

Part 2 Lease (to be attached to Form C and registered once strata lots forming shared space are known. The Strata plan will effectively be the plan of the space, unless the shared space does not line up with a discreet strata lot, in which case there will be a plan of the space)

THIS LEASE made as of the ____ day of _____ 2011.

BETWEEN:

Sea to Sky Community Services Society
(the “Society”)

OF THE FIRST PART

AND:

Trustees of the Congregation of the Squamish United Church
In Trust, Under the Provisions of the United Church of Canada Act,
Statutes of Canada 1924, C. 100 and Statutes of British Columbia C. 50

(the “Church”)

OF THE SECOND PART

WHEREAS

A. The parties have worked together to develop the complex containing the Lands with a view to sharing the use and occupancy of the premises legally known and described as:

Strata Lots ____ and ____, (balance of legal descriptions to be inserted)

(collectively known as the “Lands”)

B. The parties intend for the Society to enter this Lease of the Lands to the Church on terms set out in this Lease;

C. The parties intend to fully cooperate in the operation and maintenance of the Lands;

WITNESSES THAT, in consideration of the conditions, covenants and Leases set forth herein, the parties covenant and agree as follows:

1. TERM

1.1 The Term of this Lease shall commence on the date of registration of it in the Land Title Office and shall end 99 years following such registration.

2. OWNERSHIP

2.1 The parties acknowledge and agree that the Society is the legal and beneficial owner of the Lands.

2.2. The parties further acknowledge and agree that the Society shall be the legal and beneficial owner of all equipment, supplies, goods and chattels in the Lands which may be installed or supplied by it other than those from time to time installed or supplied by the Church at its cost and expense.

2.3 If either party shall place additional equipment, supplies, goods or chattels in the Lands during the term of this Lease that party shall notify the other party in writing of sufficient particulars of the equipment, supplies, goods or chattels to permit identification.

3. DEMISE

3.1 The Society hereby demises the Lands to the Church for the Term on a non-exclusive basis to share use and occupancy with the Society on the terms set out in this Lease relating to management, use and occupancy.

4. RENT

4.1 The parties agree that rents of \$1.00 for the entire Term have been paid by the Church to the Society and that there will be no additional rents or charges payable by the Church during the Term, except as otherwise set out herein.

5. MANAGEMENT

5.1 The parties shall establish a Joint Use Committee (the Committee) which will consist of and be appointed as follows:

- a) two representatives of the Society or their designates; and
- b) two representatives of the Church or their designates;

5.2 The Committee shall appoint from their members a chairperson and secretary.

5.3. The Committee shall meet at the call of the chair and shall meet at least four (4) times per year.

5.4 The Committee shall be responsible to the Church and the Society in carrying out the following duties:

- a) implementing the terms of this Lease and coordinating all matters relating thereto;
- b) recommending for approval by the Church and the Society, policies and regulations for the use of the Lands;
- c) recommending a method of resolution of any dispute arising out of this Lease;

5.5 The day to day operation of the Lands shall be managed by an Operating Group composed of the Chief Executive Officer of the Society or designate and the Minister of the Church or designate.

5.6 Not later than ten (10) days prior to the end of each month, the Operating Group,

utilizing the guidelines in this Lease and such other guidelines and regulations as are developed by the Committee, shall provide to each of the parties, a Schedule showing the use of the Lands for the next three (3) months.

6. USE OF THE LANDS

6.1 The following guidelines shall be used in Scheduling activities in the Lands.

- a) the Society shall have prior, but not exclusive, right to use the Lands for its activities from 8 am to 5 p.m. on Monday through Friday.
- b) the Church shall have the prior, but not exclusive, right to use the Lands for its activities the balance of the week.
- c) third party users of the Lands must be approved by the Operating Group and once approved, may not be displaced by the prior rights of the Society or Church pursuant to a) and b).

6.2 All bookings for use of the Lands shall be made through the Society office.

6.3 Both parties agree to exercising reasonable best efforts to accommodate the other parties booking needs during the times when the other has priority usage pursuant to 6.1.

6.4 Rental rates to third users shall be to the account of the Society. The Society shall only charge non-profit groups the rates approved by the Committee from time to time in the policy on rental rates.

6.5 The Lands may only be used in compliance with the section 219 Covenant registered on title with respect to allowable usage.

6.6 The Church shall pay for extraordinary janitorial costs associated with their own event usage of the Lands.

6.7 The Church shall not sublet the Lands. The Church shall refer all third party users to the Operating Group for direct booking of the Lands pursuant to 6.1 (c).

7. ACCESS

7.1 The Society shall allow the Church, its employees, invitees and licensees, to enter, use, and exit the Lands through the stipulated entrance thereto subject to such rights being exercised in a reasonable and usual manner. It is understood between the parties that the Church's access may be temporarily interrupted as a result of construction or repair of the facilities.

8. MAINTENANCE AND REPAIRS

8.1 The Society agrees to provide the Lands, to the extent considered necessary by the Society, with janitorial services, light, heat, power, water, fuel and any other services for the operation and maintenance of the Lands excluding those services and the servicing of that equipment which are the responsibility of the Church, if any.

