

EMPHYTEUTIC LEASE AGREEMENT

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O O O O O

EMPHYTEUTIC LEASE AGREEMENT entered into in the City of, Province of, Canada.

BETWEEN: V1 (name of natural person), (occupation), domiciled and residing at (civic number and street name), in the City of (name of city), Province of (name of province), (postal code);

OR

V2 (corporate name), a legal person duly incorporated pursuant to the Act (name of statute under which the corporation was incorporated), having its principal place of business at (civic number and street name), in the City of (name of city), Province of (name of province), (postal code), and duly registered under the designating number (.....) in accordance with the Act (name of the statute respecting the legal publicity of enterprises under which the corporation is registered);

OR

V3 (corporate name), a legal person duly incorporated pursuant to the Act (name of statute under which the corporation was incorporated), having its head or registered office at (civic number and street name), in the City of (name of city), Province of (name of province), (postal code), and duly registered under the designating number (.....) in accordance with the Act (name of the statute respecting the legal publicity of enterprises under which the corporation is registered) represented by (name of representative), its (title of representative), duly authorized for the purposes hereof;

OR

V4 (corporate name), a legal person, duly incorporated pursuant to the Act (name of statute under which the corporation was incorporated), having its head or registered office at (civic number and street name), in the City of (name of city), Province of (name of province), (postal code), and duly registered under the designating number (.....) in accordance with the Act (name of the statute respecting the legal publicity of enterprises under which the corporation is registered) represented by (name of representative), its (title of representative), duly authorized for the purposes hereof as he/she so declares [or as indicated in the resolution of the [sole director or board of directors]];

BARE OWNER	EMPHYTEUTIC LESSEE

OR

V5 (*common business name*), [general partnership], **OR** [limited partnership represented by (*name of its general partner*), its general partner] **OR** [undeclared partnership], **OR** [joint venture], **OR** [collaboration], **OR** [any other group of persons] operating a business through the exercise of an organized economic activity of a commercial nature, duly formed pursuant to the [*Civil Code of Québec*] **OR** [any applicable general law] **OR** [any other applicable statute], having its head or registered office at (*civic number and street name*), in the City of (*name of city*), Province of (*name of province*), (*postal code*), and duly registered (*as the case may be*) under the designating number (.....) in accordance with the *Act (name of the statute respecting the legal publicity of enterprises under which the corporation is registered)* represented by (*name of representative*), its (*title of representative*), duly authorized for the purposes hereof, as he/she so declares [or as indicated in the resolution of the partners of the general partnership], **OR** [as indicated in the resolution of the sole director [or Board of Directors] of the general partner of the limited partnership], **OR** [as indicated in the resolution of the partners of the undeclared partnership], **OR** [as indicated in the resolution of the sole director [or Board of Directors] of each participant in the joint venture, **OR** [as indicated in the resolution of the sole director [or Board of Directors] of each participant in the collaboration] **OR** [as indicated in the resolution of the members of any other group of persons];

HEREINAFTER REFERRED TO AS “BARE OWNER”;

AND: (*identify emphyteutic lessee*);

HEREINAFTER REFERRED TO AS “EMPHYTEUTIC LESSEE”;

HEREINAFTER COLLECTIVELY REFERRED TO AS THE “PARTIES”.

AND AS INTERVENOR: (*identify surety*);

HEREINAFTER REFERRED TO AS THE “SURETY”.

BARE OWNER	EMPHYTEUTIC LESSEE

RECITALS

THE PARTIES MAKE THE FOLLOWING REPRESENTATIONS:

- (A) The BARE OWNER is the owner of the immovable hereinafter described: (name and address of the immovable);
- (B) The EMPHYTEUTIC LESSEE operates a business (briefly describe its activities);
- (C) The EMPHYTEUTIC LESSEE is seeking a premises from which it may operate its business;
- (D) The BARE OWNER's premises, in the opinion of the PARTIES, fulfils the conditions necessary for the operation of the EMPHYTEUTIC LESSEE's business;
- (E) The EMPHYTEUTIC LESSEE wishes to be assigned an emphyteutic right in the BARE OWNER's immovable; a letter of intent to this effect has already been sent on
- (F) The BARE OWNER accepts to transfer to the EMPHYTEUTIC LESSEE the immovable indicated in the offer received on, 20...;
- (G) The PARTIES wish to record the terms of their agreement regarding such purpose in a written document;
- (H) It is the intent of the PARTIES that their agreement be construed as a contract by mutual agreement.

