

Lease Agreement

THIS LEASE AGREEMENT (the “Lease”) dated this ____ day of _____, 2022

BETWEEN:

REGIONAL DISTRICT OF CENTRAL OKANAGAN, a regional district continued under the Local Government Act, RSBC 1996, c 323, with an address at 1450 KLO Road, Kelowna, BC V1W 3Z4

(“RDCO”)

AND:

THE UNIVERSITY OF BRITISH COLUMBIA, a British Columbia university continued under the *University Act*, RSBC 1996, c 468, with an address at 224 - 6328 Memorial Road, Vancouver, BC V6T 1Z2

(“UBC”)

1. **DEFINITIONS**

In this Lease:

- (a) “**Buildings**” means the buildings located on the Lands, which are collectively identified on Schedule A as “MAIN HOUSE/STUDIO”, “STORAGE CABIN”, “STUDIO CABIN” and “SHED”;
- (b) “**Lands**” means the property at 969 Raymer Road, Kelowna, BC and legally described as: Lot A District Lots 579 and 580A SDYD Plan 16786 Except Plans 18912 and 19984;
- (c) “**Leased Premises**” means the Buildings;
- (d) “**Licensed Area**” means together, the driveway permitting access between the Buildings and Raymer Road, in the approximate location shown by a dashed-line and identified on Schedule A as “ACCESS”, and the area shown in cross-hatch highlighting and identified on Schedule A as “LICENCE/MAINTENANCE AREA”;
- (e) “**MOU**” means the Memorandum of Understanding made by the parties and dated the ____ day of _____, 2022;
- (f) “**RDCO Bylaws**” means Regional District of Central Okanagan Bylaw No. 1427 Consolidated and appended hereto as Schedule B as amended, replaced or supplemented from time to time; and
- (g) “**Rent**” means the rental described in paragraph 5 herein.

2. **DEMISE**

In consideration of the rents, covenants, warranties and representations herein contained, the RDCO hereby leases the Leased Premises to UBC.

3. LICENCE

During the Term and while this Lease remains in force, the RDCO hereby grants UBC a license to use the Licensed Area for purposes that are ancillary to UBC's use of the Leased Premises pursuant to this Lease.

4. TERM

4.1. The term of this Lease shall be from and including July 1, 2022 to and including June 30, 2027 (the "Term").

4.2. Provided that UBC has performed all of its obligations pursuant to this Lease and pursuant to the MOU, and provided that the MOU is being extended by the RDCO and UBC, then UBC shall be entitled to two (2) further extensions of the Term for a further term of five (5) years each, in the same form and subject to the same covenants, provisos and agreements contained in this Lease except for this option to extend. To exercise its option to extend the Term, UBC shall provide written notice to the RDCO, given not later than ninety (90) days, but not sooner than one hundred and eighty (180) days, before the expiration of the Term.

5. RENT

5.1. The Rent shall be the total sum of \$1.00. UBC shall, upon execution of this Lease, prepay the Rent to the RDCO in its entirety. **UBC'S COVENANTS**

UBC covenants with the RDCO as follows:

- (a) To pay promptly all charges for gas, electricity, internet, cable, telephone service, fuel and any other utilities supplied to, used by or consumed in the Leased Premises;
- (b) To pay promptly the cost of garbage pickup for the Leased Premises;
- (c) To keep the Leased Premises and the Licensed Area in a neat and tidy condition and free from pests, insects and vermin and to provide UBC's own janitorial services for maintaining the condition of the Leased Premises;
- (d) Except for any repairs that are the responsibility of the RDCO as set out in this Lease, to keep and maintain in good repair the Leased Premises and all fixtures, fittings and improvements therein from time to time, including without limitation the replacement and repairs of all heating, plumbing, ventilation systems and appliances which costs individually are no more than \$2,500.00, except that UBC shall be responsible for such costs individually which exceed \$2,500.00 if such repairs or replacement are as a result of any negligence caused by UBC or UBC's invitees, or the failure of UBC to effect repairs as otherwise required in this paragraph 6;
- (e) The RDCO may enter and view the state of repair of the Leased Premises. UBC will repair according to notice; however, failure of the RDCO to give notice shall not relieve UBC from its obligation to keep and maintain the Leased Premises in good repair;
- (f) If UBC fails to repair in accordance with these provisions, the RDCO, its agents or employees may enter the Leased Premises and make the required repairs and for that

purpose the RDCO may bring and leave upon the Leased Premises all necessary tools, materials and equipment and the RDCO shall not be liable to UBC for inconvenience, annoyance or loss of business or any injury or damages suffered by UBC by reason of the RDCO effecting such repairs, unless caused by the negligence of the RDCO, and the cost of such repairs shall be borne by UBC, who shall pay such costs to the RDCO forthwith upon demand;