8.2 The Society shall maintain the Lands in good operating condition and repair and free of hazards to persons using the Lands.

8.3 The Society shall ensure that all visible portions of the Lands are kept presentable, properly maintained and otherwise of good appearance.

8.4 Any major repairs, upgrading or replacement as defined in paragraph 8.5 relating to the Lands that are contemplated by the Society will be discussed and agreed upon between the parties prior to commencement of such work.

8.5 The Church and the Society agree that any repair, upgrading or replacement which is estimated to cost Five Thousand (\$5,000.00) or more or which will have an effect on the operation of the Lands shall constitute a major repair upgrading or replacement. The amount in this paragraph shall be as of January 1, 2011 and shall increase in accordance with changes to the Core Consumer Price Index.

9. INSURANCE AND INDEMNITIES

9.1 The Church shall maintain at its sole cost and expense comprehensive general liability insurance in the amount of not less than 5 Million Dollars, or such other amount set by Committee policy, reviewed annually, against claims for personal injury and death arising out of the use or occupation of the Lands by the Church or groups authorized by it. The Church shall also maintain at its sole cost and expense insurance on its equipment, fixtures, chattels and other property in the Lands owned by the Church.

9.2 The Church agrees to provide copies of its insurance policies to the Society and proof of new or continued insurance to the Society at least fifteen (15) days prior to the expiration date stated in each policy, and as soon as practicable thereafter to deliver to the Society copies of the original or renewal policies for which proof was tendered.

9.3 The Society shall maintain at its sole cost and expense comprehensive general liability insurance in the amount of not less than 5 Million Dollars, or such other amount set by Committee policy, reviewed annually, against claims for personal injury and death arising out of the use or occupation of the Lands by the Society or groups authorized by it. The Society shall also maintain at its sole cost and expense insurance on its equipment, fixtures, chattels and other property in the Lands owned by the Society.

9.4 The Society agrees to provide copies of its insurance policies to the Church and proof of new or continued insurance to the Church at least fifteen (15) days prior to the expiration date stated in each policy, and as soon as practicable thereafter to deliver to the Church copies of the original or renewal policies for which proof was tendered.

9.5 The Society acknowledges and agrees that the Church shall not be liable or responsible in any way to the Society or to any other person for any injury, loss or damage resulting or arising from any occurrence in, upon, or relating to the Lands or any party thereof or any loss or damage to property (including loss of use thereof) of the Society or any other person located in the Lands or any

part thereof resulting from any default, negligence, act or omission of the Society, or its agents, servants, invitees, employees or any other person for whom the Society is in law responsible. For the purposes of this Paragraph, the Society will not be deemed to be responsible in law for the Church, its agents, servants, invitees, employees or any other person for whom the Church is in law responsible.

9.6 The Church acknowledges and agrees that the Society shall not be liable or responsible in any way to the Municipality or to any other person for any injury, loss or damage resulting or arising from any occurrence in, upon, or relating to the Lands or any party thereof or any loss resulting from any default, negligence, act or omission of the Church, or its agents, servants, invitees, employees or any other person for whom the Church is in law responsible. For the purposes of this Paragraph, the Church will not be deemed to be responsible in law for the Society, its agents, servants, invitees, employees or any other person for whom the Society is in law responsible.

9.7 The Society agrees to indemnify and save harmless the Church, its officers, employees and agents from and against any and all claims, losses, damages, costs, expenses incurred by or asserted against the Church which may be directly or indirectly connected with or arise out of the Society's operation and maintenance of the Lands, or which may arise from activities carried out by or sponsored by the Society in the Lands, and against any injury, loss or damage to property or persons for which the Society has agreed to insure pursuant to this Lease, except as provided in paragraph 9.5.

9.8 The Church agrees to indemnify and save harmless the Society and its officers, employees and agents from and against any and all claims, losses, damages, costs and expense incurred by or asserted against the Society which may be directly or indirectly connected with or arise out of activities carried out by the Church or any person permitted or sponsored by the Church in the Lands and against injury, loss or damage to property or persons for which the Church has agreed to insure pursuant to this Lease, except as provided for in paragraph 9.6.

10. DESTRUCTION

10.1 In the event the Lands are substantially destroyed or damaged by fire or other causes

then, if the strata corporation of which the Lands are part of decides not to rebuild, then the Society shall pay one half of the net insurance proceeds relating to the Lands' share of the entire net insurance proceeds to the Church.

11. AUTHORITY

11.1 The Society represents and warrants that it has full authority to enter into this Lease and to carry out the actions contemplated herein.

11.2 The Church represents and warrants that it has full authority to enter into this Lease and to carry out the actions contemplated herein.

12. DISPUTE RESOLUTION The parties shall always first exercise best efforts to resolve any dispute in good faith, failing which the following provisions shall apply:

12.1 Mediation and Arbitration Required. Any dispute between the Parties which touches upon the validity, construction, meaning, performance, or effect of this Agreement or the rights and liabilities of the Parties or any matter arising out of or connected with this Agreement shall be subject to mediation. If the Parties fail to resolve their dispute at mediation, the dispute shall be subject to arbitration under the *Commercial Arbitration Act*, R.S.B.C. 1996, c. 55, or any legislation in substitution therefore, and as provided in this Article.

