

**SUB-LICENCE AGREEMENT
FOR THE USE AND OPERATION OF A
RADIO STATION TRANSMITTER SITE**

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF CANADA
As represented by the Minister of Fisheries, Oceans and the Canadian Coast Guard

(the “DFO-CCG”)

AND

COWICHAN VALLEY REGIONAL DISTRICT

(the “CVRD”)

WHEREAS TimberWest Forest Company (“TimberWest”) is the registered owner of the lands legally described as PID-003-132-846, Lot A, Sections 1 and 2, Ranges 1 and 2, Chemainus District and of Sections 19 and 20, Ranges 1 and 2, Somenos District, Plan 23686, Except that Part in 787 BL (the “Land”);

AND WHEREAS TimberWest has granted to DFO-CCG a licence dated the 1th day of January, 2021 (the “Licence”), together with a right of access, to a portion of the Land (the “**Licensed Land**”), a copy of which Licence, including a plan of the Licensed Land is attached as Schedule “A”;

AND WHEREAS DFO-CCG occupies and uses the Licensed Land for the purpose of meeting its mandate as a department of the Government of Canada pursuant to the Licence;

AND WHEREAS DFO-CCG is desirous of entering into a Sub-Licence with the CVRD to permit the latter’s non-exclusive use of space on DFO-CCG’s radio tower and space in DFO-CCG’s building, found on the Licensed Land (herein referred to as the “Sub-Licence Area”), as further shown on the photos attached as Schedule “B”;

AND WHEREAS TimberWest has given its consent to the granting of a Sub-Licence by DFO-CCG to the CVRD for access to DFO-CCG’s radio tower and building in order to occupy and use the tower and building for specified communications purposes. This consent is given per the signature below, subject to the CVRD paying an Access Fee as outlined in Schedule “C” directly to TimberWest.

NOW THEREFORE in consideration of the Sub-Licence Fee and the terms and conditions set forth below, the receipt and sufficiency of which is hereby acknowledged, DFO-CCG and the CVRD (together, “the Parties”) hereby agree as follows:

1. DEFINITIONS

In this Agreement:

“**Access Fee**” means : the fee set out in Schedule “C”;

“Applicable Environmental Law” means:

- (a) all applicable statutes and regulations, and all by-laws, declarations, directives, plans, approvals, requirements, guidelines, standards and orders made pursuant thereto by any competent authority concerned with environmental assessment, protection or remediation, health, chemical use, safety or sanitation; and
- (b) the applicable common law;

“Contaminant” means:

- (a) any pollutant or toxic, dangerous or hazardous substance or material as defined, listed, prohibited, controlled, or regulated by Applicable Environmental Law; or
- (b) any substance that when released into the natural environment causes or is likely to
 - (i) cause harm, adverse impact, damage, degradation to or impairment of the environment;
 - (ii) have an adverse effect on human safety or health; or
 - (iii) injure or materially discomfort any person, or the normal conduct of business;

“Equipment” means the equipment which in the opinion of the CVRD is necessary in order to install, operate and maintain the CVRD Area located on the Licensed Land;

“Sub-License Area” means the tower and building space detailed in Schedule “B”;

“Sub-Licence Fee” means the fee set out in Schedule “C”;

“Utilities Connections” means cables, posts or other related infrastructure erected by DFO-CCG to ensure connection of the CVRD’s Equipment to utilities such as gas, water and electricity.

2. GRANT, TERM AND RENEWAL

- 2.1 Subject to the Access Fee being paid to TimberWest on or before the due date noted in Schedule “C” and subject to the terms and conditions of this Agreement, DFO-CCG hereby grants to the CVRD a non-exclusive Sub-licence to occupy and use the Sub-License Area for the purpose of installing, operating and maintaining the CVRD’s Equipment and for no other purpose whatsoever. The rights granted in this subsection shall extend to and include employees, agents, officers and contractors of the CVRD who operate and maintain the Equipment.
- 2.2 This Agreement shall be effective as of January 1, 2024 and shall expire on December 31, 2028 unless otherwise terminated in accordance with the terms of this Agreement (herein the **“Term”**).
- 2.3 DFO-CCG reserves the right to grant licences, rights of way or privileges to others on, over, under, through or across the Sub-License Area, provided however that such licences, rights of way or privileges:
 - (a) are not detrimental to the proper conduct of the CVRD’s occupancy or use of the Sub-License Area;
 - (b) do not impose any cost upon the CVRD;

- (c) do not weaken, diminish or impair the rights and obligations of the Parties under this Agreement; and
- (d) in no way provide other Sub-Licensees access to the CVRD's Equipment.

