

## **RECREATION LAND LEASE**

THIS INDENTURE made in duplicate this \_\_\_\_ day of \_\_\_\_\_ A.D., 20 \_\_\_\_.

BETWEEN:

**THE COUNTY OF ST. PAUL NO. 19**  
(hereinafter called the "Lessor")

- and -

**MALLAIG & DISTRICT MUSEUM**  
**BOX 211**  
**MALLAIG, ALBERTA T0A 2K0**

(hereinafter called the "Lessee")

**WHEREAS** the Lessor is the registered owner of the Lands; and

**WHEREAS** the Lessor has agreed to grant the Lessee the right to lease the Lands, subject to the terms, covenants, and conditions contained herein.

**NOW THEREFORE**, in consideration of the leasing of the Lands, as well as the mutual covenants and agreements hereinafter contained and to be respectively observed and performed by the parties, the parties hereby agree as follows:

### **SECTION 1: DEFINITIONS**

1) The following terms will have these corresponding definitions:

a) "Lands" means all that portion located at **PSE 25-60-10-W4, Lot 1MR, Block 7, Plan 0928675** containing **6.32** acres, more or less, reserving unto her Majesty, all mines and minerals.

b) "Lease" means this agreement and the schedules hereto, as from time to time amended in writing and agreed to by the parties hereto;

c) "Term" means the tenure of this Lease as specified in Section 3.1 of this agreement.

### **SECTION 2: DEMISE**

1) The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the surface of the Lands for the Term, and upon and subject to the covenants, conditions, and agreements herein expressed.

### **SECTION 3: TERM**

- 1) The Lessee shall have the Lands for the period commencing on the 1<sup>st</sup> day of May, 2018 and expiring April 30, 2043.

### **SECTION 4: RENT**

- 1) The Lessee shall pay to the Lessor Rent for the use of the Lands subject to this Agreement in the amount of **1.00 Dollars** per annum, the receipt of which is hereby acknowledged.

### **SECTION 5: USE AND OCCUPANCY OF THE LANDS**

#### **5.1 USE OF THE LANDS**

- 1) Subject to the terms, covenants, and conditions contained in this Lease, as well as the performance of all obligations of the Lessee contained within this Lease, the Lessee shall be permitted to use the Lands continuously for recreational purposes and for no other use whatsoever, provided always that any such use of the Lands by the Lessee shall be undertaken at the Lessee's sole risk, and that the Lessor shall not be obligated to compensate the Lessee for any damage whatsoever which may occur to the Lands and in particular for damage to machinery, and the like, at any time upon the Lands. The Lessee shall not carry on nor permit to be carried on upon the Lands any other trade, business, or activity without prior written consent of the Lessor.

#### **5.2 OPERATION OF GRAVEL PIT, MINE, OIL OR GAS OPERATION, OR UTILITY LINES**

- 1) Notwithstanding anything contained in this Lease, the Lessee shall not occupy or use the Lands in such a manner as to interfere with, or in any way interrupt, the operation of any gravel pit, mine, oil or gas operation, or utility line now or hereafter located upon the Lands. Without limiting the generality of the foregoing, the Lessor shall be entitled to freely and openly mine and extract gravel, oil, or gas or utility line on the Lands without hindrance or interruption from or by the Lessee, provided always that such mining, extraction, or other activities are carried out in accordance with the terms of this Lease.

#### **5.3 LESSEE'S OBLIGATIONS**

- 1) In addition to the foregoing, and without limiting the generality of the foregoing, the Lessee shall ensure that the agents, employees, and invitees of the Lessee, as well as all vehicles are prevented from gaining access to those portions of the Lands that contain any open pit, mine, or oil and gas exploration equipment.

