

TIMBER LANDING

DISCLOSURE STATEMENT – FIRST AMENDMENT

TIMBERLANDING 2
AT FERNIE ALPINE RESORT

DEVELOPER
RESORTS OF THE CANADIAN ROCKIES INC.

Address for Service
c/o Rockies Law Corporation
Suite 201 – 907 Baker Street
Cranbrook, British Columbia, V1C 1A4

Business Address
1505 -17th Avenue S.W.
Calgary, Alberta, T2T 0E2

Real Estate Agents

The lots will be marketed by the Developer's in-house sales staff or such real estate agents as the Developer may engage from time to time. Some of the employees of the Developer may not be licensed under the British Columbia Real Estate Services Act and are not acting on behalf of any purchaser of a lot.

DATE OF THIS AMENDMENT: January 13, 2022
DATE OF ANY PRIOR AMENDMENTS: N/A

DISCLAIMER:

This Disclosure Statement has been filed with the Superintendent of Real Estate, but neither the Superintendent, nor any other authority of the government of the Province of British Columbia, has determined the merits of any statement contained in the Disclosure Statement, or whether the Disclosure Statement contains a misrepresentation or otherwise fails to comply with the requirements of the *Real Estate Development Marketing Act*. It is the responsibility of the Developer to disclose plainly all material facts, without misrepresentation.

This Disclosure Statement relates to a development property that is not yet completed. Please refer to section 7.2 for information on the purchase agreement. That information has been drawn to the attention of _____, who has confirmed that fact by initialling in the space provided here.

INITIAL HERE

RIGHTS OF RESCISSION

Under section 21 of the *Real Estate Development Marketing Act*, the purchaser or lessee of a development unit may rescind (cancel) the contract of purchase and sale or contract to lease by serving written notice on the developer or the developer's brokerage, within 7 days after the later of the date the contract was entered into or the date the purchaser or lessee received a copy of this Disclosure Statement.

The rescission notice may be served by delivering or sending by registered mail, a signed copy of the notice to

- (a) the developer at the address shown in the disclosure statement received by the purchaser,
- (b) the developer at the address shown in the purchaser's purchase agreement,
- (c) the developer's brokerage, if any, at the address shown in the disclosure statement received by the purchaser, or
- (d) the developer's brokerage, if any, at the address shown in the purchaser's purchase agreement.

The developer must promptly place purchaser's deposits with a brokerage, lawyer or notary public who must place the deposit in a trust account in a savings institution in British Columbia. If a purchaser rescinds their purchase agreement in accordance with the Act and regulations, the developer or the developer's trustee must promptly return the deposit to the purchaser.

THE DEVELOPER'S DISCLOSURE STATEMENT DATED NOVEMBER 15, 2021 IS AMENDED AS FOLLOWS:

1. **Exhibit B Section 219 Covenant (Build)** is deleted in its entirety and replaced with the attached **Exhibit B Section 219 Covenant (Build)**.
2. **Exhibit D Title Searches (Parent Parcels)** is deleted in its entirety and replaced with the attached **Exhibit D Title Searches (Parent Parcels)**.
3. **Exhibit I Offer to Purchase and Agreement for Sale** is deleted in its entirety and replaced with the attached **Exhibit I Offer to Purchase and Agreement for Sale**.
4. **Section 4.3 Existing Encumbrances and Legal Notations** is deleted in its entirety and replaced with the following:

"The following legal notations and encumbrances are presently registered in the Land Title Office against title to Lot 1 and Lot A:

I. Legal Notations as to Lot A

- (a) Annexed Restrictive Covenant XD30432. This restrictive covenant outlines terms and conditions for the development of other lands in the Resort Area in favour of the owners of the Lots, and owners of other lands in the Resort Area.
- (b) Annexed Easement XD4815 – This permits the owner of Lot A to access for maintenance purposes a dam and culvert structure located on Lot 29, District Lots 8900 and 8901 Kootenay District Plan 15604.
- (c) Annexed Easement XG29435. This permits the Owner of Lot A to access Block A Plan 1687 from Timberline Crescent. It is not relevant to the Development as the Development is located in another area of Lot A, to be accessed by other roads.
- (d) Notice of Permit under Part 26 of the *Local Government Act*, see CA4369728. Lot A is subject to a Development Permit to allow for construction of the Development.
- (e) Notices of Permit under Part 26 of the *Local Government Act*, see CA5044642.
- (f) Notice of Permit under Part 14 of the *Local Government Act*, see CA7408913.
- (g) Notice of Permit under Part 14 of the *Local Government Act*, See CA8931708.

II. Existing Encumbrances as to Lot A:

- (h) Statutory Right of Way KN82946 in favour of BC Tel (now Telus). This is a blanket statutory right of way permitting the installation and maintenance of telephone and related services.

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- (i) Covenant CA3540505 in favour of the Regional District of East Kootenay.
- (j) Covenant CA6917570 in favour of Her Majesty the Queen in the Right of British Columbia and Regional District of East Kootenay.
- (k) Restrictive Covenant XD26248 in favour of Her Majesty the Queen in Right of British Columbia as represented by the Ministry of Transportation and Highways.

III. Existing Encumbrances as to Lot 1:

- (l) Statutory Right of Way CA6917549 in favour of Fernie Alpine Resort Utilities Corporation.
- (m) Covenant CA6917570 in favour of Her Majesty the Queen in Right of British Columbia and Regional District of East Kootenay.

IV. Financial Charge as to Lot A and Lot 1:

- (n) Mortgage KL130073 extended by KM126258, Modified by KM126260, Extended by CA6917519 and CA7309593 and Assignment of Rents KL130074 extended by KM126259, Modified by KM126261 and Extended by CA6917520 and CA7309594 (as to Lot A only) and Mortgage KR85494 Extended by LB309620 in favour of Bank of Montreal, and Mortgage KR85495 Extended by LB309610 in favour of EDCO Capital Corporation (as to both Lot A and Lot 1). The Developer has arranged to have the charges released when a Lot is transferred to a purchaser.

Title Searches for Lot 1 and Lot A are included at Exhibit D. Prospective purchasers are advised to review thoroughly all of the above encumbrances with their legal advisor prior to the expiration of any rescission period.”

5. Section 4.4(e)c. is deleted and replaced with the following:

“if the Building Permit and Approval to Construct are obtained within the time required by paragraph 4.4(e)b. above, construction of a residential dwelling in accordance with the Section 219 (Build) Covenant is not commenced and completed by the date which is 36 months from the date the Approval to Construct is obtained, whichever is later;”

6. Section 5.1 Construction Dates the first paragraph is deleted in its entirety and replaced with the following:

“Construction has commenced. The subdivision of the Lots is anticipated to be completed between May 31, 2022 and August 31, 2022. Purchasers are advised construction of a portion of the services or that a portion of the services required to be completed in connection with the Development may be not be complete as at the time of subdivision and may be bonded in accordance with the provisions of the *Local Government Act* (See 7.3, “Developer’s Commitments”, below). **Purchasers are advised to expect noise, dust, equipment, excavations and interruptions to access during construction of any facilities which are the subject of bonding.”**

7. **Section 7.2 Purchase Agreement, paragraph (a) Termination Provisions** is deleted in its entirety and replaced with the following:

“The form of purchase agreement used by the Developer and included herewith as an exhibit may not be terminated except in the following circumstances:

- i. It is not accepted by the Developer pursuant to Section 1.11 thereof;
- ii. The Purchaser’s conditions precedent described in Section 1.6 are not waived or declared fulfilled in writing; or
- iii. Upon the default of the Purchaser in completing the purchase and sale thereunder in a timely manner.”

[signature(s) appear on following page]

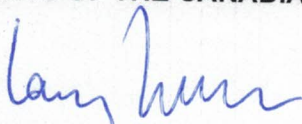
STATEMENT RE: DEEMED RELIANCE

Section 22 of the *Real Estate Development Marketing Act* provides that every purchaser who is entitled to receive this Disclosure Statement is deemed to have relied on any false or misleading statement of a material fact contained in this Disclosure Statement, if any, and any omission to state a material fact. The Developer, its directors and any person who has signed or authorized the filing of this Disclosure Statement are liable to compensate the purchaser for any misrepresentation, subject to any defenses available under section 22 of the *Real Estate Development Marketing Act*.

DEVELOPER'S DECLARATION

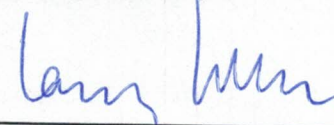
The foregoing statements disclose, without misrepresentation, all material facts relating to the Development referred to above, as required by the *Real Estate Development Marketing Act* of British Columbia, as of January 13, 2022.

RESORTS OF THE CANADIAN ROCKIES INC.,



Per: Larry Moeller
Authorized Signatory

The Director of **RESORTS OF THE CANADIAN ROCKIES INC.,**
in his personal capacity:



Larry Moeller

EXHIBIT B

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

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SECTION 219 COVENANT (BUILD)

BETWEEN:

Purchaser of Lot #*
(the “Grantor” or “Owner”)

AND:

RESORTS OF THE CANADIAN ROCKIES INC.,
INC. NO. A100476
1505 - 17TH AVENUE S.W.
CALGARY, AB
T2T 0E2
(the “Grantee”)

WHEREAS:

- A. The Grantor is the registered owner in fee simple of the lands and premises situated at Fernie Alpine Resort, British Columbia and more particularly known and described as follows:

(legal description to be inserted)

(the “Lands”);

- B. In accordance with section 219 of the *Land Title Act*, a covenant of a negative or positive nature may be registered against title to the land subject to the covenant in favour of any person designated in accordance with such provision, on terms and conditions he or she thinks proper, as covenantee, and, subject to the *Land Title Act*, is enforceable against the covenantor and the successors in title of the covenantor even if the covenant is annexed to land owned by the covenantee;
- C. The Grantee has been designated under section 219(3)(c) of the *Land Title Act*, evidence of which designation has been registered in the Kamloops/Nelson Land Title Office;
- D. The Grantee requires that the Owner enter into this Covenant with the Grantee in accordance with section 219 of the *Land Title Act* and the Owner has agreed to do so; and

- E. The Grantee hereby attests that the Lands encumbered by this Covenant do not lie within the Agricultural Land Reserve.

THEREFORE, in consideration of the amount of \$1.00 now paid by the Grantee to the Owner, the covenants and agreements set out herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby covenant and agree as follows:

ARTICLE 1 – DEFINITIONS AND INTERPRETATION

1.1 Definitions. In this Covenant, the following terms have the following meanings:

- (1) “Action” means any demand, claim, cause of action, action, suit or proceeding of any kind or nature whatsoever, and whether brought or made in a court proceeding, arbitration proceeding or otherwise.
- (2) “Approval to Construct” has the meaning assigned to such term in section 4.1(5).
- (3) “Auxiliary Building” means a Building that is ancillary or subordinate to the Building containing the principal use on a parcel.
- (4) “Basement” means the space in a Building between two floor levels, the lower of which is situated between 0.6 metre and 1.5 metres below Grade.
- (5) “BC Building Code” means The British Columbia Building Code 2012, as amended, superseded and in effect from time to time.
- (6) “BC Electrical Code” means The British Columbia Electrical Code 2012, as amended, superseded and in effect from time to time.
- (7) “BC Fire Code” means The British Columbia Fire Code 2012, as amended, superseded and in effect from time to time.
- (8) “Building” means any structure that encloses or shelters a use, including, without limitation, any garage.
- (9) “Business Day” means a day that is not a Saturday, a Sunday, a statutory holiday in British Columbia, Easter Monday or Boxing Day.
- (10) “Certificate of Completion” has the meaning assigned to such term in section 5.5.
- (11) “Covenant” and “this Covenant” mean the General Instrument, together with these Terms of Instrument, as may be modified and supplemented in the General Instrument.

- (12) “Damage” means any loss, cost, damage, expense or liability of any kind or nature whatsoever, including that in respect of negligence, negligent misrepresentation or mis-statement, failure to warn, nuisance or other tort, personal injury, death, contract damage or debt, economic loss, consequential damage and any legal or other professional fee or disbursement in respect of any of the foregoing and any tax on any of the foregoing.
- (13) “Design Criteria” means the building design criteria attached as Schedule B hereto.
- (14) “Develop” means to apply for any permit (including a building permit) to carry out, or to carry out any Improvement or to otherwise change the use of any land, Building or structure, or to carry out any construction, engineering or other operations whatsoever on, in, over or under land or land covered by water, including removal or deposit of soil, and site clearing, grading and excavation, but does not include the maintenance or repair of any existing works, structures or Buildings and “Development” has a corresponding meaning.
- (15) “Development Approval” means any inspection, review, approval, certificate, authorization, permission or acceptance carried out, made, issued or granted by the Grantee or any Grantee’s Representatives, including, without limitation, any Approval to Construct or Certificate of Completion.
- (16) “Duplex Dwelling” means a side by side single structure containing two Dwelling Units, constructed in such a manner that it could be occupied by two families, separated by a fire rated separation where both Dwelling Units are under the separate legal titles, subject to a party wall agreement.
- (17) “Dwelling Unit” means two or more rooms used or intended to be used for residential accommodations, containing cooking, sleeping and sanitary facilities, and which has no more than one set of cooking facilities.
- (18) “Emergency Services” means any emergency services or programs, including any police, fire, ambulance or 911 services.’
- (19) “FARUC” means Fernie Alpine Resort Utility Corporation.
- (20) “Grantee” means Resorts of the Canadian Rockies Inc., the party described as the “Transferee” in the General Instrument, being the grantee under this Covenant, and the successors and assigns thereof.
- (21) “Grantee’s Representatives” means any person who is a Related Person to the Grantee and any person duly authorized to represent the Grantee or any Related Person, including any officer, director, employee, agent, contractor, subcontractor, consultant or advisor of the Grantee or any Related Person so authorized.