- (g) To keep the Leased Premises adequately heated to prevent damage from frost or freezing;
- (h) Not to allow any waste or damage, disfiguration or injury to the Leased Premises or the Licensed Area;
- (i) Not to allow on to the Leased Premises or the Licensed Area, any land fill, environmentally sensitive substances, P.C.B.'s, toxins or any other materials or substances which will or may materially affect the development, use or marketability of the Leased Premises or the Lands;
- (j) To notify the RDCO immediately if UBC becomes aware of any damage by fire or accident in the Leased Premises or any malfunctioning of any heating, electrical, plumbing, mechanical or ventilating system in the Buildings;
- (k) Not to make any substantial alterations or additions to the Leased Premises or the Licensed Area without obtaining the RDCO's prior written consent, such consent not to be unreasonably withheld or delayed;
- (l) UBC shall be responsible for any loss or damage whatsoever caused to the Leased Premises or the Licensed Area owing to the leakage or escape of any water, gas or other substance from any pipes, machinery or equipment used for the purposes of servicing the Leased Premises or the Licensed Area, or any machinery or equipment installed or put therein by UBC whatsoever;
- (m) To comply at its own expense with all the requirements of federal, provincial and municipal laws and by laws relating to the Leased Premises except for the following sections of the RDCO Bylaws which the parties agree shall not apply in relation to the Leased Premises: 3(a)(b), 4 (a), 6(e), 7, 9, 10(a), 9(a-n), 11 (a-i), 12 and Schedule A of Bylaw No. 1428 and any amendments, replacements or supplements to the RDCO Bylaws generally which are inconsistent with the rights granted to UBC under the terms of this Lease or the MOU;
- (n) Not to allow any liens to attach to the Lands;
- (o) To implement a double locking system on the gate so that each of UBC and RDCO can use their own key to open the gate without the participation of the other and RDCO's access to the Leased Premises or the Licensed Area shall be on the terms and conditions set out in this Lease. RDCO shall be responsible for the cost of the double-locking system;

- (p) To deliver up the Leased Premises and the Licensed Area upon the expiry of the Term, or any extensions thereof, or such other earlier termination of this Lease;
- (q) UBC further covenants that it will not, upon expiration of the Term or sooner termination of this Lease, leave upon the Leased Premises or the Licensed Area any rubbish or waste material and will leave the Leased Premises and the Licensed Area in a clean and tidy condition;
- (r) To indemnify and save harmless the RDCO from and against any and all actions, claims, costs, expenses, damages, losses or fines incurred or suffered by the RDCO by reason of:
 - (i) any breach, violation, non-observance or non-performance by UBC of any of UBC's obligations set out in this Lease;
 - (ii) damage or injury to persons or property arising from any acts or omission of UBC or any sub tenant, agent, contractor, employee, invitee or licensee of UBC;
 - (iii) the RDCO observing, performing, exercising or enforcing any covenant, agreement, right or remedy of the RDCO hereunder.

Notwithstanding any other provision in this Lease, the parties agree that UBC shall not be responsible for any loss, damage or breach of this Lease if such event occurs as a result of a person who is not an invitee or a person permitted by UBC to be on the Leased Premises or the Licensed Area, or is not someone for whom UBC is responsible in law.

- (s) To maintain the access road portion of the Licensed Area including snow removal;
- (t) To maintain the yard area of the Licensed Area including mowing, and yard cleanup, but excluding tree maintenance described in paragraph 7(f); and
- (u) To allow RDCO unrestricted access along the road which is part of the Licensed Area for RDCO's maintenance activities of the park, provided however;
 - (i) there shall be no public access to the road; and
 - (ii) RDCO's use of the road is reasonable and does not interfere with UBC's use and enjoyment of the Licensed Area.

