

Commercial Strata Lot #21

LEASE AGREEMENT

BETWEEN

INTRAWEST ULC

AND

CNL INCOME CANADA LESSEE CORP.

AS LANDLORD

AND

~~BELL CANADA~~

BELL CANADA

AS TENANT

FRANZ'S TRAIL
WHISTLER MOUNTAIN RESORT

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LEASE AGREEMENT

THIS LEASE AGREEMENT is ~~entered into~~made with effect this ~~—~~1st day of ~~October~~April, 2006, by **INTRAWEST ULC** and **CNL INCOME CANADA LESSEE CORP.**, together as Landlord, and ~~BELL CANADA~~BELL CANADA as Tenant. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in Schedule A.

The Interim Landlord, CNL Income Canada Lessee Corp. has leased the Premises to Intrawest ULC, pursuant to the Interim Lease, which lease is in form and substance consistent with the terms of this Lease. The term of the Interim Lease expires on December 2, 2014. For the period from the date hereof through to December 2, 2014, Intrawest ULC will be the Landlord hereunder. From and after December 3, 2014, The Interim Landlord, CNL Income Canada Lessee Corp. will be the Landlord hereunder.

For and in consideration of the covenants and agreements given below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

ARTICLE I **BASIC LEASE PROVISIONS**

1.1 Basic Provisions, Leasing and Triple Net Lease.

The following are certain basic Lease provisions which are part of and are referred to in subsequent provisions of this Lease:

1.1.1 Parties and Addresses for Purposes of Notice.

Landlord: From the date hereof through to December 2, 2014:

INTRAWEST ULC
c/o #329-2055 Lake Placid Road
Whistler, BC V0N 1B2
Attention: ~~Ms. Colleen Gunderson~~Commercial Asset Manager
Telephone No.:
Facsimile No.:

From and after December 3, 2014:

CNL INCOME CANADA LESSEE CORP.
c/o CNL Income Corp.
450 South Orange Avenue
Orlando, Florida 32801-3336
Attention: Chief Financial Officer
Telephone No.:
Facsimile No.:

with a copy to:

INTRAWEST U.S. COMMERCIAL PROPERTY MANAGEMENT, INC.
221 Corporate Circle, Suite Q
Golden, Colorado 80401
Attention: Vice President Commercial Operations
Telephone No.:
Facsimile No.:

Tenant: NEXACOR REALTY MANAGEMENT INC.
2nd Floor, 87 Ontario Street
Montreal, Quebec H2X 1Y8
Attention: Lease Administration
Facsimile No.:

with a copy to:

b) Tenant: BELL CANADA

2100, 111-5th Avenue, S.W.
Calgary, ~~AB~~Alberta T2P 3Y6
Attention: ~~Mr. Jeff Hilton, Regional Manager, Logistics~~Senior Legal
Counsel
~~Telephone No.:~~ (403) 410-4505
Facsimile No.:

1.1.2 Premises. See Schedule B.

1.1.3 Term. The term of this Lease (the “**Term**”) shall be *five (5)* years, commencing on May 1, 2006 and expiring on April 30, 2011 (the “**Termination Date**”), unless sooner terminated by law or pursuant to the terms and conditions of this Lease.

1.1.4 Renewal Option.

1.1.4.1 Tenant shall have the option to extend the initial Term of this Lease for *four (4)* additional periods of *five (5)* years (each such option is referred to herein as the “**Renewal Option**” and each such period as the “**Renewal Option Period**”). Tenant’s ability to exercise the Renewal Option is subject to the terms set forth in paragraph 1.1.4.2. For greater certainty, Tenant does not have more than four (4) Renewal Options in total.

1.1.4.2 Each Renewal Option, if exercised, shall commence the day immediately following the expiration of the Term or previous Renewal Option Period, as applicable. Tenant’s ability to exercise each Renewal Option shall be subject to the following conditions: (a) Tenant shall deliver to Landlord written notice of its election to extend this Lease on or before one hundred eighty (180) days prior to the expiration of the Term or of the previous Renewal Option Period, as applicable; and (b) Tenant shall not then be in default of the Lease and shall not have been previously in default hereunder on more than three separate occasions; ~~and (c) if deemed necessary in the sole and absolute discretion of Landlord, Tenant shall, prior to commencement of each Renewal Option Period, have completed a full renovation of the Premises pursuant to plans submitted to Landlord together with Tenant’s notice of its election to extend this Lease and approved by Landlord.~~ Annual Minimum Rent for each year of the Renewal Option Period shall be the prevailing Market Rate for comparable space provided that such annual Minimum Rent shall not be less than 104% of the Minimum Rent applicable for the last Lease Year of the preceding term or Renewal Option Period as applicable.

1.1.5 Minimum Rent. No Minimum Rent shall be payable until the Rent Commencement Date. From and after the Rent Commencement Date, Tenant shall pay Minimum Rent in those amounts set forth on Schedule C.

1.1.6 Permitted Use and Trade Name. Tenant shall use the Premises only for the use described on Schedule I ~~and may offer for sale only those items listed on Schedule IH.~~ Tenant may not use the Premises for any other use, ~~nor offer for sale any merchandise without Landlord’s prior written consent, which consent Landlord may withhold in its sole and absolute discretion.~~

1.1.7 Subleasing. Subject to the terms and conditions of this Lease: (a) Landlord hereby subleases the Premises to Tenant; and (b) Tenant hereby subleases the Premises from Landlord.

1.1.8 Triple Net Lease. This Lease is a triple net sublease. Except as expressly stipulated in this Lease, Landlord will not be liable to contribute to any costs regarding the Premises or the Commercial Strata Lot.

1.1.9 Insurance Obligations. Tenant shall obtain such insurance and comply with all obligations as set forth on Schedule HG.

1.1.10 Ancillary Licence. Landlord acknowledges that Tenant intends to install telecommunication and related equipment (collectively, the “**Works**”) in the Building and elsewhere on the Property outside of the Premises and the Landlord hereby agrees to ~~arrange~~make all reasonable efforts to cause for the Strata Corporation to grant Tenant a non-exclusive licence, irrevocable for the Term and any renewal thereof, to permit the installation, operation, maintenance, renewal and replacement of the Works. Such licence shall require Tenant to (a) install, operate, maintain, renew and replace the Works in a good and workmanlike manner; (b) obtain and maintain in good standing all licences and other permits as are reasonably required in connection with the Works and comply with all applicable laws in relation thereto; (c) provide prior written notice to Landlord before commencing installation of the Works or any part thereof; and (d) prior to commencing installation of the Works or any part thereof, take out insurance to cover personal injury and property damage arising directly or indirectly from the installation, operation, maintenance, renewal or replacement of the Works, and maintain such insurance on the same terms and conditions as Tenant’s insurance for the Premises as specified in the Lease. The Works will remain the property of Tenant regardless of any common law rule to the contrary.

ARTICLE II **THE PREMISES**

2.1 The Premises.

2.1.1 The Landlord and Tenant acknowledge and agree that the Landlord’s Work has been completed and the Tenant has accepted possession of the Premises. The Tenant is responsible for all work required to prepare the Premises for its use and occupancy contemplated herein.

2.2 Leasehold Improvements.

Tenant may not commence the construction or installation of any alteration or improvements to the Premises, unless and until plans and specifications detailing Tenant’s work have been reviewed and approved by Landlord. In that regard, Tenant shall submit to Landlord its plans therefor in accordance with the Tenant Design Guidelines. Tenant shall ensure that the Premises comply and continue to comply at all times during the Term with the Tenant Design Guidelines, and Tenant acknowledges and agrees that Landlord shall have, without limitation, all rights set out in the Tenant Design Guidelines with respect to matters addressed in the Tenant Design Guidelines. Landlord may: (a) grant or withhold such approval; or (b) condition such approval on certain revisions or other requirements. If Landlord conditions its approval on a revision or other requirement, Tenant shall incorporate the revision or other requirement in its leasehold improvements. Tenant must perform and complete Tenant’s Work and all other alterations or improvements to the Premises in a good and workmanlike manner without damage to the Premises or any other part of the Commercial Strata Lot, the Commercial Space, the Building or the Strata Development, and in compliance with all applicable requirements of: (a) this Lease, including, without limitation, the Tenant Design Guidelines; (b) all applicable laws, rules, regulations, orders and other legal requirements, including, without limitation, all building and safety codes; and (c) the Strata Corporation Documents.

ARTICLE III **RENT**

3.1 Place and Manner of Payment.

Tenant shall pay all Rent to Landlord at the address for Landlord set forth in paragraph 1.1.1 above, or to such other Person (including Head Landlord or Interim Landlord, as the case may be) or such other place as Landlord designates in writing from time to time. Tenant shall pay all Rent in Canadian currency, without any notice,

demand, offset or abatement, unless and only to the extent expressly provided to the contrary in this Lease. Landlord may require, upon written notice to Tenant, electronic transfer of funds for Tenant's payment of Rent.

3.2 Adjustments.

All Rent payable by Tenant to Landlord under this Lease shall be deemed to accrue on a daily basis. For any partial month within a Lease Year, the monthly instalments of Rent shall be prorated on a daily basis, on the basis of a thirty (30) day month. The obligations of the parties to adjust any amounts payable under this Lease requiring adjustment will survive the expiration of the Term or sooner termination of this Lease. Tenant's obligations to pay the Rent that accrues during the Term, or any extensions thereof, shall survive the expiration or sooner termination of this Lease.

3.3 Imputation of Payments.

Landlord may apply any of Tenant's payments against payment of any sum which has become due, regardless of any designation or imputation by Tenant. No designation by Tenant, either in a separate writing or on a check or money order, shall modify this clause or have any force or effect.

3.4 Interest on Overdue Amounts.

If Tenant fails to pay any amount payable to Landlord when due, each unpaid amount will bear interest at the Interest Rate from its due date until the date of payment. Overdue interest will also bear interest at the Interest Rate.

3.5 Payment of Minimum Rent.

Tenant shall pay to Landlord fixed minimum rent ("**Minimum Rent**") in advance, on the Rent Commencement Date and ~~on the first day of each calendar month~~ annually thereafter, at the rates described in paragraphs 1.1.4 and 1.1.5 above and shown on Schedule C attached hereto.

3.6 Additional Rent Deemed Rent.

All Additional Rent hereunder shall be deemed to be Rent and Landlord shall have all rights against Tenant for default in the payment of Additional Rent as for default in the payment of Minimum Rent.

ARTICLE IV **TAXES AND OPERATING COSTS**

4.1 Taxes and Operating Costs.

4.1.1 For that portion of the first (1st) Lease Year following the Rent Commencement Date, and for each Lease Year thereafter, Tenant shall pay to Landlord, as Additional Rent, Tenant's Proportionate Share of Taxes and Operating Costs for that Lease Year, in the manner described in paragraph 4.1.3 below. Tenant acknowledges that the Strata Development will consist of both retail and office premises and that Head Landlord and Landlord may, acting reasonably, create and allocate special categories of Operating Costs to some or all of the retail or office tenants and subtenants benefiting from such Operating Costs as well as a category of general Operating Costs payable by all tenants and subtenants.

4.1.2 Landlord shall furnish Tenant with Landlord's written estimate of Tenant's Proportionate Share of Taxes and Operating Costs on or before the first (1st) day of each Lease Year or as soon thereafter as is reasonably practical. Thereafter, the last written estimate furnished by Landlord to Tenant shall apply until Landlord replaces it with a new written estimate. Landlord may re-estimate Tenant's Proportionate Share of Taxes and Operating Costs from time to time during a Lease Year, and such re-estimate shall take effect upon Tenant's receipt of written notice thereof from Landlord.

4.1.3 On the first (1st) day of the first full month following the Rent Commencement Date and on the first (1st) day of each calendar month thereafter, Tenant shall pay to Landlord an amount equal to one-twelfth (1/12) of Landlord's last written estimate of Tenant's Proportionate Share of Taxes and Operating Costs. Notwithstanding the foregoing, if Landlord delivers to Tenant a written re-estimate of Tenant's Proportionate Share of Taxes and Operating Costs for any Lease Year, the first (1st) monthly instalment of Tenant's Proportionate Share of Taxes and Operating Costs due after Tenant's receipt of such written re-estimate shall be adjusted to account for any previous overpayment or underpayment of Tenant's Proportionate Share of Taxes and Operating Costs resulting from the inaccuracy of Landlord's initial estimate thereof for that Lease Year. To the extent that any portion of the Term involved a partial month, for such month Tenant shall pay that portion of one twelfth (1/12) of Tenant's Proportionate Share of Taxes and Operating Costs as the number of days in such partial month bear to the actual number of days of such month.

4.1.4 Within one hundred twenty (120) days after the end of each Lease Year, Landlord shall furnish to Tenant a written statement setting forth the actual amount of: (a) Taxes and Operating Costs for that Lease Year; (b) Tenant's Proportionate Share of Taxes and Operating Costs for that Lease Year; and (c) the payments that Tenant made on account of Tenant's Proportionate Share of Taxes and Operating Costs pursuant to paragraph 4.1.3 above for that Lease Year. If the written statement indicates that Tenant underpaid Tenant's Proportionate Share of Taxes and Operating Costs for such Lease Year, Tenant shall pay the amount of the deficiency to Landlord on the first day of the calendar month following the month in which Tenant receives the statement from Landlord. If the written statement indicates that Tenant overpaid Tenant's Proportionate Share of Taxes and Operating Costs for such Lease Year, Landlord shall credit the amount of the overpayment against the instalments of Rent due under this Lease until the balance of the overpayment is reduced to zero.

4.1.5 If Tenant's operations or requirements are such that any cost, charge, imposition, outlay, contribution or expense normally billed to Tenant by way of its contributions to Operating Costs is, in Landlord's reasonable opinion, insufficient as compared with other tenants, subtenants or occupants in the Commercial Space or elsewhere in the Strata Development based on their respective operations and requirements, Landlord may bill Tenant for the excess requirements of or costs associated with Tenant's operations and requirements, in addition to Tenant's Proportionate Share of Operating Costs (with the excess amount so billed to be deducted from Operating Costs prior to calculation of Tenant's Proportionate Share), and Tenant shall pay the amount thereof, as Additional Rent, on demand or as otherwise provided by Landlord in its notice to Tenant.

ARTICLE V

UTILITIES AND PERSONAL PROPERTY TAXES

5.1 Utilities.

To the extent that the Strata Corporation does not provide the same to Tenant, Tenant shall be solely responsible for, and shall promptly pay, the cost of all water, electricity, gas, telephone, cable television and other utilities and services used or consumed in or from the Premises, directly to the utility or service supplier, or to Landlord, as Landlord may direct, on the basis, where applicable, of separate meters or utility surveys for each of such utilities and services, or on the basis of Tenant's Proportionate Share of the costs of such utilities and services. In no circumstance shall Landlord be liable to Tenant for any claim of loss or damage arising from the failure or inability, for any reason, or any supplier of any such utility or service to provide the utility or service to the Premises.

5.2 Personal Property Taxes.

Tenant shall pay before delinquency all taxes, levies, assessments, charges and fees assessed or charged against Tenant's business, leasehold improvements, trade fixtures, equipment, inventory and other personal property. If Tenant fails to pay any such taxes, levies, assessments, charges or fees, Landlord may pay the same and bill Tenant the amount thereof and all costs and expenses incurred by Landlord in connection therewith, including, without limitation, interest at the Interest Rate and reasonable attorneys' fees and disbursements, as Additional Rent. Tenant shall pay any such Additional Rent to Landlord on demand.

5.3 Sales Tax.

Tenant shall pay to Landlord all Sales Tax, it being the intention of the parties that Landlord shall be fully reimbursed by Tenant with respect to any and all Sales Tax payable by Landlord with respect to this Lease and/or any amounts payable by Tenant to Landlord hereunder and/or the use and occupancy by Tenant of the Premises and/or the Commercial Space. Sales Tax shall be payable by Tenant at the same time as the amounts to which the Sales Tax relate are payable to Landlord under this Lease, or on demand at such other time or times as Landlord from time to time determines. Notwithstanding that the Sales Tax payable by Tenant is not considered Rent, Landlord shall have all of the rights and remedies available to Landlord if Tenant defaults in paying Sales Tax in a timely manner as Landlord has with respect to Rent.

5.4 Alternate Methods of Taxation.

If, from time to time, the method of taxation has been or shall be altered, so that the whole or any part of the Taxes or any of those taxes, rates, duties or levies referred to in Sections 5.2 or 5.3 above (collectively, the “**Other Taxes**”) now assessed, charged, imposed, levied or rated on real estate and/or improvements are assessed, charged, imposed, levied or rated wholly or partially as a capital levy or on the rents received or reserved or otherwise, or if any tax, assessment, levy, imposition or charge in lieu thereof, shall be imposed upon Landlord, the Head Landlord, the Premises and/or the Commercial Space, then all such taxes assessments, levies, impositions and charges shall be included when determining the Taxes or Other Taxes. If the method of taxation shall be altered, so that the whole or any part of Other Taxes ordinarily or formerly payable in respect of any use or occupancy of the Premises and/or the Commercial Space is merged into a comprehensive realty or other type of tax, Landlord shall have the right, acting in accordance with generally accepted practices to allocate and collect such component of the comprehensive tax from Tenant.

ARTICLE VI
TENANT’S USE AND OPERATION OF THE PREMISES

6.1 Use, Merchandise and Trade Name.

Tenant shall use the Premises only for the use described on Schedule H. Tenant may not use the Premises for any other use, nor offer for sale any merchandise in or from the Premises, without Landlord’s prior written consent, which consent Landlord may withhold in its sole and absolute discretion. Tenant’s use of the Premises shall be subject to any exclusive rights given by Head Landlord or Landlord for the benefit of other tenants or subtenants at the Resort prior to the date of this Lease.

6.2 Obligation to Operate.

6.2.1 After the Opening Date, Tenant shall continuously and diligently conduct its business in the Premises in a manner consistent with the first-class nature of the Strata Development.

~~6.2.2 — Windows and signs on the Premises shall be illuminated during such hours as Landlord may reasonably designate.~~

6.2.2 ~~6.2.3~~ Notwithstanding any other provision of this Lease, Tenant shall not permit or cause any of the following to be conducted in or from the Premises: (a) any public or private auction; (b) any fire sale, bankruptcy sale, moving sale, liquidation sale or “going out of business” sale; (c) any activity that constitutes a nuisance or unreasonably interferes with the use of the Commercial Space, the Building, the Strata Development or the Resort by others, as determined by Landlord in its sole judgment; or (d) any act or thing that subjects or might subject Landlord to any liability or responsibility for injury to any Person or for damage to any property.

6.3 Importance of Continuous Operation.

Tenant acknowledges that its continuous operation of the Premises is essential to Interim Landlord, Head Landlord and Landlord to maintain that character, quality and reputation, and to facilitate the leasing of vacant space and

renewing leases of existing tenants and subtenants. Tenant acknowledges that Landlord will suffer serious and irreparable injury if the Premises are abandoned or left vacant at any time during the Term or are not operated in conformity with this Article VI, even if Tenant continues to pay Rent.

6.4 Compliance with Obligations.

Tenant shall, at its expense, comply with: (a) all laws, rules, orders, ordinances, regulations and other requirements of any governmental or quasi-governmental authority; (b) the Strata Corporation Documents; and (c) any reasonable rules and regulations adopted by Head Landlord, Interim Landlord or Landlord, to the extent that any of the foregoing relate to Tenant's use or occupancy of, or the physical condition of, the Premises. Landlord shall not be responsible to Tenant for the failure of any other tenant, subtenant or occupant of any part of the Strata Development to comply with laws or the rules and regulations.

6.5 No Implied Exclusiveness.

Tenant has no exclusive right to the use contemplated in Section 6.1 above or any activities or operations contemplated thereby except as may be provided on Schedule H.

