

**CITY OF BURNABY**

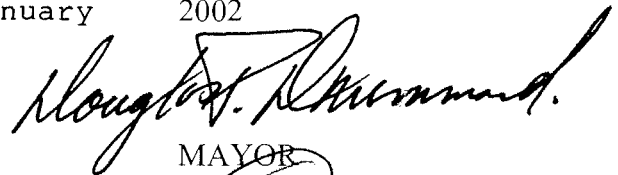
**BYLAW NO. 11333**

A BYLAW to authorize the granting of a lease of certain  
City owned property to the Sanctuary Foundation

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY LEASE AUTHORIZATION BYLAW NO. 3, 2001.**
2. The Council is hereby authorized and empowered to lease City owned property at 6875 Royal Oak Avenue legally described as Parcel Identifier 024-583-022 - Parcel 2, District Lot 98, Group 1, New Westminster District, Reference Plan LMP43130 to the Sanctuary Foundation upon the terms and conditions in the form of lease attached hereto as Schedule "A" (hereinafter called the "said lease").
3. The City Clerk is hereby authorized and empowered to execute the said lease, signing the same and affixing the corporate seal thereto.

Read a first time this	18 <sup>th</sup>	day of	December	2001
Read a second time this	18 <sup>th</sup>	day of	December	2001
Read a third time this	18 <sup>th</sup>	day of	December	2001
Reconsidered and adopted this	7 <sup>th</sup>	day of	January	2002



MAYOR



CLERK



SCHEDULE "A"

THIS AGREEMENT made this            day of            2001.

BETWEEN:

**CITY OF BURNABY**  
4949 Canada Way  
Burnaby, B.C. V5G 1M2

(hereinafter called the "Lessor")

OF THE FIRST PART

AND:

**SANCTUARY FOUNDATION**  
a Society duly incorporated under the laws of the  
Province of British Columbia and having an office at  
#34 - 6<sup>th</sup> Street, New Westminster, B.C. V3L 2Y8

(hereinafter called the "Lessee")

OF THE SECOND PART

WHEREAS the Lessor is the registered owner in fee simple of property situate at 6875 and 6879 Royal Oak Avenue, in the City of Burnaby in the Province of British Columbia, legally described as:

Parcel Identifier: 024-583-022  
Parcel 2 District Lot 98 Group 1  
New Westminster District Ref. Plan LMP43130

(hereinafter called the "Lands") together with the building and other improvements located thereon (hereinafter called the "Building");

AND WHEREAS the Lessee has submitted a proposal to operate the Lands and Building as a centre for training young persons in bicycle and ski repairs, web page development, and life skills and to use the Lands and Building for related warehousing purposes;

AND WHEREAS the Lessor has agreed to lease to the Lessee the Lands and the Building in order that the Lessee may occupy and enjoy the Lands and the Building upon and subject to the conditions herein contained;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee to be paid, observed and performed, the Lessor doth hereby demise and lease unto the Lessee and the Lessee does hereby take and rent upon and subject to the conditions hereinafter expressed, the Lands and the Building.

TO HAVE AND TO HOLD the Lands and the Building for and during the term of five (5) years (hereinafter called the "Term") commencing on the 1<sup>st</sup> day of January, 2002 (hereinafter called the "Commencement Date") and ending on the 31<sup>st</sup> day of December, 2006.

YIELDING AND PAYING to the Lessor, Rent (as hereinafter defined) as provided herein.

This Lease is made upon and subject to the following covenants and conditions and the parties agree to keep, observe and perform same to the extent that they are binding or expressed to be binding upon them.

**ARTICLE I**  
**INTERPRETATION**

**Clause 1.01 Reference**

The words "herein", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular article, clause or subclause thereof unless the contrary is expressly provided.

**ARTICLE II**  
**RENT**

**Clause 2.01 Definition of Rent**

For the purposes of this Lease, the term "Rent" shall mean all rents payable under clauses 2.02 and 2.03 and any other sums expressed as being payable or collectible as rent under the terms of this Lease. The Lessee shall pay any and all goods and services taxes or other taxes payable on Rent.

**Clause 2.02 Payment of Base Rent**

The Lessee shall pay to the Lessor as base rent

- (a) during the first year of the Term the sum of \$28,145.48 payable as follows:

January 1, 2002	-	\$0
February 1, 2002	-	\$600
March 1, 2002	-	\$1,200
April 1, 2002	-	\$1,800
May 1, 2002	-	\$2,400
June 1, 2002	-	\$3,163.64
July 1, 2002	-	\$3,163.64
August 1, 2002	-	\$3,163.64
September 1, 2002	-	\$3,163.64
October 1, 2002	-	\$3,163.64
November 1, 2002	-	\$3,163.64
December 1, 2002	-	\$3,163.64

