

C A N A D A

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

Cottage Lease

THIS LEASE MADE: *May 19, 1994*

BETWEEN HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Indian
Affairs and Northern Development,
("Her Majesty")

OF THE FIRST PART

AND



(the "Lessee")

OF THE SECOND PART.

RECITALS

- A. The Lands leased under this Lease (the "Lands") are part of Saugeen Indian Reserve No. 29 which is set apart by Her Majesty for the use and benefit of the Saugeen Band of Indians.

- B. The Lands were surrendered for lease by Surrender dated the 29th day of December, 1947, and accepted by the Governor in Council by P.C. dated the 30th day of January, 1948

- C. The Saugeen Band Council has by Resolution Number 91-92-298, dated the 3rd day of December, 1991, consented to this Lease, including all the terms and conditions herein set forth.

- D. The Minister of Indian Affairs and Northern Development (the "Minister") is authorized to grant this Lease pursuant to subsection 53(1) of the Indian Act.

- E. The Lessee has applied to lease the Lands.

In consideration of the rents, covenants and agreements reserved and contained in this Lease, the Parties covenant and agree as follows:

1. DEFINITIONS

1.1 In this Lease:

- a. "Appraisal Institute of Canada" means the Appraisal Institute of Canada or its successor or if that organization ceases to exist, some equivalent national Canadian real estate appraisal organization.

- b. "Band" means the Saugeen Band of Indians, or any successor to the Band pursuant to a federal statute.

- c. "Band Council" means the Council of the Band within the meaning of the Indian Act, or any successor to the Band Council pursuant to a federal statute.

- d. "Commercial Arbitration Act" means the Commercial Arbitration Act, S.C. 1986, c.C-21, and the regulations made thereunder, all as amended from time to time, and any reference to a section of the Act will include that section as amended or replaced from time to time.

- e. "Fair Market Rent" means the amount of annual rental at the time of the fixing of the rent by the Minister, required to be paid for a parcel of vacant land, similar in area and character, but situate outside of the Reserve, to be used for similar purposes as herein permitted, but if an insufficient number of or no parcels of vacant land outside the Reserve, comparable in area and character to the Lands are found to be leased or to be offered for lease for similar purposes as herein permitted, then the Fair Market Rent of the Lands will be computed or determined at a rate of ten (10) percent of the market values of parcels of vacant land inside or outside the Reserve comparable in area and character to the Lands which were sold or offered for sale prior to the commencement of the Period under review, without regard to the value of the Improvements. The Minister's determination of Fair Market Rent will be based on the recommendation of an appraiser accredited by the Appraisal Institute of Canada.

- f. "Federal" means pertaining to the Government of Canada.
- g. "Federal Court Act" means the Federal Court Act, R.S.C. 1985 c.F-7, and regulations made thereunder, all as amended or replaced from time to time, and any reference to a section of this Act will include that section as amended or replaced from time to time.
- h. "Improvements" means buildings, roads, site preparation, septic systems, water supply systems and all other utilities for servicing the Lands, and other improvements situate from time to time on the Lands.
- i. "Indian Act" means the Indian Act, R.S.C. 1985, c.I-5, and regulations made thereunder all as amended or replaced from time to time, and any reference to a section of this Act will include that section as amended or replaced from time to time.
- j. "Lessee" includes the Lessee or Lessees as the case may be, his/her or their executors, administrators and assigns and in the case of an incorporated company, its successors and assigns.
- k. "Local" means pertaining to the Government in any municipality.

- l. "Minister" means Her Majesty's Minister of Indian Affairs and Northern Development or any person authorized to act on his behalf.
- m. "Prime Rate" means the lowest rate of interest charged by the Canadian Imperial Bank of Commerce in Southampton, Ontario to its most creditworthy borrowers for prime business loans as of the date the payment is due. The Certificate of the Branch Manager of the Canadian Imperial Bank of Commerce, Southampton, Ontario will be conclusive evidence of the rate.
- n. "Provincial" means pertaining to the Government of the Province of Ontario.
- o. "Reserve" means the Saugeen Indian Reserve No. 29 of the Band.

2. DESCRIPTION

- 2.1 The Minister hereby leases to the Lessee the lands situate in Saugeen Indian Reserve No. 29 in the Province of Ontario, and more particularly known and described as:

Lot 132, Block "B", Shore Subdivision in Saugeen Indian Reserve No. 29, Province of Ontario, as shown on Plan of Survey No. 3326 deposited in the Canada Lands Surveys Records at Ottawa, Ontario.