- (22) “General Instrument” means any *Land Title Act* General Instrument (including any Form C, Form D or Form E included therein) which incorporates this Terms of Instrument.
- (23) “Improvements” means all Buildings, structures, works, utilities, services, landscaping and other improvements whatsoever, by whomsoever made, which are at any time and from time to time affixed to or erected or constructed in, on, under or above the Lands (including all Services and Facilities situated in, on, under or above the Lands) or affixed to any other Improvement and Improvement means any one of them.
- (24) “Interest Rate” means the interest rate equal to the Prime Rate plus 4% per annum.
- (25) “Lands” means the lands legally described in item 2 of the *Land Title Act* Form C (including any Form E attached thereto) which incorporates this Terms of Instrument, including any lot, strata lot (including any bare land strata lot), common property, limited common property or other parcel into which such lands may be subdivided and including the surface, under-surface and ground water on, in or under such lands.
- (26) “*Land Title Act*” means the *Land Title Act* (British Columbia), as amended from time to time.
- (27) “Law” means any law, statute, regulation, bylaw, resolution, ordinance, code, standard, policy, guideline, notice, appointment, directive, decision, order or lawful requirement of, or issued by or under the direction or authority of, any Lawful Authority.
- (28) “Lawful Authority” means any federal or other government or governmental authority, office or official having jurisdiction, including any authorized delegate, appointee, board, bureau, commission, department, administrative agency or regulator body thereof, including any police or fire authority.
- (29) “Lot” includes any lot or parcel into which the Lands or a Lot are divided, whether by subdivision plan, strata plan, bare land strata plan or otherwise howsoever and includes the common property of any strata plan or bare land strata plan.
- (30) “Lot Line” means the legal boundary of a Lot as show on a plan deposited at the Land Title Office.
- (31) “Obligation” means any duty, obligation or liability whatsoever, including that arising under any acknowledgement, covenant, agreement, representation, warranty, release, indemnity, breach or default.

- (32) "Occupancy" means the use or intended use of a Building or portion thereof for the shelter or support of persons, animals or property and "occupation" and "occupy" have corresponding meanings, unless the context requires otherwise.
- (33) "One-Family Home" means a single Dwelling Unit that is intended to be occupied by one family.
- (34) "Owner" means the party described as the "Transferor" in the General Instrument, being the grantor of this Covenant, and the successors in title thereof, including the owner or owners of each Lot.
- (35) "Party" means a party to this Covenant and "parties" means any or all of them.
- (36) "Person" means any individual, corporation, body corporate, partnership, joint venture, association, society, or unincorporated organization or any trustee, executor, administrator or other legal representative.
- (37) "Plans and Specifications" has the meaning the assigned to such term in section 4.2.
- (38) "Premises" means the Lands or a Lot and the Improvements.
- (39) "Prime Rate" means:
 - (a) the floating annual rate of interest expressed as a percentage established from time to time by the main branch in Vancouver, British Columbia of the Royal Bank or its successor, or such other bank as may be designated by the Grantee, acting reasonably (the "Bank"), as the base rate it will use to determine rates of interest charged by it for Canadian dollar commercial demand loans made by it in Canada and designated by the Bank as its "prime rate"; or
 - (b) if at any time the Bank does not exist or does not publish its "prime rate," then the "Prime Rate" will be the "prime rate" published by another Schedule A bank designated by the Grantee, acting reasonably and if no "prime rate" is so published, then such other rate as is established by the Grantee, acting reasonably.
- (40) "Project" means a One Family Home, Two-Family Home, or Duplex Dwelling and includes a Secondary Suite.
- (41) "Related Person" in respect of any person, means:

- (a) any affiliate of such person, within the meaning of the *Business Corporations Act* (British Columbia) or the *Canada Business Corporations Act*;
 - (b) any associate of such person, within the meaning of the *Business Corporations Act* (British Columbia) or the *Securities Act* (British Columbia); and
 - (c) any partnership, including a limited partnership, in which such person is a partner.
- (42) “Secondary suite” means a dwelling unit separate to the primary dwelling unit(s) but still located on the same titled property. Only one secondary suite per title is permitted.
- (43) “Security Deposit” has the meaning assigned to such term in section 4.4.
- (44) “Service Connection” means the connection of the Development to water and sewer services provided by FARUC’
- (45) “Services and Facilities” means all on-site and off-site services, utilities, amenities and facilities in respect of or for the use of the Premises, including any roads, curbs, walkways, sidewalks, trails, street lighting, parks, common areas, community facilities, recreation facilities, water, sanitary sewer, garbage or solid waste removal or disposal, storm drainage or other drainage facilities, natural gas, propane, fuel, telephone, electricity, lighting, cablevision, communication, heating, energy, geothermal energy, ventilation or air conditioning services and facilities.
- (46) “Site Development Criteria” means the site development criteria attached as Schedule A hereto.
- (47) “Two-Family Home” means a single structure containing two Dwelling Units, constructed in such a manner that it could be occupied by two families, separated by a fire rated separation where both Dwelling Units are under the same legal title and no subdivision is permitted.

1.2 Lot by Lot Basis. With respect to each Lot:

- (1) the Obligations of the Owner of any Lot will only be those Obligations which are applicable in respect of that Owner’s Lot or any other Lot owned by that Owner and, without limiting the generality of the foregoing, the Owner of any Lot will only be liable for the payment to the Grantee of any amount payable under this Covenant in respect of that Owner’s Lot or any other Lot owned by that Owner;

- (2) the Owner of any Lot will not be affected by any default under this Covenant relating to another Lot other than a default by that Owner or a default in respect of that Owner's Lot or the Improvements thereon; and
 - (3) the rights and remedies of the Grantee under this Covenant may only be exercised by the Grantee in respect of any Lot for which there has been a default under this Covenant.
- 1.3 Headings and References. The headings used in and the organization of this Covenant are solely for convenience of reference and will not in any way affect, limit, amplify or modify any of the terms or conditions hereof and will not be used in any way in the interpretation hereof. Any reference in this Covenant to an Article, section, subsection, paragraph or Schedule will mean an Article, section, subsection, paragraph or Schedule of this Covenant, unless otherwise expressly provided.
- 1.4 Non-limiting. The word "including", when following any statement, will be construed broadly, to refer to all other things that could reasonably fall within the scope of such statement, whether or not non-limiting language (such as "without limitation" or "without limiting the generality of the foregoing") is used with reference thereto.
- 1.5 Number. In this Covenant, the singular includes the plural and the plural the singular, as the context permits or requires.
- 1.6 References to Laws. A reference in this Covenant to any Law includes and is a reference to all amendments made thereto as in force from time to time, and to any Law that may be passed which has the effect of supplementing or superseding any such Law, and any regulations or other requirements made pursuant to any of the foregoing.
- 1.7 Terms Mandatory. The words "will", "shall" and "must" will be construed as being mandatory.
- 1.8 Schedules. The following are the Schedules to this Covenant:
- Schedule A - Site Development Criteria
 - Schedule B - Design Criteria
 - Schedule C - Grantee's Current Fee and Security Deposit Schedule

ARTICLE 2 – USE AND SUBDIVISION

2.1 Permitted Uses.

An Owner shall comply with all applicable zoning bylaws, any official community plan, or other law or regulation of any competent governmental authority relating to the Lands or a Lot.

2.2 Specific Restrictions on Use. Without limiting the generality of section 2.1, the Owner acknowledges and agrees that:

- (1) no temporary structure, trailer or temporary residence will be permitted within or on a Lot or the Lands except with the prior written consent of the Grantee in its absolute discretion and the Grantee may require the posting of security or impose other requirements as a result of any such consent;
- (2) no unlicensed vehicle, recreational vehicle, snowmobile, boat, commercial vehicle, house trailer, travel trailer, boat trailer, snowmobile trailer or other trailer whatsoever, manufactured home, mobile home, sea can, trailer home camper, other vehicle or structure designed for or capable of providing overnight accommodation, commercial truck or other commercial vehicle, machinery or equipment will be permitted within the Lands, except within wholly-enclosed garages or other Buildings;
- (3) the Owner will not install or use any propane tanks or similar tanks (other than in connection with a propane barbeque).
- (4) the Owner will not keep or permit any person to keep any horses, cattle, sheep, pigs or any other farm animal or domesticated farm animal on his or her Lot or any other Lot or anywhere else within the Lands.

2.3 Signage. No signage of any kind visible from anywhere outside the Premises will be permitted within the Lands, except the following:

- (1) a small and unobtrusive sign maximum of 2 sq. ft. identifying a home owner or property name;
- (2) a standard realtor's "For Sale" sign or reasonable "For Sale by Owner" sign maximum of 20" x 30" when the Premises are for sale; and
- (3) signage identifying the house number for a Lot.

No other signage of any kind visible from anywhere outside the Premises will be erected or installed without the prior written approval of the Grantee, in its absolute discretion.

2.4 Restriction on Subdivision. The Owner will not subdivide a Lot, by way of subdivision plan, bare land strata plan, or strata plan, except by way of consolidation with another Lot.

ARTICLE 3 – GENERAL RESTRICTIONS ON AND REQUIREMENTS FOR DEVELOPMENT

- 3.1 General Restrictions and Requirements. The Owner will not Develop, occupy or use or permit any person to Develop, occupy or use the Premises or any portion thereof except:
- (1) in compliance with all applicable Laws, including, without limitation, zoning bylaws, the BC Building Code, BC Electrical Code, BC Plumbing Code and BC Fire Code;
 - (2) in compliance with:
 - (a) the Plans and Specifications approved in accordance with section 4.19;
 - (b) any requirements set out in the Approval to Construct in connection with such Development;
 - (3) all terms, conditions and requirements set out in this Covenant; and
 - (4) all encumbrances or charges registered against title to a Lot .
- 3.2 Requirements for Approval to Construct and certificate of Completion. The Owner will not:
- (1) Develop or cause or permit any person to Develop the Premises or any portion thereof unless an Approval to Construct has been issued in accordance with section 4.5; or
 - (2) occupy or use or cause or permit any person to occupy or use the Premises or any portion thereof for any purpose other than in accordance with this Covenant and unless a Certificate of Completion is issued by a competent governmental authority.
- 3.3 Roads and Services. The Owner will not occupy or use or permit any person to occupy or use the Premises or any portion thereof for any purpose other than the Development of the Premises in accordance with this Covenant unless and until water, sanitary sewer, storm sewer and electricity services have been installed in accordance with this Covenant. Water and Sanitary services are available through FARUC and all residents are required to connect to water and sewer services supplied by FARUC.
- 3.4 Wastewater Pump Stations. Developments are encouraged to set grades accordingly to utilize a gravity feed line from the Building to the main sewer line. In cases where this is not possible, no Building on any Lot may be occupied or used until any required pumpstation works have been completed and are operable in accordance with the applicable Building or Plumbing Code. Any required pumpstation works will be designed, installed, operated, inspected, maintained and repaired by and at the expense of the Owner in respect of the Lot and the Grantee will not have any duty or obligation whatsoever in respect thereof.