- (b) during the second year of the Term the sum of \$39,043.68 by way of equal consecutive monthly instalments of \$3,253.64 payable on the first day of each month commencing January 1, 2003;
- (c) during the third year of the Term the sum of \$40,156.08 by way of equal consecutive monthly instalments of \$3,346.34 payable on the first day of each month commencing January 1, 2004;
- (d) during the fourth year of the Term the sum of \$41,301.85 by way of equal consecutive monthly instalments of \$3,441.82 payable on the first day of each month commencing January 1, 2005;
- (e) during the fifth year of the Term the sum of \$42,482.00 by way of equal consecutive monthly instalments of \$3,540.17 payable on the first day of each month commencing January 1, 2006;

**Clause 2.03 Payment of Taxes**

The Lessee shall pay to the Lessor as additional rent during the Term and any renewals all taxes, rates, charges, assessments, including school taxes, local improvement rates and other charges which now are or shall or may hereafter be levied, rated, charged, or assessed against the Lands or Building or any other structures or improvements thereon or any machinery, equipment or facilities thereon or therein, by any municipal, parliamentary, regional, school or other authority. In the event that any such taxes, rates, charges or assessments are not levied, rated, charged or assessed by virtue of the Lessor's ownership of the Lands or Building the Lessee shall pay as additional rent the monetary equivalent of such taxes, rates, charges or assessments as if they had been officially and formally levied, rated, charged or assessed.

If requested by the Lessor, the Lessee shall pay the additional rent to the Lessor in advance in equal monthly instalments equal to one-twelfth (1/12th) of the annual additional rent on the first day of each month during the Term and any renewals.

The Lessor may estimate the additional rent payable under this clause in advance in which case any necessary adjustment shall be made between the parties as soon as the actual amount of additional rent is known.

**Clause 2.04 Net Lease**

All Rent and all other amounts due and payable hereunder by the Lessee to the Lessor shall be paid without any deduction, abatement or set-off whatsoever, it being the intention of this Lease that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Building and any other improvements on the Lands or for any other matter or thing affecting the Lands, shall (unless otherwise expressly stipulated herein to the contrary), be borne by the Lessee.

**Clause 2.05 Place of Payment**

The Rent and all such other amounts as shall become due and payable hereunder by the Lessee to the Lessor shall be paid by the Lessee without prior demand therefor at the office of the Lessor as specified in clause 16.01 herein or at such other place as the Lessor may from time to time designate in writing.

**Clause 2.06 Collection of Other Amounts Due**

Any sums, costs, expenses or other moneys from time to time due and payable by the Lessee to the Lessor under the provisions of this Lease, including sums payable by way of indemnity and whether expressed to be Rent or not in this Lease, may at the option of the Lessor be treated as and deemed to be Rent, in which event the Lessor shall have all the remedies for the collections of such sums, costs, expenses or other amounts, when in arrears, as are available to the Lessor for the collection of rent in arrears.

**Clause 2.07 Interest on Amounts in Arrears**

When the Rent or any other amount payable hereunder by the Lessee to the Lessor shall be in arrears, such amount shall bear interest at the rate of three per cent (3%) per annum above the highest prime commercial lending rate of the Bank of Montreal carrying on business in the City of Vancouver, Province of British Columbia, until paid, and the Lessor shall have all the remedies for the collection of such interest, if unpaid after demand, as in the case of rent in arrears, but this stipulation for interest shall not prejudice or affect any other remedy of the Lessor under this Lease. The Lessee shall pay a \$20.00 administration charge on any NSF cheque.

**ARTICLE III**  
**PAYMENT OF OTHER CHARGES**

**Clause 3.01 Payment for Utility Services**

The Lessee covenants with the Lessor to pay or cause to be paid when due all charges for gas, electricity, light, heat, power, telephone, water, waste and garbage removal and other utilities and services used in or supplied to the Lands and the Building throughout the Term and to indemnify and keep indemnified the Lessor from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges, and any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor may be collected by the Lessor as Rent with all rights of distress and otherwise as reserved to the Lessor in respect of rent in arrears.

**Clause 3.02 Business Tax and Licence Fees**

The Lessee covenants with the Lessor to pay or cause to be paid when due every tax and permit and licence fee in respect of the Lessee's activities carried on upon or in the Lands, or the Building.

**ARTICLE IV**  
**USE OF LANDS AND BUILDINGS**

**Clause 4.01 Laws and Bylaws**

The Lessee covenants to promptly and faithfully observe and comply with all laws, bylaws, regulations, statutes and lawful orders which touch and concern the Lands and the Building or the Lessee's activities within and upon the Lands and the Building.

**Clause 4.02 Lessee's Purposes**

It is a condition of this Lease and the Lessee agrees that the Building and the Lands shall only be used for the purpose of operating a centre for training young persons in bicycle and ski repairs, web page development, and life skills and for related warehousing purposes.

**Clause 4.03 Conditions of Operation**

It is a condition of this Lease and the Lessee agrees that it shall not allow, permit or authorize any illegal act or offence on the Lands or in the Building.

