

SUB-LICENCE AND MANAGEMENT AGREEMENT- SUMMARY

The following summary of basic licence provisions is intended only to set out key information and summarize various provisions of this Licence. In the event of any conflict between the terms of this summary and the remainder of the Licence, the terms of the remainder of the Licence will prevail over the terms of this summary.

| | |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| District of Squamish File | Squamish Windsports Society |
| Date | |
| Tenant | Squamish Windsports Society |
| Tenant Address | 510 – 1040 West Georgia Street Vancouver, BC V6E 4H1 |
| Land | Legal: That part of District Lot 7956, Group 1, New Westminster District as shown in Schedule B. +/- 0.79 hectares |
| Commencement Date | May 15, 2014 |
| Term | May 15, 2014 – September 15, 2014 May 15, 2015 – September 15, 2015 May 15, 2016 – September 15, 2016 May 15, 2017 – September 15, 2017 May 15, 2018 – September 15, 2018 |
| Sub-Licence Fee | \$1.00 |
| Security Deposit | \$0 |
| Permitted Use | Operating a windsport program and all purposes ancillary. |
| Utilities and Services | None provided. |
| Special Terms and Conditions | See Schedule C |

SUB-LICENCE AND MANAGEMENT AGREEMENT

THIS AGREEMENT made the ____ day of _____, 2014.

BETWEEN:

DISTRICT OF SQUAMISH
PO Box 310
37955 2nd Avenue
Squamish, BC V8B 0A3

("District")

AND:

SQUAMISH WINDSPORTS SOCIETY
510 – 1040 West Georgia Street
Vancouver, BC
V6E 4H1

("SWS")

WHEREAS:

- A. By a Licence of Occupation (Licence No 241622, dated for reference December 1, 2010 (**the "Head Licence"**)), which is attached as Schedule A, the Province of British Columbia, represented by the minister responsible for the *Land Act*, granted a licence of occupation of the following land, as shown in Schedule B, (except for those parts of the land that consist of highways) to the District:

District Lot 7956, Group 1, New Westminster District, Containing 0.79 hectares

(**the "Land"**)

- B. SWS is a not-for profit society incorporated pursuant to the *Society Act* under number S-0023554;
- C. Subject to the terms of the Province's written consent, the other terms of the Head Licence, and the terms and conditions set out in this Agreement the District has agreed to allow SWS to operate a windsport program and all purposes ancillary on the Land.

NOW THEREFORE the District and SWS agree as follows:

1.0 DEFINITIONS

1.1 In this Agreement:

- (a) **"Contaminants"** means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobiphenyls, hydrocarbon contaminants, underground tanks, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws;
- (b) **"Environmental Laws"** means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Land now or in the future with respect to the environment, health or occupational health and safety, together with any related guidelines, policies and standards that may be adopted by any of those governmental authorities from time to time;
- (c) **"Improvement"** includes anything made, constructed, erected, built, altered, repaired or added to, in, on, under or on the Land and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land. Improvement excludes the recurring tasks undertaken by the Licensee to maintain the surface of the Land to ensure the Land is safe for use as a Windsport Facility;
- (d) **"Term"** means the period of five (5) years from May 15, 2014 to September 15, 2014, May 15, 2015 to September 15, 2015, May 15, 2016 to September 15, 2016, May 15, 2017 to September 15, 2017 and May 15, 2018 to September 15, 2018. The Agreement shall expire on September 15, 2018;
- (e) **"Windsport Facility"** means the windsport facility that is located on the Land and run by SWS.

2.0 TERM

2.1 This Agreement is in effect for the Term, unless extended or earlier terminated in accordance with the terms of this Agreement.

3.0 AGREEMENT TO OCCUPY AND USE

3.1 Subject to SWS' compliance with the terms and conditions of this Agreement, including the Special Terms and Conditions set out in the attached Schedule C, the District hereby grants to SWS an Agreement to:

- (a) enter, occupy and use the Land during the Term for the purpose of operating a windsport program and all purposes ancillary on the Land; and
- (b) no other purpose or purposes whatsoever without the prior written consent of the District, which consent may be unilaterally or unreasonably withheld.