3. SUB-LICENCE AND ACCESS FEES

- 3.1 The CVRD shall directly pay to TimberWest, during the term of this Agreement, an annual Access Fee as detailed in Schedule "C", and payable on the 1st day of January 2024 and on January 1st of each succeeding year until the conclusion of the Term of the Sub-License. This is a subject of the Sub-License.
- 3.2 The CVRD shall pay to DFO-CCG, during the term of this Agreement, an annual Sub-licensee Fee as detailed in Schedule "C", and payable on the 1st day of January 2024 and on January 1st of each succeeding year until the conclusion of the Term of the Sub-License.
- 3.3 DFO-CCG will only clear snow when required for their specific operations. Road snow removal required by the CVRD must be carried out by the CVRD and the CVRD will need to ensure that they have appropriate vehicles for the terrain and weather conditions. All snow removal required by the CVRD, outside of when DFO-CCG carries it out for their own operation, shall be carried out and paid directly by the CVRD.
- 3.4 If this Agreement is terminated by DFO-CCG prior to the date specified in subsection 2.2 and in accordance with the terms and conditions of this Agreement, DFO-CCG shall refund to the CVRD a prorated portion of the annual Sub-License Fee, calculated in respect of the unexpired term of the relevant year.

4. GENERAL COVENANTS

- 4.1 The CVRD's covenants with DFO-CCG:
 - (a) at its own expense, to keep the Sub-Licensed Area in a clean and good state of maintenance and repair to the extent that such maintenance and repair is required as a result of the CVRD's occupation or use of the Sub-Licensed Area;
 - (b) not to commit any voluntary waste or destruction on the Sub-Licensed Land or Sub-Licensed Area or do anything on the Sub-Licensed Land or Sub-Licensed Area that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Sub-Licensed Land;
 - (c) not to interfere with the activities of any other person authorized to enter on, occupy and use the Sub-Licensed Land under a prior or subsequent license granted by TimberWest or DFO-CCG;
 - (d) to permit DFO-CCG, or its representatives, to enter on the Sub-Licensed Area upon reasonable notice in order to inspect the Sub-Licensed Area;
- 4.2 DFO-CCG agrees to ensure that the CVRD has quiet enjoyment of the Sub-License Area. In particular, DFO-CCG shall not do anything on the Sub-License Area that will interfere materially with the CVRD's occupation and use of the Sub-License Area.

5. ACCEPTANCE OF THE SUB-LICENSED AREA

5.1. The CVRD agrees that:

- (a) it has inspected the Sub-Licensed Area or has caused it to be inspected on its behalf;
- (b) it has entered into this Agreement on reliance on that inspection and not on reliance on any representation, warranty, inducement, whether oral, written or implied, by whomsoever made;
- (c) it is satisfied with the extent of its knowledge of the condition, including environmental condition, affecting the Sub-Licensed Area.

6. ENVIRONMENTAL PROTECTION

6.1. The CVRD shall not be liable or responsible under this Agreement for any Contaminants in existence on, in or under the Sub-Licensed Area prior to the Term nor for any adverse conditions arising out of such Contaminants.

6.2. The CVRD agrees that all activities on the Sub-Licensed Area shall be conducted in compliance with Applicable Environmental Law, or in accordance with generally accepted environmental practices if there is no Applicable Environmental Law.

6.3. The CVRD agrees that no Contaminants shall intentionally be deposited, placed, discharged or disposed of by or on behalf of the CVRD on, in or under the Licensed Land, Sub- Licensed Area or adjacent sites.