12.2 Requiring Mediation. The Party desiring mediation shall nominate mediator and shall notify the other Party of such nomination. Such notice shall set forth a brief description of the matter submitted for mediation and, if appropriate, the clause of the Agreement under which such matter is so submitted. Such other Party shall within 15 Business Days after receiving such notice, either accept the nominated mediator or nominate its own mediator. The mediator with the first availability shall be appointed the mediator for the dispute.

- 12.3 Mediation Location.** The mediation shall take place in the District of Squamish or such place as the mediator decides, and the time and place in the District of Squamish so determined shall also be fixed by the mediator for the purpose of hearing such evidence and representations as either of the Parties may present.
- 12.4 Mediation Costs.** The cost of the mediation shall be borne equally by the Parties.
- 12.5 Arbitration Required if Mediation Fails.** If the Parties fail to resolve the dispute at the mediation each Party shall nominate one arbitrator and shall notify the other Party of such nomination. Such notice shall set forth a brief description of the matter submitted for arbitration and, if appropriate, the clause of the Lease under which such matter is so submitted. Such other Party shall within 15 Business Days after receiving such notice nominate an arbitrator, and the two arbitrators shall select a chairman of the arbitral tribunal to act jointly with them. If the arbitrators are unable to agree in the selection of a chairman, the chairman shall be designated by the President of the Arbitrators' Institute of Canada.
- 12.6 Arbitration Location.** The arbitration shall take place in the District of Squamish or such place as the chairman decides, and the time and place in the District of Squamish so determined shall also be fixed by the chairman for the purpose of hearing such evidence and representations as either of the Parties may present. The arbitrators and the chairman shall, after hearing any evidence and representations that the Parties may submit, make their decision and reduce the same in writing and deliver one copy thereof to each of the Parties. The majority of the chairman and arbitrators may determine any matters of procedure for the arbitration not specified herein.
- 12.7 Single Arbitrator if No Reply.** If the Party receiving the notice of the nomination of an arbitrator by the Party desiring arbitration fails within the said 15 Business Days to nominate an arbitrator, then the arbitrator nominated by the Party desiring arbitration may proceed alone to determine the dispute in such manner and at such time as he shall think fit and his decision, subject to the provisions hereof, shall be binding upon the Parties.
- 12.8 Single Arbitrator by Consent.** Notwithstanding the foregoing, any arbitration may be carried

out by a single arbitrator if the Parties so agree, in which event the provisions of this Article 8 shall apply, *mutatis mutandis*.

12.9 Arbitration Costs. The cost of the arbitration shall be borne by the Parties as may be specified in such determination.

12.10 Arbitration Decision Final. The judgment upon the award rendered in any such arbitration shall be final and binding upon the Parties and may be entered in any court having jurisdiction thereof.

13. FORCE MAJEURE

13.1 The time for performance by the parties hereof of their respective obligations under this Lease shall be subject to force majeure and the time for performance of any such obligation shall be extended by the length of time during which a party is prevented from performing such an obligation by force majeure.

13.2 The parties hereto shall notify each other promptly of the commencement, duration and cause, so far as the same is within knowledge of the parties hereto, of any force majeure which will in any way affect the performance of the obligations of such party under this Lease.

13.3 The term “force majeure” as used herein means any prevention, delay, stoppage or interruption due to any condition or cause beyond the reasonable control of the party obligated to perform including, without limiting the generality of the foregoing, strikes, lock-outs, labour disputes, act of God, civil commotion, war (whether declared or not), expropriation, fire or other casualty.

14. GENERAL

14.1 Any operation decision, consultation, approval or similar matter or process required hereunder may be made, given, or undertaken by the Chief Executive Officer in the case of the Society or designate, and the Minister or designate in the case of the Church.

14.2 The parties each agree to execute and deliver all such further documents and assurances and to do and perform all such further acts and things as may be reasonably required to carry out the terms and conditions of this Lease.

14.3. Notwithstanding any statute or rule of law to the contrary nothing in this Lease or the relationship between the Society and the Church creates or is intended to create any relationship of partnership, trust or co-ownership between the parties.

14.4 This Lease contains the entire Lease between the parties with respect to the management, operation and maintenance of the Lands and supersedes all previous communications or Leases, whether written or oral.

14.5 There are no representations, warranties or covenants given or intended to be given by either of the parties hereto except as expressly contained in this Lease.

14.6 This Lease shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns but may not be assigned by either party without the prior written consent of the other party.

14.7 Should any part of this Lease be declared or held to be invalid for any such reason, such invalidity shall not affect the validity of the remainder which shall continue in force and effect and be construed as if this Lease had been executed without the invalid portion.

14.8 **Good Faith.** Both Parties agree to act honestly and in good faith and in the best interest of the Lands and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise as in such a contractual arrangement for the Lands in comparable circumstances.

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