**Clause 4.04 Lessee's Renovation Program**

It is a condition of this Lease and the Lessee agrees that the Lessee shall forthwith undertake at its own expense the renovation of the Building and Lands to adapt them for the use specified in clause 4.02 (hereinafter called the "Lessee's Work"). The Lessee shall obtain all necessary permits, licences and approvals to carry out such works. Save and except as aforesaid the Lessee shall not build, erect, construct, place, maintain or cause, suffer or permit to be built, erected, constructed, placed or maintained any alterations in the structure, plan or partitioning of the Building



and the Lessee shall not install any plumbing, piping, wiring or heating apparatus or equipment without the prior written approval of the Lessor to the plans and specifications for such work and the Lessee agrees to strictly adhere to such plans and specifications wholly at its own expense.

**Clause 4.05 Requirements after Performance of the Work**

The Lessee shall, upon completion of the Lessee's Work and if and when requested by the Lessor provide the Lessor with a statutory declaration (hereinafter called the "Declaration"):

- (a) stating that the Lessee's Work has been performed in accordance with all of the provisions of the plans and specifications and that all deficiencies (if any) which the Lessor has brought to the Lessee's attention have been corrected;
- (b) stating that there are no builders' liens, worker's compensation liens or other liens or encumbrances affecting the Building or the Lands in respect of work, compensation, services or materials relating to the Lessee's Work and that all accounts for work, compensation, services and materials have been paid in full with respect to all of the Lessee's Work; and
- (c) confirming the date on which the last such work was performed and materials were supplied.

**Clause 4.06 Early Occupancy by Lessee**

In the event that the Lessor permits the Lessee to take possession of the Lands and Building prior to the commencement of the Term (including any period of time which the Lessee is given to construct and install its tenant improvements), and whether exclusively or in common with the Lessor and its servants, agents, employees, contractors and sub-contractors, the Lessee shall be bound by all of the provisions of this Lease except its obligation to pay Rent.

**ARTICLE V**  
**INSURANCE**

**Clause 5.01 Third Party Insurance**

At all times during the Term and any other times that it is in possession of the Lands and Building the Lessee shall obtain and maintain, at the Lessee's cost and expense, with an insurance company authorized and licenced to carry on business and having an office in British Columbia and in a policy of insurance acceptable to and approved in writing by the Lessor, the following insurance:

(a) Comprehensive General Liability

Comprehensive general liability insurance, including non-owned automobile liability insurance, against claims arising out of bodily injury and/or death to persons and from loss or damage to, or destruction of the property of others (including the property of the Lessor) and for loss of use thereof, indemnifying and protecting the Lessor and the Lessee for the minimum limits set forth below. The said comprehensive general liability insurance shall apply to all operations of the Lessee of every kind and description pertaining in any way to the Lessee's operations on the Lands and in the Building, ("the Lessee's operations") and without limiting the foregoing, shall agree to pay all sums which it may become liable to pay, by reason of liability imposed by law or assumed under any agreement relating to the Lessee's operations for bodily injury or death to persons and property damage (including property of the Lessor), including loss of use thereof, arising out of the use and/or occupancy of the Building, all operations of every kind and description, including those of subcontractors, non-owned automobiles, use and/or consumption of products. The minimum limits referred to above are:

Bodily injury to or death of any one person in any one occurrence	\$5,000,000.00
Bodily injury to or death of two or more persons in any one occurrence	\$5,000,000.00

Loss or damage to property, including loss of use thereof in any one occurrence	\$5,000,000.00
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The said minimum limits may, on a reasonable basis, be changed or amended from time to time by the Lessor.

The said liability policy shall bear an endorsement to the effect that the Lessor is added as a named insured on the policy and that a cross-liability clause is in effect protecting the rights and interests of the named insureds as if a separate policy had been issued in respect of each. Each such policy shall provide that no cancellation, expiration or material change in the policy shall become effective until after thirty (30) days' notice of such cancellation, expiration or change shall have been given to the Lessor by return registered mail, and the Lessee will at the time of execution of this Lease file with the Lessor certified copies of all such policy or policies of insurance and the receipts for payment of premiums therein, and should the Lessee neglect so to obtain and/or maintain in force any such insurance as aforesaid or deliver such policy or policies and receipts to the Lessor then it shall be lawful for the Lessor to obtain and/or maintain such insurance and the Lessee hereby appoints the Lessor its true and lawful attorney to do all things necessary for this purpose. All moneys expended by the Lessor for insurance premiums under the provisions of this clause shall be charged to the Lessee and may be collected by the Lessor as Rent with all the rights of distress and otherwise as reserved to the Lessor in respect of rent in arrears.

**Clause 5.02 Fire Insurance**

At all times during the Term and any other times that is in possession of the Lands and Building the Lessee shall, at its own cost and expense, insure and keep insured or cause to be insured and kept insured the Building in an amount satisfactory to the Lessor in one or more companies entitled to do business in the Province of British Columbia against loss or damage by fire and other perils now or hereafter from time to time embraced by or defined in the "all risks" building form of insurance coverage applicable to similar properties as the Lands and the Building in effect in the Province of British Columbia by prudent owners from time to time including, without restricting the generality of the foregoing, the hazards of lightning, flood, earthquake, explosions,

wind storm, cyclone, tornado, hail, riot, civil commotion, malicious damage, aircraft, smoke and vehicle damage, to the extent that insurance against such risk or peril, or any of them, may be obtained in an amount equal to the full replacement value thereof, and the Lessee agrees with the Lessor at the Lessee's expense to insure and keep insured the Building against all other risks required to be insured against under the provisions of any mortgage to the extent that insurance against such risk or perils or any of them may be obtained.