6.6 Hazardous Materials.

Tenant shall not cause or permit any Hazardous Material, as defined below, to be generated, brought onto, used, stored, or disposed of in or about the Premises, or any other part of the Strata Development or Resort, by Tenant, or its agents, employees, contractors, subtenants, or invitees, except for limited quantities of standard office and janitorial supplies which may contain chemicals categorized as Hazardous Material. Tenant shall use any such hazardous materials in strict compliance with applicable statutes, ordinances and regulations that relate to public health and safety and protection of the environment ("**Environmental Laws**"). Tenant shall comply at all times during the term with all Environmental Laws. Tenant shall, at Tenant's sole expense and with counsel reasonably acceptable to Landlord, indemnify, defend, and hold harmless Landlord and Landlord's Relevant Persons, as defined in Section 12.1.1, with respect to all claims, expenses (including without limitation attorneys' and consultant's fees, monitoring and remediation costs) and losses arising out of or resulting from the release of any Hazardous Material in or about the Premises or any other part of the Strata Development or Resort in violation of this Section 6.6. The term "**Hazardous Material**" shall mean any hazardous or toxic substance, material, or waste at any concentration that is or becomes regulated by Canada, the Province of British Columbia, or any government authority having jurisdiction over the Resort, including those defined as "**Hazardous Waste**" in the *Environmental Management Act* (British Columbia); any pollutant, contaminant, or hazardous, dangerous or toxic chemical, material or substance within the meaning of any other applicable federal, provincial, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders); petroleum products; radioactive materials; asbestos in any form or condition; and polychlorinated biphenyls ("**PCBs**") and substances or compounds containing PCBs.

ARTICLE VII
DEVELOPMENT AND OPERATION OF THE RESORT,
THE STRATA DEVELOPMENT AND THE COMMERCIAL SPACE

7.1 Control of the Resort, the Strata Development and the Commercial Space.

7.1.1 Landlord may, acting with Head Landlord under the Head Lease, Interim Landlord under the Interim Lease or with Resort Owner as applicable, and acting prudently and in accordance with good mixed-use resort development practice: (a) change the location or use of any portion of the Commercial Strata Lot or the Commercial Space; (b) construct other buildings or improvements and make alterations to, any of the foregoing, build additional buildings or facilities adjoining the Building, the Commercial Strata Lot or the Commercial Space and effect any work (including excavations) to any land adjacent to the Building, the Commercial Strata Lot or the Commercial Space; (c) modify any interior or exterior portion of the Building, the Commercial Strata Lot or the Commercial Space and temporarily or permanently close any interior or exterior entrance or exit to or from the Building, the Commercial Strata Lot or the Commercial Space, or any parts thereof; (d) make reasonable variations to the dimensions, form and location of the Premises without the consent of and without in any way incurring any liability

to Tenant and relocate the Premises to other premises in the Commercial Strata Lot or the Commercial Space that Landlord reasonably determines as being comparable to the Premises, without the consent of and without incurring any liability to Tenant, except that if the relocation occurs after the date Tenant first occupies the Premises, Landlord shall pay the reasonable cost of relocating and replacing the fixed leasehold improvements which Tenant has already incorporated into the Premises at Tenant's cost as well as the reasonable expenses, preapproved by Landlord, incurred by Tenant to relocate as required by Landlord; (e) construct or close off all or any part of the Building, the Commercial Strata Lot or the Commercial Space and temporarily suspend services being supplied thereto, for the Building, the purpose of maintenance, repair or construction or to prevent dedication of any real estate forming part of the Building, the Commercial Strata Lot or the Commercial Space; (f) close all or part of the Building, the Commercial Strata Lot or the Commercial Space to the public outside of regular retail business hours, Sundays and holidays included; (g) modify or relocate any and all parking; (h) impose or permit to be imposed charges for parking; and (i) do and perform such other acts in and to the Building, the Commercial Strata Lot or the Commercial Space as Landlord deems appropriate, acting reasonably. Tenant agrees that Tenant will not object to any such activity by Landlord.

7.1.2 Resort Owner, whether acting by itself or with Head Landlord, Interim Landlord and Landlord as applicable, may: (a) construct other buildings or improvements and make alterations to any of the foregoing, build additional buildings or facilities adjoining the Commercial Strata Lot, the Commercial Space, the Building, the Strata Development or the Resort and effect any work (including excavations) to any land adjacent to the Commercial Strata Lot, the Commercial Space, the Building, the Strata Development or the Resort; and (b) modify or relocate any and all parking; and (c) impose or permit to be imposed charges for parking. Tenant agrees that Tenant will not object to any such activity by Resort Owner, and that Resort Owner, Head Landlord and Interim Landlord shall have the benefit of the rights provided to Resort Owner, Head Landlord and Interim Landlord in this Section 7.1.2 and Section 7.3 and elsewhere in this Lease notwithstanding that Resort Owner and Head Landlord are not parties hereto.

7.1.3 Tenant agrees that Landlord's proper exercise of its rights under paragraph 7.1.1 above shall not: (a) constitute a default of any obligation to provide quiet enjoyment; (b) in any way affect the legal validity of this Lease; or (c) entitle Tenant to any damages, compensation or diminution or abatement of any Rent.

7.1.4 Notwithstanding any other provision contained in this Lease, Landlord, Head Landlord as the Landlord to Interim Landlord and Interim Landlord as the landlord to Landlord, are under no obligation to develop or lease any commercial or residential premises contemplated for the Strata Development or other portions of the Resort or to retain any of the Commercial Space or other commercial space within the Resort as such.

7.2 Landlord's Right to Enter the Premises.

7.2.1 Tenant shall permit escorted entry to Landlord, Head Landlord as the landlord to Interim Landlord and Interim Landlord as the landlord to Landlord, to enter the Premises outside Normal Business Hours, and during Normal Business Hours where such entry will not unreasonably disturb or interfere with Tenant's use of the Premises and operation of its business, for any one or more of the following purposes: (a) to examine or inspect the Premises; (b) to show the Premises to Persons considering purchasing or financing the Commercial Space, and to Persons considering leasing the Premises; (c) to provide or install services or make repairs, replacements, changes or alterations to the Premises, the Commercial Strata Lot, the Commercial Space, the Building, the Strata Development or other portions of the Resort; and (d) to take such steps as Landlord may reasonably determine necessary, or as Landlord may be required or requested by Resort Owner or Head Landlord or Interim Landlord to take, for the safety, improvement and preservation of the Premises, the Commercial Strata Lot, the Commercial Space, the Building, the Strata Development or the Resort.

7.2.2 If Tenant is not present to permit an entry into the Premises, at any time when for any reason an entry therein shall be necessary or permissible, Landlord or Landlord's agents may enter the Premises by use of a master key, or may forcibly enter the Premises, without rendering Landlord or its agents liable therefor, on the condition that Landlord or its agents use reasonable care to avoid damage to Tenant's personal property. Landlord shall whenever reasonably possible consult with or give reasonable notice to Tenant prior to such an entry. Landlord shall indemnify Tenant for all losses and damages to the Premises and to fixtures and personal property of Tenant

(but not for loss of business or goodwill) arising from Landlord's negligence or wilful misconduct during such an entry.

7.2.3 Under no circumstances will any entry made for any of the reasons described in paragraph 7.2.1 above or any consequences thereof (including without limitation, any work done, or services temporarily reduced or shut off): (a) constitute an eviction of Tenant or default of Landlord's obligation to provide quiet enjoyment; (b) in any way affect the legal validity of this Lease; or (c) entitle Tenant to any damages, compensation or diminution or abatement of any Rent. Notwithstanding anything to the contrary in this Lease, Landlord may enter the Premises in cases of emergency without prior notice to Tenant and without any obligation to avoid interfering with the operation of Tenant's business.

7.3 Parking Rights and Parking Facilities.

Tenant acknowledges and agrees that Tenant shall not park nor permit any officer, employee, customer or invitee of Tenant to park in any area or in any parking spaces whether in the Parking Facilities or otherwise that is not public parking unless authorized, as applicable, by Resort Owner, Landlord or such other Person as is entitled to authorize such parking.

ARTICLE VIII PROMOTION AND ADVERTISING

8.1 Tenant's Promotion.

8.1.1 Tenant shall, at its expense, promote and advertise its business from the Premises in an up-to-date and professional manner.

~~8.1.2 Tenant shall endeavor to promote the names and any logos or emblems of the Strata Development and the Resort in Tenant's promotions or advertising. Tenant acknowledges and agrees that such names, logos and emblems are the sole and exclusive property of Resort Owner (or of entities related to or affiliated with Resort Owner) or other third parties and that Tenant will not acquire any rights thereto under this Lease under any circumstances despite such promotion and advertising. Tenant acknowledges that the owners of any such name, logo or emblem has the right to impose, from time to time, rules, regulations and restrictions upon the use of such name, logo or emblem. Tenant agrees to comply with all such rules, regulations and restrictions. Tenant has no right to use, in any way, any present or future name, logo or emblem of or relating to any real estate developments or projects (other than the Strata Development) that are or may be situated within the Resort, or any variations or combinations thereof.~~

ARTICLE IX ASSIGNMENT, SUBLETTING AND OTHER TRANSFERS

9.1 Consent Required.

Except as permitted in Section 9.2.1 below, Tenant may not do or permit any of the following without Landlord's prior written consent, which consent ~~may~~shall not be unreasonably withheld ~~in Landlord's sole and absolute discretion~~: (a) assign, encumber or otherwise transfer all or any portion of its interest under this Lease; (b) sublet all or any portion of the Premises; or (c) permit any change in the control of Tenant's business, whether by sale of assets, transfer of stock or other equity interests, merger, consolidation, or otherwise. Under no circumstances will the mere occupation of all or part of the Premises by Tenant's proposed transferee or Landlord's tolerance thereof, the payment of any amount by the proposed transferee to Landlord as Rent or otherwise or Landlord's consent to any previous assignment, subletting or other transfer, constitute a waiver of Tenant's obligation to obtain Landlord's consent to any assignment, subletting or other transfer. Regardless of whether Landlord consents to any assignment, subletting or other transfer, Landlord may collect Rent from any proposed transferee and apply the net amount collected to the amounts payable under this Lease, without in any manner prejudicing any of its rights. Tenant shall not advertise or offer the whole or any part of the Premises for purposes of assignment, subletting, transfer or

encumbrance, and shall not permit any broker or other party to do any of the foregoing, unless first approved in writing by Landlord, which approval Landlord may withhold in its sole and absolute discretion.

9.2 When Consent Is Not Required.

9.2.1 Notwithstanding anything to the contrary contained in Section 9.1 above, Tenant may so long as Tenant is not in default hereunder, without Landlord's consent but subject to the terms and conditions hereof: (a) assign its interest under this Lease; (b) sublet all or a portion of the Premises; or (c) permit a change in the control of Tenant's business, to a Person that owns or controls, is owned or controlled by, or is under common ownership or control with Tenant (the "**Related Entity**"), provided that: (i) Tenant gives Landlord written notice thereof, including the information described in Section 9.3 below, at least ten (10) days prior to the effective date of the assignment, subletting or transfer, (ii) in the case of an assignment or sublease, Tenant and the assignee or subtenant enter into an assumption agreement in favour of Landlord in respect of this Lease in such form and on such terms as Landlord may reasonably require, and (iii) Tenant otherwise complies with the requirements of Section 9.3 as applicable. As used in this Article IX, "**ownership**" and "**control**" mean direct or indirect ownership or control of more than fifty percent (50%) of all outstanding equity interests in a Person. For greater certainty, if Tenant and the relevant Related Entity no longer satisfy the aforementioned relationship, the consent of Landlord will be required and Tenant and the relevant Related Entity shall forthwith request the same in accordance with the provisions of this Article IX.

9.2.2 Tenant will (i) when requesting consent to an assignment, subletting, transfer, change of control or ownership or change of relationship, as applicable, provide the Landlord with such information as to the proposed purchaser, subtenant or other relevant entity as Landlord requires including, without limitation, information concerning creditworthiness, financial standing and business history; and (ii) make available to Landlord or its representatives all books and records of Tenant for inspection at all reasonable times, in order to ascertain whether there has been any change in ownership or control of Tenant or a change in the required relationship with a Related Entity, as applicable.

9.3 Landlord's Rights.

9.3.1 If Tenant requests Landlord's consent to an assignment, subletting or other transfer, Landlord shall, within thirty days after its receipt of such request, notify Tenant in writing that: (a) Landlord does not grant its consent; (b) Landlord grants its consent; or (c) Landlord elects to terminate this Lease, in which event this Lease will terminate on the date set forth in such notice, unless Tenant withdraws its request for consent within ten (10) days after its receipt of such notice from Landlord.

9.3.2 If Landlord consents to an assignment, subletting or other transfer, or if no consent to such assignment, subletting or other transfer is required pursuant to Section 9.2.1 above, such assignment, subletting or other transfer, as the case may be, shall always be subject to the following conditions: (a) Tenant and the assignee, subtenant or other transferee shall be jointly and severally liable to Landlord to fulfill all of Tenant's obligations under this Lease during the remainder of the Term or any extension or renewal thereof, the whole without novation or derogation of any kind, and without benefit of division or discussion; and (b) in the case of an assignment or subletting, the assignment or sublease documents will be reviewed by (or at Landlord's option, prepared by) Landlord or its attorneys, and all costs incurred in connection therewith and in connection with processing the application for consent (including any credit reports, and preparation and negotiation of any documentation) shall be paid by Tenant prior to the date the assignee or subtenant occupies any portion of the Premises.

9.3.3 Tenant shall pay to Landlord on demand, as Additional Rent, (a) the difference between the reasonable out-of-pocket expenses incurred by Tenant in connection with the assignment or sublease at issue, as determined by Landlord, and any amount that Tenant receives from an assignee of Tenant's interest under this Lease for the assignment of Tenant's interest under this Lease and the leasehold improvements, trade fixtures and other property that could become Landlord's property pursuant to the terms of this Lease, to the extent the amounts so received exceed the depreciated cost of such leasehold improvements, trade fixtures and other property as of the date of the assignment, assuming a useful life equal to the Term and no salvage value, and using the straight-line method of depreciation; and (b) any amount of Rent or otherwise or other consideration paid to Tenant by a sublessee of Tenant which exceeds the Rent payable by Tenant to Landlord under the Lease, for the entire term of the sublease.

Tenant shall act in good faith in calculating and reporting to Landlord such amounts. Landlord shall have the right to inspect Tenant's books and records to verify the consideration received by Tenant in connection with any assignment or sublease.

9.4 Assignment by Landlord.

In the event of the sale, lease, assignment, transfer or other disposition by Landlord of its rights to all or part of the Premises, the Commercial Strata Lot or this Lease, to the extent that the purchaser, lessee or assignee assumes Landlord's obligations under this Lease, Landlord shall thereupon, without further action or agreement, be freed and relieved of all liability with respect to such obligations.

9.5 Tenant Security.

Tenant may not encumber, pledge or hypothecate any interest in this Lease or the Premises or any property, real or personal, located within the Premises, by any Tenant Security without the prior written consent of Landlord, which consent will not be unreasonably withheld, but at Landlord's option, may be granted upon such reasonable conditions as Landlord chooses to impose. Without limitation, Landlord shall be deemed reasonable in refusing its consent if the anticipated Tenant Security encumbers or otherwise affects any property which is or may become Landlord's pursuant to the terms of this Lease, or if the anticipated Tenant Security would rank in priority to any security in favor of Landlord (whether by the effect of law or otherwise), unless the creditor of such Tenant Security cedes its priority of rank to that of Landlord. Tenant shall accompany its request for Landlord's consent to the grant of Tenant Security contemplated by this Section 9.5 with a copy of all documentation to be executed by Tenant and/or the creditor of such Tenant Security (or agent or trustee acting on the creditor's behalf) in relation to Tenant Security, and Tenant shall pay on demand, as Additional Rent, Landlord's reasonable legal expenses attributable to examining such documentation, regardless of whether Landlord's consent to such Tenant Security is obtained. Tenant and the creditor of such Tenant Security (or agent or trustee acting on the creditor's behalf) shall execute such documentation as may be reasonably required by Landlord or its attorneys to give effect to the provisions of this Section 9.5, whether express or implied, at Tenant's sole cost.

ARTICLE X
SUBORDINATION, ATTORNMENT, AND QUIET ENJOYMENT

10.1 Subordination and Attornment.

This Lease, including the covenant of quiet enjoyment, is and shall be subject and subordinate to all ground and underlying leases, all mortgages, debentures, deeds of trust or other encumbrances affecting all or any portion of the Premises and the Strata Corporation Documents. This clause shall be self-operative and no further instrument of subordination shall be required in order to effectuate it. Nevertheless, Tenant shall execute and deliver, within ten (10) business days after a request therefor, any certificate or other assurance in confirmation of such subordination requested by any lessor, any mortgagee, the Strata Corporation, Head Landlord, Head Landlord Mortgagee, Interim Landlord, Interim Landlord Mortgagee or Landlord, substantially in the form of Tenant Estoppel Certificate and Subordination, Non-Disturbance and Attornment Agreement attached hereto as Schedule FE (the "**Subordination Agreement**"), or as Landlord may otherwise require. In the event any proceedings are brought for default under any ground or underlying lease or for the foreclosure of any mortgage, debenture, deed of trust or other encumbrance to which this Lease is subject and subordinate, Tenant shall, upon request of the party succeeding to the interest of Landlord as a result of such proceedings, automatically attorn to and become the tenant or subtenant as applicable of such successor in interest without change in the terms of this Lease. Tenant shall, on request by, and without cost to Landlord or such successor in interest, execute and promptly deliver any instruments confirming such attornment, including without limitation a document substantially in the form of the Subordination Agreement.

10.2 Quiet Enjoyment.

Subject to the terms and conditions of this Lease, Landlord warrants that Tenant's peaceable and quiet enjoyment of the Premises shall not be disturbed by anyone claiming by, through or under Landlord.

10.3 Estoppel Certificate.

Within ten (10) days after request therefor by Landlord, Tenant shall deliver an estoppel certificate addressed to Landlord or any other Person designated by Landlord, in such form as Landlord may require.

ARTICLE XI INSTALLATIONS, MAINTENANCE, REPAIRS AND ALTERATIONS

11.1 Landlord's Installations.

11.1.1 Landlord shall have the right to install and maintain in the Premises whatever equipment is reasonable, useful, or necessary for the use and convenience of the Commercial Strata Lot, the Commercial Space, the Strata Development or other portions of the Resort, or other tenants, subtenants, occupants or owners of the various portions thereof, and Tenant shall have no claim against Landlord in respect thereof on the condition that the same do not materially interfere with Tenant's quiet enjoyment of the Premises.

11.2 Tenant's Obligation to Repair.

11.2.1 Tenant shall maintain, repair, replace and keep the Premises and all improvements, fixtures and equipment located in or exclusively servicing the Premises in a state of repair and appearance commensurate with first-class nature of the Resort. Such obligations of Tenant will extend, without limitation, to all glass and plate glass, exterior door(s), all electrical, mechanical, plumbing, signage, sprinkler and other systems. Tenant will promptly do all work required to have the Premises comply with all governmental requirements, including, without limitation health and safety, and quasi-governmental requirements, insurance, licensing and the requirements of the Strata Corporation applicable at any time during the Term. Tenant's obligations under this Section 11.2 shall be subject to the following exceptions: (a) normal wear and tear which does not affect the proper use of the Premises as a first-rate commercial operation of its kind; and (b) restrictions, limitations and other considerations contained in the Strata Corporation Documents and any and all other covenants, conditions, restrictions, declarations, agreements and instruments affecting the Commercial Strata Lot, the Strata Development or the Premises and of record as of the date of this Lease. Any work, which is Tenant's responsibility under Section 11.2, requiring entry into space other than the Premises, and any other work designated by Landlord, will be done by Landlord at Tenant's expense, together with an administration fee of ten percent (10%) of the cost of such work.

11.3 Insurance; Mechanic's Liens.

Prior to commencing any work in or to the Premises, Tenant shall deliver to Landlord certificates issued by applicable insurance companies or insurance brokers evidencing that comprehensive general liability insurance and property ~~damage~~ insurance, ~~all in amounts~~, with companies ~~and on forms satisfactory to Landlord~~ authorized to carry on business in British Columbia and maintaining at least an A.M. Best "A" rating, are in force and effect and maintained by all contractors and subcontractors engaged by Tenant to perform such work. Tenant shall pay or cause to be paid all costs for work done by it or caused to be done by it in or to the Premises, and Tenant shall keep the Premises free and clear of all building, construction and mechanic's liens and other liens on account of work done for Tenant or Persons claiming under it. Should any liens be filed or recorded against the Premises or any action affecting the title thereto be commenced, Tenant shall give Landlord immediate written notice thereof. Tenant shall thereafter cause such liens to be removed of record within ten (10) days after Tenant has notice of the filing of the liens. If Tenant shall desire to contest any claim of lien, it shall furnish Landlord with security satisfactory to Landlord of at least one hundred fifty percent (150%) of the amount of the claim, plus estimated costs and interest. If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant shall pay and satisfy the same at once. At least thirty (30) days prior to the commencement of any work in or to the Premises, by or for Tenant or anyone claiming under Tenant, Tenant shall notify Landlord of the proposed work and the names and addresses of the persons supplying ~~labor~~ labour and materials for the proposed work so that Landlord may avail itself of the provisions of any applicable statutes. During and prior to any such work on the Premises, Landlord and its agents shall have the right to enter and inspect the Premises at all reasonable times, and shall have the right to post and keep posted thereon notices or to take any further action Landlord may deem proper for the protection of Landlord's, Interim Landlord's or Head Landlord's interest in the Premises.

11.4 Performance of Tenant's Obligations.

If Tenant fails to perform any of its obligations under Section 11.2 above and has not cured the failure within seven (7) days of written notice thereof from Landlord, Landlord may (without being obligated to do so) do the work at Tenant's cost, together with an administration or supervision fee equal to fifteen percent (15%) of total cost of the work in question. Landlord's rights and remedies under this Section 11.4 are in addition to, not in lieu of, Landlord's rights and remedies under Article XIV below.

~~11.5 — Signage.~~

~~Tenant shall erect and maintain an identification sign or signs of a type or types and in a location or locations specified in writing by Landlord and in accordance with the Tenant Design Guidelines, any applicable sign guidelines of Landlord or of Head Landlord or of Interim Landlord, and all applicable rules and regulations of the Strata Corporation, and all applicable laws. Prior to installing any sign, Tenant shall provide Landlord with a copy of any sign permit required for such sign by the Strata Corporation or any governmental authority. In addition, Tenant shall not install any advertising, logo, banner or umbrella which is visible from outside of the Premises without Landlord's written consent to the design and location of same, which consent Landlord may withhold in its sole and absolute discretion.—~~

11.5 ~~11.6~~ Return of the Premises; Holdover.

Upon the expiration of the Term or earlier termination of this Lease, Tenant shall deliver to Landlord vacant possession of the Premises in the condition in which Tenant is required to maintain, repair and replace the Premises. All changes, alterations, additions and improvements made to or installed upon or in the Premises (except for Tenant's signage and movable trade fixtures) which in any manner are attached in, to or under the floors, walls or ceilings, including, without limitation, any components of any sprinkler, heating or ventilating equipment or systems installed within or servicing the Premises, all lighting installations and fixtures (including, without limitation, spot lights and track lighting), and all floor finishes of whatever nature placed upon the concrete floor of the Premises, shall become Landlord's property at the end of the Term or sooner termination of this Lease, without compensation to Tenant. However, if Landlord requests, Tenant shall, at its sole cost, remove from the Premises any changes, alterations, additions or improvements and repair, to Landlord's satisfaction, any damage to the Premises caused by the installation or removal of any of the foregoing. If Tenant or any assignee, subtenant or other transferee of or from Tenant shall remain in possession of the Premises or any part thereof after the end of the Term or after any sooner termination of this Lease, Landlord may treat such possession as either an unauthorized holdover or a month-to-month tenancy on all the terms and conditions of this Lease; provided, however that the monthly instalments of Minimum Rent payable during such month-to-month tenancy and during the period of any unauthorized holdover shall be an amount equal to three hundred percent (300%) of the monthly instalments of Minimum Rent payable immediately prior to the end of the Term or Renewal Option Period, as applicable. In the event of any unauthorized holdover, Tenant shall indemnify Landlord against all claims for damages by any Person to whom Landlord may have leased all or any part of the Premises for a term commencing after the expiration or sooner termination of the Term. Nothing herein contained shall be construed to limit Landlord's right to obtain possession of the Premises upon termination of this Lease by legal proceedings or otherwise if Landlord does not exercise its option to treat the continued possession by Tenant as a month-to-month tenancy.

ARTICLE XII **LIABILITY**

12.1 Limitations on Landlord's Liabilities.

12.1.1 To the fullest extent permitted by law, Tenant hereby waives all claims (in law, equity or otherwise) against and releases Landlord, Interim Landlord, Head Landlord, the Strata Corporation, Interim Landlord Mortgagee, Head Landlord Mortgagee, Secured Lenders and their respective directors, employees, servants, members, and agents (collectively "**Relevant Persons**" and each, individually, a "**Relevant Person**"), and the Relevant Persons shall not be liable in any manner to Tenant or any other Person claiming through Tenant for death or injury to any person or loss or damage to property of whatever nature ~~resulting from the fault (active or passive), negligence, imprudence, neglect or want of skill of any Relevant Person or based upon claims in which liability without fault or strict liability~~

~~is imposed or sought to be imposed against a Relevant Person, or resulting from things under the care of any one or more of the Relevant Persons, or for the negligent acts of co-tenants or other Persons, or for suspension, interruption or discontinuance of any service or utility, or for any other reason~~ except, in the case of any such Relevant Person, where such death, injury or loss arises as a result of the negligence of that Relevant Person or a person for whom that Relevant Person is in law responsible. The provisions of this paragraph 12.1.1 shall survive the expiration or other termination of this Lease.

12.1.2 Tenant shall indemnify and save harmless each Relevant Person from: (a) any loss or damage the Relevant Person is released from under paragraph 12.1.1 above; (b) subject to Section 12.2 below, any loss or damage the Relevant Person suffers due to the fault, negligence, omission, imprudence, neglect or want of skill of Tenant or any Person under Tenant's control, including, without limitation third party claims made against the Relevant Person due to any of the foregoing matters; and (c) any loss or damage, however caused, to books, records, files or money, securities, negotiable instruments or papers in or about the Premises.

12.1.3 Without in any way limiting the generality of the foregoing, Landlord, its agents, servants and employees shall not be liable for injury, death or damage which may be sustained by the improvements, betterments, person, goods, wares, merchandise or property of Tenant, its agents, servants, employees, invitees or customers or any other person in or about the Premises caused by or resulting from fire, explosion, falling plaster, steam, electricity, gas, water, rain or snow, leak or flow of water, rain, or snow from or into part of the Premises or from the roof, street, subsurface or from any other place or by dampness or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Commercial Strata Lot, the Commercial Space, the Building, the Strata Development or the Resort or from other sources. Landlord shall not be liable for any damages arising from any act or neglect of any owner, tenant, subtenant, guest or occupant of the Strata Development or the Resort.

12.2 Limitation on Tenant's Liabilities.

Tenant will not be liable in any manner to Landlord or any other Person claiming through Landlord for damage of whatever nature resulting from the fault, negligence, omission, imprudence, neglect or want of skill of Tenant or any Person under the control of Tenant, or resulting from anything under Tenant's care, to the extent only that Landlord obtains insurance proceeds for the damage sustained. Furthermore, notwithstanding anything else in this Lease, neither party shall be liable to the other or any third party for any indirect, incidental, special, economic or consequential losses, damages, claims or expenses whatsoever (including loss of profits, loss of use, loss of data or interruption of business).

ARTICLE XIII DAMAGE OR DESTRUCTION AND EXPROPRIATION

13.1 Damage or Destruction of Premises.

13.1.1 If the Premises are at any time destroyed or damaged, then subject to Section 13.2 below, the following provisions apply: (a) this Lease shall continue in full force and effect, except that Minimum Rent and the Additional Rent payable hereunder will abate in the proportion that the square footage of the Premises rendered untenable bears to the Area, all such abatements under this Section 13.1 shall occur from the date of the damage or destruction until the earlier to occur of (i) the date that Tenant is obligated to complete the repair and replacement work described in paragraphs 13.1.2 and 13.1.4 below, and (ii) the date on which Tenant actually completes the repair and replacement work described in paragraphs 13.1.2 and 13.1.4; (b) Landlord shall request Interim Landlord and Head Landlord to request the Strata Corporation to commence and proceed diligently to reconstruct, rebuild or repair any damage to those portions of Landlord's Work constituting general common elements of the Strata Development. None of Landlord, Interim Landlord, Head Landlord nor the Strata Corporation shall be obligated to restore the Premises to exactly the same condition and state as they existed before any damage or destruction, or to repair or reconstruct (a) any alterations or improvements made by Tenant or any predecessor of Tenant, (b) any property of Tenant or any predecessor of Tenant, or (c) any portion of the Premises that does not constitute a general common element of the Strata Development, all of which repair or reconstruction shall be the obligation of Tenant; provided, that Landlord shall repair or reconstruct, at Tenant's cost and expense, any portion of Landlord's Work constituting

an interior demising wall. Notwithstanding anything to the contrary in this Lease, no rental abatement shall apply if the damage or destruction was caused by the negligence or misconduct of Tenant, its agents, employees, servants or other Persons in the Premises under the express or implied invitation of Tenant.

13.1.2 Promptly following Tenant's receipt of written notice from Landlord that the repairs described in clause (b) of the first sentence of paragraph 13.1.1 have been substantially completed, as determined by Landlord, Tenant shall diligently complete all repairs and replacements required to fully restore the Premises for business to the standard Landlord requires at the relevant time.

13.1.3 Tenant shall not be entitled to any allowance, inducement payment or other consideration from Landlord in connection with repairs and replacements made by Tenant even if such allowance, inducement, payment or other consideration was made at the time of original construction of the Premises and initial performance of Tenant's Work.

13.1.4 Tenant shall complete any repairs and replacements that it is required to make under this Section 13.1 and begin operating its business within the Premises in conformity with Article VI no later than thirty (30) days after Landlord notifies Tenant that the Premises are available for Tenant to start its repairs and replacements, unless Landlord specifies a later date in writing.

13.2 Damage or Destruction of the Strata Development.

13.2.1 Despite any contrary provision in this Lease and specifically, but without limitation, Section 13.1 above, if the Commercial Strata Lot or other parts of the Commercial Space, the Building or the Strata Development are totally or partially damaged or destroyed (regardless of whether the Premises are affected), and any one or more of the following occurs: (a) in Landlord's, Interim Landlord's, Head Landlord's or the Strata Corporation's architect's opinion, the damaged or destroyed portions cannot reasonably be repaired, restored or rebuilt within twelve (12) months following the occurrence without overtime or other special arrangements; (b) the cost, as estimated by Landlord's, Interim Landlord's, Head Landlord's or the Strata Corporation's architect, of repairing, restoring or rebuilding the damaged or destroyed portions will exceed the proceeds of insurance available to Landlord, Interim Landlord, Head Landlord and the Strata Corporation for such purpose; (c) less than twenty-four (24) months remain during the Term (excluding any option periods for which the relevant option has not been exercised); or (d) the Strata Corporation fails to substantially repair, restore or re-build the Strata Development or damaged or destroyed portion thereof within fifteen (15) months thereafter, or to authorize the repair, restoration or rebuilding of the Strata Development or such portion thereof within three (3) months thereafter; then in any of such cases, Landlord may at its option terminate this Lease. To be effective, such notice of termination under clauses (a) through (c) of this paragraph must be delivered within one hundred eighty (180) days after the damage or destruction, and any notice of termination given under clause (d) of this paragraph must be delivered within thirty (30) days after the applicable failure by the Strata Corporation.

13.2.2 If Landlord elects to terminate this Lease under paragraph 13.2.1 above, then this Lease will terminate ten (10) days after Tenant's receipt of Landlord's notice and all unabated Rent shall be adjusted to the date of termination, without prejudice to any pre-existing claims of the parties. Notwithstanding anything to the contrary in this Lease, no rental abatement shall apply if the damage or destruction was caused by the negligence or misconduct of Tenant, its agents, employees, servants or other Persons on the Premises or Commercial Strata Lot under the express or implied invitation of Tenant. For greater certainty, notwithstanding such termination, Tenant shall pay to Landlord any Rent as otherwise provided in this Lease which accrued prior to the date of termination.

13.2.3 If the Commercial Strata Lot or other parts of the Commercial Space or the Strata Development are totally or partially damaged or destroyed and Landlord does not elect to, or is not entitled to, terminate this Lease under paragraph 13.2.1 above, Landlord shall request Interim Landlord and Head Landlord to request the Strata Corporation to commence and proceed diligently to reconstruct, rebuild or repair any damage to those portions of Landlord's Work constituting general common elements of the Strata Development. Landlord shall repair or reconstruct, at Tenant's cost and expense, any portion of Landlord's Work constituting an interior demising wall. The rebuilding party may use plans, specifications and working drawings which differ from those used in the original construction of the Commercial Strata Lot or Strata Development.

13.2.4 Except as specifically provided in this Article XIII, there shall be no abatement of Rent or allowance to Tenant for a diminution of rental value and no liability on the part of Landlord, Interim Landlord, Head Landlord or the Strata Corporation by reason of inconvenience, annoyance, disturbance or loss or interruption of business, or otherwise, arising from any damage to the Premises, the Commercial Strata Lot, the Commercial Space, the Building, or the Strata Development by fire or any other cause, however or by whomever caused, or arising from any repairs, reconstruction, restoration or renovation or failure to make any repairs, reconstruction, restoration or renovation to the Premises or the Commercial Strata Lot, the Commercial Space, the Building or the Strata Development.

13.3 Expropriation.

13.3.1 If so much of the Premises, the Commercial Strata Lot or the Strata Development so as to render the Premises untenable shall be taken by right of expropriation, then the Term of this Lease shall terminate as of the date of such taking or the recording of such notice, as the case may be. If so much of the Commercial Strata Lot, the Commercial Space, the Strata Development or the Resort shall be taken by right of expropriation that Landlord, Interim Landlord or Head Landlord shall deem it advisable to terminate retail operations in the Commercial Strata Lot or the Commercial Space or to extensively remodel, renovate or rebuild the Commercial Strata Lot or the Commercial Space, then, this Lease may be terminated by Landlord by giving Tenant written notice of termination within sixty (60) days after such taking. Such termination shall be effective immediately upon the giving of such notice. As used herein, "taking by right of expropriation" includes any condemnation or any conveyance in lieu of or under threat of any taking.

13.3.2 In the event of termination of this Lease pursuant to this Section 13.3, Tenant shall surrender to Landlord the Premises and all interest therein under this Lease, and Landlord may re-enter and take possession of the Premises and remove Tenant therefrom. Tenant shall pay Rent, duly apportioned as of the date of such termination of this Lease, and Landlord and Tenant shall be discharged from all of obligations arising hereunder after the date of the termination except for those obligations that this Lease expressly states will survive termination of this Lease. In the event of any taking that does not result in the termination of this Lease, the Minimum Rent and the Additional Rent payable under Article III shall be abated in proportion to the portion of the Premises taken. Except for such abatement in Minimum Rent and the Additional Rent payable under Article III above, there shall be no reduction, change or abatement of any Rent payable by or on the part of Tenant hereunder or in the method of computing, accounting for, or paying the same, and in no event shall there be any reduction, change or abatement of any Rent hereunder until such time as there shall have been an actual taking of physical possession of a portion of the Premises. In the event of any taking or conveyance whatsoever, Landlord shall be entitled to any and all awards, damages and settlements that may be given, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or for any other item.

ARTICLE XIV **DEFAULT, REMEDIES AND SECURITY**

14.1 Default.

The occurrence or existence of any one or more of the following events or circumstances shall constitute a default hereunder by Tenant: (a) Tenant fails to pay, when due, any instalment of Rent and does not cure such failure within ten (10) days after Landlord has given written notice to Tenant specifying such failure; (b) Tenant fails to perform or observe any of the other covenants or conditions to be performed or observed by Tenant under this Lease and does not cure such failure within ~~ten~~thirty (~~10~~30) days (or such other cure period as is specified in this Lease with respect to a specific failure on the part of Tenant) after Landlord shall have given to Tenant written notice specifying such failure (or within such period, if any, as may be reasonably required to cure such failure if it is of such nature that it cannot be cured within such period, provided that Tenant commences to cure such default within such period and proceeds with reasonable diligence thereafter to cure such default fully); (c) this Lease or the Premises or any part thereof is taken upon execution or by other process of law directed against Tenant, or is taken upon or subject to any attachment at the instance of any creditor of or claimant against Tenant, and such attachment is not discharged or disposed of within fifteen (15) days after the levy thereof; (d) Tenant or any guarantor or indemnifier of Tenant's obligations hereunder, as the case may be: (i) admits in writing its inability to pay its debts generally as they become due, (ii) makes an assignment of all or a substantial part of its property for the benefit of

creditors, (iii) applies for or consents to or acquiesces in the appointment of a receiver, trustee or liquidator of Tenant or any guarantor or indemnifier of Tenant's obligations hereunder or of all or a substantial part of Tenant's or such guarantor's or indemnifier's property or of the Premises or of Tenant's interest in this Lease, or (iv) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under any bankruptcy or insolvency law or an arrangement with creditors, or takes advantage of any insolvency law or files an answer admitting the material allegations of a petition filed against Tenant or Tenant's guarantor or indemnifier in any bankruptcy, reorganization or insolvency proceedings; (e) the entry of a court order, judgment or decree without the application, approval or consent of Tenant or Tenant's guarantor or indemnifier, as the case may be, approving a petition seeking reorganization of Tenant or such guarantor or indemnifier under any bankruptcy or insolvency law or appointing a receiver, trustee or liquidator of Tenant or such guarantor or indemnifier or of all or a substantial part of Tenant's or such guarantor's or indemnifier's property or of the Premises or of Tenant's interest in this Lease, or adjudicating Tenant or such guarantor or indemnifier bankrupt or insolvent, and such order, judgment or decree shall not be vacated, set aside or stayed within thirty (30) days from the date of entry; or (f) any steps are taken or any action or proceedings are instituted by any Person for the dissolution, winding up or liquidation of Tenant, Tenant's guarantor or indemnifier or their respective assets; (g) this Lease or any of Tenant's assets are taken under a writ of execution; (h) Tenant purports to make or grant an assignment, sublease, transfer or encumbrance other than in compliance with this Lease; or (i) any of Head Landlord's or Landlord's policies of insurance with respect to the Commercial Space or any part thereof is cancelled or threatened to be cancelled or adversely changed as a result of any use or occupancy of the Premises.

14.2 Remedies.

If Tenant shall default under this Lease as set forth in Section 14.1 above, then the full amount of the current calendar month's Rent and the next three (3) calendar months' Rent shall automatically become immediately due and payable as accelerated Rent and in addition Landlord shall have the following rights and remedies, in addition to all other rights and remedies at law or in equity, and none of the foregoing or the following, regardless of whether exercised by Landlord, shall preclude the exercise of any other right or remedy whether herein set forth or existing at law or in equity:

14.2.1 Landlord shall have the right to terminate this Lease by giving Tenant notice in writing at any time. No act by or on behalf of Landlord, such as entry onto the Premises by Landlord to perform maintenance and repairs and efforts to re-let the Premises, other than giving Tenant written notice of termination, shall terminate this Lease. If Landlord gives such notice of termination, this Lease and the Term hereof as well as the right, title and interest of Tenant under this Lease shall wholly cease and expire in the same manner and with the same force and effect (except as to Tenant's liability for Rent) on the date specified in such notice as if such date were the expiration date of the Term without the necessity of re-entry or any other act on Landlord's part. Upon any termination of this Lease, Tenant shall quit and surrender to Landlord the Premises. If this Lease is terminated, Tenant shall remain liable to Landlord for Rent accruing thereafter and the other damages specified below. Landlord shall be entitled to collect from Tenant immediately as damages an amount equal to the total of: (a) all costs, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord to recover the Premises and to enforce its other rights and remedies; (b) all Rent accrued and unpaid as of the date of the termination, plus interest thereon from the date due until the date paid, at the Interest Rate; (c) the present value at the time of payment (discounted at the rate of eight percent (8%) per annum) of the amount by which the amount of unpaid Rent for the balance of the Term exceeds the amount of such loss for the same period that Tenant proves Landlord could have reasonably avoided; and (d) any other sums that Landlord is entitled to collect under this Lease, at law or in equity for damages and losses actually suffered or incurred by Landlord as a result of Tenant's default.

14.2.2 No provision of this Lease shall limit or prejudice the right of Landlord to prove and obtain, as damages by reason of any termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, regardless of whether such amount is greater, equal to, or less than the amount referred to above.

14.2.3 Landlord may, without demand or notice, re-enter and take possession of the Premises or any part thereof, expel Tenant and those claiming through or under Tenant, and remove the effects of any and all such Persons (forcibly, if necessary) without being deemed guilty of any manner of trespass, without prejudice to any remedies for arrears of rent or preceding breach of covenants and without terminating this Lease or otherwise relieving Tenant

of any obligation hereunder. Should Landlord elect to re-enter as provided in this paragraph 14.2.3, or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Landlord may, from time to time, without terminating this Lease, re-let the Premises or any part thereof for such term or terms and at such rental or rentals, and upon such other conditions as Landlord may in its absolute discretion deem advisable, with the right to make alterations and repairs to the Premises. No such re-entry, repossession or re-letting of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of termination is given to Tenant by Landlord. No such re-entry, repossession or re-letting of the Premises shall relieve Tenant of its liability and obligation under this Lease, all of which shall survive such re-entry, repossession or re-letting. Upon the occurrence of such re-entry or repossession, Landlord shall be entitled to the amount of the Rent, which would be payable hereunder if such re-entry or repossession had not occurred, less the net proceeds, if any, of any re-letting of the Premises after deducting all of Landlord's expenses in connection with such re-letting, including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, expenses of employees, alteration costs and expenses of preparation for such re-letting. Tenant shall pay such amount to Landlord on the days on which the Rent due hereunder would have been payable hereunder if possession had not been retaken. In no event shall Tenant be entitled to receive or have the benefit of the excess, if any, of net rent collected by Landlord as a result of such re-letting over the sums payable by Tenant to Landlord hereunder.

14.2.4 If Tenant shall default in making any payment required to be made by Tenant (other than payments due to Landlord under this Lease) or shall default in performing any other obligations of Tenant under this Lease, Landlord may, but shall not be obligated to, make such payment or, on behalf of Tenant, expend such sum as may be necessary to perform such obligation. All sums so expended by Landlord with interest thereon at the Interest Rate shall be repaid by Tenant to Landlord, as Additional Rent, on demand. No such payment or expenditure by Landlord shall be deemed a waiver of Tenant's default, nor shall it affect any other right or remedy of Landlord by reason of such default.

14.2.5 In any action or proceeding commenced by Landlord against Tenant by reason of any default hereunder and the occupation of the Premises by Tenant in breach of this Lease, if it is necessary to establish the reasonable rental value of the Premises for the period of the occupation in breach of this Lease, such rental value shall be deemed to be the greater of (a) the amount of Rent payable under this Lease for such period, and (b) the amount of Rent actually paid by Tenant for the comparable period of the preceding year, unless Landlord or Tenant shall prove the contrary by competent evidence. For purposes of this Article XIV, the Rent due for any calendar month after re-entry or repossession of the Premises by Landlord shall be deemed to be the highest average monthly Rent, including Additional Rent, which shall have been payable for any consecutive twelve-month period prior to such re-entry or repossession.

14.3 No Implied Surrender or Waiver.

The failure of Landlord to seek redress for Tenant's default under, or to insist upon the strict performance of, any covenant or condition of this Lease shall not prevent a subsequent act, which constitutes a default by Tenant, from having all the force and effect of an original default by Tenant. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of its rules and regulations against Tenant or any other tenant or subtenant in the Commercial Space, the Strata Development or the Resort shall not be deemed a waiver of any or all of such rules and regulations. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing and signed by Landlord. No act or thing done by Landlord or Landlord's agents during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord. No employees of Landlord or of Landlord's agents shall have any power to accept the keys to the Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord, or of Landlord's agents, shall not operate as a termination of this Lease or a surrender of the Premises. No payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent due hereunder, shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any cheque or any letter accompanying any cheque or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such cheque or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other right or remedy available to Landlord.

~~14.4 Indemnity.~~

~~Whenever Landlord is required to retain the services of legal counsel to enforce the fulfillment by Tenant of any of its obligations under this Lease, Tenant shall pay to Landlord as Additional Rent, on demand, in addition to and without prejudice to any legal or judicial costs otherwise payable by Tenant and regardless of whether judicial proceedings are in fact instituted, an indemnity in the amount of fifteen percent (15%) of the amount otherwise owing by Tenant to Landlord in relation to which such legal services were retained, such sum to indemnify Landlord for additional administrative and legal expenses incurred in connection with the enforced fulfillment of Tenant's obligations hereunder. The provisions of this Section 14.4 shall not affect or amend the provisions of Section 15.16, which apply to attorneys fees awarded in legal proceedings.~~

14.4 ~~14.5~~ Limitation on Landlord Liability.

Landlord's liability under this Lease shall be limited to Landlord's interest in the Premises, including the rents, profits and proceeds therefrom, and no other assets of Landlord shall be subject to any action or proceedings for the enforcement of any right or remedy of Tenant hereunder or for the satisfaction of any obligation of Landlord to Tenant arising from this Lease.

14.5 ~~14.6~~ Distress.

Notwithstanding any provision of this Lease or any provision of applicable legislation, none of the goods of Tenant on the Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and Tenant waives any such exemption. If Landlord makes any claim against the goods and chattels of Tenant by way of distress, this provision may be pleaded as an estoppel against Tenant in any action brought regarding the right of Landlord to levy such distress.

14.6 ~~14.7~~ Survival of Obligations.

All covenants and obligations of Tenant under this Lease which remain unfulfilled at the determination of this Lease and Landlord's rights in respect of any failure by Tenant to perform any of its covenants or obligations under this Lease shall survive and remain in full force and effect notwithstanding the expiration or earlier termination of the Term.

14.7 ~~14.8~~ Bankruptcy Relief.

Without limiting the foregoing, by reason of: (a) Landlord's interest in this Lease, (b) the importance to Landlord of Tenant continuing to carry on business in the Premises at all times in accordance with this Lease, and (c) Landlord's entitlement to damages where this Lease is terminated by reason of an event of default, Landlord does and will constitute a separate class or category of creditor in any plan of arrangement or proposal submitted by or on behalf of Tenant under the *Companies' Creditors Arrangement Act* (Canada) or the *Bankruptcy and Insolvency Act* (Canada), despite any changes in circumstances of Tenant or its business.

ARTICLE XV
MISCELLANEOUS

15.1 Landlord - Tenant Relationship.

Nothing contained in this Lease creates any relationship between the parties other than the relationship of sublandlord, subtenant and, if applicable, Tenant's guarantor or indemnifier. In that regard, Tenant acknowledges and agrees the Landlord's interest in the Premises is presently derived from the Interim Lease and as a result Landlord is actually a sub-sublandlord and Tenant is a sub-subtenant.

15.2 Time of Essence.

Time shall be of the essence of this Lease and of all of the agreements and obligations contained herein and Tenant shall be in default of any obligation under this Lease by the mere lapse of time for performing it. Notwithstanding the foregoing, if any party is bona fide delayed from the performance or observance of any covenant or condition on its part to be performed or observed by reason of an Unavoidable Delay, then the performance or observance of such covenant or condition shall be excused for the period of the Unavoidable Delay, on the condition that the party commences performance or observance of such covenant or condition promptly after the Unavoidable Delay ends and thereafter completes such performance or observance within the period required by this Lease. Notwithstanding the foregoing, an Unavoidable Delay shall not excuse Tenant from its obligation to pay Rent when Rent is due.

15.3 No Registration.

Neither this Lease nor any registration form of this Lease may be registered without Landlord's prior written consent, which may be withheld in Landlord's sole discretion. If Landlord elects to register this Lease or a registration form of this Lease, Tenant shall execute such documents as Landlord may reasonably request to effect such registration. Tenant hereby expressly waives any right which Tenant may have pursuant to applicable laws to require this Lease to be executed and delivered in registrable form.

15.4 Entire Agreement; No Warranties or Representations of Landlord; Amendment.

This Lease and such rules and regulations as may be adopted and promulgated by Landlord from time to time constitute the entire agreement between Landlord and Tenant with respect to the leasing of the Premises. Tenant acknowledges that there are no promises, representations, agreements, warranties, conditions or understandings (whether oral or written, implied or expressed) between the parties other than as are expressly herein set forth. Without in any way limiting the generality of the foregoing, Tenant acknowledges that it has not relied on any representations, warranties, agreements or promises with respect to (a) the exact size of the Premises, the Commercial Strata Lot or the Commercial Space, (b) the identity or nature of any other tenants or subtenants, or the size or types of the building or other improvements which are in or which may at any time in the future be in the Commercial Strata Lot, the Commercial Space, the Strata Development and the Resort, (c) the terms of any other tenant's or subtenant's lease, or (d) the number of guests or members of the public that will visit the Commercial Strata Lot, the Commercial Space, the Strata Development or the Resort. Any subsequent alteration, amendment, change or addition to this Lease shall be made in writing and executed by authorized officers/persons/agents of both Landlord and Tenant.

15.5 Notices.

Any notice to be given by any party to the other shall be given by registered or certified mail, overnight courier, telecopy, telegram or hand delivered to the address of the party to whom notice is being given as set forth in paragraph 1.1.1 of this Lease. Any notice sent by registered or certified mail will be deemed to have been received three (3) business days following the date of mailing. Any notice sent by overnight courier will be deemed to have been received one (1) business day following the date of delivery to the overnight courier. Any notice sent in any other manner stipulated in this Section 15.5 will be deemed to have been received on the day it is sent. Any party may change its address for notice by advising the other party in writing of such change, and until the other party is so advised, it will be entitled to continue sending notices to the last address it is advised of in writing.

15.6 Captions.

The captions appearing in this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease or any of its provisions.

15.7 Brokerage Commission.

Landlord and Tenant each represents to the other that it did not engage or deal with any broker in connection with this Lease. Each party indemnifies the other against any costs (including without limitation, reasonable attorneys'

fees), expenses, claims, commissions, and actions which arise as a result of the inaccuracy or alleged inaccuracy of the above representation.

15.8 Compliance with Act.

At its sole cost and expense, Tenant shall comply promptly with all requirements of the Act and all bylaws, rules and regulations from time to time established by the Strata Corporation, all of which are hereby incorporated by reference into and form a part of this Lease. In particular, Tenant agrees, forthwith upon request by Landlord, to execute a Form K Notice of Tenant's Responsibilities as provided for in the Act.

15.9 Tenant's Undertaking.

Throughout the Term, Tenant covenants that it shall comply with the provisions of the Act and of all bylaws and the rules and regulations of the Strata Corporation, as adopted from time to time, insofar as such provisions affect Tenant as a subtenant and occupier of the Premises. Tenant acknowledges that Landlord, as owner of the Premises, retains all rights, privileges and powers under the Act and all bylaws, rules and regulations of the Strata Corporation, including, without limitation, the right to vote and to settle, determine, resolve and pass any amendment(s) or substitution(s) to the bylaws, rules and regulations of the Strata Corporation from time to time, without notice to Tenant.

15.10 2010 Winter Olympic Games.

The additional terms set out in Schedule H attached hereto are incorporated into and form part of this Lease.

15.11 No Consent During Default.

Tenant acknowledges and agrees that it shall not be unreasonable for Landlord to withhold its consent, approval and/or signature in respect of any matter, instrument or document contemplated in this Lease at any time while Tenant is in default hereunder.

15.12 Interpretation.

Unless the context dictates otherwise, the singular number will include the plural; the masculine will include the feminine; and vice-versa in all cases.

15.13 Binding on Successors and Assigns.

Subject to the terms and conditions of Article IX above, and except as otherwise provided herein, this Lease shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties.

15.14 Joint and Several Liability.

If Tenant consists of more than one (1) Person, each such Person shall be jointly and severally liable for all of Tenant's obligations under this Lease.

15.15 Partial Invalidity.

If for any reason whatsoever, any term, obligation or condition of this Lease, or the application thereof to any Person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, obligation or condition: (a) shall be deemed to be independent of the remainder of the Lease and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of the Lease or any part thereof; and (b) the remainder of the Lease not affected, impaired or invalidated will continue to be applicable and enforceable to the fullest extent permitted by law against any Person and circumstance other than those as to which it has been held or rendered invalid, unenforceable and illegal.

15.16 Attorneys' Fees.

Notwithstanding anything to the contrary contained in this Lease, if either party institutes legal proceedings against the other with respect to the Lease, or the use, occupancy or condition of the Premises, the non-prevailing party shall pay to the prevailing party an amount equal to all attorneys' fees and disbursements and all other costs and expenses incurred by the prevailing party in connection therewith.

15.17 DISCLAIMER OF WARRANTY.

LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE AND TENANT'S OBLIGATIONS TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, SET-OFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

15.18 Counterparts.

This Lease may be executed in various counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

15.19 Strata Corporation Documents and Tenant Design Guidelines.

Tenant acknowledges that Tenant has received or has had an opportunity to review copies of the Strata Corporation Documents and the Tenant Design Guidelines.

15.20 Governing Law.

This Lease shall be construed and governed by the laws of the Province of British Columbia. Where a provision of this Lease refers to any legislation, reference will be deemed to include any replacement or amendment of the referenced legislative provision.

ARTICLE XVI
PROVISIONS REGARDING THE INTERIM LEASE

16.1 Acknowledgement of Interim Lease.

Each of Landlord and Tenant acknowledges and agrees that this Lease is subject and subordinated to the Interim Lease and to the matters to which the Interim Lease is or shall be subject or subordinate, as contemplated in the Interim Lease. Notwithstanding that Interim Landlord is not a party hereto, Landlord and Tenant acknowledge and agree that Interim Landlord shall have the benefit of all of the provisions of this Article XVII or provisions otherwise contained in this Lease and referring to, relating to or otherwise in respect of the Interim Lease or Interim Landlord.

16.2 Surrender or Termination of Interim Lease.

In the event the Interim Lease is surrendered or otherwise terminated for any reason, or in the event of re-entry or dispossession of Landlord by Interim Landlord under the Interim Lease, Interim Landlord shall, without requirement for separate act or notice, forthwith assume and have all the right, title and interest of Landlord, as sublandlord under this Lease and, except as otherwise provided in this Article XVII, Tenant shall, at Interim Landlord's option, attorn to Interim Landlord pursuant to the provisions of this Lease and become the direct tenant of Interim Landlord and/or any Interim Landlord Mortgagee and, if required by Interim Landlord or any Interim Landlord Mortgagee, attorn to such Interim Landlord Mortgagee to the extent of its interest, provided that in such event, neither Interim Landlord

nor any Interim Landlord Mortgagee (including, in each case, a Subsequent Owner), as the holder of a mortgage of or as landlord under the Interim Lease, if such Interim Landlord Mortgagee succeeds to such interest, shall:

- (a) be liable for any act or omission of Landlord under this Lease;
- (b) be subject to any credit, counterclaim, off-set or defense which accrued to Tenant against Landlord prior to Interim Landlord or such Interim Landlord Mortgagee succeeding to an interest in this Lease;
- (c) be bound by any previous prepayment of more than one (1) month's Rent hereunder;
- (d) be bound by any covenant of Landlord to undertake or complete any construction of the Premises or any portion thereof;
- (e) be required to account for any security deposit paid by Tenant to Landlord hereunder;
- (f) be bound by any obligation to make any payment to Tenant or grant any credits, except for services, repairs, maintenance and restoration provided for under this Lease that are to be performed after the date of such attornment by Tenant to Interim Landlord or Interim Landlord Mortgagee, as applicable;
- (g) be responsible for any monies owing by Landlord to the credit of Tenant; or
- (h) be required to remove any Person occupying any portion of the Premises.

16.3 Default under Interim Lease.

In the event Tenant receives a written notice from Interim Landlord or any Interim Landlord Mortgagee stating that an Event of Default (as defined in the Interim Lease) has occurred and is continuing, Tenant shall thereafter be authorized and obligated to pay all Rent accruing under this Lease directly to the party giving such notice or to such other Person as such party may direct in such notice, which Rent will be received by Interim Landlord by such Interim Landlord Mortgagee or by such other Person, as the case may be, to be credited against the amounts owing by Landlord under the Interim Lease. In such event, Interim Landlord or Interim Landlord Mortgagee giving such notice shall be entitled to exercise any of the rights and powers of Landlord under this Lease in the place and stead of Landlord.

16.4 Execution of Attornment Agreement.

Tenant agrees that, upon request of Interim Landlord or any Interim Landlord Mortgagee, Tenant shall execute and deliver to Interim Landlord or to such Interim Landlord Mortgagee, as applicable, a suitable instrument in such form as Interim Landlord or such Interim Landlord Mortgagee may reasonably require, to confirm the agreement of Tenant to attorn to Interim Landlord or to such Interim Landlord Mortgagee, as applicable, in the event of the termination of the Interim Lease or an event of re-entry and dispossession, or the occurrence of an Event of Default under the Interim Lease.

ARTICLE XVII **PROVISIONS REGARDING THE HEAD LEASE**

17.1 Acknowledgement of Head Lease.

Each of Landlord and Tenant acknowledges and agrees that this Lease is subject and subordinated to the Head Lease and to the matters to which the Head Lease is or shall be subject or subordinate, as contemplated in the Head Lease. Notwithstanding that Head Landlord is not a party hereto, Landlord and Tenant acknowledge and agree that Head Landlord shall have the benefit of all of the provisions of this Article XVII or provisions otherwise contained in this Lease and referring to, relating to or otherwise in respect of the Head Lease or Head Landlord.

17.2 Surrender or Termination of Head Lease.

In the event the Head Lease is surrendered or otherwise terminated for any reason, or in the event of re-entry or dispossession of Landlord by Head Landlord under the Head Lease, Head Landlord shall, without requirement for separate act or notice, forthwith assume and have all the right, title and interest of Interim Landlord under this Lease, including without limitation the rights under Article XVI, above.

IN WITNESS WHEREOF this Lease has been executed by the parties on October _____, 2007 with effect as of the day first above written.

LANDLORD:

INTRAWEST ULC

By: _____
Name: _____
Title: _____

CNL INCOME CANADA LESSEE CORP.

By: _____
Name: _____
Title: _____

TENANT:

~~BELL CANADA~~ BELL CANADA.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE A

DEFINITIONS

For the purposes of this Lease, the following terms shall have the meanings given to them in this Schedule A.

“**Act**” means the *Strata Property Act* (British Columbia) as amended or replaced from time to time.

“**Additional Rent**” means all amounts Tenant must pay to Landlord pursuant to this Lease, other than Minimum Rent ~~and Percentage Rent~~.

“**Area**” means ~~966~~960 square feet, being the area of: ~~(i)~~ — the Premises as shown on the strata plan for the Property;

~~(ii) any areas of interior limited common property designated for the exclusive use of the Premises; and~~

~~(iii) Tenant’s share multiplied by the area of any areas of interior limited common property designated for the use of the Premises and other strata lots in the Strata Development, where Tenant’s share equals the fraction having as its numerator the area in square feet of the Premises as shown on the strata plan for the Building and the denominator of which is the area in square feet of all strata lots, including the Premises, as shown on the strata plan for the Building, entitled to use such limited common property.—~~

“**Building**” means the building in which the Premises are located, including common washrooms, common entrances, lobbies, stairways, elevators, loading areas, garbage areas and corridors giving access to the Premises and other rentable premises, all heating, ventilating and air conditioning equipment and all plumbing, wiring and other systems, all as may be altered, expanded, reduced or renovated from time to time.

“**Commercial Space**” means all of the commercial strata lots in the Strata Development, owned by Head Landlord and leased by Head Landlord to Landlord, that are designated as commercial or retail strata lots by the Strata Corporation Documents.

“**Commercial Strata Lot**” means the commercial strata lot located in the Strata Development in which the Premises are located.

“**Environmental Laws**” has the meaning given to that term in Section 6.6.

“**Fiscal Year**” means each successive period commencing with July 1 and ending on June 30 in each calendar year, provided that Landlord may change the beginning and ending dates of such period from time to time and create periods containing less than 12 months. Where any Fiscal Year contains less than 12 months, costs shall be pro-rated as determined by Landlord, to make any calculation required under this Lease.

“**Gross Leased Area of the Commercial Space**” means ~~approximately _____ square feet, being~~ the area of the Commercial Space as determined by the Landlord, acting reasonably, expressed in square feet.

“**Head Landlord**” means the owner of the Commercial Strata Lot and of the Commercial Space and the landlord under the Head Lease, from time to time, which, as of the date of the Head Lease was Whistler Mountain Resort Limited Partnership and as of the date hereof is R&H US Canadian Property Limited solely in its capacity as trustee of US Canadian Property Trust Alpha and its successors and assigns.

“Head Landlord Mortgage” means a mortgagee of the interest of Head Landlord in the Head Lease or of the interest of Interim Landlord under the Head Lease, which as of the date hereof, is Congress Financial Corporation (Canada) and its successors and assigns.

“Head Lease” means the lease dated as of December 3, 2004 made by Head Landlord as landlord in favour of Interim Landlord as tenant in respect of property including the Premises as said lease is amended, extended, renewed, supplemented, restated and/or replaced from time to time.

“Interest Rate” means an annual rate of interest equal to five percent (5%) above the publicly announced prime rate according to Bank of Nova Scotia.

“Interim Landlord” means CNL Income Canada Lessee Corp. and its successors and assigns.

“Interim Landlord Mortgage” means a mortgagee of the interest of Interim Landlord in the Interim Lease or of the interest of Landlord under the Interim Lease.

“Interim Lease” means the Lease dated as of December 3, 2004 made by Interim Landlord in favour of Landlord as tenant in respect of the Premises as said Lease is amended, extended, renewed, supplemented, restated and/or replaced from time to time.

“Landlord” means Intrawest ULC or the Interim Landlord, as the case may be, and their respective successors and assigns.

“Landlord’s Work” means the work Landlord has agreed to perform ~~as set forth on Schedule D~~, if any.

“Lease” means this Lease Agreement as amended, modified or supplemented from time to time and all attached schedules and exhibits.

“Lease Year” means: (a) with respect to the calendar year in which the Occupancy Date occurs, the period beginning on the Occupancy Date and ending on December 31 of such calendar year; (b) with respect to the calendar year in which the Term expires or this Lease is otherwise terminated, the period beginning on January 1 of such calendar year and ending on the date on which the Term expires or this Lease is otherwise terminated; and (c) with respect to each other calendar year during the Term, the period beginning on January 1 and ending on December 31 of such calendar year.

“Market Rate” means the amount of rent being charged by Landlord for similar space within the Resort.

“Minimum Rent” means the fixed minimum rent that Tenant must pay to Landlord pursuant to Article III.

“Normal Business Hours” means the days and hours normally maintained by similar businesses dealing at the Resort with the public.

“Occupancy Date” means the date set forth in the Occupancy Notice.

“Operating Costs” means all costs incurred by Head Landlord, Interim Landlord or Landlord (including costs assessed by the Strata Corporation to Head Landlord as the owner of the Commercial Space) for the leasing, ownership, operation, management, maintenance (preventive and otherwise), repair and replacement of the Commercial Space and allocated in respect of the Commercial Space or the Premises by Interim Landlord to Landlord pursuant to the Interim Lease, or any such costs incurred by Landlord. By way of example, but not limitation, Operating Costs, whether incurred by Landlord or incurred by Head Landlord or Interim Landlord or Interim Landlord, includes: (a) salaries and other compensation paid to employees, independent contractors and agents of Landlord; (b) the costs of repairs and maintenance and the costs of supplies, tools, materials and equipment used therein that, under generally accepted accounting principles, would not be capitalized; (c) premiums and other charges for insurance; (d) costs of electricity, water, gas, fuel or other utilities; (e) license, permit and inspection fees; (f) accounting fees, costs and

disbursements; (g) legal fees, costs and disbursements (excluding those (i) related to disputes with tenants or subtenants, (ii) based on Head Landlord's or Interim Landlord's or Landlord's negligence or wilful misconduct, as the case may be, and (iii) related to Head Landlord's, Interim Landlord's or Landlord's negotiation and enforcement of leases or subleases); (h) the annual amortization of the cost of any capital repair, replacement, or improvement made, or capital equipment; (i) interest, at the Interest Rate, on the undepreciated portion of any capital item being amortized in accordance with the terms and conditions of clause (h) above; (j) promotion and advertisement; (k) an administrative fee equal to fifteen percent (15%) of all Operating Costs, other than the administrative fee described in this clause (k); (l) Tax on Capital; and (m) management fees.

~~To the extent that Head Landlord, Interim Landlord or Landlord incurs any Operating Costs for other commercial premises within the Resort in addition to the Commercial Space (such as the cost of promoting and advertising Head Landlord's, Interim Landlord's or Landlord's commercial premises within the Resort or any portion thereof), Head Landlord, Interim Landlord or Landlord, as the case may be, may allocate such Operating Costs among the Commercial Space and the remainder of Head Landlord's, Interim Landlord's or Landlord's commercial premises within the Resort in any reasonable manner that Head Landlord, Interim Landlord's or Landlord, as the case may be, deems appropriate.~~

"Other Taxes" has the meaning given to that term in Section 5.4.

"Parking Facilities" means the multi level parking facility and the exterior surface parking areas constructed on the Property.

"Person" means any individual, firm, partnership, corporation, joint venture, corporation or other entity.

"Premises" means the property described on Schedule B.

"Property" means the property previously described as Parcel 1, District Lots 4749 and 5316, Group 1, New Westminster District, Plan LMP48648 (now described as Strata Lot 1 and Strata Lots 3 to 28, District Lots 4749 and 5316, Group 1, New Westminster District, Strata Plan LMS4421).

"Related Entity" has the meaning given to that term in Section 9.2.1.

"Relevant Person" has the meaning given to that term in paragraph 12.1.1.

"Renewal Option" has the meaning given to that term in paragraph 1.1.4.1.

"Renewal Option Period" has the meaning given to that term in paragraph 1.1.4.1.

"Rent" means any Minimum Rent, Percentage Rent and Additional Rent and all other amounts payable by or on behalf of Tenant from time to time whether or not described as Rent (other than Sales Tax).

"Rent Commencement Date" means May 1, 2006.

"Resort" means the Whistler Mountain Resort located at Whistler, British Columbia including, for greater certainty, the Whistler Creekside development.

"Resort Owner" means the owner of the Resort from time to time.

"Sales Tax" means all goods and services taxes, sales taxes, multi-stage sales taxes, use or consumption taxes, business transfer taxes, value added or transaction taxes and any other existing or future tax imposed with respect to any amount payable by Tenant to Landlord under this Lease or in respect of the rental of space under this Lease.

“Secured Financing” means any loan or other financing secured by a mortgage, trust deed, pledge or other security agreement affecting all or any part of Head Landlord’s ownership interest or Landlord’s leasehold interest in the Commercial Space.

“Secured Lender” means the creditor of any Secured Financing or any agent or trustee acting on the creditor’s behalf.

“Strata Corporation” means The Owners Strata Plan No. LMS4421, a British Columbia strata corporation formed upon the creation of the Strata Development by the stratification of the Property.

“Strata Corporation Documents” means, as amended or amended and restated from time to time, (a) the strata plan filed to create the Strata Development; (b) the resolutions adopted from time to time by the strata council of the Strata Corporation and in force at the relevant time; (c) the bylaws of the Strata Corporation, and (d) the rules and regulations for the Strata Development.

“Strata Development” means the strata development known as Franz’s Trail constructed on the Property.

“Subordination Agreement” has the meaning given to that term in [Section 10.1](#).

“Subsequent Owner” means: (a) Head Landlord Mortgagee (or its designee) or a purchaser at foreclosure, or a subsequent purchaser from a Head Landlord Mortgagee (or from its designee) to which title or possession of the Premises is transferred in connection with a foreclosure of the mortgage of such Head Landlord Mortgagee (or a deed in lieu of foreclosure) or other exercise by such Head Landlord Mortgagee (or its successor or assign) of its rights or remedies; and (b) Interim Landlord Mortgagee (or its designee) or a purchaser at foreclosure, or a subsequent purchaser from a Interim Landlord Mortgagee (or from its designee) to which title or possession of the Premises is transferred in connection with a foreclosure of the mortgage of such Interim Landlord Mortgagee (or a deed in lieu of foreclosure) or other exercise by such Interim Landlord Mortgagee (or its successor or assign) of its rights or remedies.

“Tax on Capital” means the amount determined by Landlord as the taxes, rates, duties and/or assessments presently or hereafter payable by, levied upon, rated upon, charged to and/or assessed against the owner and/or ground lessee (and for greater certainty, references to owner of a property in this definition of **“Tax on Capital”** shall include a ground lessee of such property) from time to time of the Commercial Space (or if the owner of the Commercial Space at any time is a trust, the beneficiaries of such trust, or if the owner of the Commercial Space at any time is a partnership, the partners of such partnership, or if there is more than one owner, by each of them), under any legislation of any authority having jurisdiction now or hereafter in effect imposing taxes on account of capital, taxable capital or capital of the owner of the Commercial Space (or such partners, beneficiaries or persons) which it (or they) have employed or invested, directly or indirectly, in the Commercial Space, including, without limitation, the amount payable in respect of the tax commonly known as large corporation tax payable under Part 1.3 of the *Income Tax Act* (Canada) and the tax payable under the *Corporation Capital Tax Act* (British Columbia), as amended or replaced from time to time. If the owner or owners or ground lessee or ground lessees of the Commercial Space (or, if applicable, the partners of the partnership or beneficiaries of the trust which is the owner of the Commercial Space) own or lease more than one property, the amount of the taxes herein referred to which shall constitute Tax on Capital will be determined on the basis of an allocation of such taxes among such properties made by Landlord, acting reasonably.

“Taxes” means all real property taxes, surtaxes, rates, water charges, sewer charges, duties and assessments, whether municipal, school, local improvement, general or special, assessed, charged, imposed or levied from time to time by any Taxing Authority in respect of the Commercial Space or the real estate of which the Commercial Space is a part or upon Landlord, Head Landlord, Interim Landlord or the owner(s) of such real estate on account of its/their interest therein, including all fees, levies or assessments payable in respect of the Premises to Tourism Whistler (formerly known as the Whistler Resort Association) or any similar organization, any rent charge or other assessment payable in respect of the maintenance of landscaping, maintenance and repair of pedestrian bridges, and maintenance and repair of flood control works for Whistler Creek and any similar charge. **“Taxes”** shall also include all costs, fees,

expenses and time charges incurred by Head Landlord and allocated in respect of the Commercial Space or the Premises to Landlord pursuant to the Head Lease or by Landlord in contesting any of the same or negotiating with Taxing Authorities with respect thereto, or in doing any examinations, studies or research to determine the feasibility of contesting any of the same or negotiating with the Taxing Authorities with respect thereto (including, without limitation, all reasonable attorneys' fees and disbursements and appraisal and other fees and charges). If the system of taxation is altered or varied from that in force at the beginning of the Term and any new tax, surtax, rate, duty or assessment is assessed, charged, imposed or levied in substitution for or in addition to previously existing Taxes, or there shall be levied against Head Landlord and/or Interim Landlord and allocated in respect of the Commercial Space or the Premises to Landlord pursuant to the Head Lease and/or Interim Lease or against Landlord a tax or license fee measured by gross rents, then any such new tax, surtax, rate, duty, assessment or license fee shall be included in "Taxes." For greater certainty, "Taxes" shall include, without limitation, corporation capital taxes, large corporation taxes, or any other tax or imposition that is assessed, charged, imposed or levied by Taxing Authorities and is payable in whole or in part by reason of or measured by or based upon the assets, capital, indebtedness, reserves, retained earnings or surplus of Landlord or of the owner of the Premises whether similar in nature or not and whether or not in existence at the commencement of the Term, and all such taxes, rates, levies, charges or duties that are assessed, charged, imposed or levied against all or any part of the Commercial Space and/or Landlord or the owner from time to time of the Commercial Space on account of its or their interest in the Commercial Space, as well as Tax on Capital (and for such purpose if Landlord is not subject to any such tax or Tax on Capital but is liable to pay or to make payments in respect of such tax or Tax on Capital to Head Landlord or to any other party with a greater interest in the Commercial Space from which Landlord derives its interest, then the amount of such tax or Tax on Capital which Landlord is liable to pay or to make payment in respect of shall be deemed to be the amount of corporation capital taxes, large corporation taxes or other tax or imposition payable by Landlord by reason of or measured by or based upon the assets, capital, indebtedness, reserves, retained earnings or surplus of Landlord or Head Landlord for the purpose of this definition of "Taxes").

"Taxing Authority" means any duly constituted governmental or quasi-governmental authority or condominium or strata corporation or association, whether federal, provincial, regional, municipal, local, school or other, legally empowered to impose any Taxes.

"Tenant" means the party set forth in paragraph 1.1.1 as subtenant.

"Tenant Design Guidelines" means the guidelines regarding design of premises in the Commercial Space attached as Schedule E to this Lease, as may be amended, modified or supplemented from time to time by Landlord.

"Tenant Security" means any mortgage, deed of trust, pledge, security interest, charge or any other form of encumbrance granted by or agreed to by Tenant or any other Person (other than Landlord) with respect to its rights in this Lease, the Premises, or any property, whether real or personal, located in or forming part of the Premises, to secure in whole or in part any loan, indebtedness, authorized credit or other obligation. but, for greater certainty, shall exclude any chattel mortgage or conditional sales contract for the acquisition of equipment and fixtures such as computers, photocopiers or telephone and telecommunications systems entered into by Tenant in the ordinary course of its business.

"Tenant's Proportionate Share" means the percentage calculated by dividing the Area by the Gross Leased Area of the Commercial Space; provided, however, that such percentage shall be subject to recalculation based upon modifications in the actual Area or the Gross Leased Area of the Commercial Space.

"Tenant's Work" means all items of work, other than Landlord's Work, that are necessary to complete the Premises for use and occupancy by Tenant for the purposes of its business, including, without limitation, all such items described as "Tenant's Work" ~~in Schedule D~~, if any.

"Term" means the lease period specified in paragraph 1.1.3 and includes all renewals or extensions agreed to in writing by Landlord.

Termination Date has the meaning given to that term in paragraph 1.1.3.

Unavoidable Delay means any delay occasioned by force majeure, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental rules, regulations or orders, bankruptcy of contractors or any other condition whether of the foregoing nature or not (other than the financial condition of Landlord or Tenant, as the case may be) which is beyond the reasonable control of Landlord or Tenant, as the case may be.

SCHEDULE B

LOCATION OF THE PREMISES

(See attached)

1. The Premises: Unit # 207 in Strata Lot 21 in the Strata Development, consisting of approximately ~~966~~960 square feet, the boundaries of which shall extend (i) to the exterior face of all exterior walls, doors and windows, (ii) to the exterior face of all interior walls or other partitions, doors and windows separating the Premises from any common property, (iii) to the center line of partitioning walls separating the Premises from adjoining leaseable premises and (iv) from the top surface of the structural sub-floor to the underside of any structural floor slab situated immediately above the ceiling of that portion of the Commercial Strata Lot (and for greater certainty excluding any area below the floor and above the ceiling of such Premises).
2. Sketch of the Premises: See attached sketch.

SCHEDULE C

MINIMUM RENT SCHEDULE

1. For the period beginning on the Rent Commencement Date and ending on the Termination Date, Tenant shall pay Minimum Rent at a rate of \$25.00 per square ~~feet~~foot per year, in ~~equal monthly~~annual instalments of \$~~2,012.50~~\$24,000.00

SCHEDULE

LANDLORD'S WORK AND TENANT'S WORK

● ~~[NOTE—Lists of Landlord's Work and Tenant's Work to be customized as appropriate for the particular Tenant and Lease depending on the requirements of Tenant.]~~

1. ~~LANDLORD'S WORK~~

~~None.~~

~~[NOTE—The standard form Offer to Lease for Franz's Trail provides for the following Landlord's Work, which could be inserted as relevant and which Tenant could acknowledge has been completed if that is the case:~~

~~Landlord will provide the following at its expense as base building standard:~~

~~DEMISING WALLS~~

~~Demising partitions will be drywall on metal or wood stud, taped and sanded, and built to a height as indicated on base building plans by Landlord. Some demising walls may consist of block walls completed with tooled joints to meet Code requirements. Demising walls are not designed to support wall-mounted Tenant fixtures. Any extra work, including installation of fire walls to comply with Code, will be at Tenant's expense.~~

~~PLUMBING~~

~~A 1½" valved domestic water line comes with a water meter and a 2" sanitary vent line will be capped off within the Premises. A 4" sanitary drain cap off will be located underslab for connection of Tenant's plumbing fixtures. Tenant shall x-ray the slab and obtain Landlord's approval before coring or cutting the slab. Coring is not permitted through slab bands. All coring, cutting and installation is at Tenant's expense. Tenant shall be responsible for any additional capacity required for Tenant's plumbing system and for installing any gas lines.~~

~~CEILINGS~~

~~Landlord will not provide any ceiling materials or work.~~

~~ELECTRICAL~~

~~An electrical system with a capacity of 8 watts per square foot of Premises (including lighting and HVAC loads) shall terminate at the perimeter of the Premises. Supply service shall be 120/208 volt, 60-cycle, three phase, four wire. The safety switch—gutter, electrical panel, circuit breakers, electrical receptacles and lighting fixtures will be Tenant's responsibility. Any additional electrical capacity required by Tenant, including any revision to conduit or meter room work outside of the Premises, will be done by Landlord's contractors at Tenant's cost.~~

~~TELEPHONES~~

~~An empty telephone conduit terminating at the perimeter of the Premises. Extensions and distribution of the service and outlets within the Premises shall be at the cost of Tenant. Wiring of Tenant's telephone system and installation of Tenant's telephone system is to be arranged and paid for by Tenant.~~

LIGHTING

~~Landlord will not provide lighting materials or work.~~

HVAC

~~Landlord will provide an 18" x 36" make-up air duct capped off in the Premises. Tenant shall be responsible for the supply and installation of heating and cooling air handling unit(s) complete with ductwork, grills, registers, diffusers, fire dampers, thermostats and any other equipment required to have a complete system. Tenant shall submit an air balance report to satisfy the design criteria of Landlord.~~

PROPANE GAS

~~Landlord will provide a 1½" propane gas pipe to the Premises. It shall be Tenant's responsibility to apply for a meter and gas service.~~

KITCHEN EXHAUST

~~Landlord will provide a NFPA 96 exhaust duct up to 14" x 26", as required by Tenant. Tenant shall be responsible for the supply and installation of a roof mounted exhaust fan complete with necessary wiring, as well as ductwork and connections within the premises.~~

FLOOR

~~Smooth trowelled concrete floor slab which may require preparation for finished flooring and does not include recesses for carpet, ceramic tile, or other floor finishes requiring recesses.~~

SPRINKLERS

~~Landlord will provide sprinkler coverage including standard brass upright sprinkler heads within the Premises to cover a 130 square foot area per head. The approximate location will be shown on Landlord's construction diagrams. Tenant shall be responsible for all costs related to the modification to the sprinkler system to suit Tenant's layout.~~

STOREFRONT

~~Landlord will provide a base building storefront. No changes to the base building storefront will be permitted.~~

PLANS

~~Landlord will provide construction plans to Tenant at a cost to be designated by Landlord from time to time. Landlord will furnish exterior sign guidelines setting out the criteria to be observed in connection with the design and appearance features of the Premises and signage.~~

ENTRY BY LANDLORD AND OTHERS

~~Landlord, its employees, contractors, architect and other professional advisors, and public utilities authorized by it may enter the Premises at all times for:~~

- ~~a) — the performance of the Landlord's work;~~
- ~~b) — the inspection or correction of the Tenant's Work; and~~

~~e) all other necessary purposes in connection with the construction and completion of the Building, including without limitation, during the performance of the Tenant's Work and after the Occupancy Date but only if after the Occupancy Date they take all reasonable steps when entering the Premises to minimize any interference with Tenant's business in the Premises.]~~

~~2. TENANT'S WORK~~

~~● [NOTE—The standard form Offer to Lease for Franz's Trail provides for the following Tenant's Work which could be inserted as relevant:~~

~~TENANT'S PLANS AND SPECIFICATIONS~~

~~In order for the Landlord's Work and the Tenant's Work to proceed expeditiously, Tenant agrees to provide, at its sole cost and expense, to Landlord, within a reasonable time after receipt of Landlord's construction drawings for the Premises, 6 copies of each of its plans and specifications and such other information as may be necessary for the Landlord's Work to proceed and for the Tenant's Work to be approved under the terms of the Lease (herein called the "Tenant Plans and Specifications").~~

~~Without limiting the generality of the foregoing, Tenant shall provide complete working plans and specifications as follows:~~

~~Drawings:~~

- ~~———— 1/4" scale floor plan~~
- ~~———— 1/4" scale reflected ceiling plan~~
- ~~———— 1/4" scale long section~~
- ~~———— 1/4" scale cross section~~

~~In addition to all architectural features, the above drawings must include all structural, mechanical, plumbing and electrical items to be installed by Tenant.~~

~~Schedule:~~

- ~~———— Schedule of finish materials~~
- ~~———— colour schedule of all materials~~
- ~~———— construction schedule~~

~~TENANT'S ELECTRICAL, MECHANICAL AND PLUMBING~~

~~For the preparation of its plans and specifications for the electrical heating, ventilating, air conditioned, plumbing alterations, Tenant will employ qualified architects and engineers or such other consultants as may be approved by Landlord.~~

~~PERMITS~~

~~Tenant must apply for and procure all permits required for the construction and occupancy of the Premises. All work must conform with the local, municipal, provincial and federal codes, inspection bureaus and underwriters requirements.~~

~~CONDITION OF DEMISED PREMISES~~

~~Tenant will, during construction, maintain the Premises in a clean and orderly condition, promptly removing unused construction materials, all debris and inflammable material, equipment, store~~

~~fixtures, merchandise, shipping containers and general debris within the Premises. The service bays and exterior of the building are to be kept clear of all Tenant's materials, equipment and refuse at all times. These areas are to be used for access and egress only.~~

~~Tenant is to arrange for the storage and removal of trash. Landlord shall have the right to remove any Tenant construction materials, equipment, merchandise, shipping containers, and debris from malls, public areas, corridors, and building exterior at Tenant's expense without further notification.~~

~~TEMPORARY SERVICE~~

~~Temporary electrical power, lighting, water heat or other services required by Tenant, within the Premises during construction, will be Tenant's responsibility and at its expense.~~

~~APPROVAL BY LANDLORD'S ARCHITECT~~

~~The Tenant Plans and Specifications shall be subject to the written approval of Landlord prior to commencement of the Tenant's Work, and all the Tenant's Work shall be completed in conformity therewith. The approval of the Tenant Plans and Specifications denotes acceptance of the information contained therein. The approval does not mean confirmation of the dimensions shown on the drawings nor does it limit the responsibilities for the function, performance or conformity with Code of the Tenant Plans and Specifications.~~

~~TENANT'S AGREEMENTS WITH ARCHITECT OR CONTRACTOR~~

~~Tenant may choose to have its work designed and/or supervised and/or installed by Landlord's architect and/or Landlord's engineers and/or Landlord's general contractor, and in such event Tenant will enter into a separate agreement with the architect and/or general contractor, which agreement shall not in any way be considered as a part of this Lease. Neither Landlord's architect nor the general contractor are under any obligation to Tenant to enter into a contract with Tenant if they do not so desire.~~

~~DEFAULT~~

~~Failure of Tenant to provide the Tenant Plans and Specifications and information meeting Landlord's approval shall at Landlord's option constitute default under this Lease.~~

~~REVISIONS TO DOCUMENT, PLANS AND SPECIFICATIONS~~

~~If Landlord or Landlord's architect requires revisions to the Tenant Plans and Specifications prior to giving approval, such revisions are to be made by Tenant within 5 days of notice.~~

~~TENANT TO SECURE ALL APPROVALS~~

~~Tenant shall secure all approval and permits required for all work to be undertaken by it from any authorities having jurisdiction (including insurance underwriters) and shall submit proof of such approvals to Landlord and display such permits before commencing such work.~~

QUALITY OF MATERIALS AND WORKMANSHIP

~~All work by Tenant within the Premises shall incorporate only new or refurbished materials. Materials and workmanship shall be of uniformly high quality and used and/or performed in accordance with the very best standards of practice and shall not be in contravention of the governing codes or regulations and shall be subject to the approval of Landlord and/or its architect.~~

REPLACEMENT

~~Defective or inferior materials and/or workmanship shall, at Tenant's expense, be replaced by materials and/or workmanship of first class quality to Landlord's satisfaction, with Landlord acting reasonably.~~

COMPATIBILITY OF TRADES

~~All personnel working on the site must be compatible. All Tenant's Work shall be installed by contractors and sub-contractors approved by Landlord acting reasonably. Tenant shall not employ, on the work, any unfit person or anyone not skilled in the work assigned to him or any workman that will cause labor disputes or stoppages among other tradesmen performing work in the development.~~

FLOOR LOADS

~~Tenant or its contractor shall not impose upon the floor areas of the structure a greater working load than the design live load of 100 pounds per square foot uniformly distributed without proper written approval from Landlord and its structural consultant.~~

NO ENTRY ON TO ROOF

~~Under no circumstances shall Tenant, its employees, its contractor or its contractor's employees enter on to any roof or at any time make any openings in the roof of the Building. Should Tenant require anything to be done to any part of the roof of the Building, this will be done by Landlord's or the Strata Corporation's contractor for Tenant's account, and payment shall be made by Tenant to Landlord or the Strata Corporation, as applicable, upon demand.~~

EVIDENCE OF INSURANCE

~~Tenant shall provide Landlord with evidence of construction insurance or "permission to complete" the full value of the Tenant's Work and evidence of comprehensive general liability insurance in an amount of not less than Two Million Dollars (\$2,000,000.00) prior to commencement of construction of the Tenant's Work.~~

CONSTRUCTION START

~~Tenant shall start construction forthwith after the last to occur of: (a) approval of Landlord of the Tenant Plans and Specifications, or (b) the date of delivery of possession of the Premises to Tenant which date shall be established by Landlord by written notice to Tenant setting forth the date upon which the Premises is or will be sufficiently complete to permit the commencement of construction of the Tenant's Work, and shall complete its work as soon as practical in accordance with the approved Tenant Plans and Specifications, in co-ordination with Building construction and in co-operation with Landlord's contractor and particularly Landlord's installations of heating, ventilating and air conditioning, if applicable.~~

~~CHANGES TO BASE BUILDING~~

~~Any changes or additions by Tenant to the base building set out in the Landlord's Work shall be at Tenant's sole expense and shall be performed by Landlord's contractors or other contractors approved in writing by Landlord. Tenant shall obtain Landlord's approval before commencing any work.~~

~~DAMAGES~~

~~Any damage caused by Tenant or its contractors or subcontractors to any work or property of Landlord, the Strata Corporation or to the work or property of any other tenants shall be immediately repaired by Tenant at its cost to the satisfaction of Landlord.~~

~~LANDLORD'S CONTRACTORS~~

~~Landlord will not allow Tenant's contractor to jackhammer floors, tie into main electrical or mechanical services, cut holes in the roof or do any other structural work. Accordingly, some of the work shown on the Tenant Plans and Specifications must be done by Landlord's contractors even though Tenant may have arranged to use its own contractors for such work. All such work done by Landlord's contractors will be Tenant's responsibility and such work must be paid for prior to commencement of Tenant's business in the Premises.~~

~~PAYMENTS~~

~~Tenant will promptly pay its contractors, subcontractors, suppliers and workers for work and materials supplied to the Premises and will keep the Premises free of all claims of builders liens arising from work and materials supplied to the Premises at the behest of Tenant. Tenant will provide Landlord with proof of such payment upon request.]~~

~~A. GENERAL TERMS AND CONDITIONS~~

~~Tenant may not commence any construction, installation or improvement at the Premises unless and until the same have been reviewed and approved by Landlord; and if Landlord conditions its approval for such improvements, Tenant shall incorporate such changes required by Landlord. Tenant must perform and complete its improvements at the Premises and all other alterations or improvements to the Premises in a good and workmanlike manner and in compliance with (a) all applicable requirements of the Lease and the Design Manual, (b) all applicable laws, rules, regulations, orders and other legal requirements, including without limitation the building code for Whistler, (c) all applicable requirements of the Strata Development, and (d) all applicable requirements of the Strata Corporation.~~

~~1. Frontage Inside Wall~~

~~Tenant is responsible for finishing inside frontage wall.~~

~~2. Floor finishing and Covering~~

~~Tenant is responsible for finishing the floor, which shall be level with the exterior walkway that abuts the Premises; provided, however, that if the floor of the Premises is not level with the adjacent walkway, Tenant shall be responsible for meeting all applicable federal, provincial and local handicap accessibility requirements pursuant to plans approved by Landlord in its sole discretion.~~

~~3. Store Ceiling Finish~~

~~Tenant is responsible for the construction and installation of a finished ceiling, if any. If a finished ceiling is not installed, Tenant shall paint the existing ceiling and make all other improvements thereto that~~

~~Landlord deems necessary. Any ceiling installed by or for Tenant must leave adequate space and have access panels for making connections to both existing and new mechanical and electrical equipment above the ceiling.~~

4. ——— Roof

~~Any roof penetration caused by Tenant must be repaired, at Tenant's sole expense, by the original base building subcontractor that installed the original roof membrane for the developer of the Strata Development or such other subcontractor approved by Landlord in its sole discretion. [NOTE —Would not be Landlord who installed original roof since Landlord did not develop the project.]~~

5. ——— Demising Wall Finish

~~All wall finish (other than existing gypsum board) will be provided and installed by Tenant at its expense. If Tenant uses a public address or other sound system at the Premises, Tenant must insulate the demising walls of the Premises in order to obtain a sound transmission coefficient of fifty three (53) or higher.~~

6. ——— Interior Store Finish

~~Tenant is responsible for all interior finishing of the Premises, and will not use rubber or vinyl wall base in any area of the Premises that is visible to the public.~~

7. ——— Tenant's Sign

~~Tenant is responsible for store signage, which (i) will contain only the store's name, (ii) will be illuminated, and (iii) will conform to Landlord's sign criteria. All signage and methods of illumination thereof, if any, shall be subject to Landlord's prior written approval. Tenant shall conceal all conduit running from the building to any store signage.~~

8. ——— Burglar Alarm System

~~Tenant shall install a burglar alarm system approved by Landlord, which shall be linked to a central monitoring system, and shall not have a visible metal strip on the windows or doors.~~

B. ——— THE MECHANICAL SYSTEM

1. ——— Sprinkler System

~~Should Tenant or the local fire department require any change to the layout of the sprinkler system at the Premises, such changes shall be made at Tenant's sole expense.~~

2. ——— Access Panels

~~Tenant will provide and install all necessary access doors in the ceiling. These access points will be used for operation verification and maintenance of the mechanical and electrical equipment located above the ceiling of the Premises.~~

3. ——— Ventilation: Climate Control

~~Tenant shall provide and install in the Premises the diffusers, distribution system, equipment and room temperature controls necessary to adequately control the climate of the Premises.~~

~~C. THE ELECTRICAL SYSTEM~~

~~1. Electrical Unit~~

~~Tenant shall install an electrical meter to measure all electricity used at the Premises. Placement of the meter shall be subject to Landlord's prior written approval.~~

~~2. Lighting~~

~~Tenant will provide and install all panels, equipment, wires, transformers and lighting fixture, and other items related to lighting of the Premises, required for Tenant's purposes.~~

~~3. Layout Work by Tenant~~

~~Tenant must use the electrical system at the Premises for its electrical current requirements during all of Tenant's Work.~~

~~4. Telephone Service~~

~~Tenant is responsible for arranging for the installation of all telephone wiring at the Premises.~~

~~5. Cable Television~~

~~Tenant is responsible for arranging for the installation of all cable television wiring at the Premises.~~

~~6. Fire Alarm~~

~~Tenant shall modify, as required, the base building fire alarm system at the Premises; provided, however, that all modifications to the fire alarm system shall be done by Landlord's contractor at Tenant's expense.~~

~~3. APPROVALS AND PERMITS~~

~~Tenant shall apply for, obtain and pay for all applicable building, plumbing, electrical, signage and occupancy permits for all Tenant's Work prior to opening for business at the Premises (including final approval of all of Tenant's work). All permits must be properly displayed throughout the period of Tenant's Work.~~

~~In order to establish a high standard of presentation and workmanship by each tenant or subtenant, no Tenant Work shall commence without written approval from Landlord and receipt by Landlord of a building permit and of all necessary required insurance coverage for all such Tenant's Work.~~

~~4. ACCREDITED PROFESSIONALS~~

~~A. Architects~~

~~Only architects licensed to practice in the Province of British Columbia may be utilized for Tenant's preliminary plans, design concept, and final working drawings.~~

~~B. Tradespeople~~

~~Tenant must utilize accredited tradespeople authorized to work in Whistler for all of Tenant's Work.~~

~~Tenant must utilize an accredited general contractor authorized to work in Whistler for Tenant's Work, which must provide evidence of (i) general liability insurance in the amount of at least Two Million Dollars~~

~~(\$2,000,000), and (ii) its general contractor's license, evidenced of which must be provided to Landlord prior to commencement of Tenant's Work.~~

~~Landlord reserves the right to disapprove of the general contractor to be utilized by Tenant for execution of Tenant's Work. Tenant's Work shall be approved by Landlord at its sole discretion.~~

~~Tenant is required to utilize base building consultants or contractors when designing systems or performing work that involves modifications to the base building.~~

~~5. TENANT'S DRAWINGS AND SPECIFICATIONS~~

~~A. Tenant shall furnish to Landlord, pursuant to the terms of its Offer to Lease, a first phase design submission of Tenant's Work at one-quarter inch (1/4") scale or larger showing each of the following:~~

- ~~(b) preliminary plan of the premises indicating interior design concepts;~~
- ~~(c) plan, elevation and section of the interior and of the proposed store front, including definitive signage information;~~
- ~~(d) mechanical and electrical requirements;~~
- ~~(e) location of interior partitions and type of construction to be used;~~
- ~~(f) general layout for ceiling and lighting; and~~
- ~~(g) all finishes.~~

~~B. Landlord shall notify Tenant either of its approval or disapproval of the Preliminary Submission. In the case of disapproval, Landlord will also advise Tenant of the reasons therefor, and may indicate any specific changes required, which Tenant acknowledges and agrees may include changes required by Head Landlord of Landlord pursuant to similar approval rights contained in the Head Lease. Tenant shall then promptly prepare and submit to Landlord, an amended Preliminary Submission incorporating the changes requested by Landlord.~~

~~C. After the Preliminary Submission is finally accepted by Landlord, Tenant will submit to Landlord for its review accurate and complete working drawings of all Tenant's Work, which Final Submission will be based upon the Accepted Preliminary Submission. The Final Submission will be made by means of one (1) sepia and six (6) sets of prints, to include:~~

~~1. Drawings and interior design will include:~~

- ~~(a) a subfloor plan (if required);~~
- ~~(b) a floor plan;~~
- ~~(c) the elevation of the inside walls;~~
- ~~(d) the elevation of the frontage;~~
- ~~(e) a reflected ceiling plan;~~
- ~~(f) details and cross sections;~~
- ~~(g) sign drawings;~~

- ~~(h) — finish board; and~~
- ~~(i) — proposed schedule for all trades.~~

~~2. — **Drawings of mechanical installations will include:**~~

- ~~(a) — diagram of the HVAC system;~~
- ~~(b) — diagram of the plumbing system; and~~
- ~~(c) — diagram of the sprinkler system.~~

~~3. — **Drawings of electrical installations will include:**~~

- ~~(a) — a circuit and wire diagram, as well as a list of loads used;~~
- ~~(b) — a service and lighting plan;~~
- ~~(c) — details; and~~
- ~~(d) — alarm system.~~

~~D. — Landlord shall notify Tenant promptly of its approval or disapproval of the Final Submission. In the case of Disapproval, Landlord shall also advise Tenant of the reasons therefor, and indicate any specific changes required. Tenant shall then promptly prepare and submit to Landlord an amended Final Submission incorporating the changes requested by Landlord.~~

~~E. — Tenant acknowledges that the prompt and accurate submission of both the Preliminary Submission and the Final Submission is essential to the expeditious completion of Tenant's Work and to enable the Premises to be open for business to the public by the Opening Date.~~

~~**SCHEDULE D. — AT COMPLETION OF TENANT'S WORK, AND PRIOR TO TENANT'S OPENING OF BUSINESS AT THE PREMISES, TENANT MUST PROVIDE LANDLORD WITH DRAWINGS STAMPED "AS BUILT", BY THE MECHANICAL, ELECTRICAL AND STRUCTURAL ENGINEERS.**~~

**SCHEDULE E
TENANT DESIGN GUIDELINES
FRANZ'S TRAIL AT WHISTLER CREEK, WHISTLER, CANADA**

**ARTICLE I
GENERAL INFORMATION**

1.1 Introduction

Intrawest ULC, the leading designer and developer of North America's best new mountain resort villages, introduces Franz's Trail at Whistler Creek. This pedestrian village will be the epicenter of the new Whistler where locals and weekenders will come to avoid the 'Big Village' up the road.

Befitting the stature of Whistler/Blackcomb's number one resort ranking, Franz's Trail has been designed as a truly unique village – one that will remain true to the original spirit of early Whistler. The design, architecture and materials used will all contribute to the overall goal of preserving and enhancing the random charm of Whistler's first neighbourhood.

As the gateway to the Resort Municipality of Whistler, Franz's Trail at Whistler Creek will be small scale, eclectic and funky. Throughout the neighbourhood, there will be a seemingly unplanned, uncontrived and unintentional attention to detail. A loose-knit Bohemian-style community of unique shops and funky eateries will inhabit the village.

It is our objective to guide the Tenants and their designers in developing each retail establishment. While Franz's Trail at Whistler Creek encourages originality and ingenuity in each store design, it is also concerned with good taste, compatibility with other stores and the vision for Whistler Creek, and compatibility with the overall Intrust philosophy and standards of excellence.

1.2 Project Consultant Directory

Below is a list of the Landlord's principal consultants:

Project Architect
Ray Letkeman Architect
200 – 970 Homer Street
Vancouver, BC
V6B 2W7
Contact:

Structural Engineer
John Bryson and Partners
435 West Hastings Street
Vancouver, BC
V6B 1L4
Contact:

Retail Design Consultant
Maxam Design Int'l
548 Beatty Street
Vancouver, BC
V6B 2L3
Contact:

Mechanical Engineer
Yoneda
200-1190 Melville Street
Vancouver, BC
V6E 3W1
Contact:

Electrical Engineer
Arnold Nemetz
2083 West 4th Avenue
Vancouver, BC
V6J 1N3
Contact:

Landscape Architect
Stevenson & Associates
1000 Roosevelt Cres, North
Vancouver, BC
V7P 1M3
Contact:

Signage Consultant
John Peachey & Associates
268A (Lane) East Esplanade
North Vancouver, BC
V7L 1A3
Contact:

ARTICLE II **DESIGN CRITERIA**

2.1 General Information

2.1.1 This manual outlines the design criteria, procedures, requirements and recommendations that have been developed by the Landlord for the purpose of assisting the Tenants of Franz's Trail at Whistler Creek in the development of their premises. It is strongly encouraged that Tenants, their designers, and contractors acquaint themselves thoroughly with the material herein so their design and construction can proceed in a coordinated and expeditious manner.

2.1.2 In order for Tenants to obtain building permits, and to assure quality, all design must conform to the Resort Municipality of Whistler requirements.

2.1.3 Note: it is the Tenant's responsibility to check with Resort Municipality of Whistler for current Codes and to abide by their standards.

2.1.4 It is the responsibility of the Tenant to review the package with your design and construction team and to distribute the appropriate sections, as needed. If you require any assistance or have any questions, please address all correspondence to the Tenant Coordinator:

Franz's Trail at Whistler Creek
213 – 4368 Main Street
Whistler, B.C.
V0N 1B4

~~Liz Ayre~~ [Commercial Asset Manager](#)
~~Tenant Coordinator~~
Tel:
Fax: layre@inrawest.com

2.1.5 The Tenant Coordinator is the Landlord's representative and will coordinate the review of the Tenant's concept and drawings, as well as guide and assist the Tenants throughout their design and construction periods.

2.1.6 We have found that certain situations will arise in the design process and must be dealt with, such as inappropriate service access location or conflicts etc. Please note that at the Landlord's sole discretion, and at the Tenant's expense, the Landlord will perform any relocation of service(s) inherent in the base building. Tenants are obliged to review their premises on-site and in detail, to determine in conjunction with the Tenant Coordinator, how they may treat or otherwise deal with such conditions.

2.1.7 As situations arise, the Landlord may amend or add to the information in this manual at any time. The Tenant is obliged to abide by such changes upon notification thereof.

2.1.8 The Tenant Design Criteria Manual is to be used in conjunction with the Tenant Coordination Guidebook (available from the Tenant Coordinator) and Schedule D to this Lease.

~~2.2 — Storefront Criteria~~

~~2.2.1 — The "storefront" in this project consists of the building façade/elevation that borders the exterior walls of the premises. The Tenant may refer to the architectural drawings provided by the Landlord for the façade/elevation design.~~

~~2.2.2 — Storefront displays must be visually exciting and inviting to the pedestrian traffic. They should stimulate the recreation of shopping as well as consumer interest.~~

~~2.2.3 — Tenants must utilize their storefront to its maximum potential in order to project their own individual image. Since each Tenant's facade design has already been determined, Tenants must create interesting window displays and signage design.~~

~~2.2.4 — To create a more interesting architectural feature for the shopper, it is strongly recommended that Tenants review the incorporation of awnings into their storefronts with the Tenant Coordinator.~~

~~2.3 — Show Windows~~

~~2.3.1 — Show windows are the best way to create maximum pedestrian interest at the ground floor level and to create an exciting, colourful setting, which displays merchandise in a tasteful manner.~~

~~2.3.2 — Equipment, closed backed shelving, or solid wall construction shall not back onto show window areas.~~

~~2.3.3 — If the storefront has one show window:~~

~~(a) — Tenants must allow for a visual penetration into the store for up to 60% of the window width.~~

~~(b) — Tenants must not close off their show window from the interior of the store.~~

~~2.3.4 — If the storefront has more than one show window:~~

~~(a) — Tenant may create show windows with no visual penetration into the store, for up to half of the total number of show windows.~~

~~(b) — Any special cases will be subject to the Landlord's approval.~~

~~2.3.5 — Show windows must be properly illuminated for both day and night lighting conditions.~~

~~2.3.6 — The Landlord stresses the importance of professional window displays. The Landlord will always have the right to request the Tenant to modify their window displays if it feels that the display is not consistent with the quality, theme, or image of Whistler Creek.~~

~~2.4 — Interior Store Image~~

~~2.4.1 — An accredited Interior Designer or Architect must prepare the design of the Tenant spaces. Restaurants with over 30 seats must be designed and/or stamped by a licensed design professional.~~

~~2.4.2 — Tenants are encouraged to create top quality, cutting edge designs, encompassing a theme, which reflects the type and quality of their merchandise, as well as the flavour of Whistler Creek.~~

~~2.4.3 — Whistler Creek has created a natural design statement that reflects the region. We encourage the use of high quality, natural materials such as wood, slate, granite and stone to complement the Tenant's overall scheme.~~

~~2.4.4 — Store interiors must be professionally merchandised using high quality racking systems and display units. All such units will be subject to the Landlord's approval.~~

~~2.4.5 — Service and storage areas must be well planned and concealed from shoppers. Blank walls are strongly discouraged unless utilized for artistic expression, in which case they will be subject to the Landlord's approval.~~

~~2.4.6 — Tenants are encouraged to create interesting ceiling designs with varying levels and detail(s) whenever possible.~~

~~2.4.7 — Special care should be taken in the choice of the floor finish, as slippery surfaces are not desirable for ski boot traffic.~~

~~2.4.8 — The use of the following materials may not be permitted in the store merchandising area, without the approval of the Landlord:~~

~~(a) — Artificial versions of brick, wood or stone~~

~~(b) — Fiberglass~~

~~(c) — Vinyl composite tile~~

~~(d) — Smoked glass or smoked mirror~~

~~(e) — Flat, acoustic tile ceiling panels~~

~~(f) — Plastic/metal shelving must be subject to the Landlord's approval~~

~~2.5 — Interior Store Lighting~~

~~2.5.1 — In our experience, we have determined that the use of a lighting consultant helps facilitate effective, efficient, and exciting store lighting design.~~

~~2.5.2 — The use of a variety of lighting qualities that best suit the variable merchandising uses and physical conditions existing throughout the space is highly recommended.~~

~~2.5.3 — Tenants are encouraged to illuminate show windows and displays with accent lighting.~~

~~2.5.4 — Recessed fixtures housing PL Fluorescent lamps are permitted only when providing a warm light (2700 K to 3000 K degrees).~~

~~2.5.5 — Surface mounted fluorescent fixtures will only be permitted in storage areas that are out of public sight.~~

~~2.5.6 — Tenants are strongly encouraged to have at least some lighting active for 24 hours a day in order to facilitate nighttime window shopping.~~

~~2.6 — Terrace Design Criteria (where applicable)~~

~~2.6.1 — ENCLOSURES: All enclosures should be 18” high and should be designed so that no railing is required. This will allow for eye contact between the passer by and someone sitting on the terrace.—~~

~~2.6.2 — PLANTINGS: Consideration should be given to the height of plantings so that the plantings in their planters do not excessively block the views onto and from the terrace. Plantings may not be used to create a solid screen above 36” in height from the terrace floor.—~~

~~2.6.3 — FURNISHINGS:—~~

- ~~● — Only tables, chairs and umbrellas will be permitted on terraces (except service areas). Trash receptacles of an appropriate design are permitted if the establishment is self service where patrons are required to bus their own tables. Standing ashtrays, and other furnishings of this type are not allowed. The use of typical suburban patio furniture is not permitted.—~~
- ~~● — Tables and chairs should be moveable for flexibility, ease of maintenance and seasonal variation. They should be consistent in scale, colour, and detail to fit their respective outdoor spaces and building context. Finely detailed furnishings of wood and metal are encouraged over those constructed of molded polyurethane.—~~
- ~~● — Table feet must be heavy to improve stability. Cast iron table feet are preferred.—~~
- ~~● — Rubber or carpeted mats are not permitted at entranceways or on walkways of the terrace. Mats may be used at service areas, provided the design and colour is not obtrusive.—~~
- ~~● — Furnishings must be maintained in good condition at all times. Worn or damaged furniture must be promptly repaired, removed or replaced.—~~

~~2.6.4 — SERVICE AREAS:—~~

- ~~● — A service area may be included on the terrace and may include a cart and other accessories used to service outdoor tables.—~~
- ~~● — Service areas and all their contents must be discreetly placed so as not to obstruct the view of patrons or passing pedestrians.—~~

~~2.6.5 — AWNINGS AND UMBRELLAS:~~

- ~~• All colours used in awnings should be compatible with adjacent buildings.~~
- ~~• The addition of awnings is appropriate and desirable to further the effect of the “upper level enclosure” and to develop the individual character and personality of the storefront.~~
- ~~• Outdoor tables which can accommodate umbrellas or freestanding umbrellas with stands are recommended to allow sun/shade control. Umbrellas should have a variety of sizes, colours and details.—~~

~~2.6.6 — RECEPTACLES~~

- ~~• Receptacles may be made of wood or metal (not pre-cast concrete) and should be sturdy and durable. They should be complimentary to all other furnishings and materials.~~
- ~~• Receptacles should be complementary in scale, colour and materials to building and design.~~
- ~~• Receptacles should be located conveniently for patrons use without creating visual clutter.~~
- ~~• Receptacles must have a top enclosure with an opening in the side, just under the top for disposal of trash.~~
- ~~• All trash receptacles must be bear proof, if they are located outside.~~

~~2.6.7 — OTHER ACCESSORIES AND INSTALLATIONS~~

- ~~• The floor covering of terraces cannot be changed without Landlord’s approval. The use of carpeting or plywood sheets is prohibited.~~
- ~~• Wall heaters unobtrusively fixed to the upper part of a business’s ground floor façade are allowed, but are subject to Intrawest’s approval. Portable, commercial space heaters are also permitted.~~
- ~~• The sale and display of merchandise goods on the terraces is prohibited.~~

~~2.6.8 — NOISE CONTROL AND HOURS OF OPERATION~~

- ~~• In order to avoid disturbing the surrounding residential neighbourhood, all terrace operators must follow the hours of operation set by the Resort Municipality of Whistler Bylaw department.~~

~~2.7 — Signage Criteria — See SIGNAGE CRITERIA MANUAL~~

ARTICLE III **MECHANICAL & ELECTRICAL REQUIREMENTS**

3.1 General Requirements

Any modifications required by the Tenant within the Premises must be approved by Landlord’s project consultants, at Tenant’s cost and expense if they modify, alter or add to the structure of the building (i.e. mezzanine space).

The Tenant must utilize contractors and subtrades licensed, and in good standing, in the Province of British Columbia for all Tenant’s Work.

The Tenant will engage licensed mechanical, electrical, and structural (where necessary) engineer(s) for the Tenant's Preliminary Layout Plan, Design Concept, and Construction Drawings.

Mechanical and electrical consultants must verify that no interference exists with necessary work in spaces below the slab.

All architects, design consultants, and engineers must visit the site before preparing sketches of their layout.

In order to minimize conflicts and insure compliance with base building standards, Tenants are required to utilize the Landlord's Project consultants for review, at their cost.

Height limitations must be checked in the Tenant's premises under the existing Landlord's services.

The Tenant whenever required shall install access openings to all base building items in the ceiling space in the Tenant's ceiling.

3.2 Electrical

3.2.1 GROUNDING

Should electrical grounds be required in demising partitions, fully dimensioned drawings indicating the size and the position shall be submitted to the Landlord well in advance of installation of demising partitions. The Landlord, at the Tenant's expense, will then install grounds.

3.2.2 SERVICE

The electrical service in the building is 480 volts, 3 phase. Design loads have been anticipated and planned for each space. Please refer to Appendix XX (available from the Tenant Coordinator) for a load schedule. The Tenant will be responsible to install the necessary wiring, meters, transformation, distribution, disconnect switches and any other work required for the Premises. Tenants must refer to Schedule D to this Lease.

3.3 Mechanical

3.3.1 AIR EVACUATION SYSTEM

A proper air evacuation system for the Tenant's Premises must be installed by the Tenant at its' cost (i.e. kitchen exhaust, fireplaces, equipment producing fumes, etc.), where required by Code. For all food and beverage spaces, Tenants must utilize the shaft ducts provided by Landlord. Landlord shall approve all air intake locations to maintain the design integrity of the Village.

3.3.2 HEATING

Hot water has been provided as the preferred method of heating. Landlord shall provide the restaurant spaces with propane gas to the Premises, terminating with a valve and at a location determined by the Landlord. Check meters, pressure valves and exhaust vents will be supplied and installed by the Tenant, at a location to be approved by the Landlord. Tenant must refer to Schedule D to this Lease.

3.3.3 SPRINKLER COVERAGE

Landlord shall provide a main sprinkler line and distribution with upright heads to cover an area approximately one hundred and thirty (130) square feet per head. Any and all additions, relocations and modifications to installed line and sprinkler head shall be executed by approved contractor at Tenant's expense.

3.3.4 WATER SUPPLY

Water for heating and cooling will be provided by Landlord, terminating within the Premises at a location determined by the Landlord.

3.4 Sound Insulation

3.4.1 In order to maintain an acceptable sound environment, the designer shall specify, and Landlord shall approve, any sound insulation methods or equipment the Tenant may require.

3.4.2 Tenants must submit their own acoustical studies to the Landlord for approval.

3.4.3 Landlord will provide sound insulation between establishments as required by code. Typical wall, ceiling, and floor assemblies are constructed with a minimum sound transmission coefficient (STC) of 50. Tenants will be required to provide additional sound attenuation to prevent adjacent tenant and/or residential units in having an increase in sound levels exceeding 65db.

3.5 Consultant's Check List

3.5.1 ELECTRICAL

- (a) Location of service termination
- (b) Voltage requirements
- (c) Location of telephone conduit termination
- (d) Electrical Load Summary required (number of amperes)

3.5.2 MECHANICAL

- (a) Location of water service
- (b) Location of plumbing stack
- (c) Grease traps by Tenant, if required, under counter or as required
- (d) Gas line(s), Meter (if applicable) and capacity supply requirements.
- (e) Location of kitchen exhaust and C.F.M. required
- (f) Type of ventilation for refrigerator cooling
- (g) Washroom ventilation
- (h) Heating/cooling load calculations required
- (i) Air conditioning unit distribution, vent and conduit locations
- (j) Balance report to be submitted by an engineer to the Tenant Coordinator following the installation and start-up of all kitchen exhaust systems.

ARTICLE IV
TENANT SUBMISSION REQUIREMENTS & PROCEDURES

4.1 Design Submissions and Approvals

4.1.1 Tenants must utilize accredited engineers and designers in the design phase of the process.

4.1.2 The Tenant and/or the Tenant's designer(s) and consultant(s) are strongly encouraged to investigate the site conditions and verify dimensions before commencing their working drawings whenever possible. Please make arrangements to visit the site with the Tenant Coordinator.

4.1.3 In the event that there are any variations between the Tenant Drawings and the Landlord's Project Drawings and/or site conditions, the latter will be considered binding.

4.1.4 Underslab requirements (i.e. plumbing) must be submitted to the Landlord for Approval in fully dimensioned drawing form.

4.1.5 Working days are defined as Monday-Friday, excluding ALL Statutory Holidays and the period of December 25–January 2.

4.2 Plan Submission Requirements

4.2.1 Tenant must use only professional architects and/or designers for Preliminary Layout Plan, Design Concept, and Construction Drawings.

4.2.2 Tenant acknowledges that the prompt and accurate issuance of the Preliminary Layout Plan, Design Concept, and Construction Drawing submissions, and all amended submissions (if any), is essential to the expeditious completion of Tenant's Work and to enable the Premises to be open to the public for business by the Opening Date.

4.3 Submission Procedure - Preliminary Layout Plan

4.3.1 Within thirty-five (35) working days of the date the offer to lease has been accepted, Tenant shall furnish to the Landlord a Preliminary Layout Plan of the Tenant's Work.

4.3.2 Tenant shall furnish three (3) sets of 1/4" scale or larger plans showing each of the following:

- (a) Preliminary plan of interior design concepts for the Premises;
- (b) Plan, elevation, and section of the interior and proposed storefront(s), including definitive signage information;
- (c) Mechanical and electrical requirements;
- (d) Location of interior partitions and type of construction to be used;
- (e) General layout for ceiling and lighting;
- (f) Kitchen exhaust and grease trap requirements [for restaurant Tenants only]
- (g) A copy of a completed Project Schedule

4.3.3 Landlord shall notify Tenant either of its approval or disapproval of the Preliminary Layout Plan within ten (10) working days;

- (a) In the case of disapproval, Landlord will advise Tenant of the reasons and indicate any specific changes required, in writing. Tenant shall then promptly prepare and submit to the Landlord, within fifteen (15) working days following notice of such disapproval, an amended Preliminary Layout Plan incorporating any changes requested by Landlord.
- (b) Upon notice of approval of the Preliminary Layout Plan, Tenant will proceed with the Design Concept submission.

4.4 Submission Procedure - Design Concept

4.4.1 Within fifteen (15) working days of the date the approval of the Preliminary Layout Plan, Tenant shall furnish to the Landlord a Design Concept plan of the Tenant's Work. The Design Concept submission will be based upon the approved Preliminary Layout Plan.

4.4.2 Tenant shall submit to Landlord three (3) sets of 1/4" scale or larger plans (except perspective drawings), and coloured renderings of the design concept, indicating the following:

- (a) Floor plan
- (b) Reflected ceiling/ lighting plan
- (c) Building elevations
- ~~(d) Storefront elevation, or a photograph of a recently completed store~~
- ~~(e) Sample board of all store finishes (fabrics, molding samples, paint chips, etc.)~~
- ~~(f) All furnishings, fixtures, and equipment~~

~~4.4.3 Tenant shall also submit a temporary and permanent storefront signage design (for Signage Design requirements refer to the Signage Design Guidelines manual). Any submission not including signage will be considered incomplete and therefore, will not be processed.~~

- ~~(a) Professionally produced temporary signs will be encouraged to build anticipation.~~
- ~~(b) Note: Tenants may not open their Premises without their permanent exterior signage.~~

~~4.4.4 Landlord shall notify Tenant either of its approval or disapproval of the Design Concept within ten (10) working days;~~

- ~~(a) In the case of disapproval, Landlord will advise Tenant of the reasons and indicate any specific changes required, in writing. Tenant shall then promptly prepare and submit to Landlord, within fifteen (15) working days following notice of such disapproval, an amended Design Concept incorporating any changes requested by Landlord.~~
- ~~(b) Upon notice of approval of the Design Concept, Tenant will proceed with the Construction Drawings submission.~~

4.5 Submission Procedure – Construction Drawings

4.5.1 Within fifteen (15) working days following the date that the Design Concept is accepted, Tenant shall furnish to the Landlord accurate and complete Construction Drawings of all Tenant's Work. The Construction Drawings submission will be based upon the approved Design Concept.

4.5.2 Tenant shall submit five (5) sets of plans to include a minimum of the following information:

- (a) 1/4" scale FLOOR PLANS indicating:
 - (i) Accurate dimensions
 - (ii) Location of glazing and doors
 - (iii) Location of any partitions
 - (iv) Location of any sub-floor requirements, such as electrical or telephone outlets, plumbing requirements, etc.
 - (v) Flooring materials
 - (vi) Fixtures and furniture layout specifications
- (b) 1/4" scale ELEVATIONS of interior and exterior indicating:
 - (i) All finishes
 - (ii) All dimensions
- (c) 1/4" scale ELECTRICAL DRAWINGS, complete with specifications and reflected ceiling/lighting plan, indicating:
 - (i) Location of all electrical and telephone outlets in demising and/or interior partitions
 - (ii) Location of electrical panel, size of service, and circuiting of all electrical outlets and/or equipment
 - (iii) Electrical loads
 - (iv) Ceiling construction and materials (fire ratings as required by Code)
 - (v) All heights and dimensions of changes in ceiling heights
 - (vi) Location of lighting fixtures and their specifications, including type and wattage of bulbs
 - (vii) Wattage per square foot of the leased area
 - (viii) Locations of the toilet exhaust fan, hot water heaters, or any other special equipment, where applicable
- ~~(d) 1/2" scale STOREFRONT and SIGN DETAILS, indicating:~~
 - ~~(i) Sign and background, letter style, size, colours, material, lighting, and installation details~~
 - ~~(ii) All construction details used in fabricating the storefront~~
 - ~~(iii) All access panels for signage must be indicated~~
- ~~(e) Drawings for Interior and Exterior FINISHES and/or Presentation board, including:~~
 - ~~(i) Colour and finish schedule including paint chips, wall coverings, flooring samples, and wood samples complete with fire/flame spread rating as required by Code~~

~~(ii) Other finishing materials where necessary~~

(d) ~~(f)~~ MECHANICAL DRAWINGS complete with specifications by Tenant's engineer, including:

- (i) Evacuation and air-intake requirements
- (ii) Layout and size of ductwork and piping
- (iii) Thermostat location
- (iv) Heating and cooling load calculation
- (v) all plumbing and drainage requirements including condensation drain from the Tenant's air-handling unit

(e) ~~(g)~~ SPRINKLER RELOCATION drawings, including:

- (i) Layout of heads;
- (ii) Pipe specifications (sizes, etc.)
- (iii) Hydraulic calculations of the final design

4.5.3 Landlord shall notify Tenant either of its approval or disapproval of the Construction Drawings within ten (10) working days;

- (a) In the case of disapproval, Landlord shall advise Tenant of the reasons and indicate any specific changes required. Tenant shall then promptly prepare and submit to Landlord, within fifteen (15) working days following such notice of disapproval, an amended Construction Drawings plan incorporating the changes requested by Landlord.
- (b) After approval of the Construction Drawings, Tenant will submit a completed work schedule, names of all subtrades, copies of Building Permits, Emergency phone numbers and General Contractor Insurance Certificates.

4.5.4 All engineering plans shall be properly stamped by the Tenant's mechanical, electrical, and structural (where required) engineers.

4.5.5 It is an essential condition hereof that Tenant retains the services of and conforms to the requirements of the Project mechanical, electrical, and structural (where required) engineers. All Tenant mechanical, electrical, and structural (where required) drawings must be reviewed by the Project engineers at Tenant's expense. Tenant shall utilize an Approved sprinkler subcontractor for all sprinkler contracting work.

4.5.6 Tenant's must submit all stamped plans to the Resort Municipality of Whistler Building Department. Note: Tenant must provide Landlord with a Confirmation Letter indicating the day(s) that plans have been sent to Resort Municipality of Whistler.

4.5.7 Within 30 days after the completion of Tenant's Work, Tenant must provide Landlord with drawings stamped "as built", by the Tenant's mechanical, electrical and structural (if applicable) engineers.

ARTICLE V **INSTRUCTIONS TO TENANTS**

In order to expedite the completion of all establishments with the least amount of inconvenience to all concerned, the following rules and regulations will be applicable to all Tenants upon starting their construction work. These

regulations will be enforced to ensure Tenant contractors cause no interruptions to other businesses or public movements.