7. LANDLORD'S COVENANTS

Subject to the terms and provisions of this Lease, the RDCO covenants with UBC as follows:

- (a) That provided UBC pays the Rent hereby reserved and observes and performs all UBC's obligations herein and subject to the other provisions herein contained UBC may peaceably possess and enjoy the Leased Premises and the Licensed Area for the Term;
- (b) To arrange for, at the RDCO's cost, any required structural repairs to the Buildings;

- (c) To arrange, at the RDCO's cost, for replacement and repairs of all heating, plumbing, ventilation systems and appliances which costs individually exceed \$2,500.00 unless such repairs or replacement are as a result of any negligence caused by UBC or UBC's invitees, or the failure of UBC to effect repairs as required in paragraph 6 of this Lease;
- (d) To pay when due all real property taxes levied on the Lands;
- (e) To erect signage around the perimeter of the Licensed Area where it borders on RDCO designated park land and at the beginning of the driveway which signage states "Private Residence". RDCO does hereby grant to UBC the right to erect signs on the Leased Premises or the Licensed Area as it sees fit which make clear that UBC has exclusive possession to the Leased Premises and the Licensed Area, and that anyone entering the Leased Premises or the Licensed Area without UBC's invitation or consent will be in trespass;
- (f) Agrees to enforce to the full extent of its authority any breach by any person of UBC's exclusive and quiet possession of the Leased Premises and the Licensed Area granted under this Lease; and
- (g) To perform all tree maintenance activities on the Lands on trees with a diameter of 150 mm or greater, and to provide pruning of plants on the Lands, once at spring flush if required.

8. LANDLORD INSURANCE

The RDCO covenants to effect and maintain property insurance on the Buildings and the Lands, for and against such insurable perils and in amounts for which a prudent landlord would protect itself but excluding all UBCs' fixtures, machinery, and equipment in the Buildings.

9. UBC INSURANCE

9.1. UBC covenants to purchase and maintain in force during the Term, insurance against those risks, in such forms and amounts as the RDCO may from time to time reasonably require, including, without limitation, the following: all risk property insurance on UBC's fixtures machinery and equipment in an amount of not less than the full replacement costs thereof;

- (b) commercial general liability insurance, including tenants' legal liability coverage, with limits not less than \$5,000,000.00 per occurrence;
- (c) UBC Commercial General Liability insurance will include RDCO as an Additional Insured, with respect to liability arising out of the use and occupancy of the Leased Premises and the Licensed Area by UBC or any sub-tenant, agent, contractor, employee, invitee or licensee of UBC.

9.2. UBC shall obtain from the insurers, undertakings to notify the RDCO in writing at least 30 days prior to any material change or cancellation thereof. UBC shall furnish the RDCO a certificate of insurance as evidence of the required coverage and shall provide written evidence of the continuation of such policies not less than 10 days prior to their expected expiry dates. The cost or premium for each and every such policy shall be paid by UBC. **NO EFFECT ON INSURANCE**

UBC covenants not to do or omit, or permit to be done or omitted, upon the Leased Premises or the Licensed Area, anything whereby any policy of insurance effected by the RDCO or UBC pursuant to this Lease may be invalidated, or the coverage thereunder reduced or the premium thereon may be increased.

11. USE OF LEASED PREMISES AND LICENCED AREA

11.1. UBC covenants to use the Leased Premises and the Licensed Area solely for the purposes described in the MOU. UBC may sublet any portion of the Leased Premises without obtaining the RDCO's prior written consent provided: The subtenant agrees to use such portion of the Leased Premises only for the purposes described in paragraph 11.1; The subtenant agrees to abide by the terms and conditions of this Lease, as applicable, and that the sublease is subject to the terms and conditions of this Lease; The term of such sublease shall not exceed the lesser of the Term or one (1) year in length; and UBC provides the RDCO with a copy of the executed written sublease. **ACCESS TO LEASED PREMISES TO REPAIR, ETC.**

The RDCO shall have the right at all reasonable times to enter on the Lands to effect repairs, alterations, improvements or additions to the Leased Premises, the Licensed Area or the Lands, or to preserve any of them from injury or damage. No such entry or work shall constitute an eviction of UBC.

13. LANDLORD MAY ENTER FORCIBLY

If UBC shall not be personally present to open and permit entry or does not permit entry to the Leased Premises at any time, when for any reason entry therein shall be necessary or permissible, the RDCO, its agents, employees or contractors may enter the Leased Premises by a master key or forcibly without rendering the RDCO or such agents, employees or contractors liable therefor and without in any manner affecting the obligations or covenants of UBC herein. The RDCO shall, however, prior to such forcible entry make reasonable efforts to contact and notify UBC.

14. NO REPRESENTATIONS

UBC agrees that no representation, warranties or conditions have been made other than those expressed herein, and that no agreement collateral hereto shall be binding upon the RDCO unless in writing and signed on behalf of the RDCO.