ARTICLE 4 – REQUIREMENTS FOR APPROVAL TO CONSTRUCT

- 4.1 Restriction on Development. No portion of the Premises will be Developed, and the Owner will not carry out or permit to be carried out any Development in respect to any portion of the Premises until:
- (1) the Owner has submitted to the Grantee all of the following:
 - (a) an application for an Approval to Construct in respect of the Development, in the form established by the Grantee, if any;
 - (b) the Plans and Specifications in respect of the proposed Development, as set out in section 4.2;
 - (c) the Grantee's fees, charges and deposits, as described in section 8.1;
 - (d) the Security Deposit, as set out in section 4.4; and
 - (e) such further and other documents, instruments and assurances as may be required by the Grantee, acting reasonably.
 - (2) the Owner has obtained any permit, licence or other approval required by any applicable Lawful Authority in connection with the Development and provide the Grantee with reasonable evidence thereof, if requested by the Grantee;
 - (3) the Owner has satisfied any other reasonable requirements of the Grantee; and
 - (4) the Grantee has issued an Approval to Construct for the Development in accordance with this Covenant.
- 4.2 Plans and Specifications. Except as otherwise permitted herein, prior to carrying out any Development, the Owner will provide to the Grantee for its review the plans, specifications, samples and other documents and materials described in Schedule B and any other plans, specifications, samples and other documents as are required by the Grantee (the "Plans and Specifications") in respect of the proposed Development. The Plans and Specifications must describe the proposed Development in reasonable detail including all proposed Service Connections.
- 4.3 Fees. At the time of the delivery to the Grantee of any Plans and Specifications for approval by the Grantee in connection with any Development, the Owner will pay to the Grantee its fees established by the Grantee, acting reasonably, in accordance with section 8.1.
- 4.4 Security Deposit. At the time of the delivery to the Grantee of any Plans and Specifications for approval in connection with any Development, the Owner will post with the Grantee a

security deposit (the “Security Deposit”) in the form of a clean, irrevocable letter of credit issued by a financial institution satisfactory to the Grantee and in the form and content approved by the Grantee, acting reasonably, in accordance with section 8.1. The Owner may, at his or her election, post the Security Deposit by way of a certified cheque or bank draft, in which case the Grantee will deposit such amount in a trust account or certificate of deposit, with interest earned for the benefit of the Owner, unless the Security Deposit is forfeited to the Grantee in accordance with the terms hereof. The Security Deposit will be held by the Grantee to secure the Owner’s obligation to complete the Development that is subject to the Security Deposit within the time set out in the Covenant, and:

- (1) all of the Security Deposit will be absolutely forfeited to the Grantee if the Owner does not satisfy any of its obligations set out in any of sections 5.1 to 5.3 within the times set out therein;
- (2) for a default in respect of any obligation other than an obligation set out in sections 5.1 to 5.3, the Security Deposit, or the relevant portion thereof, as applicable, will be absolutely forfeited to the Grantee on account of any damages payable to the Grantee in accordance with this Covenant in respect of a matter occurring prior to the time that the Security Deposit is returned to the Owner, without prejudice to any other right or remedy of the Grantee, including, without limitation, the right to damages in excess of the amount of the Security Deposit; and
- (3) subject to sections 4.4(1) and (2), the Security Deposit, or any remaining portion thereof, if any, will be returned to the Owner if the Owner satisfies all of its obligations set out in sections 5.1 to 5.3 within the times set out therein, provided that if the Owner has satisfied all of such obligations other than those in respect of the completion of landscaping and the Owner is not able to complete the landscaping obligations due to seasonal considerations, the Grantee will return to the Owner all but 50% of the Security Deposit.

If at any time any Security Deposit or any portion thereof is forfeited to the Grantee, the appropriate Owner will replenish the Security Deposit or the forfeited portion, as applicable, forthwith upon demand by the Grantee.

4.5 Grantee’s Review of Plans/ Issuance of Approval to Construct.

- (1) The Grantee will review and consider any Plans and Specifications submitted to the Grantee in a reasonably timely manner and either approve of or reject such Plans and Specifications and provide the Owner with written notice thereof. If the Grantee rejects any Plans and Specifications, the Grantee will provide the Owner with written reasons for such rejection.

- (2) The Owner shall not proceed with, directly or indirectly, any Development (including, without limitation an application by or on behalf of the Owner to local government for a building permit) until approval is given and the owner has received an Approval to Construct by the Grantee.
- (3) In considering whether or not to approve of any Plans and Specifications, the Grantee may consider such factors as it considers relevant, including, without limitations, the following:
 - (a) Building siting and setbacks;
 - (b) screening and Building Height;
 - (c) provision of parking, including the amount, location and standards thereof;
 - (d) general architectural aesthetics;
 - (e) landscaping;
 - (f) exterior layout;
 - (g) conformance with the Site Development Criteria, Design Criteria and Landscaping Criteria, as amended from time to time;
 - (h) exterior materials and colours;
 - (i) the use of water conservation equipment, materials and methods, all of which are required by the Utility Corporation;
 - (j) the use of BC Hydro PowerSmart measures; and
 - (k) compliance with encumbrances registered against title to a Lot;
 - (l) compliance with the Design Criteria as specified in Schedule B.

For greater certainty, the Grantee will not review the Plans and Specifications with respect to compliance with any applicable code or Law, including the BC Building Code, construction materials that do not relate to the design criteria as specified in Schedule B, roof slopes or snow dump, or any geotechnical aspects that may affect the construction or erection of any building or structure on a Lot.

- (4) If the Grantee rejects any Plans and Specifications, the Grantee may, in its absolute discretion, as part of such rejection, make recommendations for modifications to such Plans and Specifications and may discuss its reasons for rejection or recommendations with the Owner.

- (5) The Owner may modify the Plans and Specifications and re-submit them to the Grantee for approval in accordance with section 4.1 of this Covenant, in which case this section 4.5 will apply to such re-submitted Plans and Specifications.
 - (6) Provided that the Owner has complied with this Article 4, if the Grantee approves of any Plans and Specifications, the Grantee will issue a permit (an "Approval to Construct") in respect of the Development or Improvement contemplated thereby, in the form established by the Grantee.
 - (7) The Grantee will have the full authority to determine, in the absolute discretion of the Grantee, whether or not to approve any Plans and Specifications, provided always that the Grantee will act in good faith and will not act arbitrarily. Without limiting the generality of the foregoing, the Grantee, in its absolute discretion, may waive compliance with any of the restrictions or requirements set out in this Covenant, but no such waiver will be effective unless it is made in writing.
- 4.6 Conditions to Approval of Plans and Specifications. The Grantee may place conditions upon the approval of any Plans and Specifications and the Owner will comply with any such conditions. Without limiting the generality of the foregoing, in the case of any Development resulting in a material change to any existing Improvements, the Grantee may restrict or prohibit occupancy of Improvements until the completion of the Development and the issuance of a new Certificate of Completion in respect thereof.
- 4.7 Revisions to Plans and Specifications. If there are any material alterations to any approved Plans and Specifications, the Owner will submit such alterations to the Grantee for review and approval in accordance with section 4.1 as if they were in respect of new Development.
- 4.14 Alterations, Maintenance and Repairs. Subject to section 4.1, no material alteration to or modification, maintenance or repair of any Improvement will be carried out unless Plans and Specifications are submitted to and approved by the Grantee in accordance with this Covenant and unless the Owner complies with all other provisions of this Covenant in respect thereof as if it were a new Improvement.

ARTICLE 5 – COMPLETION OF DEVELOPMENT

- 5.1 Time Deadline for Carrying Out of Project on the Lots. The Owner agrees that in respect of a Project on a Lot:
- (1) The Owners shall submit the Plans and Specifications and receive the Approval to Construct within thirty six (36) months from the date of registration of the transfer of title of the Lot to the Owner; and

- (2) The Owner shall complete the construction, including landscaping, within thirty six (36) months from the date of issuance of the Approval to Construct,

failing which the Security Deposit, or such portion thereof as is payable in accordance with Section 10.4(1), will be absolutely forfeited to the Grantee, as damages without prejudice to any other right or remedy of the Grantee, including, without limitation, the right to claim any amount in excess of any Security Deposit.

5.2 Time Limit on Approved Plans and Specifications. Once any Plans and Specifications in respect of any Development have been approved by the Grantee, if the Owner does not either;

- (1) commence carrying out of such Development within 36 months of issuance of such approval, as evidenced by the issuance of an Approval to Construct and the on-site commencement of excavation, footings and foundations; or
- (2) complete such Development within 36 months of the issuance of such approval, as evidenced by a Certificate of Completion in respect thereof,

the Security Deposit, or such portion thereof as is payable in accordance with section 10.4(1), will be absolutely forfeited to the Grantee as damages, without prejudice to any other right or remedy of the Grantee, including, without limitation, the right to claim any amount in excess of the Security Deposit, the Approval to Construct in respect of such Plans and Specifications will be deemed to be void and the Owner must re-submit to the Grantee Plans and Specifications in respect of such Development, or any uncompleted part thereof, and fulfil any other requirements under this Covenant as if the Owner was carrying out new Development, including provision of a further Security Deposit.

5.3 Completion of Development Once Commenced. Once any Development has been commenced on any Lot:

- (1) the Owner will diligently carry out such Development in accordance with the approved Plans and Specifications and not unduly delay or discontinue the carrying out of such Development; and
- (2) the Owner will complete such Development, as evidenced by the issuance of a Certificate of Completion in respect thereof within the 36 month period after the commencement of such Development, as evidenced by the issuance of an Approval to Construct and the on-site commencement of excavation, footing and foundations,

failing which the Security Deposit, or such portion thereof as is payable in accordance with section 10.4(1), will be absolutely forfeited to the Grantee as damages, without prejudice to any other right or remedy of the Grantee, including, without limitation, the right to claim any amount in excess of any Security Deposit.

- 5.4 Owner's Obligations Upon Completion. Upon completion of any Development for which the Grantee has approved Plans and Specifications in accordance with Article 4, the Owner will deliver to the Grantee a Final Inspection Certificate or Certificate of Occupancy issued by a competent governmental authority.
- 5.5 Issuance of Certificate of Completion. Subject to section 5.6, upon delivery of the documents set out in section 5.4, the Grantee will deliver to the Owner a certificate of completion (the "Certificate of Completion") in respect of the Development, in the form and content established by the Grantee.
- 5.6 Grantee's Discretion to Withhold Certificate. Notwithstanding sections 5.4 and 5.5, the Grantee may withhold the issuance of any Certificate of Completion in respect of any Development if the Owner has not completed the Development in accordance with the requirements set out in or arising under this Covenant.
- 5.7 No Service Connection Without Inspection. The Owner shall not make any Service Connection except with the written approval of FARUC and the Grantee. Prior to making a Service Connection, the Owner shall contact the Grantee and FARUC and schedule a mutually agreeable appointment for a representative of the Grantee and/or FARUC to be present during the installation of the Service Connection, which itself shall be subject to the specifications made by the Grantee and/or FARUC. The Owner shall not cover or backfill any Service Connection without the express authorization of the Owner. The Owner shall provide to the Grantee and FARUC all engineering certifications, 'as built' drawings, and other documentation which may be required by the Grantee and/or FARUC in their sole discretion pertaining to the Service Connection. **EACH FAILURE OF THE OWNER TO COMPLY WITH THE PROVISIONS OF THIS SECTION 5.7 SHALL CONSTITUTE A DEFAULT BY THE OWNER UNDER THIS AGREEMENT AND THE GRANTEE SHALL BE ENTITLED TO AVAIL ITSELF OF ANY OF THE REMEDIES INCLUDING THE IMPOSITION OF FINES UNDER SECTION 10 HEREOF.**

ARTICLE 6 – COMPLIANCE WITH LAWS/CONSTRUCTION PRACTICES

- 6.1 Compliance with Laws. The Owner will:
- (1) observe and comply with all Laws applicable to the Owner's Premises or the Owner; and
 - (2) procure and comply with all necessary permits, licences and other authorizations from time to time required by any Lawful Authority with respect to the Owner's Premises or any Development, maintenance, use or occupation thereof or any business or undertaking conducted thereon or therefrom,

6.2 Construction Practices. In carrying out any Development, the Owner will comply with all of the following:

- (1) no work will be carried out except between the hours of 8:00 a.m. and 6:00 p.m. on Business Days and between the hours of 10:00 a.m. and 6:00 p.m. on any day that is not a Business Day;
- (2) the Owner will comply with all construction, development, burning and other restrictions imposed by any Lawful Authority, including those related to fire and forestry practices; and
- (3) the Owner will carry out all work in accordance with good construction practices and, without limiting the generality of the foregoing:
 - (a) the Owner shall not enter upon, place fill upon, or otherwise trespass upon or damage any other lands adjacent to or in the vicinity of a Lot and if the Owner does cause any such damage, the Owner will forthwith repair the same, failing which the Grantee may (but is not obligated to) do so at the expense of the Owner in accordance with the procedures set out in section 10.3 and may apply the Owner's Security Deposit in respect thereof, all without prejudice to any the other right or remedy of the Grantee;
 - (b) the Owner will use reasonable efforts to minimize noise, dust and other nuisances and disruptions; and
 - (c) the Owner will not store any construction equipment or materials excepting on the Owner's Lot, and will not store any construction equipment or materials on any adjacent Lots or roads.

ARTICLE 7 – MAINTENANCE, LANDSCAPING, NUISANCE, WASTE AND RUBBISH

7.1 Maintenance and Repair of Premises. The Owner will, at the expense of the Owner, at all times, repair, renew, replace and maintain:

- (1) all Improvements forming part of the Owner's Premises in a good and workmanlike manner to reasonable and safe standards of upkeep and repair and in accordance with this Covenant and all applicable Laws, including all work to remedy any defects in construction or of a structural nature; and
- (2) all landscaped and open areas within the Owner's Premises in a neat, tidy, clean and attractive condition,

in every respect as would a careful owner in occupation, excepting reasonable wear and tear only insofar as is not inconsistent with the foregoing. The Owner will not cause or permit any Improvement on Lot to deteriorate or become unsightly or incompatible with the general character of the neighbourhood in which the Lands are situated, whether as a result of lack of regular and reasonable upkeep, maintenance and repair, or for any other reason whatsoever.