(the "Lands")

3. PRIOR ENCUMBRANCES

3.1 Subject to all prior encumbrances and to all other prior grants reserving all mines and minerals solid, liquid or gaseous which may be found to exist within, upon or under the Lands.

4. THE TERM

4.1 The term of this Lease will be Twenty (20) years commencing on the 1st day of May, 1991 and terminating on the 30th day of April, 2011 (the "Term") unless terminated earlier in accordance with the provisions hereof.

5. RENT

5.1 For the purpose of determining the annual rent payable under this Lease, the Term will be divided into four (4) consecutive periods of five (5) years each (herein referenced in the singular as a "Period").

5.2 During the first Period commencing in May 1991, the Lessee will pay in advance annual rent in the amount of Two Thousand Eight Hundred Fifty DOLLARS (\$ 2,850.00) payable in Canadian funds except that the first such annual payment will be payable on or before the signing of this Lease by the Lessee.

5.3 The Lessee will pay the annual rent payable hereunder in advance on the 1st day of May in each year of the Lease.

- 5.4 For each Period after the first, commencing the 1st day of May, 1996, the annual rent will be determined in the manner provided herein.
- 5.5 Within the last year of each Period, the Minister will seek the recommendation of an appraiser, accredited by the Appraisal Institute of Canada, to determine the Fair Market Rent for the Lands for the upcoming Period. Subject to subsection 1.1.e, the appraiser's recommendation of the Fair Market Rent (the "Statement of Appraised Rent") for the Lands for the Period under review will be based on the following:
- a. the market generally for recreational properties;
 - b. the specific market for recreational properties in the area of the Lands;
 - c. the terms and conditions contained in this Lease, including but not limited to the Term of the Lease, and;
 - d. the services and amenities then existing, but excepting thereout the value of any Improvements erected on the Lands by the Lessee.
- 5.6 The Minister will endeavour to determine and notify the Lessee of the Fair Market Rent for each Period at least one hundred and eighty (180) days before the Period commences. PROVIDED however, that in the absence of or pending such determination and notice, the Lessee will continue to pay annual rent in the same amount and in the

same manner as in the last year of the immediately preceding Period.

- 5.7 If the Lessee wishes to dispute the Fair Market Rent set out in the Minister's Notice, the Lessee will deliver to the Minister:
- a. a Notice of Dispute within fifteen (15) days of the receipt or deemed receipt of the Minister's Notice; and
 - b. within forty-five (45) days of receipt or deemed receipt of the Minister's Notice, a Responding Statement of Proposed Rent supported by an appraisal prepared by an appraiser accredited by the Appraisal Institute of Canada.
- 5.8 If the Lessee does not deliver a Notice of Dispute or Responding Statement of Proposed Rent within the stated time periods set out in section 5.7, the Lessee will be deemed to have accepted the Fair Market Rent set out in the Minister's Notice.
- 5.9 In the event the Lessee delivers a Notice of Dispute as set out in subsection 5.7.a, the Lessee will nonetheless be required to pay the Fair Market Rent specified in the Minister's Notice. If the Fair Market Rent is subsequently adjusted, the amount of the adjustment will be forthwith paid by the respective party by way of rebate or additional payment.

5.10 Forthwith after the receipt or deemed receipt of the Responding Statement of Proposed Rent the Parties will meet and attempt to negotiate in good faith a settlement of the rental issue.

6. **ARBITRATION**

6.1 If a settlement of the rental issue is not reached within thirty (30) days of the Minister's receipt or deemed receipt of the Responding Statement of Proposed Rent the Parties will appoint an appraiser accredited by the Appraisal Institute of Canada (the "Umpire") to act as an arbitrator to determine the Fair Market Rent payable for the Period under review.

6.2 If the Parties are unable to agree on the appointment of an Umpire who accepts the appointment, the Parties will forthwith request the President of the Appraisal Institute of Canada to appoint an Umpire.

6.3 The Umpire will determine the Fair Market Rent payable by the Lessee for the Period under review based on the considerations specified in section 5.5.

6.4 If in the opinion of the Umpire it is desirable to do so, the Umpire may request that the Parties submit Supplemental Statements of Rent which will be supported by updated appraisals of Fair Market Rent prepared by the same appraisers who prepared the initial appraisals of Fair Market Rent for the Minister and the Lessee.