7. RETURN OF THE SUB-LICENSED AREA

7.1. Upon expiration or termination of this Agreement, the CVRD shall:

- (a) peaceably quit and deliver to DFO-CCG possession of the Sub-Licensed Area;
- (b) leave the Sub-Licensed Area free from all garbage and debris, but only to the extent such garbage and debris was caused by the occupation or use of the CVRD; and
- (c) return the Sub-Licensed Area back to the state of maintenance and repair that existed prior to their original occupancy date, except normal wear and tear and only to the extent that such maintenance and repair is required as a result of the CVRD's occupation or use of the Sub-Licensed Area;

7.2. Unless the Parties agree otherwise, within ninety (90) days of the expiration or termination of this Agreement, the CVRD shall remove the Equipment and Utilities Connections.

8. EARLY TERMINATION AND DEFAULT

8.1 Notwithstanding the expiration date stipulated in subsection 2.2;

- (a) the Parties may, on mutual consent in writing, terminate this Agreement at any time; and

(b) DFO-CCG may terminate this Agreement, without cause and in its sole discretion, by giving at least one hundred (180) days written notice to the CVRD of its intention to terminate.

(c) The CVRD may terminate this Agreement, without cause and in its sole discretion, by giving at least one hundred and eighty (180) days written notice to DFO-CCG of its intention to terminate.

8.2 If either the CVRD or DFO-CCG becomes a party in default by failing to observe any terms, conditions or covenants under this Agreement and does not, within ninety (90) days of receiving notice in writing from the non-defaulting party specifying the default, undertake to cure such default, then the non-defaulting party may terminate this Agreement.

9. AMENDMENTS

9.1 This Agreement may be amended at any time by mutual consent of the Parties. In order to be valid, any amendment to this Agreement shall be in writing and signed by the Parties.

9.2 DFO-CCG will be providing a copy of all amendments to TimberWest.

10. INDEMNITY

10.1 Subject to the provisions of the Crown Liability and Proceedings Act, the CVRD agrees to indemnify and save harmless His Majesty the King in Right of Canada, DFO-CCG and its officers and servants from and against all claims, demands, loss, costs, damages, actions, suits or other proceedings whatsoever, based upon or arising out of the execution of this Agreement and the negligent acts or omissions of the CVRD while acting within the scope of their duties or employment in connection with this agreement.

11. INSURANCE

11.1 The CVRD will, at its sole cost and expense during the Term take out and maintain in full force and effect, commercial general liability insurance with respect to the occupancy by the CVRD of the Licensed Area.

11.2 If requested by DFO-CCG the CVRD agrees to provide DFO-CCG with certificates of insurance that confirm compliance by the CVRD with the insurance requirements set out herein, including proof of renewal of each policy during the Term.

12. ASSIGNMENT, SUCCESSORS, SALE

12.1 Neither Party may assign or otherwise alienate its rights or obligations under this Agreement without the prior written consent of the other Party.

12.2 This Agreement shall inure to the benefit of and be binding upon the Parties hereto and, as the case may be, their heirs, administrators, executors, successors and permitted assigns.

12.3 Any assignment of this agreement by the CVRD must be pre-approved by DFO-CCG.

13. MISCELLANEOUS

13.1 No transfer of interest

This Agreement operates solely as a licence and does not transfer any exclusive possessory right or interest in land to the Sub-Licensee.

13.2 Notices

(a) Any notice between the Parties shall be in writing and shall be: a) delivered personally (in which case the notice shall be considered received on the day of the delivery); or b) mailed by registered mail, return receipt requested (in which case the notice shall be considered received on the seventh business day following the day on which it was registered in a post office; or c) sent by electronic mail, read receipt requested (in which case the notice shall be considered received on the day following the day of delivery).

(b) Such notices shall be sent to the following addresses:

For the CVRD:

Merrick Grieder
Cowichan Valley Regional District
175 Ingham Street,
Duncan BC V9L 1N8

Cell: 250-715-6618
Email: radio@cvr.bc.ca

or to such other address as the Sub-Licensee may from time to time advise by notice in writing.