- 7.2 Landscaping of Premises. The Owner will maintain, keep up and replace any landscaping, trees and other vegetation within the Owner's Premises in a good and workmanlike manner, in accordance with reasonable landscaping standards, having regard to the landscaping that was approved by the Grantee.
- 7.3 Damaged Improvements. The Owner will not permit any damaged Improvements within the Owner's Premises to remain in its damaged state unless the Owner is diligently pursuing reasonable steps to either repair the damaged Improvement to its pre-damaged condition or to completely remove the damaged Improvement and restore and clean up the Owner's Premises in a good and workmanlike manner forthwith after such removal, all in accordance with this Covenant and any applicable Laws.
- 7.4 Nuisance. The Owner will not cause, permit or suffer any nuisance to be created on or to emanate from the Owner's Premises, however caused.
- 7.5 Waste. The Owner will not cause, permit nor suffer the commission of any waste at, on, within or in respect of the Owner's Premises.
- 7.6 Rubbish. The Owner will not cause, permit or suffer any rubbish, garbage, waste or debris on or within the Owner's Premises, except as may be reasonably necessary in accordance with the uses permitted under this Covenant and in accordance with any Law. All rubbish, waste and debris must be kept in suitable containers and in any event not in an unsightly manner. Any rubbish, garbage, waste or debris outside of a Building must be kept in a bear-proof container or facility. The Owner will be diligent about the removal of any such rubbish, garbage, waste or debris from the Owner's Premises and will recycle all materials which may reasonably be recycled.
- 7.7 Construction Site Clearing Waste. All stumpage and other waste from site clearing or Development will not be burned anywhere within the Lands and will be removed to and disposed of at an area designated or approved by the Grantee in accordance with any requirements of the Grantee, including any requirements in respect of disposal charges.

ARTICLE 8 – GRANTEE'S FURTHER RIGHTS AND POWERS

8.1 Grantee's Fees, Charges and Deposits. Prior to carrying out any Development, the Owner will:

- (1) pay any fees as may be reasonably charged by the Grantee for any review, consent or approval required or given pursuant to or in connection with the proposed Development; and
- (2) post any deposits and security as may be reasonably required by the Grantee.

The Grantee's schedule of such fees, charges and deposits as of the date of this Covenant is set out in Schedule C hereto and the Owner acknowledges and agrees that such fees, charges and deposits are reasonable and appropriate. All fees and charges do not include GST or any other tax or charge thereon and the Owner will pay all GST and other taxes and charges payable on all fees and charges.

8.2 Delegation. The Grantee may delegate to any person or committee or group of persons any of the Grantee's functions, rights, powers, authorities, remedies, duties or obligations under this Covenant.

8.3 Grantee's Access. The Owner acknowledges and agrees that the Grantee and the Grantee's Representatives may enter onto the Premises, with or without any required vehicles, machinery and equipment, for any of the following purposes:

- (1) inspecting the Premises or any portion thereof for the purpose of confirming whether or not the Owner is carrying out its Obligations under this Covenant, any other agreement between the Owner and the Grantee or pursuant to any Law; or
- (2) exercising any of the rights of or performing any of the Obligations of the Grantee under this Covenant,

provided that in so doing the Grantee and the Grantee's Representatives will take reasonable steps to minimize any interference or inconvenience to the Owner and will exercise such rights during normal working hours and provide the Owner with reasonable prior written notice of the exercise of such rights except in the case of an emergency.

8.4 Grantee's Approvals and Consents. Notwithstanding any approval or consent whatsoever given by the Grantee under or in connection with this Covenant, by such approval or consent the Grantee will not be deemed:

- (1) to have waived or impaired any Obligation of any person arising under this Covenant or any letter, assurance or document in connection herewith; or
- (2) to have waived or impaired any right or remedy of the Grantee arising under or in connection with this Covenant,

and no such approval or consent will be construed as approval of or consent to any similar or other matter or thing or as an indication of the circumstances under which the Grantee will give such an approval or consent.

- 8.5 No Requirement to Inspect or Enforce. The Grantee will not be required to inspect any Development whatsoever on a Lot the Lands or any other lands adjacent to or in the vicinity of the Lands. All building inspections are the responsibility of the Owner to coordinate with the RDEK.
- 8.6 Grantee's Right to Waive. The Grantee, in its absolute discretion, may waive compliance with any Obligation under this Covenant or any other covenant in respect of a Lot, the Lands or any other lands adjacent to or in the vicinity of the Lands, all on any terms and conditions as may be established by the Grantee in its absolute discretion. No such waiver may be enforced against the Grantee or used in any defence against the Grantee unless it is made in writing.

ARTICLE 9 – INDEMNITIES

- 9.1 Indemnities. The Owner hereby agrees to indemnify and hold harmless the Grantee and the Grantee's Representatives, Officers, Directors and employees from and against any and all actions, suits, demands, proceedings, costs, charges, damages, legal fees and any and all other claims whatsoever arising from or relating to:
- (1) any act or omission by any Owner under or in connection with this Covenant;
 - (2) any use, occupation, conduct or management of the Premises, or from any work or thing whatsoever done in, on or about the Premises, whether by the Owner or any other person;
 - (3) any condition of or within the Premises or emanating from the Premises;
 - (4) any breach or default on the part of the Owner in the performance or observance of any Obligation or agreement on the part of the Owner to be performed or observed pursuant to the provisions of this Covenant;
 - (5) any person occupying, using or being in, on or about the Premises, whether with or without the knowledge or permission of the Owner;
 - (6) any accident, injury or death whatsoever to any person or damage to property occurring in, on, or about the Premises;
 - (7) the issuance of any Development Approval or Certificate of Completion;

- (8) any Development whatsoever;
- (9) the exercise or failure to exercise any power, duty, authority or discretion under or in connection with this Covenant, including the issuance of or failure to issue any Development Approval, any inspection or any confirmation of compliance or conformity with this Covenant or any Development Approval or any failure to inspect or confirm, or the enforcement of or failure to enforce any of the Grantee's rights or remedies under this Covenant or any other covenant in respect of any lands adjacent to or in the vicinity of a Lot or the Lands;
- (10) any Services and Facilities and any Emergency Services, including the use of, the provision of, the failure to provide or the interruption of any Services and Facilities or Emergency Services;
- (11) any advice, comforts or assurances given in respect of a Lot or the Lands or the premises or any part thereof or any Development thereof; and
- (12) the neglect or failure, for any reason, to discover any breach or default under or to enforce any of its rights under this Covenant or any Development Approval,

and the Owner hereby releases the Grantee and the Grantee's Representatives, Officers, Directors and employees from and against any and all actions, suits, demands, proceedings, costs, charges, damages, legal fees and any and all other claims whatsoever arising from or relating to the forgoing.

This section 9.1 will survive any release or termination of this Covenant.

9.2 No Reliance on Grantee / Owner is Responsible. Without limiting anything contained in section 9.1, the Owner acknowledges and agrees that:

- (1) all Obligations of the Owners under this Covenant and all work carried out by or required to be carried out by the Owners under or in connection with this Covenant will be carried out at the sole cost and expense of the Owners and the Owner will bear all costs and expenses of compliance with the terms and conditions of this Covenant; and
- (2) the Owner has relied and will rely exclusively on themselves and their own consultants and that neither the Grantee nor any of the Grantee's Representatives has made or will make, by any act or omission, including the issuance of any Development Approval, any representation, warranty or statement whatsoever that any Improvements are without fault or defect or fit for their intended purpose.

ARTICLE 10 – DEFAULT AND REMEDIES

- 10.1 Owner's Covenants. All Obligations to be observed or performed by the Owner in favour of the Grantee under this Covenant will be deemed to be Owner's covenants and all the Obligations in favour of the Grantee in this Covenant are made on behalf of the Owner and the Owner's successors and assigns.
- 10.2 Grantee's General Remedies. If the Owner is in default in respect of any Obligation under this Covenant, the Grantee may do any or all of the following:
- (1) require the Owner to cease any work, use or activity giving rise to such default and to cause all others to cease such work and activity;
 - (2) require the Owner to carry out any work or activity reasonably required in order to rectify such default; or
 - (3) require the Owner to remove any Improvement or portion thereof in respect of which the breach relates,
- and the Owner will comply promptly and fully with any such requirement of the Grantee.
- 10.3 Grantee's Right to Cure Default. If the Owner fails to observe or perform any of the Owner's Obligations under this Covenant then, without limiting any other remedy of the Grantee, the Grantee may, at its option and upon not less than 30 days' written notice to the Owner, perform or cause to be performed the Obligation, but having commenced such work the Grantee will have no obligation to complete the fulfilment of such Obligation. The defaulting Owner will pay to the Grantee all reasonable costs and expenses incurred by the Grantee in performing the Obligation, together with the amount equal to 15% of such costs and expenses in respect of the Grantee's administrative costs, forthwith upon demand by the Grantee. The performance by the Grantee of any of the Owner's Obligations pursuant to this section 10.3 will not be acknowledgement or admission of any liability or responsibility on the part of the Grantee.
- 10.4 Damages. If the Owner is in default of any material Obligation under this Covenant, the Grantee may, upon notification to the Owner, assess the Owner the following amounts:
- (1) for defaults arising under sections 5.1 to 5.3:
 - (a) \$1,000 for the occurrence of such default for any Lot (\$1,000 per Lot per occurrence); and
 - (b) \$100 per day for any Lot for each day such default continues (\$100 per Lot per day), from and including the day of such default; and
 - (2) for any other material defaults:

- (a) \$2,000 for the occurrence of such default for any Lot (\$2,000 per Lot per occurrence), if the default is not fully cured within 10 days after receipt by the Owner of written notice from the Grantee of such default; and
- (b) \$500 per day for any Lot for each day such default continues (\$500 per Lot per day), from and including the date that is 10 days after the receipt by the Owner of written notice from the Grantee of such default,

and the Owner will pay any such assessments within 10 days after receipt by the Owner of written notice thereof. The Owner hereby agrees that such amounts constitute fair and reasonable damages for the harm caused as a result of a default of any material Obligation of the Owner under this Covenant. The Grantee may apply any Security Deposit toward the payment of such amount in accordance with section 4.4, without prejudice to any other right or remedy of the Grantee, including, without limitation, the right to claim any amount in excess of any Security Deposit.

- 10.5 Injunctive Relief. The Owner acknowledges and agrees that, without limiting any other right or remedy of the Grantee, the Grantee may obtain from a court of competent jurisdiction injunctive relief in respect of any breach by the Owner of any of the Owner's Obligations under this Covenant.
- 10.6 Arrears to Bear Interest. If any amount, including, but not limited to, any amount payable in accordance with section 10.3, owing by the Owner to the Grantee under this Covenant is not paid on the date on which it is due, then it will bear interest at the Interest Rate from the date the sum is due until the date of the payment by the Owner, but this stipulation for interest will not prejudice or affect any other remedies of the Grantee under this Covenant or otherwise, or be construed to relieve the Owner from any default in making any payment at the time and in the manner specified in this Covenant.
- 10.7 Rent Charge. The Owner, on behalf of itself and the Owner's successors and assigns, hereby grants to the Grantee a rent charge in respect of any amount payable by the Owner in accordance with this Covenant, which rent charge will be the absolute property of the Grantee and will be payable by the Owner forthwith upon demand, without deduction or set-off whatsoever. If at any time the owner is comprised of more than one person, then all such people will be jointly and severally bound by such rent charge.
- 10.8 Enforcement of Rent Charge. The Owner hereby agrees that:
- (1) If the Owner defaults in payment of all or any part of any amount payable under this Covenant for any period of 30 days after written notice from the Grantee in respect thereof, then without further notice the Grantee may, at any time thereafter, enter upon any part or parts of the Premises for which the Owner is in default of payment and may distrain for the amount in arrears, including interest payable in

accordance herewith, and the Grantee shall have all such remedies in respect thereof as if the Grantee were a landlord distraining for the rent in arrears, including, without limitation, the powers of seizure, removal and sale.

- (2) If the Owner defaults in the payment of all or part of any amount payable under this Covenant for any period of 90 days after written notice from the Grantee in respect thereof, then without further notice the Grantee may, at any time thereafter, appoint a receiver in respect of any part or parts of the Premises for which the Owner is in default of payment, and may foreclose upon such part or parts of the Premises and may cause such part or parts of the Premises to be sold, as if the Grantee were a mortgagee exercising a power of sale, provided that:
 - (a) such power of sale must not be exercised until after 30 days' prior written notice has been given to the Owner of such part or parts of the Premises;
 - (b) the Owner does not, before the completion of any sale of any part or parts of the Premises, pay the full amount owing, including interest thereon, together with all actual cost of any notice and proceedings; and
 - (c) the money realized by reason of any sale described above must be applied by the Grantee firstly, to pay actual costs incurred in respect of any notice, proceedings and sale, secondly, to pay the amounts owing to the Grantee hereunder and thirdly, to pay the surplus, if any, to the Owner.
 - (3) Despite the above provisions for enforcement of the payments due under this Covenant, the Grantee, at its option, may bring or take legal action for payment in any court of competent jurisdiction.
 - (4) The Grantee may exercise any other remedy available at common law in respect of the enforcement of rent charge.
 - (5) The Grantee may exercise any of its remedies hereunder concurrently and no exercise of any remedy will exclude the concurrent or subsequent exercise of any other remedy.
- 10.9 Remedies Cumulative. All rights and remedies of the Grantee under this Covenant are cumulative and are in addition to and do not exclude any other right or remedy provided in this Covenant or otherwise allowed by law. All rights and remedies of the Grantee may be exercised concurrently but will not give rise to duplicative liability of the Owner.