**Clause 5.03 Contamination Insurance**

At all times during the Term and any other times that is in possession of the Lands and Buildings the Lessee shall, at its own cost and expense maintain insurance against loss, damage or costs arising out of the contamination of the Lands during the Lessee's occupation thereof in a form approved by the Lessor in an amount of not less than \$500,000. The Lessee covenants to notify its insurer of any occurrence or event of contamination of the Lands within 72 hours of such occurrence or event.

**Clause 5.04 Identity of Insured**

Any and all policies of insurance required to be maintained by the Lessee hereunder shall be written in the names of the Lessee and the Lessor as the insureds. Each policy of insurance shall contain a provision or shall bear an endorsement that the insurer will not cancel such policy without first giving the Lessor at least thirty (30) days' notice in writing of its intention to cancel.

**Clause 5.05 Payment of Insurance Premiums**

The Lessee shall pay all the premiums under the policies of insurance referred to in this Article V as they become due and payable and in default of payment by the Lessee the Lessor may pay same and the Lessee shall forthwith reimburse the Lessor such sums which shall be deemed to be Rent and as such the Lessor may collect same as rent in arrears and shall have all rights of distress and otherwise for the collection of same.

**Clause 5.06 Copies of Insurance Policies**

Certified copies of all policies of insurance referred to in this Article V shall be

delivered to the Lessor accompanied by evidence satisfactory to the Lessor that the premiums therein have been paid.

**Clause 5.07 Waivers of Subrogation**

All insurance policies herein shall contain a waiver or waivers of subrogation against the Lessor.

**ARTICLE VI**  
**REPAIRS AND MAINTENANCE**

**Clause 6.01 Removal of Ice and Snow from Sidewalks**

The Lessee shall keep the driveways and sidewalks on the Lands and adjacent thereto free from ice and snow, and failing that, the Lessor, although not obliged to do so, may, through its agents, servants, contractors and subcontractors, remove such ice and snow at the expense of the Lessee but without notice to the Lessee.

**Clause 6.02 Repair of Building**

The Lessee shall, except as provided in clause 14.02, put and keep the Lands and the Building in a clean and sanitary condition and in good and substantial repair as would a reasonable and prudent owner of same. Without limiting the foregoing, the Lessee shall repaint the interior of the building from time to time as would a prudent owner. The Lessee shall maintain the exterior motion detector lights. The Lessee shall repair any damage to the Building or Lands caused by the negligent or willful acts of itself, its employees, invitees or clients, or any individual associated with such invitees or clients. The Lessee shall observe all health regulations and take any necessary measures for the extermination and control of pests, vermin and infestations. The Lessor may enter and view the state of cleanliness and repair and the Lessee agrees to clean, repair and maintain upon reasonable notice subject to Article VII hereof.

**Clause 6.03 Inspection of the Lands and Buildings**

The Lessor and its or their employees, agents or independent contractors may at all reasonable times during the Term and any renewals enter into and upon the Lands and Building to examine the condition thereof.

**Clause 6.04 Failure to Maintain**

If the Lessee fails to clean, maintain or to repair or to keep the Lands or Building in repair as provided for in or by virtue of this Lease, the Lessor or its employees, agents or independent contractors may at the option of the Lessor enter into and upon the Lands and the Building and execute such cleaning, maintenance and repairs and the costs and expenses incurred in effecting such work will be a debt due from the Lessee to the Lessor and will be forthwith recoverable by the Lessor and may be collected by the Lessor as Rent with all the rights of distress and otherwise as reserved to the Lessor in respect of rent in arrears.

**Clause 6.05 Condition of the Lands**

Without limiting the generality of the foregoing, the Lessee shall at the Lessee's cost and expense, to the satisfaction of the Lessor:

- (a) maintain the grounds of the Lands in a neat and tidy state and condition and the Lessee shall attend to landscaping and the horticultural maintenance of the grounds, including but not limited to mowing grass, edge trimming, planting and care of flower beds and shrubs, clean up of leaves, watering and fertilizing;
- (b) maintain any fences, parking lot and driveway located on the Lands.

**Clause 6.06 Unavoidable Delays**

If, by reason of strike, lockout or other labour dispute, material or labour shortage not within the control of the Lessee, fire or explosion, flood, wind, water, earthquake, act of God or other similar circumstances beyond the reasonable control of the Lessee and not avoidable by the exercise of reasonable foresight by the Lessee, the Lessee is, in good faith and without default or neglect on its part, prevented or delayed in the commencement of renovations or completion of renovations or repair of the Building which under the terms of this Lease the Lessee is required to do by a specified date or within a specified time, the date or period of time in which the work was to have been completed shall be extended by the Lessor by a reasonable period at least equal to that of such delay or prevention and the Lessee shall not be deemed to be in default if it performs or completes the work in the manner required by the terms of this Lease within such extended period of time, or within such further extended period of time as may be agreed upon from time to time between the Lessor and the Lessee.