4.0 REPAIR AND MAINTENANCE

4.1 Throughout the Term at its cost and expense SWS must:

- (a) maintain the Land and any Improvements, including but not limited to the following existing Improvements:

- (i) trailer
- (ii) port-o-potty
- (iii) garbage collection container(s)
- (iv) gravel walking area at the current launching and landing beach
- (v) walking area between the launching area and the staging area
- (vi) clearly defined visitor/spectator seating area
- (vii) vehicle turn-around circle
- (viii) signage

in a neat, tidy, clean, orderly and safe condition and in a state of good repair as a prudent owner would do; and

- (b) manage and operate the Land, including Improvements, in accordance with generally accepted standards for similar developments in British Columbia.

5.0 IMPROVEMENTS

5.1 The Land is located in a highly sensitive ecological area adjacent to the Skwelwil'em Squamish Estuary Wildlife Management Area (the "WMA") and the intent of all parties interested in the WMA is to work cooperatively. As such the District Environmental Coordinator, Squamish Estuary Review Committee, Squamish Estuary Management Committee, and appropriate provincial environmental ministries must review proposed Improvements by SWS, before these Improvements are formally presented to the District and the Province. This process is further describe under Section 4.5.3 of Schedule E.

5.2 SWS may not erect, construct, affix, place or otherwise locate any Improvements in, on, or under the Land without the prior written consent of the District, which will also require the District to obtain the consent of the Province.

5.3 The District will have no responsibility for the repair, replacement, operation or maintenance of any Improvement erected, constructed, affixed or placed or otherwise located in, on, under or within the Land by or on behalf of SWS.

6.0 **DISTRICT WORKS**

6.1 The District is responsible for the dyke and overall maintenance of the dyke as intended for dyking purposes and that the District maintains all rights to service the area as required.

6.2 If, in the opinion of the District, all or a portion of the Land is required for the installation of municipal utilities or other municipal purposes, SWS shall, forthwith upon receipt of notice from the District allow such work to take place on the Land.

7.0 **PUBLIC ACCESS**

7.1 SWS acknowledges and agrees the Land must be available for the use by the general public.

7.2 The District, its officers, employees, servants and agents must at all times and for all purposes have full and free access to the Land.

8.0 **UTILITIES AND SERVICES**

8.1 SWS acknowledges there are currently no utilities, including but not limited to sewer, water, electricity, heat and telephone, on the Land.

9.0 **FEE**

9.1 SWS will pay the District a fee of \$1.00 for the Term, payable in advance. If the fees payable under Article 3 of the Head Licence should be increased, then the fee for this Agreement shall increase by the same amount with the increase coming into effect at the same time that the fees under the Head Licence increase.

10.0 **NO INTEREST IN LAND**

10.1 This Agreement does not grant to SWS any leasehold or other property interest in any part of the Land.

11.0 **LAND IS AS IS**

11.1 SWS accepts the Land “as is” and acknowledges that:

- (a) it has had the opportunity to undertake such inspections, tests and surveys of the Land as it considers necessary;
- (b) the District has made no representations or warranties respecting the Land; and
- (c) by entering into this Agreement, it is satisfied that the Land is suitable for its purposes.

12.0 COMPLIANCE WITH LAWS

12.1 SWS must comply with all applicable federal, provincial, District and other government statutes, regulations, bylaws, rules, orders and instructions including, but not limited to, occupational health and safety, workers' compensation, employment practices and standards and Environmental Laws. SWS must also comply with the Squamish Windsport Society Recreational Activity and Operational Plan (Schedule E) and the Skwelwil'em Squamish Estuary Wildlife Management Area Management Plan (Schedule F), including any amendments to either plan.

13.0 NO WASTE OR DESTRUCTION

13.1 SWS must not:

- (a) commit or permit waste or destruction of the Land:
- (b) commit or permit any act or thing that is or would constitute a nuisance to the occupiers of any other premises adjoining or in the vicinity of the Land or to the public generally;
- (c) use or permit any Contaminants to be used, stored, manufactured, disposed of, treated, generated, transported, introduced or released into or onto the Land;
- (d) discharge, cause or permit to be discharged or otherwise to pass any Contaminants into the sewer systems, storm drains or surface drainage facilities at the Land;
- (e) use or permit the use within the Land of any herbicide, pesticide or other chemical or petroleum product even if such products do not fall within the definition of "Contaminant"; or
- (f) use or permit any alcoholic beverages to be sold, provided, offered or consumed at or on the Land without the prior written consent of the District, which consent may be refused in the District's sole discretion and which consent, if given, is conditional upon SWS applying for, obtaining and maintaining all licences and permits required under the *Liquor Control and Licensing Act* and such further conditions as the District may impose.