15. DAMAGE OR DESTRUCTION

If the Leased Premises are damaged by fire or other casualty, then:

- (a) the Rent, but not the Additional Costs, shall be abated in whole or in part in the proportion that the area of the non-useable portion of the Leased Premises is to the total Leased Premises until such damage is repaired;
- (b) if the Leased Premises are so damaged that they are not capable of being restored to normal usage within 60 days of the occurrence of such damage, the RDCO shall forthwith advise UBC in writing (the "**Damage Notice**") and following such notice, both the RDCO and UBC shall have the option of terminating this Lease by giving the other written notice within 15 days of the RDCO delivering the Damage Notice to UBC. If either party so terminates the Lease, UBC shall vacate the Leased Premises and the

Licensed Area, and surrender them to the RDCO as soon as reasonably possible and without further obligation to pay Rent accruing to the time after such termination but without affecting UBCs obligation to pay any outstanding Rent up to the time of such termination. If neither party terminates this Lease within the time provided herein, the RDCO shall promptly proceed to repair the Leased Premises to a standard equivalent to or superior to that which existed immediately before such damage.

16. DEFAULT OF UBC

If:

- (a) the Rent or any part thereof shall not be paid on the day appointed for payment whether lawfully demanded or not, and such non-payment shall continue for seven days;
- (b) there is breach or non-observance or non-performance of any of the obligations on the part of UBC to be kept, observed or performed, and such breach is not remedied or UBC has not commenced action to so remedy within 10 days of UBC's receipt of written notice of the breach,

then, and in every such case, it shall be lawful for RDCO without notice to terminate this Lease.

17. NON WAIVER

No condoning, excusing or overlooking by the RDCO of any default, breach or non-observance by UBC at any time or times in respect of any obligation of UBC herein contained shall operate as a waiver of the RDCO's rights hereunder in respect of any continuing or subsequent default, breach or non-observance.

18. PAYMENTS BY UBC

Without prejudice to any of the remedies of the RDCO herein, any money payable by UBC to the RDCO hereunder, other than the Rent, and without limiting the generality of the foregoing, including all money payable under paragraph 6 hereof, shall be deemed to be rent and shall be paid as additional rent and shall be collectable as rent and unless otherwise provided for in this Lease shall be payable either on demand or when stated herein to be due or if not so stated and arising from payments made by the RDCO, then the same shall be immediately due and be paid by UBC to the RDCO.

19. LANDLORD MAY CURE UBC'S DEFAULT

If UBC shall fail to perform or cause to be performed each and every of the obligations of UBC hereunder, the RDCO shall have the right (but shall not be obligated) to perform or cause to be performed the same and all payments, expenses, costs and levies incurred or paid by the RDCO in respect thereof shall be paid to the RDCO immediately on demand.

20. NOTICE AND PAYMENTS

Any notice required by this Lease shall be given to the RDCO at its address herein set out, and to UBC at the Leased Premises. The time of receipt of such notice shall be conclusively deemed to be the third business day after the day of mailing or if delivered by hand then when delivered. Provided that any

party may, by notice to the other, from time to time designate another address to which notices shall be addressed.

21. ENTIRE AGREEMENT

The provisions herein contained and the MOU and made between the parties shall constitute the entire agreement between the parties regarding the Lands and supersede all previous communications, representations, understandings, and agreements, whether verbal or written between the parties with respect to the subject matter hereof. In the event of any conflict or discrepancy between this lease and the Memorandum of Understanding, the terms of this Lease shall prevail.

22. HEADINGS

The headings to the paragraphs of this Lease are for convenience only and shall not constitute part of this Lease.

23. TIME

Time shall be of the essence of this Lease.

24. SUCCESSORS

All rights and liabilities herein given to or imposed upon, the respective parties hereto shall extend to and be binding on their respective heirs, executors, administrators, successors and permitted assigns.

25. INTERPRETATION

In this Lease, except where otherwise expressly provided or unless the contract otherwise requires, words importing the masculine gender include the feminine and neuter gender and vice versa and words in the singular include the plural and vice versa.

26. COUNTERPARTS/ELECTRONIC

This Lease and any certificate or other writing delivered in connection with this Lease may be executed in any number of counterparts and any party to this Lease may execute any counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts of this Lease or such other writing, as the case may be, taken together will be deemed to be one and the same instrument. The execution of this Lease or any other writing by any party will not become effective until all counterparts, as the case may be, have been executed by all the parties to this Lease. A copy of this Lease delivered by facsimile or other electronic means and bearing a copy of the signature of a party to this Lease shall for all purposes be treated and accepted as an original copy thereof.