- 6.5 The Umpire will hold a hearing within thirty (30) days of his appointment and will give the Minister and the Lessee at least fifteen (15) days notice before the date of the hearing. The Umpire will consider the Statement of Appraised Rent, the Responding Statement of Proposed Rent and any Supplemental Statements of Rent. The Umpire will hear representations made by the appraisers, who will act as the agents and representatives of the Minister and the Lessee respectively. Each appraiser may be cross-examined by the other. No other party (including the Minister and the Lessee, who will speak exclusively through their respective appraisers) may make representations and no other evidence may be adduced except by specific agreement in writing of both the Lessee and the Minister or with leave of the Umpire.
- 6.6 The Umpire will make a written report on his determination of the Fair Market Rent payable, including the reasons therefor, within fifteen (15) days of the hearing and will provide copies of the report to the Minister, the Lessee and the Band Council.
- 6.7 The Parties agree that the decision of the Umpire will be final and binding on the Parties.
- 6.8 The arbitration will be governed by the Commercial Arbitration Code referred to in the Commercial Arbitration Act.
- 6.9 The costs of the arbitration will be apportioned between the Parties and determined by the Umpire.

- 6.10 The arbitration will take place at the Saugeen Indian Reserve No. 29, in the Province of Ontario.
- 6.11 The language to be used in the proceedings is English.
- 6.12 The Umpire will decide the dispute in accordance with the laws in force in the Province of Ontario.
- 6.13 During the progress of the arbitration, the Parties will continue to perform all their obligations under the Lease.

7. PAYMENT OF RENT

- 7.1 The Lessee will pay the rent in the manner set forth in this Lease without any abatement or deduction whatsoever and acceptance of the rent, whether or not in arrears, will not constitute a waiver of compliance with any of the covenants, terms and conditions of this Lease or of Her Majesty's rights with respect to rent reviews and rights reserved to Her Majesty in this Lease.
- 7.2 The Lessee will pay or cause to be paid the said annual rent in the manner and on the dates hereinbefore appointed for the payment thereof and in the event that the Lessee fails to pay the rent when due and payable, the rental arrears will bear interest at the Prime Rate plus four percent (4%).
- 7.3 The Lessee will, during the currency of this Lease, make all payments under this Lease in favour of the Receiver General for Canada and will deliver such payments to the Department of Indian Affairs and Northern Development,

Bruce Service Office, P.O. Box 640, Southampton, Ontario, NOH 2L0 or to such other place as Her Majesty may from time to time designate and notify the Lessee of in writing.

8. **USE**

- 8.1 The Lands will be used only for a single recreational dwelling and not for permanent residence or any other purpose. Said recreational dwelling will have a minimum floor area of 66.88 square metres (720 square feet) exclusive of porches and verandas and will be erected on the Lands within two (2) years from the date of execution of this Lease if same has not already been erected.
- 8.2 Notwithstanding section 8.1, any recreational dwelling located on the Lands as of April 30, 1991 will be exempt from the minimum floor area requirement specified in section 8.1.
- 8.3 The said recreational dwelling will not be occupied or used by the Lessee or any other person for more than a total of ten (10) days in each of the months of November, December, January, February, March and April in any year of the Term.
- 8.4 No form of commercial venture will be operated on the Lands.
- 8.5 The Lessee will not use, or suffer or permit to be used the Lands including any Improvements located thereon or any part thereof for any dangerous, obnoxious or offensive activity or for any purpose that will

substantially deteriorate or lessen the value of the Lands including the Improvements or any part thereof.

9. **QUIET ENJOYMENT**

9.1 That the Lessee well and truly paying the said annual rent hereby reserved and observing and performing the covenants herein contained may quietly and peaceably hold and enjoy the Lands.

10. **PAYMENT OF TAXES**

10.1 The Lessee will pay and discharge all taxes, rates, duties, and assessments of any kind now charged or hereafter to be charged by any competent authority upon the Lands or upon the Lessee or occupier in respect thereof or payable by either in respect thereof.

11. **CONSTRUCTION, RENOVATIONS, LANDSCAPING**

11.1 The Lessee will not during the Term construct, demolish, alter, remodel or replace Improvements (including the alteration of the landscape, construction of roads and the provision of water, sewer, septic, electric, or gas systems) on the Lands without the prior written consent of the Minister.

11.2 Upon request by the Minister or the Band Council, the Lessee will submit a development plan, including all construction and site specifications and other related documents for approval by the Minister and the Band Council.

11.3 The Lessee will not construct, demolish, alter, remodel or replace Improvements on the Lands pursuant to an approval mentioned in section 11.1 above except in accordance with the standards as set out in Schedule "A" attached hereto.

11.4 Upon request, the Lessee will provide the Minister with a certificate from an engineer or architect certified to practice in the Province of Ontario or other competent authority acceptable to the Minister, certifying that all work undertaken pursuant to an approval obtained pursuant to section 11.1 above has been completed in accordance with the standards as set out in Schedule "A".