14.0 **LIENS**

14.1 SWS must promptly pay and cause the discharge of any and all liens arising out of any construction or services done or permitted to be done by SWS under this Agreement.

15.0 **DISTRICT MAY REMEDY**

15.1 If SWS fails to observe, abide by or comply with any of its covenants or obligations under this Agreement, then in addition to and without prejudice to any other remedy available to it, the District may:

- (a) if such failure continues for 10 days after the District gives written notice to SWS; or
- (b) immediately, in the event of an emergency (as determined in the sole discretion of the District);

do all things necessary to remedy SWS' failure without any liability for damages to the SWS. The District may enter the Land with workers and equipment and the Licensee will immediately reimburse the District for all reasonable costs, charges, and expenses incurred by the District as a result, including a reasonable amount for the District's administrative costs.

16.0 **RENEWAL**

16.1 If SWS wishes to renew or extend this Agreement, then it must provide the District with written notice six (6) months prior to the expiration of the Term.

16.2 Any renewal of this Agreement is subject to written agreement by both parties.

17.0 **OVERHOLDING**

Intentionally deleted.

18.0 **TERMINATION**

18.1 The District, at its sole discretion may terminate this Agreement by giving one (1) year written notice to SWS.

18.2 The District may, in addition to and without prejudice to any other remedy available to it, terminate this Agreement immediately with no further notice:

- (a) if SWS:
 - (i) is in default of payment of any sums payable under this Agreement; or

- (ii) fails to observe, abide by or comply with any of its covenants or obligations under this Agreement;

and such default or failure continues for 10 days after the District gives written notice to the Licensee of the default or failure;

(b) if SWS:

- (i) becomes insolvent or makes an assignment for the general benefit of its creditors;
- (ii) commits an act that entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada), has a bankruptcy petition filed or presented against it, consents to the filing of the petition or is the subject of a decree entered by a court of competent jurisdiction adjudging the Licensee bankrupt under any law relating to bankruptcy or insolvency;
- (iii) voluntarily enters into an arrangement with its creditors;

(c) if SWS:

- (i) fails to stay in good standing as a society under the *Society Act* or it fails to stay in good standing under any other constating legislation that may apply to SWS;
- (ii) a trustee, receiver, interim receiver, receiver and manager, custodian or liquidator is appointed to administer or carry on its business, property, affairs or revenue; or
- (iii) an order is made, a resolution passed or a petition filed for its liquidation or winding up; or
- (iv) if SWS is converted into a company without the District's prior written consent.

18.3 At the end of the Term, SWS must at its sole cost and expense immediately and to the satisfaction of the District:

- (a) remove Improvements to the extent requested by the District;

- (b) remove all goods, supplies, articles, equipment and other things brought onto and kept within the Land by or on behalf of SWS;
- (c) repair and restore any damage to the Land arising from or connected with the SWS' use of the Land;
- (d) remedy any unsafe conditions of the Land created or aggravated by SWS; and
- (e) peaceably surrender and yield the Land to the District in the condition it was to be maintained during the Term, including free from any and all Contaminants brought onto, deposited onto or created on the Land by SWS, its directors, officers, employees, volunteers, agents, contractors or invitees or resulting from the use, occupation of, or exercise of the SWS' rights to the Land under this Agreement.

18.4 SWS will not be entitled to compensation for any loss, damage or disturbance resulting in any way from the termination of this Agreement.

19.0 INSURANCE

19.1 SWS must obtain and maintain during the Term comprehensive general liability insurance against claims for personal injury, death or property damage arising out of any one occurrence with respect to the SWS' occupation and use of the Land in an amount not less than \$5,000,000. SWS must provide proof of such insurance to the District as and when requested.

19.2 Insurance policies required under this Agreement must:

- (a) name the District and the Province as an additional insured;
- (b) contain a cross liability, severability of interest endorsement and waiver of subrogation with respect to the District and the Province;
- (c) be issued by an insurance company entitled under provincial law to carry on business in British Columbia;
- (d) apply to each insured in the same manner and to the same extent as if a separate policy of insurance had been issued to each insured;

require the insurer not to cancel or change the insurance without first giving SWS and the District thirty days prior written notice;
- (e) be primary and not require the sharing of any loss by any insurer that insures the District;
- (f) be maintained for a period ending twelve months after this Agreement is terminated;