V1 (Short Form) NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

OR

V2 (Long Form) NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL REPRESENTATIONS AND THOSE SPECIFIC TO EACH PARTY, AS THE CASE MAY BE, CONTAINED HEREIN, THE PARTIES, INTENDING TO BE LEGALLY BOUND HEREBY, AGREE AS FOLLOWS:

BARE OWNER	EMPHYTEUTIC LESSEE

0.00 INTERPRETATION

0.01 Definitions

V1 (Sole Agreement) Unless otherwise indicated, the following capitalized terms or expressions throughout the Agreement shall have the meaning indicated below:

OR

V2 (Multiple Agreements) Unless otherwise indicated, capitalized words and expressions appearing in the Agreement or in any ancillary or subordinate documentation shall be interpreted or construed as follows:

0.01.01 Activities

V1 (Short Form) means, regarding the BARE OWNER, *(describe its principal business activities)* and, regarding the EMPHYTEUTIC LESSEE, *(describe its principal business activities)*;

OR

V2 (Long Form) means regarding the BARE OWNER, *(describe business activities)* and includes any other activity related thereto and any new area of activity in which the BARE OWNER may carry on business from time to time during the term of the Agreement, and means regarding the EMPHYTEUTIC LESSEE, *(describe business activities)* and includes any other activity related thereto and any new area of activity in which the EMPHYTEUTIC LESSEE may carry on business from time to time during the term of the Agreement;

0.01.02 Agreement

V1 (Short Form) means this agreement including its recitals and schedules, any related or ancillary documentation identified therein, as well as any amendment made thereto from time to time by the PARTIES in accordance with Section 12.05;

OR

V2 (Long Form) means this agreement including its recitals and schedules, any related or ancillary documentation identified therein, as well as any amendment made thereto from time to time by the PARTIES in accordance with Section 12.05; the terms “herein”, “hereof”, “hereto”, “herewith”, “hereunder”, “hereby” and other similar terms, when used in

BARE OWNER	EMPHYTEUTIC LESSEE

the agreement, shall generally refer to this agreement as a whole rather than to a specific part thereof, unless otherwise indicated in the text;

0.01.03 BARE OWNER

means upon the signing of the Agreement, the owner of the Immovable, his mandatary or the manager of the Immovable, as the case may be, any new successful tenderer of the Immovable who assumes the obligations of the owner as stipulated herein and such transfer shall constitute a novation and fully release the former owner; such novation shall operate without the need to execute this agreement;

0.01.04 Best Efforts

means the efforts that a Person desirous of achieving a result and acting prudently and diligently would use in similar circumstances to maximize, to the extent reasonably practicable, the probability that a result will occur and includes the generally recognized or common trade practices of any trade or profession as well as the generally acknowledged best practices in a field of activity;

0.01.05 Breach

means any misrepresentation, inaccuracy, error, omission, non-compliance, infringement, failure, claim or other circumstance relating to a representation, obligation or other provision of the Agreement leading to:

- (a) any infringement of the Agreement; or
- (b) any claim by any Person or other occurrence or circumstance that (i) is inconsistent with any representation, obligation or other provision of the Agreement and (ii) causes harm to any Person;

0.01.06 Change in Control

means, in relation to any PARTY to the Agreement whose legal status is that of a legal person, any one of the following events:

- (a) the direct or indirect acquisition by any Person or entity of securities of such legal person representing more than FIFTY PERCENT (50%) of the corporation's voting rights;
- (b) an agreement for the sale or disposition of all or substantially all of such legal person's assets;

BARE OWNER	EMPHYTEUTIC LESSEE