ARTICLE 11 – MISCELLANEOUS PROVISIONS

- 11.1 Owner to Act Reasonably. The Owner will act reasonably and in good faith at all times in connection with any matter arising under this Covenant and in respect of any Development or use of a Lot.
- 11.2 Entire Agreement. This Covenant constitutes the entire agreement between the parties with respect to the subject matter of this Covenant except as may be set out in any written document or agreement between any of the parties. There is no warranty, representation, collateral warranty, collateral agreement or other term or condition whatsoever in respect of this Covenant except as is expressly set out in this Covenant or in an agreement in writing duly executed and delivered by the relevant parties.
- 11.4 Amendment. This Covenant may only be amended by an agreement in writing signed by the Grantee and the Owner or Owners of all portions of the Premises to which the amendment relates. This Covenant may be amended with respect to any Premises by an agreement in writing signed by the Grantee and the Owner of those Premises. Without limiting the foregoing, this Covenant may be amended with respect to any Lot by an agreement in writing signed by the Grantee and the Owner or Owners of that Lot. No modification or amendment of any provision of this Covenant will be inferred from anything done or omitted by any of the parties except by an express agreement in writing duly executed and delivered by all of the parties.
- 11.5 No Waiver. No condoning, excusing or overlooking of any default nor any delay in proceeding or failure to proceed in the case of any default under this Covenant will operate as a waiver of or otherwise affect in any way any rights or remedies under this Covenant or at law. No waiver of any rights or remedies will be inferred from anything done or omitted to be done by any party except by an express waiver in writing. No waiver in respect of any matter or thing will operate as a waiver in respect of any other matter or thing.
- 11.6 Governing Law. This Covenant will be governed by and interpreted in accordance with the laws of the Province of British Columbia, which is the proper law hereof, and the courts of British Columbia will have the exclusive jurisdiction with respect to all matters arising under or in respect of this Covenant.
- 11.7 Time of the Essence. Time is of the essence of this Covenant and will remain of the essence notwithstanding any extension of time given under or in connection with this Covenant.
- 11.8 Force Majeure. If pursuant to the provisions of this Covenant the Owner is required to do any act or thing (other than the payment of any amount of money) by a specified date, and the Owner is prevented from completing such act or thing by such date by any strike, lockout, other labour disturbance, embargo, war, fire, flood, earthquake, or other act of God, explosion, breakage of or accident to equipment or machinery, inordinate delay in obtaining approvals after the date of this Covenant, delay or failure of suppliers or carriers

or any other act or thing beyond the reasonable control of the Owner, in any case without the fault or neglect of the Owner, then the date by which the Owner is required to do such act or thing will be extended by the period of such delay, provided that the Owner gives written notice of such delay to the party in favour of whom the Owner is required to do such act or thing, setting out the cause of such delay in reasonable detail both:

- (1) within 30 days after the commencement of such delay; and
- (2) within 30 days after the end of such delay,

and the Owner will, at any time and from time to time, provide any further information in respect thereof as may be reasonably requested by the party in favour of who the Owner is required to do such act or thing.

11.9 Notices. All notices under this Covenant must be given in writing and delivered in accordance with this provision. The parties agree that:

- (1) any notice to any Owner may be sent to the Owner's address according to the Land Title Office records in respect of the Owner's Premises; and
- (2) all notices to the Grantee must be sent to the Grantee at the address set out above or such other address as the Grantee may notify the Owner in accordance with the terms hereof at any time and from time to time.

Notices will be sent by personal delivery, electronic transmission (including fax) or by registered mail. Notices will be deemed to have been delivered (i) upon delivery, if delivered by hand, (ii) upon receipt if sent by electronic transmission, or (iii) on the fifth Business Day after the mailing thereof, if sent by registered mail from a post office in British Columbia or Alberta.

11.10 Invalid Terms. If any part of this Covenant is declared or held invalid for any reason, the invalidity of that part will not affect the validity of the remainder which will continue in full force and effect and be construed as if this Covenant had been executed without the invalid portion.

11.11 Runs With the Lands / Binding Effect. This Covenant runs with the Lands and Premises and every part thereof into which the Lands and Premises may be subdivided. This Covenant will be for the benefit of and be binding upon:

- (1) the Owner's successors in title to the Lands and Premises or any part thereof, including all Owners of the Lots; and
- (2) the Grantee's successors and assigns,

and every reference in this Covenant to the Owner and the Grantee includes such persons, as applicable. Without limiting the foregoing, any outstanding amount payable pursuant to this Covenant in respect of any portion of the Lands will run with the portion of the Lands for which such amount is payable.

- 11.12 Release of Owners Upon Transfer of Title. The Owner will not be liable for any Obligation under this Covenant in respect of the Premises, or portion of the Premises, where such Obligation arises after the Owner has ceased to be the owner of the Premises, or that portion of the Premises, as applicable. Without limiting the generality of the foregoing, upon the transfer by any Owner of all of that Owner's interest in any Lot, the transferring Owner will not be liable for any Obligation under this Covenant in respect of that Lot which arises after the time of the completion of the transfer of all of that Owner's interest in such Lot.
- 11.13 Assignment by Grantee / Release. The Grantee may assign this Covenant to any person, provided that the Grantee satisfies any requirements set out in section 219 of the *Land Title Act*. Upon any assignment of this Covenant by the Grantee, the Grantee will be released from any and all further Obligations arising under this Covenant which arise after the time of such assignment.
- 11.14 Joint and Several. If a party is comprised of more than one person, then all Obligations of that party will be deemed joint and several Obligations of each such persons comprising that party.
- 11.15 Registration. The General Instrument will be registered by the Owner in the appropriate Land Title Office in priority to all financial encumbrances except those specifically consented to in writing by the Grantee in its discretion.

IN WITNESS WHEREOF the parties have executed and delivered this Covenant by signing the General Instrument.

SCHEDULE A

SITE DEVELOPMENT CRITERIA

1.0 Overview

- 1.1 This Schedule A outlines criteria, which must be addressed by the Owner in the planning of any Development of any Lot. This comprehensive approach to planning the development of the Lands will ensure that the development of each individual Lot fits with the natural environment and forms part of a harmonious neighbourhood in keeping with the vision of Fernie Alpine Resort. The Grantee will consider conformance with this Schedule A in the consideration of any Plans and Specifications.

2.0 Building Siting

- 2.1 It is the Owner's responsibility to inspect the Lot to assess its specific potentials and constraints (both natural features and man-made conditions), to identify the location of easements and right-of-ways and to comply with the setback requirements, tree retention areas and similar restrictions established by the Grantee.
- 2.2 The Owner must consider the following when determining the proposed siting of any Building:
- (a) topography and shape of the Lot;
 - (b) geology/soil conditions;
 - (c) hydrology and planned or existing drainage systems;
 - (d) existing vegetation and/or tree retention areas;
 - (e) views into and out of the Lot – i.e. view corridors;
 - (f) solar exposure;
 - (g) snow management;
 - (h) relationships to neighbouring properties, including minimizing overviews, shading, view blockage, noise and fumes and landscape degradations on neighbouring properties;
 - (i) parking and driveway locations (see part 7.0 below); and
 - (j) relationship between any buildings and any B.C. Hydro transformer kiosk to satisfy any B.C. Hydro requirements, standards, and guidelines,

and the Owner will provide the Grantee with any information required by the Grantee in connection with such items in any request for an Approval to Construct.

3.0 Lot Clearing, Trees and Landscaping

- 3.1 The Owner acknowledges that any existing natural vegetation represents a valued amenity to the development of the Lands. The Owner shall not cut down or remove any trees within 3 meters of a Lot Line, (the “Tree Retention Area”) and excepting one area of no more than 6 meters in width for the purpose of a drive way access from a road. In the event that site conditions require the Owner to conduct site specific grading and tree clearing of a width greater than 6 meters, the Grantee will review clearance and grading plans on a case by case basis, approval for which will not unreasonably be withheld.
- 3.2 Landscape plantings
 - 3.2.1 All Lots will be fully landscaped to the edge of the frontage road.
 - 3.2.2 Large sodded lawns will not be permitted and no more than 35% of a Lot may be manicured lawn. Manicured lawn must be limited to areas within the Building Envelope of the Lot.
 - 3.2.3 All plantings will be natural in style and indigenous where possible. All plant materials must be bear smart; fruit bearing trees and shrubs are specifically precluded.
- 3.3 Trees and other vegetation planted in snow dump areas shall be sufficiently durable to survive and grow with the adverse effects of snow dump.

4.0 Lot Grading and Drainage

- 4.1 Any grading within any Lot must be shown on the Plans and Specifications for the proposed Development of the Lot.
- 4.2 All grading must create minimal cut and fill situations. All cut and fill must be blended into the existing site conditions and must be within the Lot boundary.
- 4.3 Slope of cut and fill banks will be determined by soil characteristics for each specific Lot and must avoid erosion and promote re-vegetation opportunities, but in any case must be limited to a slope of no greater than 3H:1V. In the event that site conditions require the Owner to conduct site specific grading greater than 3H:1V such grading will require the approval and supervision of a Register Professional under seal.
- 4.4 New construction and re-grading within a Lot must direct drainage away from the Building and other Improvements situated on the Lot to proper channels of drainage that do not cause discharge of water onto adjacent property.

- 4.5 Run-off from roofs, ground, pavement and snow storage areas must be collected and directed to natural or improved drainage systems within the Lot.

5.0 Retaining Walls

- 5.1 Any wall greater than 1m in height requires the approval of a Registered Professional under seal.

6.0 Relationships to Neighbours and Streetscape

- 6.1 The design and siting for any proposed Building must respond to the existing and/or future planned development on adjacent Lots. Any proposed Building and any other Improvements to be situated on the Lots must take into consideration their effect on privacy, view lines and overshadowing of any of the neighbouring properties. Balconies, decks and large windows must be located away from the side property lines, unless otherwise permitted by the Grantee.
- 6.2 Any proposed Building shall be designed to create a harmonious yet interesting streetscape. The rooflines and level of eaves on existing or proposed Buildings on adjacent and nearby Lots must be considered, to avoid dramatic height changes between the proposed Buildings on any Lot and the rest of the Buildings along the street.
- 6.3 For Single Family Home developments, no basic exterior building design may be repeated within five Lots on the same street frontage.

7.0 Driveways, Parking and Garages

- 7.1 A Lot may not have more than one driveway connection to the frontage road.
- 7.2 A driveway must be contained within the Building Envelope of a Lot except as required for access to the frontage road.
- 7.3 Each Lot must provide for its own adequate off-street parking within the Lot, with one parking space for each bedroom to be constructed. Such parking may be provided by properly graded outdoor parking spaces or an attached or detached garage containing up to three parking spaces, or a combination thereof.
- 7.4 Driveway widths, slopes, finishes shall be shown on the Plans and Specifications submitted for approval by the Grantee.
- 7.5 Driveways must be surfaced with suitable paving such as asphalt, concrete pave stone, concrete, HDPE pavers or gravel. Alternative products will be considered. Concrete may not be used unless adequately reinforced, coloured and textured or with an exposed aggregate finish. Only two materials are allowed per driveway/parking area.

- 7.6 The driveway and surface parking areas shall not occupy more than 40% of the front yard. Only one driveway access with a maximum width of 6 metres per Lot is permitted from a road.
- 7.7 Garages facing onto the frontage road may not be greater than two cars in width.
- 7.8 Garages facing perpendicular to the frontage road may be no greater than three cars in width.
- 7.9 Garage design must be integral with the design of the Building and garage doors shall be finished to compliment the overall colour scheme for the Building on the Lot.
- 7.10 Carports and other open parking structures are permitted when the structure faces perpendicular to the frontage road. Temporary and seasonal parking tents are not permitted.
- 7.11 Neither the Owner nor the Owner's invitees will park or permit any person to park any vehicle whatsoever anywhere within the common property of the development, except that temporary parking will be permitted on one side of the common property roadway, as marked by signage on the roadway, with the approval of any applicable government authority.

8.0 Snow Management

- 8.1 The Owner must indicate on his or her Plans and Specifications submitted for approval by the Grantee where snow storage will occur for driveway and pathway clearing to ensure protection of the vegetation used for visual screening.
- 8.2 The Owner must indicate on his or her landscaping plans included in the Plans and Specifications all snow dump and snow shedding areas to ensure entries and access areas are protected.

9.0 Fences

- 9.1 Fences are permitted at the discretion of the Grantee. As detailed below, fences will only be permitted with a maximum height of 2.0 metres.
- 9.2 Fences must be made of wood, either as a solid barrier or as a split rail fence. Chain link fencing will not be permitted.
- 9.3 Fencing for privacy for hot tubs, play equipment, and similar facilities must be in the rear yard of the Lot.
- 9.4 Construction of any proposed fence must be shown in detail on the landscaping plans included in the Plans and Specifications submitted for approval by the Grantee.