- (g) not include any deductible amount greater than \$5,000 per occurrence; and
 - (h) otherwise be on terms satisfactory to the District, acting reasonably.
- 20.3 SWS shall provide the District with a copy of the required policy or a certificate of insurance upon execution of this Agreement and shall thereafter provide copies or certificates of any annual renewals and any amendment to the policy.
- 20.4 It shall be the sole responsibility of SWS to determine what additional coverage, if any, are necessary and advisable for its own protection or to fulfill its obligations under this Agreement.
- 20.5 SWS shall notify the District of any loss or damage to equipment , the Land or Improvements, and of any injury to persons, and submit copies of information of any such incidents that may result in a claim against SWS, the District or the Province.
- 20.0 **INDEMNIFICATION AND RELEASE**
- 20.1 SWS will indemnify the District, its elected officials, officers, employees, agents, invitees, successors and assigns (**the "Indemnified Parties"**) and save them harmless from and against any and all claims, demands, actions, causes of action, damages, losses, costs, liabilities and expenses, including reasonable professional fees and costs incurred in defending any of the foregoing, (including with respect to any personal injury, property damage or death) ("**Losses**") arising from, related to or connected with:
- (a) the breach of this Agreement by SWS;
 - (b) SWS' occupation or use of the Land; or
 - (c) the construction, maintenance, existence, use or removal of any Improvements
- except to the extent that such Losses were caused by the gross negligence or willful misconduct of the any of the Indemnified Parties.
- 20.2 The SWS' obligation to indemnify the District under this Agreement will survive the expiry or termination of this Agreement.
- 20.3 SWS will release and discharge the Indemnified Parties from any and all Losses which SWS and any of SWS' directors, officers, employees, volunteers, agents, contractors or invitees may have against the Indemnified Parties with respect to the breach of this Agreement by SWS or arising from in any way connected to the Land and Improvements or otherwise to SWS' occupation and use of the Land, except to the proportionate extent that such Losses were caused by the gross negligence or willful misconduct of the Indemnified Parties or any of them.

21.0 NOTICES

21.1 Unless otherwise provided, any notice, request, direction or other communication required under this Agreement must be in writing and either delivered personally, sent by registered mail, confirmed fax or confirmed email as follows:

(a) to the District:

District of Squamish
PO Box 310
37955 2nd Avenue
Squamish, BC V8B 0A3

Fax: 604-892-1083
Email: nplumb@squamish.ca

Attention: Neil Plumb, Manager of Real Estate

(b) to the Licensee:

Squamish Windsports Society
510 – 1040 West Georgia Street
Vancouver, BC
V6E 4H1

Fax:
Email: al@webhudco.ca
Attention: Tony Leoni, Community Liaison

or to such other address, fax number or email address as one party may communicate in writing to the other from time to time.

21.2 Any notice, request, direction or other communication given by one party will be deemed to have been received by the other party:

- (a) if personally delivered, one business day after the date it was delivered;
- (b) if sent by registered mail, on the fifth day after it was mailed;
- (c) if sent by fax or email, one business day after the date that receipt of such fax or email was confirmed.

22.0 WAIVER

22.1 No action or failure to act by the District will:

- (a) constitute a waiver of any right or duty under this Agreement or constitute an approval or acquiescence in any breach of this Agreement, except as the District may specifically agree in writing; or
- (b) be interpreted or deemed to be a waiver of any subsequent breach of this Agreement.

23.0 **ASSIGNMENT**

23.1 SWS may not assign, sublicense or otherwise transfer this Agreement except with the express written approval of the District, which approval may be arbitrarily refused.

23.2 **INTERPRETATION**

23.3 In the event of a conflict between the provisions of this Agreement and any of the attached Schedules, the Schedule will govern and take precedence over the body of the Agreement.

23.4 Words in the singular mean and include the plural and vice versa.

23.5 Words in the masculine mean and include the feminine or corporations where the context or the parties require.

23.6 Headings have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

23.7 This Agreement, including attached Schedules, forms the entire agreement between the parties and supersedes all prior agreements between the parties with respect to the use of the Land. This Agreement may not be modified except by subsequent agreement in writing.

23.8 If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and the remaining parts will be enforceable to the fullest extent permitted by law.

23.9 This Agreement enures to the benefit of and binds the parties and their respective successors, heirs and permitted assigns.

23.10 This Agreement will be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

24.0 **ACCEPTANCE AND EXECUTION**

24.1 The parties may execute this Agreement in counterparts and when the counterparts have been executed by the parties, each executed counterpart, whether a facsimile, photocopy or original, will be effective as if one original copy had been executed by the parties.

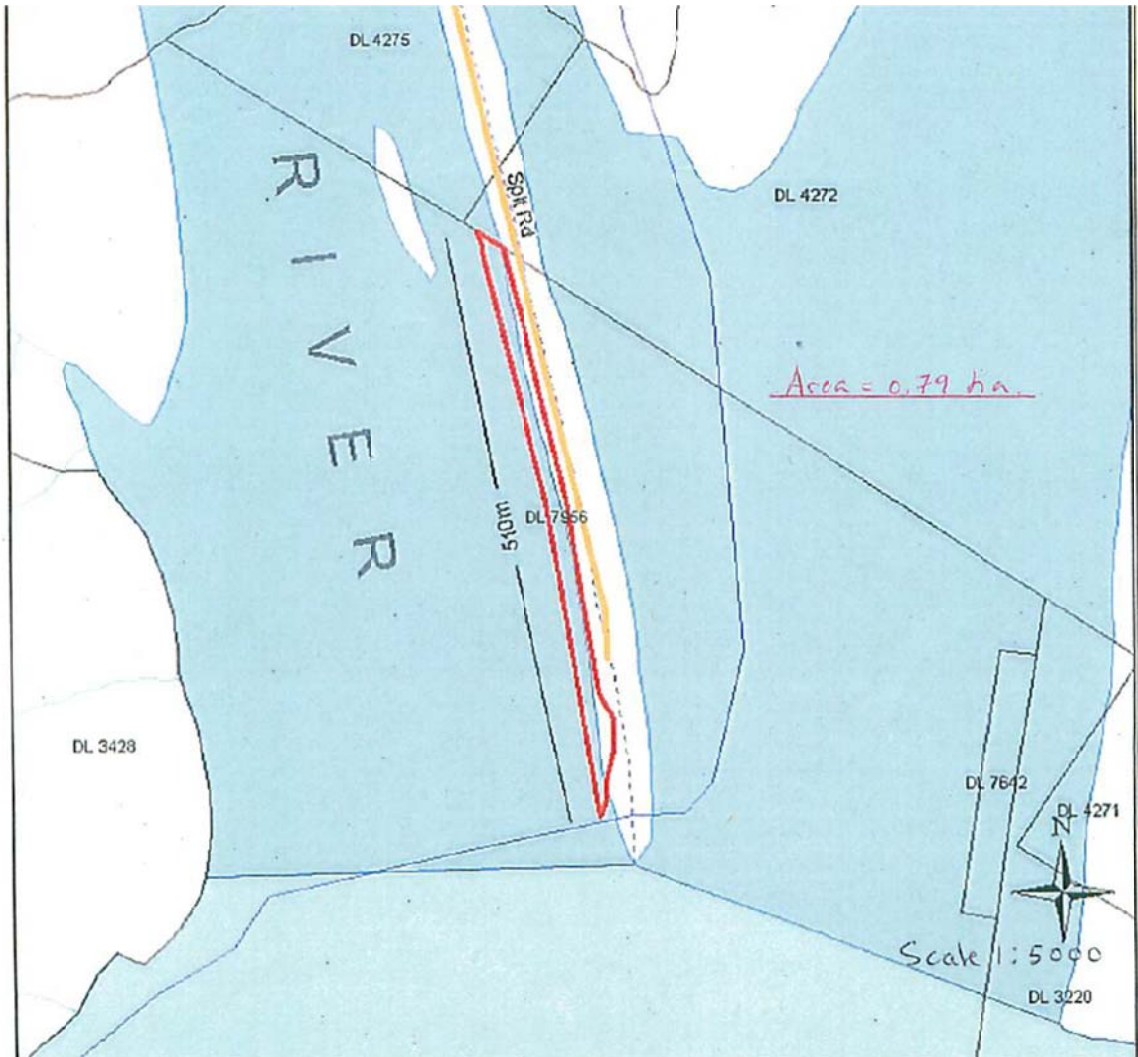
IN WITNESS WHEREOF the authorized signatories of the parties have executed this Agreement as of the day and year first above written.

District of Squamish by its authorized signatories:)
)
)
)
_____)
Mayor)
Rob Kirkham)
)
_____)
General Manager of Corporate Services)
Robin Arthurs)

Squamish Windsports Society)
by its authorized signatory:)
)
)
_____)
President)
Simon Kent)

**Schedule A
Head Licence**

Schedule B
Land



Schedule C
Special Terms and Conditions

1. **Obligations under Head License** – SWS must perform all of the obligations of the District under the Head Licence (Schedule A) and is to be bound by the terms of the Head Licence. SWS is not to do or omit to do any act in or around the Land which would cause a breach of the Districts obligations as licensee under the Head Licence.
2. **Paramourncy of Head Licence** - To the extent that any right or benefit conferred by this Agreement contravenes or is incompatible with the Head Licence, such right or benefit will be amended or modified so as not to contravene or be incompatible with the Head Licence.
3. **Ownership** – In the event ownership of the Land transfers from the Province of British Columbia to the District during the Agreement Term, the Agreement shall remain valid and amended thereafter as soon as reasonably possible to reflect the change in ownership of the Land.
4. **Signage** – SWS will maintain the current signage located on site, as attached in Schedule D, and will ensure ongoing compliance with the requirements of the Section 3.3.2 Signage Plan in Schedule E. The District must approve signage content and location in writing, prior to SWS posting new signs.

The signage must include, but is not limited to, the following safety and health rules and regulations:

- (i) Use facilities and site at your own risk;
 - (ii) No swimming, scuba diving or fishing during the windsports season;
 - (iii) All participants must sign a waiver (see site attendant for waiver form);
 - (iv) No parking in the turn-around area except to drop-off and pick-up equipment. Do not block dyke vehicle access at any time – angle parking only on the west side of the spit;
 - (v) During busy times, spectators may be restricted to the grandstand area or outside the rigging and launching areas.
 - (vi) The Rules and Regulations sign will include a statement that “Adjacent watered areas and land are part of a sensitive estuary conservation area and any and all activities must respect the values and protection of this environment.” SWS will ensure that retrieval craft operators are aware of potential underwater impacts of operations in shallow waters.
5. **Hazardous Materials Storage/Handling Plan** – The Tenant must comply with guidelines specified in Section 3.3.3 of Schedule E.

6. **Waste Management Plan** - The Tenant must comply with guidelines specified in Section 3.3.5 of Schedule E.
7. **Human Waste Management Plan** - The Tenant must comply with guidelines specified in Section 3.3.6 of Schedule E.
8. **Camping** – There is absolutely no camping allowed on the Land. SWS acknowledges and understands camping on the Land is prohibited. SWS will notify all windsurfers, kiteboarders and the general public visiting the Windsport Facility, as well as through all SWS’s communication channels, that camping is prohibited.
9. **Traffic Management and Emergency Access Lane**- SWS must attempt to maintain an emergency access lane with a maximum width of twenty (20) feet. The emergency access lane needs to be kept free and clear of all obstacles so that emergency vehicles can access the Land and any adjacent lands.
10. **Wildlife Management Area** – The Land is located adjacent to a WMA, SWS shall work cooperatively with the District, the Province, the Squamish Estuary Review Committee, and other stakeholders to ensure that windsports are managed in a manner that will have minimal impact on fish and wildlife. During the Term, SWS shall use its best efforts to:
 - (a) Educate and promote awareness among its membership and users of the Windsport Facility with respect to the sensitivity of the WMA and the importance of its preservation; and
 - (b) To ensure that wind sports activities remain in the wind sport recreation zone as identified on Figure 6, page 44 of Schedule F, and enter and exit the water at the designated access point;
 - (c) Maintain a jet ski retrieval and rescue service to ensure that wind sports activities remain in the wind sport recreation zone;
 - (d) Prepare, display and maintain signage delineate the boundaries of the WMA from the water; and
 - (e) Have the site attendant be responsible, among other things, for promoting education and awareness with respect to the protection of the WMA.
11. **Site Attendant** – SWS must hire, pay and supervise a site attendant for the Windsport Facility. The site attendant must have current first aid certification and current training in CPR. One site attendant must be at the Windsport Facility full-time, seven days per week, including all statutory holidays, during the Term, weather and water conditions permitting. The site attendant responsibilities are listed in Section 3.2 - Windsport Society Staff of Schedule E.

**Schedule D
Signage**

Schedule E
Squamish Windsport Society Recreational Activity and Operational Plan

Schedule F
Skwelwil'em Squamish Estuary Wildlife Management Area Management Plan