12. NOTICE OF RESERVE STATUS

12.1 While engaged in work approved pursuant to Article 11, the Lessee will post a notice in a prominent place on the Lands indicating the Lands are part of Saugeen Indian Reserve No. 29 by virtue of which no mechanics lien will encumber the Lands.

13. COMPLIANCE WITH LAWS

13.1 The Lessee will during the Term at his own expense promptly observe, perform, execute and comply with all applicable Band by-laws, laws, rules, requirements, orders, directions, ordinances and regulations of Canada and the Province of Ontario or any competent municipal authority or agency concerning the Lands and Improvements constructed thereon, **PROVIDED** that the Lessee will have the right to contest the validity of such by-laws, laws, rules, requirements, orders, directions,

ordinances and regulations if proceedings relating thereto are commenced before the expiration of sixty (60) days after the Lessee has first been notified of any breach of such by-laws, laws, rules, requirements, orders, directions, ordinances and regulations. The Lessee hereby covenants with Her Majesty that if and whenever the Lessee will contest the validity of any such by-laws, laws, rules, requirements, orders, directions, ordinances or regulations, the Lessee will indemnify Her Majesty from all loss, damage, cost and expense suffered by Her Majesty by reason of the Lessee undertaking such proceedings and that the Lessee will conduct such proceedings after the commencement thereof expeditiously and with all reasonable diligence.

13,2 Without limiting the generality of section 13.1, the Lessee will comply with all federal fire safety and protection standards (as set out in Schedule "A" attached hereto) applicable to the storage and handling of flammable substances including gasoline and propane.

14. STATE OF REPAIR

14,1 The Lessee covenants and agrees:

- a. to keep the Improvements on the Lands in a good and tenantable state of repair;
- b. to allow the Minister to enter the Lands to view and inspect the condition and state of repair of the Lands and Improvements;

- c. to promptly repair or repaint any of the Improvements at the Lessee's own expense when ordered to do so by the Minister;

and for greater certainty it is agreed that the Lessee will at his own cost and expense throughout the Term put and keep in good order and condition or will cause to be put and kept in good order and condition the Lands, Improvements and the appurtenances and equipment thereof, both inside and outside, including but not limited to fixtures, walls, foundations, roofs, heating and air-conditioning equipment, yards, and other like areas, septic systems, water and sewer mains and connections, water, steam, gas and electric pipes and conduits and all other fixtures and appurtenances to the Lands and Improvements, and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and will in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Lands, Improvements and aforesaid appurtenances and equipment fully usable for all the purposes for which the Improvements were erected and constructed and the aforesaid appurtenances and equipment were supplied and installed; and, it is agreed that any obligation of the Lessee under this Article will be undertaken in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Improvements and will meet the requirements of all present and future standards, if any set by the Fire Insurance Underwriters and as set out in Schedule "A" attached hereto.

15. **SANITATION**

15.1 The Lessee will maintain the Lands and all Improvements constructed thereon in a clean and sanitary condition which, in the opinion of the Minister, conforms with the standards set by Health and Welfare Canada now in effect or promulgated during the Term of this Lease and with all such standards as set out in Schedule "A" attached hereto.

15.2 All recreational dwellings will be supplied with a flush toilet and septic tank or other sanitary waste disposal system which, in the opinion of the Minister, conforms to the specifications as set out in Schedule "A" attached hereto.

16. **INSURANCE**

16.1 During the Term of this Lease the Lessee will maintain at the Lessee's own cost with one or more companies satisfactory to the Minister, comprehensive general liability insurance in the joint names of the Lessee and Her Majesty in a form satisfactory to the Minister against claims for personal injury, death or property damage occurring on or about the Lands and Improvements, arising out of or resulting from the Lessee's possession, occupation, use and control of the Lands and Improvements, such insurance to afford protection to the minimum limit of ONE MILLION (\$1,000,000.00) DOLLARS or to such limit as may be set from time to time by the Minister in writing.

16.2 The Lessee will at all times hereafter indemnify and save harmless Her Majesty from and against all loss, cost and expense arising out of or related to any breach of a Lessee's covenant and any action, claim, demand, suit or other proceeding for personal injury, death or property damage or loss arising out of or related to any act or omission by the Lessee in respect of the Lessee's possession, use or occupation of the Lands and Improvements.

16.3 The Lessee releases Her Majesty, Her heirs, successors and assigns, from all liability for personal injury, death and property damage caused by any of the perils against which the Lessee has covenanted to insure, even though such loss or damage may arise out of the negligence of Her Majesty.