- 9.5 Fence colours shall be either natural wood or stained to complement any Buildings and other Improvements located on the Lot.

SCHEDULE B

BUILDING DESIGN CRITERIA

Capitalized terms not defined herein have the meaning assigned to such terms in the Covenant to which this Schedule B is attached.

1.0 Overview

- 1.1 The Design Guidelines for Fernie Alpine Resort will reflect the architectural values of contemporary Rocky Mountain architecture. Design will compliment natural visual elements and will utilize complimenting natural materials. The intent is to create an identifiable and cohesive design character for the resort by utilizing a fairly limited vocabulary of design features that reinforce the notion of a desirable mountain retreat and escape from the more mundane solutions of urban centres.
- 1.2 This Schedule outlines criteria that must be addressed by the Owner in the design and construction of Buildings and other Improvements on the Lots. This comprehensive approach to planning the neighbourhood in which the Lots are located will ensure that each Building and Auxiliary Building fits in with and complements both previous and subsequent projects so that development proceeds harmoniously and predictably. The Grantee will consider conformance with this Schedule B in the consideration of any Plans and Specifications.

2.0 Building Massing, Height, Articulation, Size and Roof Form

2.1 MASSING

The massing and scale of structures on each of the Lots must reflect the architectural values of contemporary Rocky Mountain architecture.

2.2 BUILDING HEIGHT

No Principal Building on a Lot shall exceed two stories in height, not including the basement.

No accessory Building on a Lot may exceed two stories in height; basements are not permitted. All accessory Buildings on a Lot shall be proportionate to the scale and architectural values of the Principal Building.

2.3 ARTICULATION

Building walls exceeding 6.0 meters (20 feet) in length of an improvement on a Lot must include suitable articulation to break up the façade.

2.4 BUILDING SIZE

No Building shall be constructed on a Lot in which the gross floor area of the ground floor is less than 111.48 square meters (1,200 square feet).

The gross floor area of a Building will be calculated from the outside of all exterior walls and shall include all interior finished areas with the exception of garages. Gross floor space will not include other unfinished spaces.

2.5 ROOF FORM

Roof forms and ridge lines should be broken up. The use of asymmetrical repetitive roof forms dormer and other architectural features is encouraged, as is a variety of roof heights. All of this is directed toward creating a softened scale to the building form and to step the building height down toward the ground.

3.0 Materials

- 3.1 Preference will be given to materials chosen for their durability and natural qualities. Materials that are indigenous to the area are preferred.
- 3.2 Only three types of wall materials and one roofing material are permitted, unless otherwise approved by the Grantee. See Parts 5.0 and 7.4 for detailed material guidelines.
- 3.3 Materials must be complimentary to those of adjoining properties.
- 3.4 Primary exterior materials must be stone and/or wood.

4.0 Exterior Colour Schemes

- 4.1 Colours that do not compliment the mountain environment will not be permitted.
- 4.2 White or any variation of whites are not permitted for any exterior material
- 4.3 All exterior venting must be coloured to match the exterior of the dwelling.
- 4.4 No more than three colour shades should be used on a Building (not including the colour of the roofing material).
- 4.5 Proposed colour schemes should compliment surrounding Buildings.
- 4.6 All colour schemes must be pre-approved by the Grantee. A colour board must be submitted by the Owner for review by the Grantee at the time of Design Review. Samples may be requested but are not required. The Grantee assumes no responsibility for any material ordered before a colour scheme is approved.

5.0 Exterior Wall Design and Finishes

The following requirements and restrictions apply to the walls of improvements constructed on the Lots:

- 5.1 The area of wall from zero to two feet above finished grade must be protected from extreme weathering and staining resulting from snow accumulation.
- 5.2 Buildings must include at least two different wall cladding materials.
- 5.3 Acceptable finish materials for the lower and upper walls are stone, wood shingles, wood lap siding, board and batten, square, peeled or shaped logs. Stone should be derived from rock types indigenous to the area. Wood siding may be horizontal or vertical. The width of the board and profile must be indicated on the Plans and Specifications submitted to the Grantee for approval. The pattern for any board and batten finish also must be indicated.
- 5.4 Fiber cement siding may only be used when it imitates dimensional wood siding. Vinyl and aluminum siding are not acceptable exterior finish materials. Artificial stone that does not have the appearance of real stone is not permitted
- 5.5 Colour stucco may only be utilized for the upper walls and for no more than 20% of the area of a dwelling and no more than 50% of a single wall. Stucco and fiber cement colours shall be deeply toned
- 5.6 Use of non-glare metal cladding requires specific prior approval by the Grantee
- 5.7 The exterior finishes should be continuous around the Building or terminate at a logical juncture in the wall (i.e., at an inside rather than an outside corner).
- 5.8 Wood treated with a protective sealant may be left natural in colour or stained in an acceptable colour.

6.0 Windows and Doors

6.1 WINDOWS

- 6.1.1 Window locations, proportion and style must be carefully considered. Heavy snowloads and shedding must be considered when placing lower level windows.
- 6.1.2 Non reflective materials are to be used, including non reflective glazing. Use of privacy glass or finishes will be considered. Windows must be square, rectangular or angular in shape.
- 6.1.3 Window frames and trim may be wood, vinyl or aluminum clad. The finish colour shall compliment the dwelling's exterior finish and is to be noted on the Plans and Specifications submitted for approval.

6.2 DOORS

- 6.2.1 Door openings should be protected from wind, the risk of snow shedding and snow accumulation. Doors are best located under large roof overhangs or in combination with porches.
- 6.2.2 Doors should be of solid core wood or insulated metal painted or prefinished in a colour the compliments the Building.
- 6.2.3 Garage doors should be wood or insulated metal painted or prefinished in a colour the compliments the Building.

7.0 Roof Design

7.1 ARCHITECTURAL FORM

Roofs must be designed carefully to manage new snow shed, particularly in side setback areas. No snow should shed over entries or pedestrian ways.

7.2 ROOF SLOPE

Roofs must be designed to properly shed or fully retain snow. Recommended slope angels are between 6:12 and 12:12.

7.3 ROOF CONSTRUCTION

- 7.3.1 Roof overhangs shall be a minimum of 600 mm (24 inches) and should be maximized to assist in protecting wall planes, doors and windows from rain and snow.
- 7.3.2 The roof design should incorporate the “cold roof” concept or other appropriate means for winter conditions and freeze / thaw cycles.

7.4 ROOFING MATERIALS

- 7.4.1 Acceptable roofing materials are asphalt shakes, standing seam metal, or other materials considered as complimentary to the overall design of the Building. Tile roofing may be considered by the Grantee.
- 7.4.2 Combustible materials such as wood shingle or shake will not be permitted.
- 7.4.3 Acceptable roof colours are darker earth tones or other muted colours. Roof colours must be included in part to design review. Roof flashing will be coloured to either match or compliment the roof colour.

8.0 ROOF DETAILS

- 8.1 Snow diverters or snow retainers (if used) should be an integral part of the roofscape, and should complement the roofing material colour.

- 8.2 Solar collectors must lie flat on the roof and may not be angled off the roof surface with supports.
- 8.3 Rooftop mechanical equipment or access stairways must be installed within the roof and not protrude above it. Antennas and satellite dishes are not permitted on any roof. Roof penetrations must be grouped.
- 8.4 All flashing and roof stacks or vents must be in a prefinished colour or painted to match or compliment the roof colour.
- 8.5 Eave overhangs should be designed to prevent water staining and protect walls, openings and entry areas from the elements. Gutters are not advisable. Landscaping should include drain rock/drain tile below the eave to handle run-off from the roof.
- 8.6 Deep, well detailed, fascia boards reflect the importance of the roof and are preferred design aesthetic, unless fascia boards are narrowed or eliminated to expose roof rafters and their butt ends.
- 8.7 Valley flashing shall be backed up by a continuous membrane to protect against water damage during freeze/thaw cycles. As a further protective measure, a membrane should be applied from the edge of the eave to at least one foot beyond the inside face of the exterior wall. This measure should be combined with proper ventilation and insulation at the roof to wall connection.
- 8.8 Wooden soffits should be suitably treated to compliment the Building.

9.0 CHIMNEYS

- 9.1 Chimneys must be appropriate to the massing and form of any Building or Auxiliary Building.
- 9.2 Chimney / Fireplace exterior finish materials must be natural stone or stone faced. Wood framed chimney/chase with a wood finish may be considered for “A” and “B” vents provided the chimney is not highly visible to common areas.
- 9.3 Chimneys and chases on the roof should be located near the ridge to reduce their required height and to protect against snow damage.
- 9.4 A direct wall “B” vent must be screened from public view by landscaping or man-made screens. Exposed metal must be finished or painted to match or complement the colour of the Building.

10.0 BALCONIES, DECKS, PATIOS, and PORCHES

- 10.1 Definitions:

10.1.1 “Balconies” are outdoor floored structures, attached to the Building at or above the first floor.

10.1.2 “Decks” are defined as roofless, floored structures, elevated above grade and adjoining the Building

10.1.3 “Patios” are defined as a hard surfaced area, at grade adjoining the Building

10.1.4 “Porches” are defined as a separate roof designed to provide protection to an entrance to the Building

10.2 Decks must be elevated 600 mm (2 feet) above finished grade as measured from the top surface of the deck.

10.3 The design and construction of any balcony, deck, patio, or porch must compliment that of the Building.

10.4 All structural elements, including deck and balcony railings, must be sized and finished appropriate to the design of the Building which it adjoins.

10.5 All decks and patios must be fully contained within the Building Envelop of the Lot and be clearly illustrated as a part of the building plan submitted for approval by the Grantee.

11.0 Storage and Garbage Containers

11.1 For Single Family Home Developments:

(a) No Auxiliary Buildings or structures other than garages & secondary suites are permitted. Outdoor storage is prohibited; and

(b) Owners must provide ground level storage areas within the Building for firewood bicycles, skis and similar items.

11.2 All garbage Buildings must be bear proof and built to standards approved in advance by the Grantee.

12.0 Utilities

12.1 Connection to all services and utilities must be underground and are the responsibility of the Owner. Connection, coordinating inspection with FARUC or other fees are also the Owner’s responsibility.

12.2 A maximum of two satellite dishes of maximum 24” diameter each may be attached to the side of a Building. Each dish must be sited to minimize visual impact, subject to reasonable reception requirements. The proposed location of any satellite dish must be indicated on the Plans and Specifications submitted for approval by the Grantee.

- 12.3 The Owners must use water conservation equipment (Low Flow Fixtures and Toilets), materials and methods and PowerSmart measures in any Building or use within their Lots.

13.0 Exterior Lighting

- 13.1 Low intensity non-glare fixtures to provide adequate lighting for safety and aesthetics are permitted. All exterior light fixture re to be night sky compliant.
- 13.2 The number of exterior light fixtures shall be limited to those to provide safety or convenience and not for display. Floodlights are not permitted. The use of muted architectural lighting, such as soffit lighting, is acceptable.
- 13.3 Outdoor lighting on each Lot will illuminate the street number of the Building thereon so that it is clearly visible from the street.
- 13.4 If motion detectors are used, the timer must be set so that the light does not remain on longer than 15 minutes.
- 13.5 Light fixtures on the Buildings must be appropriate to the overall theme of the neighbourhood. Acceptable materials include iron, copper and wood. Shiny, reflective metal finishes are not permitted.

14.0 Hot Tubs, Play Equipment and Outdoor Furniture

- 14.1 The installation of hot tubs requires the prior written approval of the Grantee and should be situated in the rear yard of the Lot. Any such installation must be included in reasonable detail in the landscaping plans submitted to the Grantee for review and approval.
- 14.2 Swimming pools may be considered by the Grantee at the time of Design Review and must be contained within the Building Envelope of the Lot.
- 14.3 Water features may be considered by the Grantee at the time of Design Review and must be contained within the Building Envelope of the Lot. Water features must utilize recycled water.
- 14.4 All recreation equipment must be located within the Building Envelope of the Lot, be located at the rear of the primary Building.

SCHEDULE C

GRANTEE'S CURRENT FEE AND SECURITY DEPOSIT SCHEDULE

Part I. Fees

Fees for review by the Grantee of Plans and Specifications in connection with any application for an Approval to Construct in respect of any Development, including any alterations of existing Developments, are currently as follows:

1. for Single Family Home and developments:
 - (a) \$5,000.00 plus GST and any other applicable taxes, rates and charges on all of the above fees.

The above fees are in respect of one review of conceptual drawings (if any) and working drawings, the issuance of an Approval to Construct, one on-site inspection (if the Grantee exercises its right to inspect) and the issuance of a Certificate of Completion. For any other reviews, inspections, notices of deficiencies, etc. the Grantee will charge additional fees based on reasonable hourly rates established by the Grantee.

Part II. Security Deposits

The Security Deposit for each Single Family Home developments will be \$20,000.