**Clause 6.07 Builders' Liens**

The Lessee shall promptly pay all amounts for work, service and material when due and shall forthwith remove any builders' liens or other liens or other charges registered against the Lands or the Building or any part thereof on account of the Lessee's Works. And the Lessee shall not permit or suffer any charges or builders' lien or other liens for labour, compensation, services or materials to be registered against the Lands or the Building. Provided however, that in the event of a bona fide dispute by the Lessee of the validity or correctness of any such claim, the Lessee shall not be bound by the foregoing but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into Court or otherwise satisfying the Court as to security for the claim as the Court may direct and obtaining and registering a Court Order directing cancellation of such claim, or otherwise providing security in an amount and form as the Lessor may in writing approve in order to secure cancellation and discharge of any lien. The Lessee shall at all times defend and conduct such action in a prompt and diligent manner. If the Lessee fails to promptly discharge or cause any such lien to be discharged, or fails to conduct a diligent, prompt or bona fide dispute of same, then in addition to any other rights or remedies of the Lessor, the Lessor may, but shall not be obligated to, discharge the lien by paying the amount claimed to be due into Court or directly to the lien claimant, and the amount so paid and all costs and expenses (including legal costs and expenses) shall be immediately due and payable by the Lessee to the Lessor as Rent on demand.

**ARTICLE VII**

**DAMAGE OR DESTRUCTION**

**Clause 7.01 Building to be Repaired or Replaced**

If the Building is partially or substantially or completely destroyed such that it is no longer suitable for the Lessee's purposes, either the Lessor or the Lessee may elect, by notice in writing to the other party, to terminate the Lease.

**ARTICLE VIII**  
**INDEMNIFICATION**

**Clause 8.1 Indemnification of Lessor**

The Lessee shall indemnify and hold harmless the Lessor, its elected officials, officers, employees and agents, and its successors and assigns, from and against any and all claims in connection with any personal or bodily injury or any loss or damage to property;

- (a) arising from or out of this Lease, or from any alterations to the Lands or Building, or from any occurrence in, upon, or at the Lands or Building or from the occupancy or use by Lessee of the Lands or Building, or any part thereof, or occasioned wholly or in part by any fault, default, negligence, act or omission of the Lessee or by any person permitted to be on the Lands or Building by the Lessee; and,
- (b) arising from, relating to or occurring in, upon or at any part of the Lands or Building occasioned in whole or in part by any fault, default, negligence, act or omission by the Lessee or any of the directors, officers, servants, employees, contractors, agents, invitees and licensees of the Lessee and all other persons over whom the Lessee
  - (i) may reasonably be expected to exercise control, and
  - (ii) is in law responsible.

If the Lessor is made a party to any litigation commenced by or against the Lessee, then the Lessee shall promptly indemnify and hold harmless the Lessor and shall pay the Lessor all costs and expenses, including, without limitation, any professional, consultant and legal fees that may be incurred or paid by or on behalf of the Lessor in connection with such litigation on demand.

The Lessor may, at its option, and the Lessee's expense, participate in or assume carriage of any litigation or settlement discussions relating to the foregoing or any other matter for which the Lessee is required to indemnify the Lessor under this Lease. Alternatively, the Lessor may require the Lessee at the Lessee's expense to assume carriage of any responsibility for all or any part of such litigation or discussions, subject to the Lessee at all times keeping the Lessor informed in writing as to the status thereof. Without limiting the generality of the foregoing, the Lessee shall



also pay the Lessor, on demand, all costs and expenses including, without limitation, any professional, consultant, and legal fees (on a solicitor and his own client basis) that may be incurred or paid by or on behalf of the Lessor in enforcing the terms and conditions of this Lease.

**Clause 8.2 Assumption of Risk**

The Lessee assumes all risks in any way arising from the Lessee's use, occupation, possession or enjoyment of the Lands and the Building and any other structures on the Lands. Without limiting the generality of the foregoing, the Lessee covenants and agrees with the Lessor that the Lessor shall not be responsible or in any way liable to the Lessee in respect of any loss, disruption, stoppage or malfunction in the supply and servicing of electricity, gas, water, sewage, telephone or any other utility servicing the Lands and Building.

**ARTICLE IX**  
**WASTE AND NUISANCE**

**Clause 9.01 Lessee not to Commit Waste**

The Lessee shall not suffer, cause or permit the commission of permissive, voluntary or equitable waste to the Lands or the Building.

**Clause 9.02 Lessee not to Commit Nuisance**

The Lessee shall not suffer, cause or permit any nuisance on the Lands or Building, or anything that disturbs the peace of other residents in the neighbourhood.

**ARTICLE X**  
**ASSIGNING AND SUBLETTING**

**Clause 10.01 Subletting by Lessee**

The Lessee shall not sublease or otherwise part with possession of the Lands, the Building or any part thereof to any person, persons or corporation whatsoever without the prior consent in writing of the Lessor, which consent the Lessor may arbitrarily withhold.