16.4 The Lessee will furnish the Minister with certificates evidencing such policies within thirty (30) days of the commencement of the Term of this Lease and a certificate of renewal at least five (5) days prior to the date of the expiration of any policy in force. In the event that the Lessee fails to effect such insurance or renewal thereof or to furnish a certificate, the Minister may procure such insurance and the premium paid by the Minister will be deemed to be additional rent due and payable by the Lessee to Her Majesty forthwith.

17. INDEMNITY

17.1 The Lessee covenants and agrees to indemnify and save harmless Her Majesty against any and all claims, suits or causes of action by or on behalf of any person,

corporation or any municipal or governmental authority arising from the conduct or management of all forms of any work, or thing whatsoever done in or about the Lands and Improvements during the Term of this Lease, or arising from the neglect or tort of the Lessee, its agents, contractors, servants, or employees, or from any accident, damage or injury whatsoever, however caused to any person or party on, in or about the Lands and Improvements.

18. **FENCES**

18.1 The Lessee will maintain all fences which are or may be erected on the Lands and on termination of this Lease any fence so erected will revert to and become the property of Her Majesty.

19. **RIGHTS OF WAY**

19.1 The Lessee will, at all times, at his own expense except to the extent that he may be relieved therefrom by a Band by-law, keep the area ways and rights of way forming part of the Lands in good condition and repair and reasonably clean from rubbish and will not encumber or obstruct the same or allow the same to be encumbered or obstructed in any manner.

20. **HUNTING**

20.1 The Lessee will not hunt or permit hunting on the Lands.

21. **ACCESS**

21.1 The Lessee will have the right of ingress and egress to and from the Lands over access roads and rights of way in common with others legally entitled thereto.

21.2 In the event of a fire or other public emergency persons legally entitled to respond to such emergencies will be allowed access, by, the Lessee to or across the Lands.

22. **TREES**

22.1 Subject to section 22.2 no person will cut or remove any tree or bush on the Lands without the prior written consent of the Minister or the Band Council; provided however that the Minister may order in writing the cutting or removal of any tree or bush considered hazardous by the Minister or the Band Council and the Lessee will forthwith comply with such order at the Lessee's expense.

22.2 The Lessee may, without obtaining the prior consent of the Minister or the Band Council, at his sole expense, cut or remove any tree or bush which poses an immediate danger to persons or property, provided the Lessee subsequently notifies the Band Council forthwith of such cutting or removal.

23. **RUBBISH**

23.1 No rubbish or matter of an offensive nature will be deposited anywhere on the Lands except in such places and at such times and under such conditions as may be designated by the Minister or the Band Council.

24. **NUISANCE**

24.1 The Lessee will not create, suffer or permit any nuisance or obnoxious activity on the Lands.

24.2 Where in the opinion of the Minister a nuisance exists upon the Lands, he may order the Lessee or occupier of the Lands, to abate the nuisance and clean up the Lands, and if the Lessee or occupier fails to do so, the Minister may take whatever steps may be necessary to abate the nuisance and the Lessee will be liable for the cost thereof which costs may be collected in the same manner as other debts due Her Majesty or deemed to be additional rent due and payable by the Lessee to Her Majesty.

25. **ENVIRONMENTAL STANDARDS**

25.1 Without limiting the generality of Article 13, the Lessee will at all times conduct all activities on the Lands in compliance with all applicable environmental laws, statutes, by-laws, ordinances, regulations, notices and orders in effect from time to time, of Canada, the Province of Ontario, a municipality or the Band.

26. **NO CONTAMINANTS**

26.1 No contaminants or toxic substances as defined under the Canadian Environmental Protection Act or the equivalent provincial legislation, as amended or replaced, may be used, emitted, discharged or stored on the Lands or any adjacent land by the Lessee, its officers, directors, invitees, agents, employees or sublessees except in strict compliance, with all applicable laws, statutes, by-laws, ordinances, regulations, notices and orders.

27. **NO RESIDUAL/ADVERSE IMPACT**

27.1 At all times there will be no residual and/or adverse environmental impacts to the Lands as a result of the use of the Lands or the activities of the Lessee, its officers, directors, invitees, agents, employees or sublessees.

28. **MITIGATION OF ENVIRONMENTAL IMPACTS**

28.1 The Lessee will implement the appropriate technology, design or repair to mitigate anticipated or actual adverse environmental impacts attributable to the Lessee's use of the Lands within a reasonable period of time following discovery or notice thereof by the Lessee. Further, the Lessee will permit the Minister's representatives to enter onto the Lands at all times to inspect and monitor the Lessee's activities and to ensure that the Lessee has mitigated any anticipated or actual adverse impacts on the environment to the satisfaction of the Minister.

29. **LIABILITY FOR REMEDIAL ACTION**

29.1 The Lessee will pay and be responsible for any expenses of remedial action which the Minister considers necessary to mitigate any anticipated or actual environmental impact arising from or attributable to the use of the Lands and the activities of the Lessee, its officers, directors, invitees, agents, employees or sublessees.

30. **SAND AND GRAVEL**

30.1 The Lessee will not, without the prior written consent of the Band Council and the Minister pursuant to section 58(4) of the Indian Act, remove or allow the removal of any gravel, sand, stone, clay or other material forming part of the Lands, except where necessary for carrying out the purpose permitted by section 8.1 hereof and provided such removal is not in breach of any other provision of this Lease.

31. **MINERAL RIGHTS**

31.1 Her Majesty reserves the right to drill for, remove and dispose of petroleum, natural gas and minerals on or under the Lands and for that purpose to drill wells, lay pipelines, and build such tanks, stations and structures as may be necessary in the lawful exercise of any of the rights hereby reserved. In such circumstance, the rental payable by the Lessee will be abated proportionately and any other compensation payable on the exercise of the said rights by Her Majesty will be determined by the Minister and will be in full and final satisfaction of

all claims arising from or in respect of the exercise of the aforesaid rights by Her Majesty.

32. NO ABATEMENT OF RENT

32.1 During the Term there will be no abatement from or reduction of the rent due hereunder, nor will the Lessee be entitled to damages, losses, costs or disbursements from the Minister, on account of damage by fire or water to the Lands or Improvements, whether due to acts of God, strikes, accidents, the making of alterations, repairs, improvements or structural changes to the Lands or Improvements or the equipment or systems supplying the said services, or from any cause whatsoever.

33. DEFAULTS AND THEIR CONSEQUENCES

33.1 If the Lessee:

- a. fails to pay rent due hereunder within thirty (30) days after the date upon which it becomes due, whether formally demanded or not, or
- b. fails to pay taxes on the Lands and Improvements to the appropriate authorities within thirty (30) days after they become due, or
- c. fails to perform or observe any of the Lessee's covenants, or does anything contrary to the terms of this Lease, or
- d. vacates the Lands with monies under this Lease owing to Her Majesty,

the Minister may, by notice to the Lessee, declare the Term ended, and thereupon the Term and the Lessee's rights hereunder will absolutely cease, without re-entry or any other act or legal proceedings, **AND** the Minister may re-enter the Lands or any part of them, and thereafter have, possess and enjoy the Lands as if this Lease had not been made; **AND** the Lessee covenants that despite such re-entry the Lessee will pay to the Minister any rent or charges then accrued or accruing and that any right of action by Her Majesty against the Lessee for any antecedent breach of any of the covenants, stipulations or conditions in this Lease will not be thereby impaired and the Lessee will indemnify and save harmless Her Majesty, Her officers, servants, and agents from all loss, damage, cost and expense resulting from the default which gave rise to the forfeiture.

33.2 If in the Minister's opinion, the Lessee has not performed any Lessee's covenant he may order the Lessee in writing to perform the covenant, and if the Lessee does not perform it within thirty (30) days of such order, the Minister may do whatever is necessary to perform it and any expenditures of money made by the Minister in performing the covenant will be paid forthwith by the Lessee to Her Majesty as additional rent and if it is not paid forthwith the Lessee will pay interest on it at the Prime Rate plus four percent (4%) until fully paid. The obtaining of any judgment on any covenant will not operate as a merger of that covenant.

33.3 Termination of this Lease will not prejudice Her Majesty's right to recover unpaid rent or any other

right of action by Her Majesty for breach of any covenant in this Lease.

34. ASSIGNMENT, SUBLEASE AND MORTGAGE

34.1 The Lessee will not, during the Term without the prior written consent of the Minister, assign, sublet, mortgage or otherwise dispose of the Lessee's interest in the Lease or any part thereof, for the whole or any part of the Term.

34.2 If the Minister consents to an assignment, sublease, mortgage or any other disposition of the Lessee's interest pursuant to section 34.1, all the provisos, terms, exceptions and conditions herein contained will extend to and be binding upon the assignee, sublessee or mortgagee, or his executors, administrators or assigns respectively, and will have the same effect as if against the Lessee.

34.3 If at any time during the Term the Lessee is permitted to assign or sublet the Lands for the remainder of the Term or any part thereof, each such request for the consent of the Minister will be accompanied by the sum of FIVE HUNDRED DOLLARS (\$500.00) payable in Canadian funds to the Receiver General for Canada.

34.4 Notwithstanding sections 34.1, 34.2 and 34.3, the rent agreed under the Lease will continue to be paid in the manner as provided herein.

35. PROCEDURE UPON EXPIRATION OR SOONER TERMINATION

35.1 At the expiration or sooner termination of the Lease the Lessee will be entitled to remove all moveable chattels from the Lands and will without notice peaceably surrender and yield up possession of the Lands unto Her Majesty for the benefit of the Band.

35.2 All Improvements erected or caused to be erected (except any fences) by the Lessee upon the Lands may be removed by the Lessee provided that the Lessee:

- a. is not in default under this Lease; and
- b. has at least thirty (30) days prior to the expiration of the Term or within 30 days following the sooner termination of the Term given to the Minister written notice of his intention to remove Improvements; and
- c. prior to the commencement of the removal has posted a satisfactory performance bond to ensure compliance with subsection 35.2.d hereof in an amount satisfactory to the Minister and the Band Council; and
- d. will remove said Improvements within thirty (30) days after the expiration or sooner termination of the Term and will leave the Lands in a condition satisfactory to the Minister and the Band Council.

35.3 If the Lessee has not removed the Improvements in accordance with section 35.2, the Improvements will

revert to and become the property of Her Majesty for the benefit of the Band without charge to Her Majesty or to the Band free and clear of all encumbrances and liens whatsoever.

35.4 The Minister at the request of the Band Council, may direct the Lessee to remove all Improvements erected on the Lands, whereupon such removal will be done at the sole expense and risk of the Lessee, in a manner satisfactory to the Minister and the Band Council, and the Lands will be left in a condition satisfactory to the Minister and the Band Council.

36. DISPUTE RESOLUTION

36.1 Subject to Articles 5 and 6, in the event of a dispute concerning the interpretation of the terms and conditions of this Lease, representatives of the Minister, the Lessee and the Band Council will meet to discuss the issue and will make all reasonable efforts to resolve the dispute.

36.2 In the event the parties are unable to reach an agreement, the matter in dispute may be referred by either Party to the Federal Court of Canada for resolution pursuant to Section 17 of the Federal Court Act.

37. **WAIVER**

37.1 No waiver on behalf of Her Majesty of any breach will take place or be binding unless the same be expressed in writing and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates and will not be deemed to be a general waiver or to limit or affect the rights of Her Majesty with respect to any other breach.

37.2 No remedy herein conferred upon or reserved to Her Majesty is intended to be exclusive of any other remedy herein contained or by law provided, and such remedies will be cumulative and are in addition to and do not exclude any other right or remedy provided in this Lease or otherwise allowed by law.

38. **TIME**

38.1 Time will be of the essence in respect of this Lease and all provisions hereof.

39. **HOUSE OF COMMONS/SENATE**

39.1 No member of the House of Commons or the Senate will be admitted to any share or part of this Lease or any benefit to arise therefrom.

40. **INTERPRETATION**

40.1 This Lease is to be read with all changes of gender or number required by the context.

- 40.2 No representations, warranties or conditions have been made to the Lessee in respect of the Lands by Her Majesty.
- 40.3 If a party is comprised of more than one person, then all covenants and agreements of that party will be deemed joint and several.
- 40.4 All headings in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit, enlarge, modify or explain the scope or meaning of this Lease or any of its provisions.

41. **NOTICE**

- 41.1 All notices under this Lease must be given in writing and delivered in accordance with this Article.
- 41.2 All notices will be delivered to the other Party and no notice will be effective until such delivery has been made.

The addresses and fax numbers for delivery are:

To the Minister:

Department of Indian Affairs
and Northern Development
Bruce Service Office
P.O. Box 640
Southampton, Ontario
NOH 2L0

(Fax: 519-797-3659)

41.3 Notice will be deemed to have been delivered:

- a. if delivered by hand, upon receipt;
- b. if sent by electronic transmission, 48 hours after the time of transmission, excluding from the calculation weekends and public holidays;
- c. if sent by registered mail, four (4) days after the mailing thereof, provided that if there is a postal strike or other disruption such notice will be delivered by hand or electronic transmission.

41.4 The Parties may change their respective addresses for delivery by delivering notice of change as provided in this Article.

42. **SUCCESSION**

42.1 This Lease enures to the benefit of and is binding upon the Minister and his successors and the Lessee and his heirs, executors, administrators, successors and assigns and in the case of a company incorporated, its successors and assigns.

43. SUBJECT TO THE INDIAN ACT

43.1 This Lease will be subject to the provisions of the Indian Act and any regulations established thereunder which may now be in force or which may hereafter be made and established from time to time on behalf of the Governor in Council.

SCHEDULE "A"

CODES, STANDARDS AND GUIDELINES

BUILDING AND FIRE SAFETY

National Building Code for Indian Reserves.

National Building Code of Canada (NBC) and supplements (Associate Committee on the NBC, National Research Council) or provincial equivalent.

National Fire Code of Canada (NFC) and supplements (Associate Committee on the NFC, National Research Council) or provincial equivalent.

Canadian Electrical Code Parts 1, 2 and 3 (Canadian Standards Association C22.1, C22.2 and C22.3).

Canada Labour Code (Labour Canada) or provincial equivalent.

ENVIRONMENTAL

Environmental Assessment and Review Process (EARP) Guidelines Order, 1984 (Environment Canada) Registration SOR/84-467.

Canadian Environmental Protection Act and Regulations.

Design Guidelines for Wastewater Systems in Ontario Region, Latest Edition, (DIAND).

Septic Tank Standards (County of Bruce and Health and Welfare Canada).

Septic Tank Installation Specifications, Saugeen Indian Band.

Guidelines for Effluent Quality and Wastewater Treatment at Federal Establishments, 1987 (Environment Canada).

Code of Good Practice on Dump Closing or Conversion to Sanitary Landfills at Federal Establishments, Report EPA-1-EC-77-4, September 1977.

Code of Good Practice for Handling Solid Wastes at Federal Establishments (Environment Canada).

Code of Good Practice for Management of Hazardous and Toxic Wastes at Federal Establishments (Environment Canada).

SCHEDULE "A" CONT'D.

CODES, STANDARDS AND GUIDELINES

WATERWORKS

Design Guidelines for Water Works in Ontario Region, Latest Edition (DIAND).

Guidelines for Canadian Drinking Water Quality, Fourth Edition, 1989 (Health and Welfare Canada).

Water Supply for Public Fire Protection, 1981 — Fire Underwriters Survey.

ROADS AND DRAINAGE

Design Guidelines for Road Works in Ontario Region, Latest Edition, (DIAND).

PLANNING

Site Planning standards are to be consistent with local municipal and/or Regional District Guidelines.

TABLE OF CONTENTS

1.	<u>DEFINITIONS</u>	2
2.	<u>DESCRIPTION</u>	5
3.	<u>PRIOR ENCUMBRANCES</u>	6
4.	<u>THE TERM</u>	6
5.	<u>RENT</u>	6
6.	<u>ARBITRATION</u>	9
7.	<u>PAYMENT OF RENT</u>	11
8.	<u>USE</u>	12
9.	<u>QUIET ENJOYMENT</u>	13
10.	<u>PAYMENT OF TAXES</u>	13
11.	<u>CONSTRUCTION, RENOVATIONS, LANDSCAPING</u>	13
12.	<u>NOTICE OF RESERVE STATUS</u>	14
13.	<u>COMPLIANCE WITH LAWS</u>	14
14.	<u>STATE OF REPAIR</u>	15
15.	<u>SANITATION</u>	17
16.	<u>INSURANCE</u>	17
17.	<u>INDEMNITY</u>	18
18.	<u>FENCES</u>	19
19.	<u>RIGHTS OF WAY</u>	19
20.	<u>HUNTING</u>	19
21.	<u>ACCESS</u>	20
22.	<u>TREES</u>	20
23.	<u>RUBBISH</u>	21
24.	<u>NUISANCE</u>	21
25.	<u>ENVIRONMENTAL STANDARDS</u>	21

26.	<u>NO CONTAMINANTS</u>	22
27.	<u>NO RESIDUAL/ADVERSE IMPACT</u>	22
28.	<u>MITIGATION OF ENVIRONMENTAL IMPACTS</u>	22
29.	<u>LIABILITY FOR REMEDIAL ACTION</u>	23
30.	<u>SAND AND GRAVEL</u>	23
31.	<u>MINERAL RIGHTS</u>	23
32.	<u>NO ABATEMENT OF RENT</u>	24
33.	<u>DEFAULTS AND THEIR CONSEQUENCES</u>	24
34.	<u>ASSIGNMENT, SUBLEASE AND MORTGAGE</u>	26
35.	<u>PROCEDURE UPON EXPIRATION OR SOONER TERMINATION</u>	27
36.	<u>DISPUTE RESOLUTION</u>	28
37.	<u>WAIVER</u>	29
38.	<u>TIME</u>	29
39.	<u>HOUSE OF COMMONS/SENATE</u>	29
40.	<u>INTERPRETATION</u>	29
41.	<u>NOTICE</u>	30
42.	<u>SUCCESSION</u>	31
43.	<u>SUBJECT TO THE INDIAN ACT</u>	32