## **5.4 LEGAL COMPLIANCE**

- 1) The Lessee will promptly comply with and conform to the requirements of every applicable law, bylaw, regulation, ordinance, and order at any time of from time to time during the Term of this Lease affecting the Lands. The Lessee will not use the Lands in any way, whether within the use hereinbefore permitted or not, which would or may impose upon the Lessor any obligation to modify, extend, alter, or replace any part of the Lands nor any machinery, equipment, or other facilities located on or in the Lands except where previously agreed to be the Lessor in writing.
- 2) The Lessee shall not carry on any business nor do or suffer any act or thing which in the opinion of the Lessor constitutes a nuisance or would result in a nuisance, or which would be offensive or an annoyance to the Lessor or any other landowners in the area, no do or suffer any waste or damage, disfiguration, or injury to the Lands. The Lessee shall at all times during the Term of this Lease keep, and at the time of expiration, yield the Lands in a good and clean condition.
- 3) The Lessee shall at all times maintain the Lands and control weeds and excessive dust on the Lands.

## **5.5 SUBLEASING**

- 1) The Lessee will not without written consent or approval of the Lessor assign or sublease any part of the Lands.

## **5.6 MINERAL RIGHTS**

- 1) The Lessor retains all mineral rights to the Lands. All compensation and payment paid by an oil and gas company, gravel company, utility company, or similar company for compensation or payment for right-of-way rights, usage rights, easement rights, damage claims, or any other similar compensation or payment for any claim however small belongs to the Lessor absolutely without recourse or indemnity by the County to the Lessee herein. The Lessor further reserves the right to reduce the number of acres being rented herein to accommodate or complete any agreements with any of the companies in question for the above purposes without reduction of the rental costs herein.

## **5.7 INSURANCE**

- 1) The Lessee shall throughout the Term and during any other time the Lessee occupies the Lands or a part thereof, at its sole cost and expense, take out and keep in full force and effect, the following insurance:
  - a) Comprehensive general liability insurance with inclusive limits of not less than two million dollars (\$2,000,000) covering personal and bodily injury, death, and



property damage on an occurrence basis with respect to the activities of the Lessee or its employees, invitees, and patrons; and

b) Any other form of insurance as the Lessor or Lessee may reasonably require from time to time in amounts and for insurance risks against which a prudent Lessee under similar circumstances would insure; and

c) The comprehensive general liability insurance shall:

- i) Name the lessor as an additional insured;
- ii) Be in a form satisfactory to the Lessor;
- iii) Waive any right to make claims against the Lessor to recover any amounts paid by the insurer; and

d) The Lessee shall immediately notify the Lessor, and promptly thereafter by written notice confirm such notification to the Lessor, or any accident to, defect of, or an damage or injury that has occurred to or on the Lands, or any part thereof, howsoever caused, provided that nothing herein shall be construed so as to require repairs to be made to the Lands by the Lessor, except as expressly provided in this Lease.

## **5.8 INDEMNITY**

1) The Lessee hereby indemnifies and saves harmless the Lessor and its successors and assigns from and against any and all losses, liabilities, damages, costs (including without restriction, all legal and other professional costs on a solicitor and his own client full indemnity basis) and expense of any kind whatsoever, without limitation:

a) the costs of defending, counter-claiming, or claiming over against third parties in respect of any action or matter including legal fees, costs, and disbursements on a solicitor and his own client basis and at all court levels; and

b) any cost, liability or damage arising out of a settlement of any action entered into by the Lessor with or without the consent of the Lessee; and

c) the costs of repair, clean-up, or restoration paid by the Lessor and any fines levied against the Lessee, which at any time or from time to time may be paid, incurred, or asserted against the Lessor, whatsoever arising from or out of, directly or indirectly, the Lessee's use or occupancy of the Lands or occasioned wholly or in part by any act or omission of the Lessee, its agents, contractors, employees, sub-tenants, invitees, or anyone permitted by the Lessee to be in or on the Lands. This indemnification shall survive the expiration of the Term of the Lease and the termination of the Lease by whatever cause.