For DFO-CCG:

Attention : Senior Real Estate Real Estate & Accommodations
Real Property, Safety & Security
Fisheries & Oceans Canada
Government of Canada
9860 West Saanich Road, Sidney, BC, V8L 4B2
Ciara.hughes@dfo-mpo.gc.ca
DFO.PACRPSSRealEstate-BIESSImmobilierPAC.MPO@dfo-mpo.gc.ca

Office: 250-363-8720
Cell: 1-431-330-0033

or to such other address as the Licensee may from time to time advise by notice in writing.

(c) In the case of notices sent by electronic mail, notices shall be sent to the business electronic mail address of the person occupying the position identified above or to the electronic mail address of such other person as the Parties may, from time to time, designate in writing to each other. The Party providing a notice shall, at the relevant time, ascertain the electronic mail address of the person designated to receive notices.

13.3 Waiver

No provision of this Agreement shall be considered to have been waived unless the waiver is in writing, and a waiver shall not of itself constitute a waiver of any subsequent breach of that obligation or of any other obligation.

13.4 Consents and approvals

A consent or approval to any act requiring consent or approval under this Agreement shall not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act under this Agreement.

13.5 Remedies

No remedy conferred upon or reserved to the Parties under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy shall be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.

13.6 Singular and plural

In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender.

13.7 Captions and headings

The captions and headings contained in this Agreement are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions herein.

13.8 No agency, partnership or joint venture

Nothing in this Agreement shall be construed as creating an agency, partnership or joint venture relationship between the Parties. Neither Party is authorized to represent, bind, obligate or contract on behalf of the other in any manner whatsoever, or represent to third parties that it is an agent of, or partner with, or in a joint venture relationship with the other. The only relationship is that of DFO-CCG and the CVRD.

13.9 Survival

Notwithstanding the expiration or early termination of this Agreement, it is expressly agreed that sections 7 (Return of the Sub-Licensed Area) and 12 (Dispute Resolution) shall survive the expiration or early termination of this Agreement. Furthermore, all rights and obligations which, expressly or by necessary implication, are required or might reasonably be expected to survive the expiration or termination of this Agreement shall continue to be in effect notwithstanding the expiration or termination of this Agreement until such time as the Parties may mutually agree to the release of the obligations contained therein or until they expire by their nature.

13.10 Entire Agreement

This Agreement and all schedules listed throughout constitute the entire agreement between the Parties. There are no undertakings, representations, promises or warranties, express or implied, other than those contained in this Agreement and its schedule[s].

13.11 Severability

If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts and sections of the Agreement shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

13.12 Applicable laws

This Agreement shall be governed by the laws applicable in British Columbia

13.13 Paramountcy of Licence

The CVRD acknowledges and agrees that it has no greater interest in the Sub-Licensed Land than does DFO-CCG under the Licence. To the extent that any such right or benefit conferred by this Agreement contravenes or is incompatible with the Licence, such right or benefit will be amended or modified so as not to contravene or be incompatible with the Licence.

14. DISPUTE RESOLUTION

14.1 If a dispute arises out of, or in connection with this Agreement, it should be first discussed and negotiated between the Parties in order to resolve the issues.

14.2 If the Parties do not resolve the issues through negotiation, the Parties agree to refer the issues in dispute to mediation. Such mediation shall be conducted in British Columbia, in either French or English as may be decided by DFO-CCG.

14.3 If the Parties do not resolve all of the issues in dispute through mediation, the Parties may agree to submit those issues to binding arbitration to be conducted in British Columbia in either French or English as may be decided by DFO-CCG.

14.4 The Parties shall use their best efforts to agree on the choice of a mediator or arbitrator(s), as the case may be, and of the rules governing such mediation or arbitration.

14.5 During the progress of any mediation or arbitration, the Parties shall continue to perform their obligations under this Agreement to the extent such obligations are not in dispute or affected by such dispute.