27. TERMINATION

This Lease:

- (a) will automatically terminate if the MOU is terminated or expires without extension; and

- (b) may be terminated by either party on not less than 90 days' notice to the other provided the date of termination of such notice is coincident with the end of the then current tenancies of any sub-leases which comply with paragraph 11.2 of this Lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set out above.

REGIONAL DISTRICT OF CENTRAL OKANAGAN

By: _____
Name:
Title:

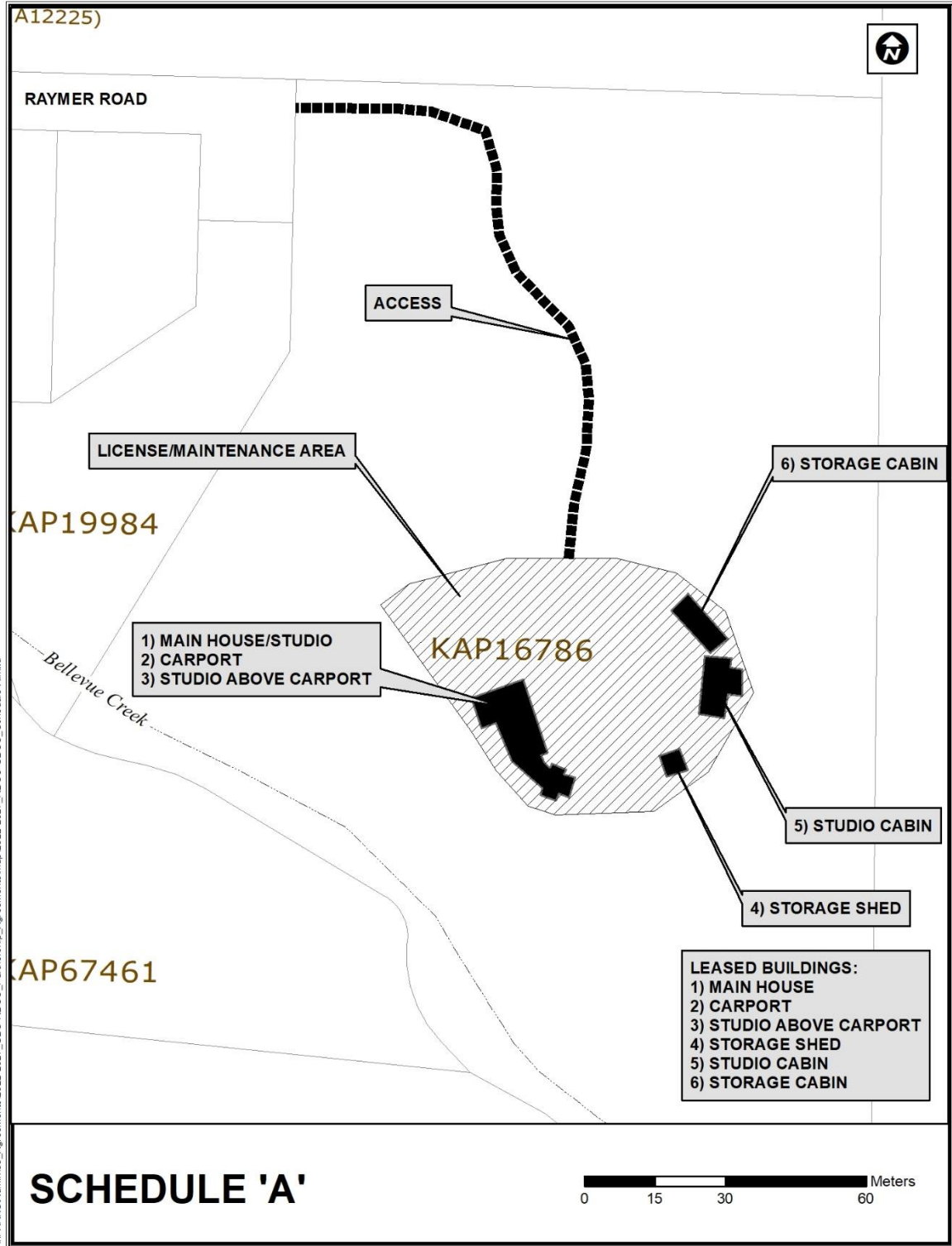
By: _____
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THE UNIVERSITY OF BRITISH COLUMBIA

By: _____
Name:
Title:

By: _____
Name:
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SCHEDULE A



SCHEDULE B

“attached”