## **5.9 IMPROVEMENTS**

- 1) The Lessee shall have the right from time to time at its own expense to make such changes, additions, and improvements (including brushing) to the Lands as the Lessee may think necessary, subject to the following conditions:
  - a) the Lessee shall submit to the Lessor a plan for the change, addition, or improvement and must receive the Lessor's written consent to carry out the desired work. The consent of the Lessor does not relieve the Lessee of the requirement to obtain the necessary development permit, nor does the Lessor, in approving the plan, guarantee or represent that the necessary development permit will be granted; and
  - b) the Lessee shall submit a development application if required under the County of St. Paul No. 19 Land Use Bylaw and must receive the necessary development permit prior to making the change, addition or improvement.

## **5.10 REPAIRS**

- 1) The Lessee covenants to keep the Lands tide and in safe condition as determined by the Lessor acting reasonably including, without restriction, promptly attending to such maintenance and repairs as the Lessor may reasonably direct. The Lessee shall make all repairs and maintenance required under this Lease with all due diligence. The Tenant shall forthwith repair any damage or undertake maintenance required, as directed by the Lessor in writing. The failure by the Lessor to give direction to repair or to maintain shall not relieve the Lessee from its obligation to repair or to maintain.
- 2) Upon expiration of the Term or upon the earlier termination of the Lease, the Lessee covenants to surrender the Lands in substantially the same condition as the Lands were in upon delivery of possession thereof under this Lease.

## **5.11 NOTICE OF ACCIDENTS, DEFECTS, AND HAZARDS**

- 1) The Lessee shall give the Lessor prompt notice of:
  - a) the existence of any conditions upon the Lands which could constitute a hazard to vehicles or persons; or
  - b) any defects in, or accident or damage to, the Lands and the fencing surrounding the Lands; or
  - c) damage or injury to the Lands or to any person therein howsoever caused;

provided that nothing herein shall be construed so as to require repairs to be made by the Lessor except as expressly provided in this Lease.



## **SECTION 6: RIGHT OF FIRST REFUSAL**

- 1) There will no right of first refusal if the Lessor requires the Lands for the purpose of locating County infrastructure.
- 2) If the Lessor does not require the Lands to locate infrastructure, and provided the Lessee is at all times during the term in good standing under the terms of the Lease, the Lessor grants to the Lessee a right of first refusal to buy the Lands under the following conditions:
  - a) The right of first refusal only applies during the term hereof.
  - b) if, during the Term of this Lease, the Lessor receives an acceptable written offer from a third party to purchase the Lands, then the Lessor will notify the Lessee in writing, of the terms of such acceptable written offer to purchase. The Lessee shall have seven (7) days from receipt of such written notice to exercise its right of first refusal, in writing, delivered to the Lessor, to purchase the Lands on the same terms and conditions as are contained in the acceptable written offer to purchase. Should the Lessee not exercise its right of first refusal within the seven (7) day period as aforesaid, then the Lessor may proceed with acceptance and closing of the third party offer to purchase. If the third party does not complete the purchase, the Lessee's right of first refusal shall remain in full force and effect.
  - c) if the Lessee does not exercise its right of first refusal and the Lessor proceeds with the closing of the offer accepted, the Lessee's right of first refusal shall thereafter be void.

## **SECTION 7: CANCELLATION**

- 1) Notwithstanding any of the foregoing or forthcoming provisions, the Lessor may cancel this Lease at its discretion upon either written notice to the Lessee or upon the sale of Lands to a third party.
- 2) Subject to the right of first refusal contained in Section 7, that this Lease is granted subject to the right of sale of the Lands by the Lessor or cancellation of the Lease by the Lessor at any time during the term hereby granted, provided that:
  - a) if such a sale or cancellation is made before April 1<sup>st</sup>, notice thereof shall be forthwith given to the Lessee in writing and thereupon this Lease shall be cancelled after thirty (30) days and be at an end, and the Lessee agrees to surrender this Lease for cancellation and forthwith give up the quiet and peaceful possession of the said Lands to the Lessor or its agents; and
  - b) if the Lands are sold or this Lease is cancelled after April 1<sup>st</sup>, during the currency of the Lease, and notice thereof be given as aforesaid, then the Lessee agrees to give up the quiet and peaceful possession of the said Lands.