14.6 The Parties' agreement to use the dispute resolution mechanisms specified in this section 12 shall not prevent either Party from commencing an action in the courts if necessary to obtain equitable relief or any other remedy which is not available through mediation or arbitration.

15. MEMBERS OF THE HOUSE OF COMMONS

15.1 No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

16. SIGNATURES

The Parties have executed this Agreement by the hands of their duly authorized representatives as follows:

HIS MAJESTY THE KING IN RIGHT OF CANADA, as represented by the MINISTER of Fisheries, Oceans and the Canadian Coast Guard

COWICHAN VALLEY REGIONAL DISTRICT

By: _____
DEREK MOSS

By: _____
AARON STONE

Title: _____
Assistant Commissioner
Canadian Coast Guard
Western Region
(Category 4 & 5 Real Property)

Title: _____
CHAIR

I represent and warrant that I am duly authorized to bind COWICHAN VALLEY REGIONAL DISTRICT

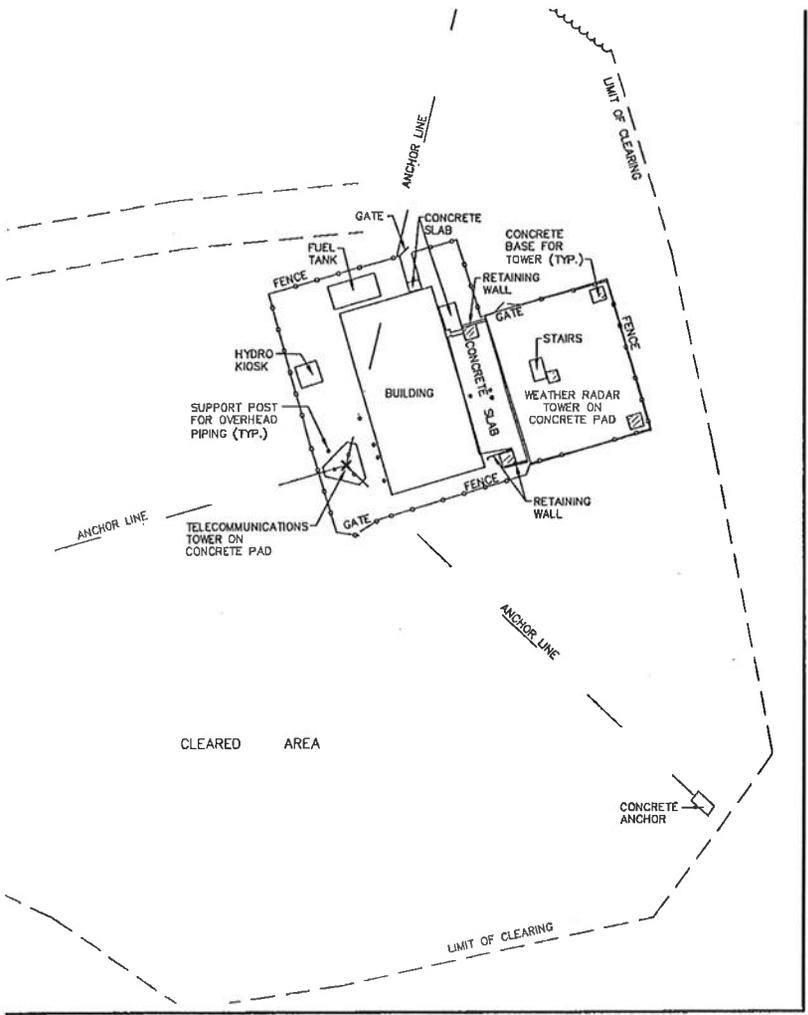
By: _____
PATRICK ROBINS

Title: _____
CORPORATE OFFICER

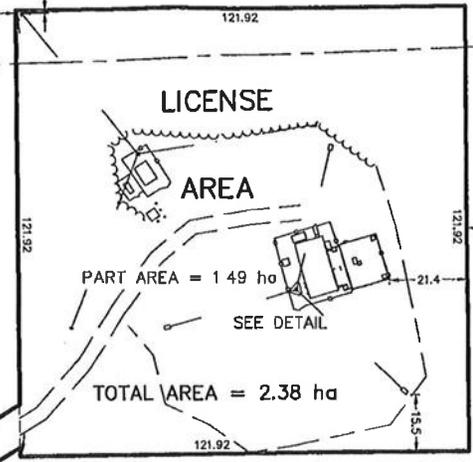
I represent and warrant that I am duly authorized to bind COWICHAN VALLEY REGIONAL DISTRICT