**Clause 10.02 Assignment by Lessee**

The Lessee shall not assign, transfer, bargain or sell this Lease or the leasehold interest hereby created to any person, persons or corporation whatsoever without the consent in writing of the Lessor which consent the Lessor may arbitrarily withhold.

**ARTICLE XI**  
**DEFAULT BY LESSEE**

**Clause 11.01 Re-entry on certain defaults by Lessee**

The Lessor and the Lessee agree that if:

- (a) the Lessee shall default in the payment of Rent or any other sums required to be paid to the Lessor or any other party by any provision of this Lease;
- (b) the Lessee shall default in performing or observing any of its other covenants or obligations under this Lease, or any contingency shall occur which by the terms of this Lease constitutes a breach hereof or confers upon the Lessor the right to re-enter or forfeit or terminate this Lease, and the Lessor shall have given to the Lessee notice of such default or the happening of such contingency, and at the expiration of thirty (30) days after the giving of such notice the default or contingency shall continue to exist, or in the case of a default which cannot with due diligence be cured within the period of thirty (30) days aforesaid, the Lessee fails to proceed promptly after the giving of such notice to cure such default or contingency and to prosecute same to completion with reasonable diligence; or
- (c) this Lease shall expire or be terminated by any other provision in it contained;

the Lessor or the Lessor's agents or employees authorized by the Lessor may immediately or at any time thereafter re-enter the Lands and the Building without being liable to any prosecution or damages therefor, and may repossess and enjoy the Lands, the Building and all fixtures and improvements upon the Lands, except fixtures and improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Building or the

Lands, without such re-entry and repossession operating as a forfeiture or waiver of the Rent or any other sums required to be paid by the Lessee to the Lessor, and the covenants to be performed by the Lessee up to the date of such re-entry and repossession. The Term shall at the option of the Lessor immediately become forfeited and cease and determine and these presents thereupon shall be void and of no further force or effect either at law or in equity save and except in respect to any moneys due or owing by the Lessee to the Lessor at such time and save and except for any rights or remedies against the Lessee, which rights and remedies shall survive the Lease in favour of the Lessor.

**Clause 11.02 Bankruptcy and Judgments against the Lessee**

The Lessee covenants with the Lessor that if the Term shall be at any time seized or taken in execution or in attachment by any creditor or creditors of the Lessee or its assigns, or if the Lessee or its assigns shall make any assignment for the benefit of creditors or becoming bankrupt or insolvent, shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors, or if the Lessee shall enter into receivership whether voluntarily or involuntarily or if a receiver or trustee in bankruptcy is appointed over some or all of the affairs of the Lessee, all prepaid Rent shall immediately become forfeited.

**Clause 11.03 Condonation of Breach not a Waiver**

It is mutually agreed that any excusing, condoning or forbearance by the Lessor in respect of any default, breach or non-observance by the Lessee at any time of any covenant, provision, condition or requirement in this Lease shall not operate as a waiver of the Lessor's rights hereunder in respect of any subsequent default, breach or non-observance of the terms of this Lease and shall not defeat or affect in any way the Lessor's rights in respect of any such subsequent default or breach.

**Clause 11.04 Remedies of Lessor are Cumulative**

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies of the Lessor at law or equity. No remedy shall be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more of all of the available remedies specified herein or at law or equity. In addition to any other remedies provided in this Lease, the Lessor shall be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements hereof.

**ARTICLE XII**  
**SURRENDER OF LEASE**

**Clause 12.01 Showing of Lands and Buildings**

At any time during the last month of the Term or any renewal, or if the Lessee is holding over, then at any time during such holding over, the Lessor may show the Lands and Building during normal business hours to agents of the Lessor and to prospective purchasers or tenants and their agents and advisors.

**Clause 12.02 Surrender of Lease**

At the end of the Term either by forfeiture, default or lapse of time, the Lessee shall surrender the Lands and the Building to the Lessor without compensation or further consideration from the Lessor. Upon such surrender the Lessee shall assign to the Lessor the benefit of all leases, licences, agreements and other agreements and rights benefitting the Lands or the Building or the Lessee's interest therein, if and to the extent that the Lessor shall require such benefits to be so assigned, and if and to the extent the same are assignable.

**Clause 12.03 Vacant Possession**

Upon termination of the Term whether by effluxion of time or otherwise, the Lessee shall peaceably surrender and deliver up vacant possession of the Lands and the Building and shall leave the Lands and the Building in a sanitary, neat, tidy, safe and empty condition free from all nuisance, debris, rubbish, equipment and in the state of repair required hereunder. The Lessee shall not cause any damage to the Building in removing any objects therefrom.

**Clause 12.04 Overholding**

If the Lessee shall hold over after the expiration of the Term whether by effluxion of time or otherwise, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month and the rent then payable shall be one-twelfth (1/12th) of the then annual rental market value of the Lands and Building as determined from time to time by the Lessor.