## **SECTION 8: LIABILITIES**

- 1) The Lessor shall not be liable for the theft of any property at any time in or on the Lands.
- 2) The Lessor shall not be liable for any injuries, death, or any losses or damages caused to any individual or property while on the Lands as a result of or in any way arising out of the occupation or use of the Lands by the Lessee.

## **SECTION 9: LESSEE'S DEFAULT**

- 1) The Lessor shall be entitled to re-enter the Lands, with or without cancelling this Lease, at any time after the Lessee fails to perform any term, covenant, or condition of this Lease.
- 2) In addition to all other remedies the Lessor shall have at law or in equity, if the Lessee defaults on any of its obligations hereunder the Lessor may at its option perform any such obligation after fourteen (14) days' written notice to the Lessee and in such event the cost of performing the obligation shall be payable by the Lessee to the Lessor, together with interest at a rate of the Province of Alberta Treasury Branches prime rate plus two (2) per cent, calculated from the date of the performance of the obligation by the Lessor, forthwith upon demand. On default of the payment, the Lessor shall have the same remedies as on the default of payment of rent.
- 3) The Lessor 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 a 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 or remedies available to the Lessor at law or in equity.
- 4) The waiver by the Lessor of a breach of term, covenant, or condition herein contained will not be deemed to be a waiver of a subsequent breach of the same or another term, covenant or condition herein contained. No covenant, term or condition of this Lease will be deemed to have been waived by the Lessor unless the waiver is in writing and signed by the Lessor.
- 5) In the event the Lessee defaults under any term of this Lease, the Lessee shall reimburse the Lessor forthwith for all legal and other professional fees and disbursements on a solicitor and his own client full indemnity basis and for all bailiff fees and disbursements that the Lessor may incur as a result of such default, such fees and disbursements being payable by the Lessee on demand. On default of payment, the Lessor shall have the same remedies as on the default of payment of the rent.



## **SECTION 10: GENERAL PROVISIONS**

- 1) The Lessee covenants that the Lessor, together with all invitees of the Lessor, may enter upon the Lands and have unimpeded access on the Lands.
- 2) The Lessee, so long as not in default under this Lease, shall have quiet enjoyment of the said Lands.
- 3) The Lessee shall have the right to post the Lands to prohibit trespassing.
- 4) It is understood and agreed between the parties that the terms and conditions set forth herein, together with the terms and conditions set forth in the rules and regulations and any schedules and plans annexed hereto, embrace all the terms and conditions of the Lease entered into by the Lessee and Lessor and supersede and take the place of any and all previous agreements or representations of any kind, whether written, oral, or implied heretofore made by anyone with reference to the Lands. If any provision of this Lease is unenforceable, it shall be considered separate and severable from the remaining provisions of this Lease, and the remaining provisions shall remain in force and be binding as though said unenforceable provisions had never been included.
- 5) This Lease shall enure to the benefit of and be binding upon the parties hereto, and their respective heirs, executors, successors, and permitted assigns.
- 6) A notice, demand, request, consent, or other instrument required or permitted to be given under this Lease shall be in writing and shall be addressed

a) to the Lessor as follows:

County of St. Paul No. 19  
5015 – 49 Avenue  
St. Paul, AB  
T0A 3A4

b) to the Lessee as follows:

Mallaig & District Museum  
Box 211  
Mallaig, AB  
T0A 2K0

Any notice must be mailed in Canada by ordinary mail, electronic facsimile transmission, or prepaid courier. A notice shall be deemed to have been received by the party to whom the notice is addressed on the day that is five (5) business days following the date that the notice was mailed.