SCHEDULE A
Site and Road Plan

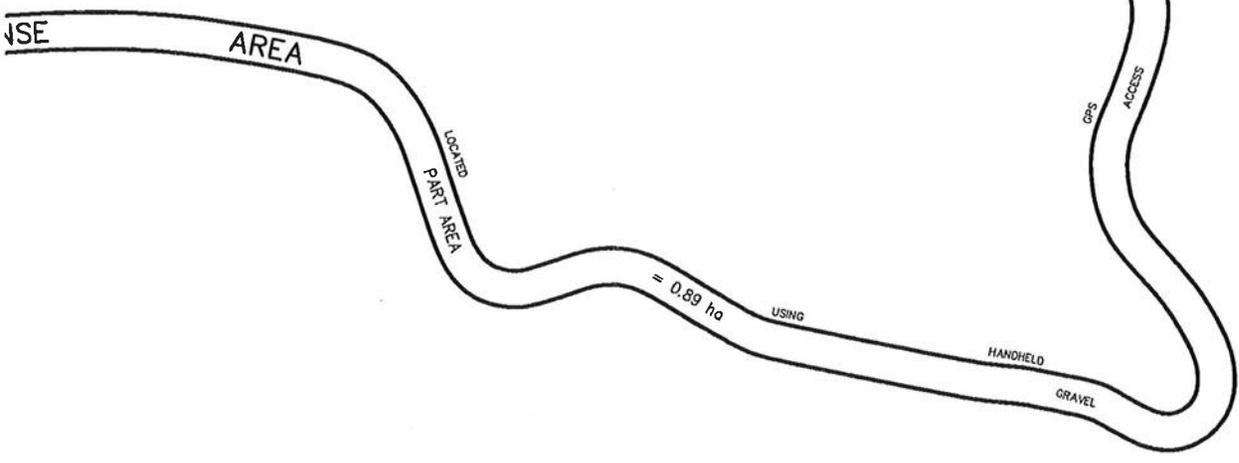
VENTILATION SHAFT
□ (APPROX. LOCATION FROM
HANDHELD GPS RECEIVER)



Rem. A
PLAN 23686



RANGE 2
RANGE 3



S
B
L
C
N
C
F
I
L
E

SCHEDULE B Equipment

Tower :

Insert picture here

- 1 – Sinclair SRL-206 VHF yagi antenna
- 1 – Sinclair SRL-210C2 VHF exposed dipole array antenna
- 1 – Sinclair SRL-210C1 VHF exposed dipole array antenna
- 2 – 900 MHz (SRL-460 type) reflector dish-style antennas
- 1 – Sinclair SRL-310C4 UHF antenna
- 2 – Sinclair SRL-307 yagi antennas
- 1 – Sinclair SRL-210C1 exposed dipole array antenna

Building : Four racks of equipment (as shown below)



SCHEDULE C

Fee Schedule

Due Date	Access Fee plus GST (to be paid directly to TimberWest)	Sub-License Fee plus GST (to be paid directly to DFO- CCG)
01-01-2024	\$6,500.00	\$5,700.00
01-01-2025	\$6,625.00	\$5,700.00
01-01-2026	\$6,750.00	\$5,700.00
01-01-2027	\$6,875.00	\$5,700.00
01-01-2028	\$7,000.00	\$5,700.00

Access Fee : TimberWest Forest Company
201-648 Terminal Avenue
Nanaimo, BC
V9R 5E2

Attention : Real Estate Group

Sub-License Fee : Canadian Coast Guard
25 Huron Street
Victoria, BC
V8V 4V9

Attention : E&I Admin - ITS