**Clause 12.05 Fixtures**

At the expiration or other determination of the Term the furniture and equipment placed in the Building at the cost of the Lessee, shall remain personal property and shall not be deemed to become part of the Lands and Building. The Lessee shall on or before the termination of this Lease and any renewals or overholding thereof remove from the Lands and Building any furniture or equipment of the Lessee. Any furniture and equipment which are not removed before the termination of this Lease shall be deemed to be abandoned and shall become the property of the Lessor if the Lessor so elects. The Lessee shall make good all damage to the Lands and Building caused by the removal and costs of removing trade fixtures and equipment and shall replace doors, windows and structures, all to the satisfaction of the Lessor. The Lessee shall provide and maintain all furniture, appliances, decorations, window coverings and equipment, including monitored security systems, at its own expense.

**ARTICLE XIII**

**LESSEE'S COVENANTS SURVIVE TERMINATION**

**Clause 13.01**

The covenants, provisos and conditions herein on the part of the Lessee which, as of termination of this Lease whether by effluxion of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall notwithstanding termination of this Lease continue in full force and effect and be binding upon the Lessee until such covenants, provisos and conditions are discharged or satisfied in full.

**ARTICLE XIV**

**LESSOR'S COVENANTS**

**Clause 14.01 Covenant for Quiet Enjoyment**

If the Lessee pays the rent hereby reserved and the other charges, and performs the covenants herein on the Lessee's part contained, the Lessee shall and may peaceably enjoy and possess the Lands and Buildings for the Term and any renewals, without any interruption or disturbance whatsoever from the Lessor or any third party lawfully claiming from or under the Lessor, subject always to the terms and conditions hereof.

**Clause 14.02 Lessor's Repairs**

The Lessor shall, at its own cost and expense, maintain, repair and replace, as necessary, the structural elements of the Building, including the roof and the exterior of the Building except to the extent required as a result of any damage caused by the Lessee, its employees, officers, agents or invitees.

**ARTICLE XV**  
**RIGHTS OF LESSOR AND LESSEE**

**Clause 15.01**

All rights and benefits and all obligations of the Lessor and the Lessor under this Lease shall be rights, benefits and obligations of the Lessor and the Lessee respectively in their capacities as Lessor and Lessee respectively under this Lease.

**ARTICLE XVI**  
**NOTICE**

**Clause 16.01**

All notices, demands and requests which may be or are required to be given pursuant to this Lease shall be in writing and shall be sufficiently given if served personally upon the party or an executive officer of the party for whom it is intended or mailed prepaid and registered, in the case of the Lessor addressed to:

Chief Licence Inspector  
City of Burnaby  
4949 Canada Way  
Burnaby, B.C. V5G 1M2

and in the case of the Lessee addressed to:

Sanctuary Foundation  
6875/6879 Royal Oak Avenue  
Burnaby, B.C. V5J 4J3

or at such other addresses as the parties may from time to time advise by notice in writing. The date of receipt of any such notice, demand or request shall be deemed to be the date of delivery if such notice, demand or request is delivered or if mailed as aforesaid, on the third business day next following the date of such mailing, PROVIDED HOWEVER that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal services or other labour dispute which affects the delivery of such notice, then such notice shall be deemed to be received when actually received.

**ARTICLE XVII**  
**SITE CONTAMINATION**

**Clause 17.01**

The Lessee covenants and agrees that neither the Lessee nor any other person for whom the Lessee is at law responsible shall bring or be permitted to bring upon the Lands or any part thereof any Contaminants except in strict compliance with all laws or regulations relating thereto and if any time, the Lessee is in breach of the foregoing covenants or if the Lessee shall fail to comply with any law or regulation relating to Contaminants or environmental protection generally, the Lessee shall, at its own expense:

- (a) immediately give the Lessor notice to that effect and thereafter give the Lessor from time to time written notice of the extent and nature of the Lessee's compliance with the provisions of this Article;
- (b) promptly remove the Contaminants from the Lands and restore the Lands to a condition satisfactory to the Lessor and in a manner which conforms with all laws and regulations governing the movement of Contaminants and the restoration of the Lands, including the obtaining of a Certificate of Compliance under the Waste Management Act and regulations thereto; and
- (c) if requested by the Lessor, obtain at the Lessee's cost and expense from an independent consultant designated or approved by the Lessor verifying the complete and proper removal thereof from the Lands or, if such is not the case, reporting as to the extent and nature of any failure to comply with the foregoing provisions of this Article.

**Clause 17.02**

If any governmental authority having jurisdiction shall require the clean up, containment, removal or dealing with in any other manner whatsoever of any Contaminants held, released, spoiled, abandoned or placed upon the Lands by the Lessee or others in the course of the Lessee's business or as a result of the Lessee's use or occupancy of the Lands, then the Lessee shall, at its own expense, prepare all necessary studies, plans and proposals to rectify and restore the affected areas or environment and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work required and shall keep the Lessor fully informed and provide to the Lessor fully informed with respect to proposed plans and execution of the plans and comply with the Lessors's reasonable requirements with respect to such plans and the execution thereof. The Lessee agrees that if the Lessor determines, in its own discretion that the Lessor, its property or its reputation is placed in any jeopardy by the requirement for any such work, the Lessor may itself undertake such work or any part thereof at the cost and expense of the Lessee.

