver in writing duly executed by the respective Party.

50.02 No condoning, excusing or overlooking by the Lessor of any default by the Lessee at any time or times in performing or observing any of the Lessee's covenants will operate as a waiver of or otherwise affect the rights of the Lessor in respect of any continuing or subsequent default and no waiver of these rights will be inferred from anything done or omitted by the Lessor except by an express waiver in writing.

51.00 Governing Law

51.01 This Lease will be governed by and construed in accordance with the laws of Canada and otherwise in accordance with the laws of the Province of British Columbia, which laws as the case may be will be deemed to be the proper law of this Lease.

52.00 Dispute Resolution

52.01 Should there be a disagreement or dispute between the parties with respect to any matter under this Agreement or the interpretation thereof, the same may be referred jointly by the Parties to a single arbitrator pursuant to the



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 26 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

Commercial Arbitration Act of British Columbia and any amendments thereto and the determination of such arbitrator will be final and binding upon the Parties.

52.02 Any Mortgagee, including those of subleases, must be given the opportunity to participate in any arbitration, the subject-matter of which could, in the opinion of such Mortgagee, impact on its security.

53.00 Notice

53.01 All notices, demands, requests, elections, consents or other communications that may be or are required to be given pursuant to this Lease will be in writing and will be validly given:

- (a) if delivered by hand to the representative indicated in this Article of the Party to whom notice is being given;
- (b) if enclosed in an envelope and mailed by prepaid double registered mail in Canada to such representative at the address given in this Article.

53.02 The address of each Party for the purposes of this Article is as follows:

To the Lessor:

Westbank First Nation
301 -515 S.Highway 97
Kelowna, B.C.
V1Z 3J2

To the Lessee:

Bayview Homeowners Management Corp.
c/o 215 – 1511 Sutherland Avenue
Kelowna, BC V1Y 5Y7
and
Pushor Mitchell LLP
3rd Floor 1665 Ellis Street
Kelowna, BC V1Y 2B3
Attention: Susan G. Connaghan

53.03 Either party may change its address for the purposes of this Section by giving notice of the change to the other Party in the manner provided in this Section.

53.04 For the purposes of this Section, the representative of the Lessor any person authorized by the First Nation Council, and the representative of the Lessee will be the president, secretary or a director of the Lessee if the



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 27 of 28 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

Lessee is a corporation or will be the Lessee if the Lessee is a natural person or persons or will be a partner of the Lessee if the Lessee is a partnership.

53.05 Notices, demands, requests, elections, consents or other communications given pursuant to this Section will be deemed to be given and received:

(a) if delivered by hand, on the day of delivery, and

(b) if mailed by prepaid double registered mail:

- i. ninety-six (96) hours from the time of mailing if mailed within British Columbia and if during that ninety-six (96) hour period there is no strike of the mails or other postal disruption, or
- ii. at the time of actual receipt if mailed outside of British Columbia or if during the ninety-six (96) hour period after mailing there is a strike of the mails or other postal disruption.

54.00 Time of the Essence

54.01 Time is of the essence in this Lease and each of its terms and conditions.

55.00 Severability

55.01 If any part of this Lease is declared or held invalid for any reason, the invalidity of that part will not affect the validity of the remainder which will continue in full force and effect and be construed as if this Lease had been executed without the invalid portion. The intention of the Parties is that this Lease would have been executed without reference to any portion which may, for any reason, be declared or held invalid.

56.00 Plurality and Gender

56.01 This Lease shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors, assigns and other legal representatives, as the case may be, of each of the Parties. Every reference in this Lease to any Party shall include the heirs, executors, administrators, successors, assigns and other legal representatives of the Party.

56.02 Reference to a Party shall be read as if all required changes in the singular and plural and all grammatical changes rendered necessary by gender had been made.

56.03 If a Party is comprised of more than one Person then all covenants and agreements of that Party shall be deemed joint and several.



WESTBANK FIRST NATION

Westbank Lands Register

Form No. WFN-06

SCHEDULE

Page 28 of 28 Pages

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57.00 Intentionally Deleted

58.00 Not a Joint Venture

58.01 Nothing in this Lease will be construed as making the Lessor an agent, partner or joint venturer with the Lessee nor as creating any relationship between the Parties other than the relationship of Lessor and Lessee.

59.00 Land Rules Apply

59.01 This Lease is subject to and governed by Part XI of the Westbank First Nation Constitution proclaimed effective April 1, 2005 as amended and any other applicable law, statute, by-law, ordinance, regulation or lawful requirement of the federal, provincial or municipal government or authority, the First Nation or First Nation Council or any public utility lawfully acting under statutory power.

60.00 Execution of Part 1 Binding

60.01 By signing Part 1 of this Lease, the Parties agree to be bound by its terms.

END OF DOCUMENT