Note: all fees and Security Deposits shown above are this in effect as of the date of the registration of the Section 219 Development Covenant to which this Schedule is attached. The Grantee reserves the right to change any such fees and Security Deposits and require other fees and deposits at any time.

- END OF SET -

EXHIBIT D

TITLE SEARCH PRINT

2021-12-22, 13:35:54

File Reference: 134751 RCR

Requestor: Patricia Belcher-Bell

****CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN****

Title Issued Under	SECTION 189 LAND TITLE ACT
Land Title District Land Title Office	NELSON NELSON
Title Number From Title Number	BB1531624 CA5611366
Application Received	2018-07-20
Application Entered	2018-07-20
Registered Owner in Fee Simple Registered Owner/Mailing Address:	RESORTS OF THE CANADIAN ROCKIES INC., INC.NO. A100476 1505 - 17TH AVENUE S.W. CALGARY, AB T2T 0E2
Taxation Authority	East Kootenay Assessment Area
Description of Land Parcel Identifier: Legal Description:	008-445-648 LOT A DISTRICT LOT 8901 KOOTENAY DISTRICT PLAN 1687 EXCEPT PLANS 10145, 15604, 17500, 18957, R368, NEP23072, NEP59141, NEP59794 AND EPP76410
Legal Notations	THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE CA4369728 THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE CA5044642 THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA7408913 THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA8931708

EXHIBIT D

TITLE SEARCH PRINT

2021-12-22, 13:35:54

File Reference: 134751 RCR

Requestor: Patricia Belcher-Bell

HERETO IS ANNEXED EASEMENT XD4815 OVER LOT 29 DISTRICT LOTS
8900 AND 8901 KOOTENAY DISTRICT PLAN 15604

HERETO IS ANNEXED RESTRICTIVE COVENANT XD30432 OVER LOT A PLAN 18957

HERETO IS ANNEXED EASEMENT XG29435 OVER THAT PART OF LOT 52 PLAN 15604
INCLUDED IN PLAN NEP20775

Charges, Liens and Interests

Nature:	RESTRICTIVE COVENANT
Registration Number:	XD26248
Registration Date and Time:	1990-08-08 10:41
Registered Owner:	HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AS REPRESENTED BY THE MINISTRY OF TRANSPORTATION AND HIGHWAYS
Remarks:	INTER ALIA SECTION 215 LTA

Nature:	MORTGAGE
Registration Number:	KL130073
Registration Date and Time:	1997-11-27 10:02
Registered Owner:	BANK OF MONTREAL
Remarks:	INTER ALIA EXTENDED BY KM126258 MODIFIED BY KM126260 EXTENDED BY CA6917519 EXTENDED BY CA7309593

Nature:	ASSIGNMENT OF RENTS
Registration Number:	KL130074
Registration Date and Time:	1997-11-27 10:02
Registered Owner:	BANK OF MONTREAL
Remarks:	INTER ALIA EXTENDED BY KM126259 MODIFIED BY KM126261 EXTENDED BY CA6917520 EXTENDED BY CA7309594

Nature:	MORTGAGE
Registration Number:	KM126260
Registration Date and Time:	1998-12-18 10:25
Remarks:	INTER ALIA MODIFICATION OF KL130073 (SEE KM126258)

EXHIBIT D

TITLE SEARCH PRINT

2021-12-22, 13:35:54

File Reference: 134751 RCR

Requestor: Patricia Belcher-Bell

Nature: ASSIGNMENT OF RENTS
Registration Number: KM126261
Registration Date and Time: 1998-12-18 10:25
Remarks: INTER ALIA
MODIFICATION OF KL130074 (SEE KM126259)

Nature: STATUTORY RIGHT OF WAY
Registration Number: KN82946
Registration Date and Time: 1999-09-13 11:43
Registered Owner: BC TEL
INCORPORATION NO. 1081A
Remarks: INTER ALIA

Nature: MORTGAGE
Registration Number: KR85494
Registration Date and Time: 2001-09-14 12:07
Registered Owner: BANK OF MONTREAL
Remarks: INTER ALIA
EXTENDED BY LB309620

Nature: MORTGAGE
Registration Number: KR85495
Registration Date and Time: 2001-09-14 12:07
Registered Owner: EDCO CAPITAL CORPORATION
INCORPORATION NO. A55283
Transfer Number: LB309610
Remarks: INTER ALIA
EXTENDED BY LB309621

Nature: COVENANT
Registration Number: CA3540505
Registration Date and Time: 2014-01-09 14:58
Registered Owner: REGIONAL DISTRICT OF EAST KOOTENAY
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: CA6917570
Registration Date and Time: 2018-07-09 12:17
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA
REGIONAL DISTRICT OF EAST KOOTENAY
Remarks: INTER ALIA

EXHIBIT D

TITLE SEARCH PRINT

File Reference: 134751 RCR

2021-12-22, 13:35:54

Requestor: Patricia Belcher-Bell

Nature:
Registration Number:
Registration Date and Time:
Remarks:

PRIORITY AGREEMENT
CA6917571
2018-07-09 12:17
INTER ALIA
GRANTING CA6917570 PRIORITY OVER KL130073,
KL130074, KM126260, KM126261, KR85494 AND KR85495

Duplicate Indefeasible Title

NONE OUTSTANDING

Transfers

NONE

Pending Applications

NONE

EXHIBIT D

TITLE SEARCH PRINT

2021-12-22, 13:35:54

File Reference: 134751 RCR

Requestor: Patricia Belcher-Bell

****CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN****

Title Issued Under	SECTION 189 LAND TITLE ACT
Land Title District Land Title Office	NELSON NELSON
Title Number From Title Number	BB1531625 CA5611365
Application Received	2018-07-20
Application Entered	2018-07-20
Registered Owner in Fee Simple Registered Owner/Mailing Address:	RESORTS OF THE CANADIAN ROCKIES INC., INC.NO. A100476 1505 - 17TH AVENUE S.W. CALGARY, AB T2T 0E2
Taxation Authority	East Kootenay Assessment Area
Description of Land Parcel Identifier: Legal Description:	017-470-013 LOT 1 DISTRICT LOTS 4128 AND 8901 KOOTENAY DISTRICT PLAN NEP19500 EXCEPT PLAN EPP76410
Legal Notations	THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 14 OF THE LOCAL GOVERNMENT ACT, SEE CA8931708
Charges, Liens and Interests Nature: Registration Number: Registration Date and Time: Registered Owner: Remarks:	MORTGAGE KR85494 2001-09-14 12:07 BANK OF MONTREAL INTER ALIA EXTENDED BY LB309620

EXHIBIT D

TITLE SEARCH PRINT

File Reference: 134751 RCR

2021-12-22, 13:35:54

Requestor: Patricia Belcher-Bell

Nature: MORTGAGE
Registration Number: KR85495
Registration Date and Time: 2001-09-14 12:07
Registered Owner: EDCO CAPITAL CORPORATION
INCORPORATION NO. A55283
Transfer Number: LB309610
Remarks: INTER ALIA
EXTENDED BY LB309621

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA6917549
Registration Date and Time: 2018-07-09 12:17
Registered Owner: FERNIE ALPINE RESORTS UTILITIES CORPORATION
INCORPORATION NO. A0063131

Nature: PRIORITY AGREEMENT
Registration Number: CA6917550
Registration Date and Time: 2018-07-09 12:17
Remarks: GRANTING CA6917549 PRIORITY OVER KR85494 AND
KR85495

Nature: COVENANT
Registration Number: CA6917570
Registration Date and Time: 2018-07-09 12:17
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA
REGIONAL DISTRICT OF EAST KOOTENAY
Remarks: INTER ALIA

Nature: PRIORITY AGREEMENT
Registration Number: CA6917571
Registration Date and Time: 2018-07-09 12:17
Remarks: INTER ALIA
GRANTING CA6917570 PRIORITY OVER KR85494 AND
KR85495

Duplicate Indefeasible Title NONE OUTSTANDING

Transfers NONE

Pending Applications NONE

EXHIBIT I

TIMBER LANDING OFFER TO PURCHASE AND AGREEMENT OF SALE

The Vendor: **Resorts of the Canadian Rockies Inc.** (the “Vendor”)

Full Name: _____	Full Name: _____
Address: _____	Address: _____
_____	_____
_____	_____
E-mail: _____	E-mail: _____
Telephone: Home: _____ Work: _____	Telephone: Home: _____ Work: _____
Fax: Home: _____ Work: _____	Fax: Home: _____ Work: _____
Occupation: _____	Occupation: _____

(collectively the “Purchaser”)

1. The Purchaser [*Circle one*] is ~~is not~~ a resident of Canada for the purposes of the *Income Tax Act*.
2. The Purchaser [*Circle one*] is ~~is not~~ registered for the purposes of the *Goods and Services Tax Act*.
3. Purchaser’s Solicitor: (if known) _____
4. The Purchaser hereby offers to purchase from the Vendor Lot _____, DL _____ Kootenay District Plan EPP _____ in the Development known as Timberlanding 2, in Fernie, British Columbia (the “Lot”).
5. Schedule “A” attached hereto forms an integral part hereof. The Purchaser acknowledges that he/she has read all paragraphs and schedules of this agreement.
6. The Purchaser’s obligation to purchase is subject to the following conditions precedent, each benefiting the purchaser:
 - a) _____; and
 - b) _____;
7. The Purchase Price for the Lot is \$ _____ (the “Purchase Price”) payable in lawful money of Canada. The Purchase Price does not include applicable taxes (GST, PST, Property Transfer Tax,) or adjustments. **Additional fees are payable at the time of Completion. See Schedule A, Paragraph 28.**

8. A deposit equal to \$_____, (the “**Deposit**”) accompanies this offer, which sum the Vendor will acknowledge by accepting this offer. If the offer is not accepted, the Deposit will be returned. The Deposit shall be held in the manner set out in Schedule “A”.
9. The completion date for the purchase of the Lot is estimated by the Vendor to occur on between _____, 202__ and _____, 202__ (see Schedule “A” Paragraphs 3 and 4).
10. **The Purchaser acknowledges and agrees that the Vendor makes no representations or warranties, express or implied, except for the representations and warranties contained in this Agreement. The Vendor and any representative of the Vendor is not acting for and shall not be construed as agent for the Purchaser. The Purchaser further acknowledges that it is the Purchaser’s sole responsibility to obtain independent legal and real estate advice prior to signing this Contract.**
11. This offer is open for acceptance by the Vendor on or before 5:00 p.m. Mountain time on _____, 20__ and upon acceptance by the Vendor by signing a copy of this Offer, there shall be a binding agreement of purchase and sale of the Lot for the Purchase Price, on the terms and conditions herein contained.

DATED at _____ this ____ day of _____, 20__.

WITNESS:

_____)	_____
Signature)	Purchaser
_____)	
Name of Witness)	_____
_____)	Purchaser
(AS TO ALL SIGNATURES))	

This Offer to Purchase is accepted by the Vendor this ____ day of _____, 20____.
(the “**Acceptance Date**”).

Resorts of the Canadian Rockies Inc.,

Per:

Signed at: _____, British Columbia

Disclosure Statement Receipt

The Purchaser hereby acknowledges receipt of a copy of and a reasonable opportunity prior to the execution of this Agreement to read the Vendor’s Disclosure Statement dated November 15, 2021 together with any amendments thereto made prior to the date of this Agreement (collectively, the “**Disclosure Statement**”).

Purchaser’s Signature

Purchaser’s Signature

SCHEDULE "A"
ADDITIONAL TERMS AND CONDITIONS

1. Upon acceptance by the Vendor, the Deposit shall be held in accordance with the terms and conditions set out below.

2. The Deposit shall be held in trust by Rockies Law Corporation (the "**Vendor's Solicitor**") on behalf of the Vendor. All Deposit cheques will be made payable to Vendor's Solicitor, "In Trust". Any interest earned on the deposit shall always accrue to and be payable to the Vendor. In the event that the Vendor fails to complete this transaction on the Completion Date then the Deposit shall be refunded forthwith to the Purchaser. In the event that the Purchaser's conditions precedent set out in paragraph 6 hereto are not fulfilled or waived in writing within the time required, the Deposit will be returned to the Purchaser. In the event that the Purchaser fails to complete this transaction on the Completion Date, or if the Purchaser or the Purchaser's solicitors fail to deliver the documents required to be delivered pursuant to this Agreement to the Vendor's solicitors before the Completion Date, the Deposit and any interest earned shall be paid to the Vendor without prejudice to the Vendor's other rights hereunder or otherwise at law. In the alternative, the Deposit may be held in trust by the Vendor's real estate agent, and in such event the provisions of this paragraph shall apply *mutatis mutandis*.

3. The Purchaser shall purchase the Lot and the Balance of the Purchase Price for the Lot shall be paid by **certified cheque or bank draft** on the Completion Date (as hereinafter defined). The Vendor will give the Purchaser not less than fourteen (14) days written notice (the "**Notice**") addressed to the Purchaser's address as set out above, specifying the date that shall be the Completion Date (the "**Completion Date**"). Any extension of the Completion Date may only be made by the mutual agreement of the Vendor and the Purchaser. PROVIDED ALWAYS that the Completion Date shall be extended for a period equivalent to the amount of time lost in completion of construction of the Lot by reason of unforeseen circumstances including, without limitation, time lost from strikes, lockouts, climatic conditions, acts of Governmental Authorities, fire, explosion, Acts of God, or other circumstances beyond the exclusive control of the Vendor. Any notice of extension of the Completion Date by the Vendor shall be final and binding on the Purchaser.