**Clause 17.03**

The Lessee shall at the Lessee's own expense comply with all laws and regulations from time to time in force regulating the manufacture, use, storage, transportation, release or disposal of Contaminants and shall make, obtain and deliver all reports and studies required by governmental authorities having jurisdiction.

**Clause 17.04**

If the Lessee shall bring or create upon the Lands any Contaminants or if the conduct of the Lessee's business shall cause there to be any Contaminants upon the Lands then, notwithstanding any rule of law to the contrary, such Contaminants shall be and remain the sole and exclusive property of the Lessee and shall not become the property of the Lessor notwithstanding the degree of affixation of the Contaminants or the goods containing the Contaminants to the Lands and notwithstanding the expiry or earlier termination of this Lease.



**Clause 17.05**

The obligations of the Lessee hereunder relating to Contaminants shall survive the expiry or earlier termination of this Lease save only that, to the extent that the performance of those obligations requires access to or entry upon the Lands or any part thereof the Lessee shall have such entry and access only at such times and upon such terms and conditions as the Lessor may from time to time specify; and the Lessor may, at the Lessee's cost and expense, itself or by its agents, servants, employees, contractors and subcontractors, undertake the performance of any necessary work in order to complete such obligations of the Lessee; but having commenced such work, the Lessor shall have no obligation to the Lessee to complete such work.

**Clause 17.06**

The Lessee covenants and agrees that it will indemnify and save harmless the Lessor, its officers, directors, employees, licensees, invitees, servants and agents in respect of any costs, losses, damages, expenses, judgments, suits, claims, awards and liabilities whatsoever (including any costs or expenses of defending or denying the same and including the costs and expenses of preparing any necessary environmental assessment report or other such reports) arising out of or in respect of:

- (a) the release by the Lessee of any Contaminants on or from the Lands (including the escape of any Contaminants to the property or person of any third party);
- (b) the contamination of the Lands by the Lessee;
- (c) any remedial action taken by the Lessor in respect of any such release of or contamination by Contaminants;
- (d) any action taken or to be taken by the Lessor to mitigate or abate any threat to the environment or to the health of any person arising out of any such release of contamination by Contaminants;
- (e) the Lessor complying with any notice or order of any governmental authority having jurisdiction, whether it is obliged or required to do so or not, requiring any such

release of, or contamination by Contaminants to be cleaned up, contained, removed or dealt with in any other manner whatsoever;

provided that the Lessor may settle or compromise any such costs, losses, damages, expenses, judgments, suits, claims, awards or liabilities as it sees reasonably fit. The Lessee further covenants and agrees that this indemnity will be provided on an ongoing basis in accordance with any claim made thereunder by the Lessor from time to time and that for the purpose of such indemnification a certificate of a duly authorized officer of the Lessor stating the amount of any costs, losses, damages, expenses, judgments, suits, claims, awards or liabilities to be incurred or which have been incurred by the Lessor will be evidence as to the amount of indemnification required to be paid at that time, provided that this paragraph shall not act as a waiver of the right of the Lessor to seek further indemnification or to seek an award of damages in an appropriate forum or of the Lessee to seek an accounting of monies provided by it pursuant to this indemnity.

**Clause 17.07**

For the purposes of this Lease "Contaminants" means any substance which is hazardous to persons, property or the environment and includes, without limiting the generality of the foregoing:

- (a) radioactive materials;
- (b) explosives;
- (c) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent that it is detrimental to its use by man or by any animal, fish or plant;
- (d) any solid, liquid, gas or odour or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that:
  - (i) endangers the health, safety or welfare of persons or the health of animal life;
  - (ii) interferes with normal enjoyment of life or property; or

- (iii) causes damage to plant life or to property;
- (e) toxic substances; and
- (f) substances declared to be hazardous, a special waste, a contaminant, or toxic under any law or regulation now, or hereafter enacted or promulgated by any governmental authority having jurisdiction over the Lessor, the Lessee or the Lands.

**ARTICLE XVIII**  
**MISCELLANEOUS**

**Clause 18.01**

Time shall be of the essence of this Lease, save as herein otherwise specified.

**Clause 18.02**

This Lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the Lessor and the Lessee or by the successors or assigns of the Lessor and the successors or permitted assigns of the Lessee.

**Clause 18.03**

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained herein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any affect this Lease.

**Clause 18.04**

Words herein importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse whenever the context requires, also these presents shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties

hereto. Reference herein to the Lessor and the Lessee shall be deemed to include the servants, agents contractors, subcontractors, licensees and invitees wherever the context requires.

**IN WITNESS WHEREOF** the Lessor and the Lessee have caused these presents to be signed under the hands of their property officers in that behalf as of the day and year first above written.

THE CORPORATE SEAL OF CITY OF  
BURNABY WAS HEREUNTO AFFIXED  
IN THE PRESENCE OF:

\_\_\_\_\_  
Authorized Signatory

SANCTUARY FOUNDATION  
by its authorized signatory/ies

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name: