

THIS AGREEMENT MADE EFFECTIVE THIS 25 DAY OF January, 2016.

BETWEEN:

HIGH RIVER REGIONAL AIRPORT LIMITED

A company incorporated pursuant to Part 9 of the *Companies Act*, R.S.A. 2000, Chapter C-21 (hereinafter called the "Lessee")

- and -

THE TOWN OF HIGH RIVER

A municipal corporation pursuant to the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 (hereinafter called the "Town")

- and -

THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31

A municipal corporation pursuant to the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 (hereinafter called the "District")

(the Town and the District hereinafter also together called the "Lessors")

AGREEMENT TO RENEW AND AMEND TERMS OF LEASE AGREEMENT

WHEREAS the parties entered into a Lease Agreement dated June 25, 2003, attached hereto as Schedule "A" (the "Lease Agreement"), whereby the Lessors leased certain property which is developed and used as the "High River Regional Airport" to the Lessee for an Original Lease Term of twenty (20) years, expiring on June 25, 2023;

AND WHEREAS the parties have agreed to renew the Lease Agreement for the Extended Lease Term as contemplated in Section 2.2 in the Lease Agreement;

AND WHEREAS the parties have agreed to amend certain provisions of the Lease Agreement as set out in this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto in consideration of the mutual covenants and agreements hereinafter set forth covenant and agree with each other as follows:

Extended Lease Term

- 1. In accordance with Section 2.2 of the Lease Agreement, the Lessors agree to grant the Extended Lease Term to the Lessee. The Extended Lease Term shall commence on June 25, 2023 for a period of twenty (20) years and shall expire on June 25, 2043.

Lease Agreement Amendments

- 2. Section 2.6 is deleted and replaced with the following:

The Lessors shall be entitled to appoint nominees to the Board of Directors of the Lessee in accordance with the Lessee's Articles of Association and the procedures prescribed therein.

- 3. Section 2.7(b) is amended to add after the word "capabilities", the following new end of the sentence:

within sixty (60) days' of the receipt by the Lessee of a request for such report from the Lessors.

4. Section 3.1 is amended as follows:

(a) to add after the words "Schedule "E" hereof", the following new end of the sentence:

and in accordance with the District's Land Use Bylaw, as amended from time to time. ; and

(b) to add the following new Section 3.1(c) after subsection (b):

(c) The Lessee has obtained all necessary approvals and permits for the proposed use from the District's subdivision and development authorities.

5. Section 3.3 is amended to add the following after the existing paragraph:

Should the Lessee require any additional financial contribution, the Lessee shall submit to the Lessors, in advance, a request for the approval of any such additional contribution and a budget detailing the use of the financial contributions of the Lessors. Any additional financial contribution may only be requested if the Lessee is not in default of any of its obligations under the Lease.

Notwithstanding any other provision of this Lease, the Lessors, or either of them, may hold back or deduct any funds owing to them by the Lessee from any contribution amount otherwise to be made hereunder.

6. Section 3.4 is amended to add the following after the existing paragraph:

At any time, when for any reason an emergency or reasonably apprehended emergency shall exist or be contemplated, the Lessors or their agents may enter the Leased Premises immediately and without notice to the Lessee and shall be entitled but not required to take any such action as determined reasonably necessary by the Lessors or their agents at their sole discretion to eliminate such emergency, to prevent loss of life or injury to any person, or to prevent loss of or damage to property.

Access to the Leased Premises pursuant to this Section 3.4. shall not in any manner affect the obligations and covenants of this Lease Agreement and shall not, in and of itself, constitute a re-entry, termination, or interruption of the Lessee's quiet enjoyment of the Leased Premises. Nothing herein contained however, shall be deemed or construed to impose upon the Lessors any obligation, responsibility or liability whatsoever, for the care, maintenance or repair of the Leased Premises or any part thereof.

7. Section 3.5 is amended to add the following subsection (a.1) immediately after subsection (a):

(a.1) The Lessee hereby agrees that any use of any untreated water supply, well and/or pipeline is at its sole liability and risk and acknowledges that the Lessors have made no warranty nor representative with respect to the suitability of the untreated water supply for any intended use or function. The Lessee shall at all times and without limitation indemnify and save harmless the Lessors together with their respective officers, elected officials, employees, volunteers, contractors, agents, representatives and insurers (collectively referred to as the "Lessor Parties") from and against any and all liabilities, claims, demands, losses, costs, charges, expenses, legal fees (on a solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions and other proceedings made, brought against, suffered by or imposed on the Lessor Parties or which may be brought or made against them for any reason whatsoever in respect to any direct or indirect loss, economic loss, damage or injury (including injury resulting in death) suffered by any person, including third parties and the Lessee, directly or indirectly arising out of, resulting from or sustained by reason of the Lessee's use of untreated water, well and/or pipeline, howsoever caused. This provision shall survive the expiry of the Extended Lease Term or earlier termination of this Agreement.

8. Section 3.6 is deleted and replaced with the following:

3.6 Covenant Regarding Applicable Law

The Lessee agrees that it shall comply with all Provincial, Town and District Applicable Law in respect of the Airport and the Leased Premises including without restriction, the Area Structure Plan and any other applicable statutory plans, the District Land Use Bylaw, and with the Provincial Building Code, Fire Code and other codes and regulations enacted pursuant to the *Safety Codes Act*, R.S.A. 2000 Chapter S-1.

9. Section 3.7(a) is amended by deleting the first two sentences and replacing them with the following:

All building construction and expansion, land improvements and infrastructure (collectively "Improvements") constructed by or on behalf of the Lessee or a sub-lessee must be in conformity with the requirements of this Lease, Applicable Law, and must be pre-approved by the Lessors in writing in accordance with Section 3.7(b). Any such Improvements must be constructed in a good and workmanlike manner, in accordance with Applicable Law, and must be structurally sound and maintained in good repair.

10. Section 3.12 is amended as follows:

- (a) By adding the following new Sections 3.12(a.1) and (a.2) after the existing Section 3.12(a):

- (a.1) The Lessee, at its sole cost, shall at all times carry "all risks" insurance upon all property of every kind and description owned by the Lessee, or for which the Lessee is legally liable, or installed by or on behalf of the Lessee and which is located at the Leased Premises, including, without limitation, stock-in-trade, fixtures, furniture, fittings, installations, alterations, additions, partitions, plate glass against breakage and damage from any cause, all in an amount equal to the full replacement value thereof, which amount in the event of a dispute shall be determined by the Lessors in their sole discretion;
- (a.2) The Lessee, at its sole cost, shall at all times carry tenant's legal liability insurance in an amount of not less than \$5,000,000.00";

- (b) By replacing the reference to "section 3.12(a)" in subsection (c) with "this Section 3.12";

- (c) By removing the existing subsection 3.12(d); and

- (d) By adding the following new Sections 3.12(d), (e) and (f) after the existing Section 3.12(c):

- (d) The Lessee, at its sole cost, shall carry any other form of insurance and such higher limits as the Lessors may require from time to time in form, in amounts and for insurance risks against which a prudent tenant would insure.
- (e) The Lessee shall ensure that each insurance policy referenced in this Section 3.12 shall contain as appropriate:
- (i) a severability of interests clause and a cross-liability clause, and
- (ii) a waiver by the insurer of any rights of subrogation or indemnity to which such insurer might otherwise be entitled against the Lessors or any person for whom the Lessors are in law responsible; and
- (iii) a waiver, as respects the interests of the Lessors, of any provision in any of the Lessee's policies with respect to any breach of any warranties, representations, declarations or conditions contained in the Lessee's policies; and
- (iv) the Lessors are each included as additional insureds.

- (f) The Lessee shall ensure that any sub-lessee hereunder obtains and maintains at all times such insurance coverage in accordance with the requirements of this Section 3.12, except that the commercial general liability policy of a sub-lessee shall include the Lessee and the Lessors each as additional insureds.

11. Section 6.1 is deleted and replaced with the following:

6.1 Indemnity

The Lessee shall at all times and without limitation indemnify and save harmless the Lessors together with their respective officers, elected officials, employees, volunteers, contractors, agents, representatives and insurers (collectively referred to as the "Lessor Parties") from and against any and all liabilities, claims, demands, losses, economic loss, loss of opportunity, costs, charges, expenses, legal fees (on a solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions and other proceedings made, brought against, suffered by or imposed on the Lessor Parties or which may be brought or made against them for any reason whatsoever in respect to any direct or indirect loss, economic loss, loss of opportunity, damage or injury (including injury resulting in death) suffered by any person, including third parties and the Lessee, directly or indirectly arising out of, resulting from or sustained by reason of:

- (a) the operation, management, maintenance or development of the Airport or the failure of the Lessee (or those for which it is at law responsible) to operate, manage, maintain or develop the Airport in the manner required hereunder and by Applicable Law, an occurrence in, upon or at the Leased Premises, the occupancy or use by the Lessee (or those for which it is at law responsible) of the Leased Premises or any part of it, or occasioned wholly or in part by any act or omission of the Lessee (or those for which it is at law responsible); and
- (b) all Environmental (subject to Article 7) and health matters pertaining to the Airport and the Leased Premises and all obligations, damages, costs, fines and penalties associated therewith whether arising or imposed by Applicable Law, contract or otherwise.

The provisions of this Section 6.1 are in addition to and shall not prejudice any other rights of the Lessors at law or in equity.

12. Section 6.4 is amended to add the following at the end of the existing paragraph:

, unless any of these parties are found by a Court having jurisdiction to have been grossly negligent, to have acted in bad faith or engaged in willful misconduct.

13. Section 6.5 is amended as follows:

- a. to add, after each instance of the word "injury" the words: "(including injury resulting in death)"; and
- b. to add the following sentence at the end of the last paragraph:

This Section 6.5 and the obligations of the Lessee herein shall survive the expiration or earlier termination of this Lease.

14. Article 6 is amended to add a new Section 6.6, as follows:

6.6 Notice of Accident, Damage, Etc.

The Lessee shall give the Lessors prompt notice in writing of any damage to or loss of property, to the Leased Premises, or any injury or death to any person thereon of which the Lessee is aware howsoever caused.

15. Section 7.3 is amended to add the following sentence at the end of the existing paragraph:

This Section 7.3 and the obligations of the Lessee herein shall survive the expiration or earlier termination of this Lease.

16. Section 8.1 is amended as follows:

- a. Subsection 8.1(a) is replaced with the following:

(a) if the Lessee fails to make any payment pursuant to this Lease in full, when and as the same shall become due and payable; and

- b. Reference to "Section 3.11" in subsection 8.1(d) is replaced with "Section 3.12".

17. Section 8.2 is amended by replacing the reference to "Section 3.11" with "Section 3.12".

18. Section 8.4 is amended as follows:

- a. to replace the first sentence of the existing paragraph with the following:

Upon the termination or expiration of this Lease, the buildings, improvements and other personal property erected or located upon the Leased Premises pursuant to this Lease shall become the property of the Lessors to be disposed of in such a way as the Lessors deem fit.

- b. to add at the end of the last sentence of the existing paragraph the following:

, at the sole cost and expense of the Lessee. The obligations of this Lessee pursuant to this Section 8.4 shall survive the expiration or earlier termination of this Lease.

19. Article 8 is amended to add new Sections 8.5 and 8.6, as follows:

8.5 Remedies

The Lessors may from time to time resort to any or all rights and remedies available to it in the event of any default hereunder by the Lessee, either by any provision of this Lease or by statute, at law or in equity and all rights and remedies are intended to be cumulative and not alternative and the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Lessors or either of them at law or in equity.

8.6 Lessors' Right to Cure Lessee's Default

(a) If the Lessee is in default in the performance of any of its obligations under this Lease, (other than the payment of any amount required to be paid by the Lessee pursuant to this Lease) and such default is continuing, the Lessors may from time to time (but shall not be obliged) after giving reasonable notice (or without notice in the case of an emergency), perform or cause to be performed any of such obligations, or any part thereof, and for such purpose may do such things as may be required, including without limitation, entering upon the Leased Premises and doing such things upon or in respect of the Leased Premises or any part thereof as the Lessors consider requisite or necessary in their sole discretion.

(b) The Lessee shall pay to the Lessors upon demand all costs and expenses incurred pursuant to this Section 8.06. Any such entry onto the Leased Premises by the Lessors shall not, in and of itself, constitute a re-entry, termination or interruption of the Lessee's quiet enjoyment under this Lease.

20. Section 9.9 is amended as follows:

- a. by adding to the first paragraph, after the words "or by facsimile transmission", the following: ", or by electronic mail or other electronic means,"

- b. by adding to subsection (a), after "T1V 1P6" a new line stating "Attention: Chairman" and, a second new line stating "E-Mail: Caoc@medfort.com"
- c. by adding to subsection (b), after "T1V 1Z5" a new line stating "Attention: CAO" and, a second new line stating "E-Mail: Caoc@highriver.ca"
- d. by adding to subsection (c), after "T1V 1M7" a new line stating "Attention: CAO" and, a second new line stating "E-Mail: Caoc@medfort.com", and
- e. by adding to the last paragraph, after the words "any facsimile transmission", the following: "or electronic mail or other electronic form of transmission,"

21. The existing Section 9.11 is amended as follows:

- a. Section 9.11 is moved to follow a new Section 9.11 (below) and is renumbered as the new Section 9.12; and
- b. The following phrase is deleted:

"In the event that the parties fail to perform, or are unable to agree on the performance of, any of the obligations arising from this Lease after reasonably commercial efforts, then the parties agree to"

and is replaced by the following new phrase:

"If a Dispute cannot be resolved by the parties pursuant to Section 9.11, any party may"

22. A new Section 9.11 is added, as follows:

9.11 Mediation Process

- (a) The parties agree to utilize all reasonable efforts to resolve any Dispute (meaning a dispute between the parties related to the interpretation or application of a provision of, or relating to the performance of, a party's obligations under this Lease Agreement) promptly and in an amiable manner;
- (b) Each party shall designate an individual authorized to negotiate and settle a Dispute arising under this Agreement, who shall be referred to as that party's "Dispute Representative". Each party shall provide written notice to the other parties upon the designation of the Dispute Representative of that party from time to time;
- (c) A party claiming that a Dispute has arisen out of or in connection with this Lease Agreement must notify the other parties in writing giving details of the Dispute and the remedy or damages sought, and submit the Dispute issue to the Dispute Representative. Within ten (10) days of receipt of a notice of Dispute, the Dispute Representatives shall meet and engage in good faith direct negotiations in an effort to resolve the Dispute;
- (d) If a Dispute cannot be resolved by the parties by mutual agreement within a time period that is reasonably satisfactory to the party raising the Dispute, any party may submit the dispute for mediation. Any party may, on notice to the other parties, request that mediation take place and the parties shall select a mediator whose qualifications are appropriate to the matter to be mediated. The mediation shall be held in High River, Alberta unless otherwise agreed to in writing by the parties. During the mediation process, no action will be taken by any party to commence or continue arbitration proceedings under this Lease Agreement. The cost of the mediator will be equally shared by the parties. Any mediation which takes place will be strictly confidential. No proposal or concession made by any party in the course of mediation may be used by either party in any subsequent proceedings. The mediator may not be called by any party as a witness in any subsequent proceedings; and

- (e) Should mediation fail to result in a resolution of the Dispute within thirty (30) days after the parties initially attempted to mediate the dispute, or such other time period as may be agreed to between the parties in writing, any party may submit the dispute for arbitration as provided in Section 9.12 below.
23. The existing Section 9.12 is moved to follow a new Section 9.13 and 9.14 (below) and is renumbered as the new Section 9.15.
24. A new Section 9.13 is added as follows:
- "Notwithstanding Sections 9.11 and 9.12, any party, without waiving any remedy under this Lease Agreement, may seek any interim or interlocutory remedy from any Court having jurisdiction pending the determination of the merits of the Dispute in accordance with those Sections. The parties shall continue performing their respective obligations and responsibilities under this Lease while any Dispute is being resolved in accordance with Sections 9.11 and 9.12, unless and until such obligations are terminated or expire in accordance with the provisions of this Lease.
25. A new Section 9.14 is added as follows:

9.14 Future Amendments to the Lease Agreement

- The parties acknowledge and agree that they are currently engaged in ongoing business development plans as well as planning and development plans which will impact the Airport and the terms of the Lease. The parties each hereby covenant and agree that they shall undertake good faith consultations and negotiations with the other parties hereto not later than six (6) months' following the completion of the business development plans and the planning and development plans, which consultations and negotiations shall involve the review of the suitability of the terms and conditions of the Lease including any necessary amendments to the terms and conditions of the Lease in the context of the completed plans. Each party will be responsible to pay their own costs related to the consultations and negotiations.
26. Each party will pay their own costs with respect to this Agreement and the renewal of the Lease Agreement.
27. Except as otherwise set out in this Agreement, all of the covenants and terms of the Lease Agreement shall continue in full force and effect.
28. All words and expressions used in this Agreement, unless there is something in the subject matter or context inconsistent therewith, shall have the same meaning ascribed to them in the Lease Agreement.
29. This Agreement shall enure to the benefit of and be binding upon each of the parties hereto, their respective successors and assigns.

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IN WITNESS HEREOF the Town, District and the Lessee have executed this Agreement on the day and year first written above.

HIGH RIVER REGIONAL AIRPORT LIMITED

Per: 

Per: _____

THE TOWN OF HIGH RIVER

Per: 

Per: 

**THE MUNICIPAL DISTRICT OF FOOTHILLS
NO. 31**

Per: 

Per: 