4. **Completion of Lot:** The Purchaser shall be bound to complete the purchase and sale of the Lot if on the Completion Date the lot is legally occupiable. For the purposes of this Agreement, the Lot will be deemed conclusively to be legally occupiable on the Completion Date if the local municipal approving officer has signed the subdivision plan creating the Lot. A portion of the services required to be completed in connection with the Development, such as paving of roads and sidewalks, and installation of "shallow services" such as gas and electricity (taken together, the "Incomplete Works") may not be completed at the Completion Date. In such circumstances the Vendor may elect to post a bond (the "Bond") with the City of Fernie (the "City") in the amount of 125% of the estimated cost of completion of the Incomplete Works in order to obtain the signature of the Municipal Approving Officer to the plan of subdivision of the Development. In such case purchasers will, in accordance with the terms of the purchase agreement, be required to complete the purchase and sale and the non-completion, as at the Completion Date, of the Incomplete Works shall not be construed as a breach of this Agreement for any reason and no holdbacks shall be permitted in respect of the Incomplete Works.

5. **Lien Holdback:** The sum of 10% of the Purchase Price (excluding taxes) shall be held back from the Balance of the Purchase Price (the "Lien Holdback") by the Vendor's solicitors on the Closing Date. The Lien Holdback will be held by the Vendor's solicitors in trust pursuant to the *Builders Lien Act* of British Columbia, with interest for the benefit of the Vendor, solely in respect of builders' lien claims registered in the Land Title Office in connection with work done at the behest of the Vendor (each a "Lien Claim"). The Vendor's solicitors are authorized to pay to the Vendor on the 56th day after permission to

Purchaser's Initials: _____

occupy the Property has been issued the Lien Holdback plus interest earned less the amount representing Lien Claims filed against the Property of which the Purchaser or the Purchaser's solicitor notify the Vendor's solicitors in writing by 1:00 PM on such day. The Purchaser hereby authorizes the Vendor and the Vendor's solicitors to do all things they in their discretion deem necessary or desirable to discharge any Lien Claims, including bringing court proceedings in the name of the Purchaser, provided that any such proceedings shall be at the Vendor's sole expense. Notwithstanding the foregoing, if the Vendor delivers to the Purchaser a Statutory Declaration stating 1) that all accounts in respect of labour and materials in respect of the Lot have been paid, and that 2) no work has been done on the Lot such as would give rise to a valid claim of lien under the *Builder's Lien Act* of British Columbia, then and in that case there shall be no Lien Holdback.

6. **Completion:** On the Completion Date, the Vendor will:

- a) transfer title to the Lot to the Purchaser, subject to the exceptions listed in section 23(1) of the *Land Title Act*, free and clear of all registered liens, mortgages, charges and encumbrances of any nature whatsoever save and except:
 - i) the legal notations set out in the Disclosure Statement;
 - ii) the encumbrances (including any to be registered) set out in the Disclosure Statement;
 - iii) any other easements, rights-of-way, and any development covenants or agreements in favour of utilities, public authorities and other parties as required by them;

(the "**Permitted Encumbrances**")

and on or before the Completion Date, the Vendor will have taken whatever steps are necessary in order to obtain or make arrangements for any release or discharge of any registered liens, mortgages, charges and encumbrances (the "**Charges**") save and except the Permitted Encumbrances.

The Purchaser acknowledges and agrees that the Vendor will be using the purchase monies received from the Purchaser to obtain a partial discharge of the Charges from the Lot. The Purchaser's solicitor or notary public will pay the balance of the adjusted Purchase Price on the Completion Date to Vendor's Solicitor in trust on their undertaking to pay sufficient funds to the holders of the Charges to legally oblige such Charge holders to discharge their Charge from title to the Lot. If the Purchaser is relying upon a new mortgage to finance the Purchase Price, the Purchaser, while still required to pay the balance of the adjusted Purchase Price on the Completion Date, may wait to pay same until after the Transfer and new mortgage documents have been lodged for registration at the Kamloops/Nelson Land Title Office but only if before such lodging against title to the Lot, the Purchaser has:

- A) deposited in trust with its solicitor the cash balance of the Purchase Price not being financed by the mortgage;
- B) fulfilled all the new mortgagee's conditions for funding except lodging for registration; and
- C) made available to Vendor's Solicitor a lawyer's or notary public's undertaking to pay on the Completion Date the balance of the adjusted Purchase Price upon the lodging of the Transfer and the new mortgage

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documents and the advance by the new mortgagee of the mortgage proceeds.

7. **Costs/Taxes:** The Purchaser shall assume and pay where applicable all real property taxes, Provincial Sales Tax ("PST"), Federal Goods and Services Tax ("GST"), on the value of the Lot, Property, rates, local improvement assessments and other charges levied against Lot, and all adjustments both incoming and outgoing of whatsoever nature will be made as of the Completion Date. The Purchaser will pay to the Vendor on the Completion Date the amount of the GST if applicable on the value of the Lot and the Vendor will be responsible for remitting the appropriate amount of tax.

8. The Lot is the subdivision lot as described in this Agreement and does not include any dwelling unit or other building.

9. The actual area of the Lot may vary up or down from that set out in the subdivision plan by up to 5% without compensation to the Purchaser.

10. The Purchaser acknowledges having ample opportunity to inspect the Lot prior to completion and on completion agrees to accept the Lot in "as is, where is" condition without any representation or warranty of the Vendor whatsoever including but not limited to any warranty of fitness for use, merchantability, condition, view corridors, or other attributes of the Lot or the Development.

11. The Purchaser acknowledges that the Development includes service facilities and equipment required by municipal authorities and any other authority having jurisdiction over the Development, such as transformers, fire hydrants and other such facilities and equipment. The Purchaser acknowledges the current plans for the Development may not indicate the location of all such service facilities and the Purchaser accepts the Lot with any such service facilities as are deemed necessary by the Vendor, without compensation to the Purchaser.

12. The civic address, the Lot number relating to the Lot, and the address assigned to the Development as of the date hereof are subject to change at the discretion of the Vendor without compensation to the Purchaser.

13. **Transaction Documents:** It shall be the Purchaser's responsibility to prepare the documents necessary to complete this transaction and the Purchaser shall deliver to the Vendor a Transfer, in registrable form and a Statement of Adjustments at least five (5) days prior to the Completion Date. The Purchaser shall bear all costs of preparation and registration of the closing documents and delivery of the purchase monies to the Vendor. The Vendor shall bear all costs of providing clear title to the Lot in accordance with section 6.

14. Neither this Agreement nor any interest in the Lot created hereunder shall be registered in the applicable Land Title Office except for transfer of the Lot on the Completion Date. This Agreement creates contractual rights only between the Vendor and the Purchaser and not an interest in land.

15. **Time of the Essence:** Time shall be of the essence of this Agreement. Unless all payments on account of the Purchase Price together with the adjustments are provided and all other amounts payable by the Purchaser are paid when due, then the Vendor may terminate this Agreement and in addition to any other remedy available to the Vendor, the Deposit plus any interest accrued shall immediately and absolutely be forfeited to the Vendor on account of damages. The Purchaser acknowledges and agrees that in such case the Deposit represents earnest money, and is not in the nature of a penalty. The Purchaser hereby irrevocably authorizes and directs any solicitors or real estate agents holding any such Deposit to forthwith upon the request of the Vendor deliver such Deposit to the Vendor.

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16. **Risk:** The Lot shall be at the risk of the Vendor until the Transfer of the Lot has been accepted for registration in the Land Title Office and thereafter at the risk of the Purchaser.

17. **Assignment:** The Purchaser shall not assign its rights under this Agreement without the prior consent of the Vendor, which consent may be withheld at the sole and unfettered discretion of the Vendor.

18. **Sale:** The Purchaser shall not advertise or offer the Lot for sale prior to the Completion Date.

19. **Privacy Consent:** The Purchaser consents to the collection, use and disclosure of personal information contained in this agreement and otherwise as collected by or on behalf of the Vendor and its agents, affiliates and service providers for the following purposes:

- a) to complete the transaction contemplated by this agreement;
- b) to engage in business transactions including securing financing for the construction of the Development;
- c) to provide ongoing products and services to the purchasers;
- d) to market, sell, provide and inform the Purchaser of the Vendor's products and services including information about future projects;
- e) additional purposes identified when or before the information is collected.

20. **Miscellaneous Provisions:** All words in this Agreement may be read and construed in the singular or plural, masculine or feminine, or body corporate, as the context requires. Where there is more than one Purchaser, the obligations of the Purchaser will be construed as joint and several obligations.

21. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. All covenants and agreements herein shall survive the Completion Date and not merge.

22. **Entire Agreement:** This Agreement is the entire agreement between the parties and there are no other representations, warranties conditions or collateral agreements, express or implied, whether made by the Vendor, any agent, employee or representative of the Vendor or any other person including, without limitation, anything arising out of any marketing material including sales brochures, models, representative view sets, show room displays, photographs, illustrations, renderings, revenue projections or pro-formas provided to the Purchaser other than those contained in this agreement or in the Disclosure Statement. The agreements, representations and warranties contained herein will survive completion and the conveyance of the Lot to the Purchaser. This Agreement may not be altered or amended except by an amendment in writing signed by both parties.

23. **Governing Law:** It is expressly agreed between the Vendor and the Purchaser that this Agreement and each and every part thereof shall be governed and construed in accordance with the laws of the Province of British Columbia.

24. **Notices:** Any notice, document or communication required or permitted to be given under this Agreement shall be in writing and either delivered by hand, transmitted by facsimile, or sent by prepaid mail to the Vendor or to the Purchaser as the case may be, at the above address. The time of giving such notice, document, or communication shall be, if delivered, when delivered, if sent by facsimile then on the day of transmission, and if mailed, then on the third business day after the day of mailing.

25. Any documents to be tendered on the Purchaser may be tendered on the Purchaser or the Purchaser's solicitor or notary. Any documents or money to be tendered on the Vendor shall be tendered, if money, by way of certified funds or bank draft, and shall be delivered at the Purchaser's expense to Vendor's Solicitor.

Purchaser's Initials: _____

26. The Purchaser agrees to, concurrently with the completion of the Purchase and Sale of the Property, grant the Vendor an Option to Purchase providing that the Vendor shall have the option to re-purchase the Property for ninety per cent (90%) of the agreed sale price hereunder, plus the cost of any improvements thereon, at cost, in the event that:

- (a) the Purchaser offers the Property for sale to any party prior to the date which is the third anniversary of the Completion Date; or
- (b) the Purchaser does not obtain a Building Permit and Approval to Construct (as such is defined in a Section 219 (Build) Covenant registered against the Property) by the date which is the third anniversary of the Completion Date; or
- (c) if the Building Permit and Approval to Construct are obtained within the time required by paragraph 26(b) above, construction of a residential dwelling in accordance with the Section 219 (Build) Covenant registered against the Property is not commenced and completed by the date which is 36 months from the date the Approval to Construct is obtained.

The Option to Purchase shall be prepared by the solicitors for the Vendor and provided to the solicitor for the Purchaser and registered by the solicitor for the Purchaser at the Purchaser's registration expense immediately following the registration of the Form A Transfer and in priority to any purchase financing.

27. Registration of Additional Charges: In addition to the Option to Purchase described above, the Purchaser agrees to, concurrently with the completion of the Purchase and Sale of the Property, register the following charges on title to the Lot, immediately following the registration of the Form A Transfer and in priority to any purchase financing:

- (a) Rent Charge (Resort Services) in favour of the Vendor, the form of which is attached as Exhibit E to the Disclosure Statement. Pursuant to this encumbrance, the Vendor provides services to the Resort Area, including the Lots.
- (b) Rent Charge (Lift Services) in favour of the Vendor, the form of which is attached as Exhibit F to the Disclosure Statement.
- (c) Section 219 Covenant for Right of Way and Rent Charges in favour of the Fernie Alpine Resort Utilities Corporation, a copy of which is attached hereto as Exhibit G to the Disclosure Statement.

28. Additional Fees and Deposits Payable at Completion: The Buyer acknowledges that in the completion of the purchase and sale hereunder, Buyer is obligated to pay to Vendor on the Completion Date, in addition to the adjusted purchase price and all taxes applicable thereto, the following:

- 1) a connection fee, currently \$25,000.00 plus GST (the "Connection Fee") for the connection of water and sewer service,
- 2) a design review fee, currently \$5,000.00 plus GST (the "Design Fee"); and
- 3) a construction security deposit, currently \$25,000.00 (the "Construction Security Deposit")

and further acknowledges that the Vendor is not obligated to complete the Purchase and Sale of the Lot unless the Connection Fee, Design Fee and Construction Security Deposit are all paid concurrently with the adjusted purchase price on the Completion Date.

Purchaser's Initials: _____