5.1 Pre-Work Requirements

5.1.1 Tenant must recognize and comply with the following:

- (a) The Landlord's building contractor is in charge of the site and the Tenant's contractor and subtrades must comply with the building contractor's requests.
- (b) Prior to commencement of work, Tenants must submit their choice of professionals (architect, designer, engineer) as well as their choice of contractors and subtrades to be approved by the Landlord. Please refer to the list of suggested general contractors indicated in the "Tenant Coordination Guide".
- (c) Prior to commencement of work, Tenant's shall submit a Project Schedule with the help of the Tenant's professionals and the Tenant Coordinator
- (d) Tenant must obtain the Landlord's written approval to commence with Tenant's Work, which will not be unreasonably withheld or delayed.

5.1.2 REGISTRATION: General Contractor and Subtrade

Prior to commencement of any Tenant's Work, the general contractor shall provide all necessary papers proving that he is licensed as a general contractor for commercial work in the Province of British Columbia. Furthermore, the Tenant must inform the Tenant Coordinator the name of the general contractor, all trades-people, supervisors, and other personnel employed by the general contractor. These people must check in with the Amako Site Superintendent upon arrival at the site.

5.1.3 INSURANCE

Prior to commencement of Tenant work, the Tenant's Contractor shall provide to the Landlord:

- (a) Proof of Construction Liability Insurance for \$4,000,000 aggregate naming the Landlord as ~~eo-
assured~~an additional insured.
- (b) A Certificate of Insurance, including ~~Worker's Compensation and~~ Auto Insurance.
- (c) [Evidence of Worker's Compensation coverage as required by the applicable statutes in British Columbia.](#)

5.1.4 ACCESS

Prior to commencement of Tenant work, the Tenant must consult with the Tenant Coordinator to obtain the entrance locations and timing of material deliveries.

5.1.5 SAFETY

Tenant must provide subcontractor's emergency contact numbers prior to construction, to be updated as needed.

5.2 General Requirements

5.2.1 ACCESS

- (a) Access to the Premises for both construction personnel and material handling will be restricted to certain entrances and service corridors and shall be designated for each Tenant's use.
- (b) The Landlord, or his Consultants on his behalf, shall have access to the work whenever it is in preparation or progress, and the Tenant shall provide proper facilities for such access and inspection.

5.2.2 PARKING

Parking of vehicles will not be permitted on the job site unless the Tenant obtains the Landlord's approval. The Tenant, the general contractor, and his subtrades may park at the location indicated by the Landlord.

5.2.3 SAFETY

- (a) The Tenant shall maintain works upon the Premises in a clean and orderly condition. The Tenant shall remove from all common areas on a daily basis all of the following: construction waste, unused materials and equipment, and in particular, all flammable goods. Service corridors and external areas are to be kept clear at all times.
- (b) It is the responsibility of the Tenant to ensure that its contractors exercise all caution in matters relating to public safety and to comply with the standards established by authorities having jurisdiction.

5.2.4 FIRE PROTECTION

- (a) The Tenant shall ensure that proper provision for fire protection of the Premises is maintained during the construction and featuring period.
- (b) The Tenant, as may be directed by the local Fire Prevention Officer or Landlord, must maintain fire extinguishers on the Premises.

5.2.5 SECURITY

The Tenant will be entirely responsible for the security of the Premises during construction and the fixturing period, and shall take all necessary steps to secure the same. The Landlord shall have no liability for any loss or damage including the theft of building materials, equipment or supplies.

5.2.6 TEMPORARY SCAFFOLDING

Temporary scaffolding may be used to permit the installation of storefronts and sign panels. The type of scaffolding to be used will be subject to the Landlord's approval.

5.2.7 EQUIPMENT

All work benches, bench saws, tools, equipment and construction materials must be kept within the limits of the Premises.

5.2.8 LIMITATIONS

- (a) No suspended loads will be attached to the underside of the ceiling structure without the Tenant Coordinator's written approval.
- (b) No penetrations may be made beyond the leased space, especially into residential and/or common area spaces.

- (c) No wall mounted fixtures will be permitted other than those approved in writing by the Tenant Coordinator. The Tenant acknowledges that the steel stud and drywall demising walls are not designed to support wall-mounted fixtures or any load.
- (d) No load shall be imposed upon any floor areas of the Premises in excess of the design live load of 100 pounds per square foot. All dead loads, or all equipment and partitioning proposed by Tenant, must be approved by the Tenant Coordinator.
- (e) No penetrations may be made to concrete or structural members without the prior approval of the Tenant Coordinator.

5.2.9 NOISE LEVEL DURING CONSTRUCTION

- (a) Penetrations are to be made only during the hours of 8 AM to 4 PM. The Tenant must obtain the Landlord’s approval for the penetrations and the location thereof prior to the commencement of any drilling.
- (b) Any demolition work, removal or other work that would disturb or interfere with other tenants shall be performed only during the hours of 8 AM to 4 PM, upon at least twenty-four (24) hours advance notice to the Landlord.
- (c) Explosive-type fastening devices must not be used unless Approved by Landlord. If approved, all explosive-type fastening must be used during the hours of 8 AM to 4 PM.

5.2.10 REIMBURSEMENT

The Tenant shall reimburse the Landlord for any overtime labor or engineering costs incurred by the Landlord.

5.2.11 STATUTORY DECLARATION

Before making the last payment to the general contractor, we strongly suggest that the Tenants ask the general contractor for a statutory declaration stating that there is no civil suit laid against the general contractor resulting from the construction decree or from the Health and Safety in the Workplace bill or from any subtrades.

**ARTICLE VI
ACTION CHECKLIST**

ACTION	SCHEDULE
Supply name of General Contractor	Before beginning of Tenant’s Work
<input type="checkbox"/> Supply proof of Contractor’s License	Before beginning of Tenant’s Work
<input type="checkbox"/> Supply proof of Contractor’s Insurance coverage	Before beginning of Tenant’s Work
<input type="checkbox"/> Supply waivers from General Contractor	Before beginning of Tenant’s Work
<input type="checkbox"/> Supply list of Subtrades	Before beginning of Tenant’s Work
<input type="checkbox"/> Ensure Registration of G.C. and Subtrades with Site Security	Before beginning of Tenant’s Work
<input type="checkbox"/> Supply proof of Tenant’s Insurance coverage	Before delivery of Premises
<input type="checkbox"/> Acquire a Statutory Declaration from the G.C.	After Tenant’s Work is completed

SCHEDULE F

TENANT ESTOPPEL CERTIFICATE AND SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS TENANT ESTOPPEL CERTIFICATE AND SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**") is made as of the _____ day of _____, 20____, among R&H US CANADIAN PROPERTY LIMITED solely in its capacity as trustee of US CANADIAN PROPERTY TRUST ALPHA ("**Successor Head Landlord**"), CNL INCOME CANADA LESSEE CORP. ("**Interim Landlord**"), INTRAWEST ULC ("**Landlord**"), ~~BELL CANADA~~ BELL CANADA ("**Tenant**") and CONGRESS FINANCIAL CORPORATION (CANADA) ("**Lender**").

RECITALS

- A. Whistler Mountain Resort Limited Partnership (the "**Original Head Landlord**") granted a head lease dated as of December 3, 2004 as said head lease is amended, extended, renewed, supplemented, restated and/or replaced from time to time (collectively, the "**Head Lease**") of the property described in Schedule A (the "**Leased Premises**") and certain other property (the Leased Premises and such other property are together referred to as the "**Property**") to Interim Landlord.
- B. Original Head Landlord has sold the Property to the Successor Head Landlord, which acquired the Property through and caused legal title to be registered in a nominee company, and Original Head Landlord has assigned the interest of Original Head Landlord in the Head Lease to Successor Head Landlord.
- C. Interim Landlord has subleased the Property to Landlord by a lease (the "**Interim Lease**") dated as of December 3, 2004.
- D. Tenant is the subtenant of the Leased Premises, under and by virtue of the Lease (as defined herein) with Landlord.
- E. Lender has made a loan (the "**Loan**") to Successor Head Landlord in connection with the purchase of the Property by Successor Head Landlord from Original Head Landlord.
- F. The Loan is secured by certain security granted in favour of Lender, creating a first lien and charge upon the Property, which security will include any mortgage, assignment of rents, assignment of lease, security agreement, financing statements and other security as Lender may require (collectively referred to as the "**Security Documents**").
- G. It is a condition of the Loan that Tenant confirm certain matters relating to the Lease and that Tenant subordinate the Lease and all of Tenant's rights thereunder to the Security Documents and the liens and security interests created thereby, all in accordance with this Agreement.
- H. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by all parties, the parties hereby agree as follows:

- 1. Confirmation of Lease Terms. Tenant represents and confirms as follows:
 - (a) Tenant is the subtenant under the Lease between Landlord and Tenant, a copy of which is attached as Schedule B hereto (the "**Lease**").

(b) The Lease attached as Schedule B hereto is a true and complete copy of the Lease and the Lease is in full force and effect and has not been surrendered, repudiated, cancelled, assigned, extended, modified or supplemented in any way and the Lease is in full force and effect in accordance with its terms, except as follows [nil if not completed]:

_____.

(c) The Lease has been validly authorized, executed and delivered by Tenant.

(d) The Lease represents the entire agreement between Landlord and Tenant relating to the Leased Premises and, specifically, Tenant is not permitted or entitled to any rent abatement, rental concession, rebate of rent, defences, counterclaims or other offset or credit against Tenant's obligation to pay rent or any other amount payable under the Lease or to perform any of its other duties or obligations under the Lease, other than as specifically provided for in the Lease and except as follows [nil if not completed]:

_____.

(e) The Leased Premises constitute approximately _____ square feet of rentable area.

(f) The term of the Lease commenced or will commence on _____, 20____. The initial term of the Lease is _____. The expiration date of the Lease is _____. Tenant has the following option(s) to renew or extend the Lease, as set forth in the Lease [nil if not completed]:

_____.

(g) Tenant is not in default under the Lease and Tenant is not aware of any default by Landlord under the Lease or any event or state of affairs which, with the passage of time, would constitute a default by Landlord under the Lease and there are no disputes or unresolved matters or claims under the Lease.

(h) Tenant has no right to terminate or surrender the Lease in whole or in part prior to the expiration of the term of the Lease, no right to expand the Leased Premises and no option to purchase or right of first refusal to purchase with respect to the Property or any portion thereof except as follows [nil if not completed]:

_____.

(i) Tenant is required to pay the following rent under the Lease:

(i) Fixed annual minimum rent of \$_____, payable monthly in advance on the first day of each calendar month, and the fixed annual minimum rent is subject to the following increases: _____.

(ii) Percentage rent of _____ is payable as set out in Section 3.5 of the Lease. [describe any percentage rent payable]

(iii) “Additional Rent” of ● [Describe Tenant’s proportionate share of operating costs, taxes, common area charges, insurance, real estate taxes, etc. and when it is payable in accordance with the Lease – monthly, in advance, as set out in Section 4.1 of the Lease, etc.]

(j) Tenant has paid the following rent to date:

(i) Fixed annual minimum rent has been paid through: _____, 20____. [or: The following is any due and unpaid fixed annual minimum rent payable by Tenant under the Lease for the period up to and including _____, 20____:

_____]

(ii) Percentage rent has been paid through: _____, 20____. [or: The following is any due and unpaid fixed percentage rent payable by Tenant under the Lease for the period up to and including _____, 20____:

_____]

(iii) Tenant’s Additional Rent has been paid through: _____, 20____. [or: The following is any due and unpaid Tenant’s Additional Rent payable by Tenant under the Lease for the period up to and including _____, 20____:

_____]

(k) No security deposit or other deposit has been paid by Tenant with respect to the Lease except as follows [nil if not completed]:

_____.

(l) As of the date of this Agreement, Tenant is not entitled to any credits, reductions, offsets, defences, free rent, rent concessions or abatements of rent against the payment of rent or other charges under the Lease, and Landlord has given no consents, waivers or releases in connection with the Lease, except as follows [nil if not completed]:

_____.

(m) Tenant is in occupancy of the Leased Premises and Tenant’s business is open for business. All work to be performed for Tenant under the Lease has been performed as required and has been accepted by Tenant, except as follows [nil if not completed]:

_____.

(n) There are no actions or proceedings, whether voluntary or involuntary, pending under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies’ Creditors Arrangements Act* (Canada) or any similar law in which Tenant is a party or in which, if Tenant is a partnership, any partner of Tenant is a party.

- (o) Tenant has not assigned, pledged or encumbered the Lease or sublet all or any portion of the Leased Premises.
 - (p) Tenant has paid all sales taxes, goods and services taxes, use taxes, licence fees and other taxes and fees applicable to Tenant, except those that are not currently due.
2. Tenant's Agreements. Tenant agrees that Tenant will not, without the prior written consent of Lender and, prior to Lender taking any proceedings as contemplated by Section 5, without the prior written consent of Landlord:
- (a) pay to Landlord under the Lease rent in any amount in excess of one (1) month in advance;
 - (b) surrender the Lease or agree to any modification or amendment to or termination of the Lease; or
 - (c) assign or pledge the Lease or sublet all or any part of the Leased Premises.

Tenant will not terminate the Lease by reason of any default by Landlord or Interim Landlord or Successor Head Landlord unless prior thereto Tenant has given Interim Landlord and Successor Head Landlord and Lender notice thereof and an opportunity to cure such default in accordance with Section 7 below.

3. Subordination. The Lease and all of Tenant's rights thereunder are, and shall at all times continue to be, subordinate to the Security Documents and the liens and security interests created thereby, regardless of how often or in what manner the Loan, together with the liens securing the same, or any of the Security Documents may be increased, renewed, extended or modified at any time and from time to time.
4. Non-Disturbance. So long as Tenant is not in default in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession and occupancy of the Leased Premises and Tenant's rights and privileges under the Lease shall not be diminished or interfered with by Lender in the exercise of any of Lender's rights under the Security Documents or by Interim Landlord in the exercise of any of Interim Landlord's rights under the Interim Lease or by Successor Head Landlord in the exercise of any of Successor Head Landlord's rights under the Head Lease.
5. Attornment. If Lender takes any proceedings in respect of the Leased Premises (including taking possession, foreclosure or power of sale) as a result of the occurrence of a default under the Security Documents, Tenant shall attorn and be bound to Lender under all of the terms of the Lease for the balance of the term thereof remaining, including any renewals, with the same force and effect as if Lender were the sublandlord under the Lease, and Tenant hereby attorns to Lender as sublandlord under the Lease, such attornment to take effect automatically, without the execution of any further instrument on the part of any of the parties hereto, immediately upon Lender taking possession of the Leased Premises or foreclosing under the Security Documents or otherwise becoming the owner of the Leased Premises; provided that notwithstanding such attornment, Tenant shall be under no obligation to pay rent or additional rent to Lender by virtue of this Agreement until Tenant receives written notice pursuant to the Security Documents from Lender or its agent (including any receiver or receiver and manager) that a default under the Security Documents has occurred and that Lender is attorning such rents pursuant to the Security Documents. If Lender exercises a power of sale as a result of the occurrence of a default under the Security Documents, Tenant shall attorn and be bound to the purchaser pursuant to such power of sale under all of the terms of the Lease for the balance of the term thereof remaining, including any renewals, with the same force and effect as if the purchaser were the sublandlord under the Lease, such attornment to take effect automatically, without the execution of any further instrument on the part of the purchaser or Tenant, immediately upon the purchaser taking possession of the Leased Premises. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of Lender or any such purchaser: (a) any instrument or certificate which, in the reasonable judgment of Lender or such purchaser, may be necessary or appropriate to evidence such attornment, and (b) an up to date estoppel certificate in form and substance consistent with this Agreement. Further, from and after any such attornment, Lender or such

purchaser shall be bound to Tenant under all of the terms, covenants and conditions of the Lease; provided, however, that Lender or such purchaser shall not be:

- (a) liable for any action or omission of, or any payment required to be made by, any prior landlord or sublandlord (including Landlord, Interim Landlord and Successor Head Landlord);
 - (b) bound by any rent which Tenant might have paid for more than the current month to any prior landlord or sublandlord (including Landlord, Interim Landlord and Successor Head Landlord);
 - (c) liable for the return or application of any security deposits unless Landlord delivers such deposits to Lender;
 - (d) bound by any termination, surrender or amendment or modification of the Lease made without Lender's written consent; or
 - (e) subject to any offsets or deficiencies which Tenant might be entitled to assert against any prior landlord or sublandlord (including Landlord, Interim Landlord and Successor Head Landlord).
6. Confirmation of Attornment to Interim Landlord. Tenant confirms its agreement to attorn to Interim Landlord on the terms and in the circumstances set out in Article XVII of the Lease, and otherwise confirms for the benefit of Interim Landlord any and all provisions of the Lease which provide rights or powers to Interim Landlord whether or not the Interim Lease is in effect.
7. Notice and Cure Rights. In the event that Tenant ever notifies Landlord of a default or claimed default by Landlord under the Lease, Tenant shall send a copy of the written notice or a reasonably detailed written explanation of any oral notice (the "**Tenant Notice**") concurrently therewith to Interim Landlord, Successor Head Landlord and Lender at the addresses set forth below and no such notice of default shall be deemed given to Landlord pursuant to the Lease unless and until such Tenant Notice has been delivered to Interim Landlord, Successor Head Landlord and to Lender. Interim Landlord, Successor Head Landlord and Lender shall be permitted (but shall have no obligation) to remedy any such default or claimed default specified in the Tenant Notice within an equal period of time, commencing on the date Interim Landlord, Successor Head Landlord and Lender receive or are deemed to have received such Tenant Notice, that Landlord would be permitted to remedy the same pursuant to the terms of the Lease. Notwithstanding the foregoing, Interim Landlord, Successor Head Landlord and Lender shall have a minimum of thirty (30) days after its receipt of the Tenant Notice to remedy the default or claimed default, provided, however, that if such default or claimed default cannot be remedied with reasonable diligence by Interim Landlord, Successor Head Landlord or Lender, as the case may be, within thirty (30) days, Interim Landlord, Successor Head Landlord and Lender shall have such additional time as is reasonably necessary to remedy the default with reasonable diligence and continuity. Furthermore, if a default can be reasonably remedied only if Interim Landlord, Successor Head Landlord or Lender, as the case may be, first obtains possession of the Property or any part thereof or if any default is not curable by Successor Head Landlord or Lender, as the case may be, Interim Landlord, Successor Head Landlord and Lender shall have any additional time as is reasonably necessary under the circumstances to obtain possession of the Property or part thereof and, if such default is curable by Interim Landlord, Successor Head Landlord or Lender, as the case may be, to remedy the default with reasonable diligence and continuity thereafter.
8. No Diminution of Landlord's or Successor Head Landlord's Rights. Nothing contained herein is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of Landlord or Interim Landlord or Successor Head Landlord under the Lease in the event of default by Tenant in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed.
9. Notices. Any notice required or permitted to be given hereunder shall be in writing and will be deemed given (a) upon personal delivery, (b) on the first business day after receipted delivery to a courier service which guarantees next-business-day delivery, or (c) on the third business day after mailing, by registered or certified Canadian mail, postage prepaid, in any case to the appropriate party at its address set forth below:

If to Successor Head Landlord:

R&H US Canadian Property Limited
solely in its capacity as trustee of
US Canadian Property Trust Alpha
c/o CNL Income Corp.
450 South Orange Avenue
Orlando, Florida 32801-3336

Attention: Chief Financial Officer
Telecopy No.:

If to Interim Landlord:

CNL Income Canada Lessee Corp.
c/o CNL Income Corp.
450 South Orange Avenue
Orlando, Florida 32801-3336

Attention: Chief Financial Officer
Telecopy No.:

If to Landlord:

INTRAWEST ULC
c/o #329-2055 Lake Placid
Whistler, BC V0N 1B2

Attention: ●
Telecopy No.: ●

If to Tenant:

~~BELL CANADA
2100, 111 5th Avenue, S.W.
Calgary, AB T2P 3Y6~~

[NEXACOR REALTY MANAGEMENT INC.](#)
[2nd Floor, 87 Ontario Street](#)
[Montreal, Quebec H2X 1Y8](#)

Attention: ~~Mr. Jeff Hilton, Regional Manager, Logistics~~ Lease Administration
Telecopy No.: ~~(403) 410-8909~~

If to Lender:

Congress Financial Corporation (Canada)
141 Adelaide Street West, Suite 1500
Toronto, Ontario M5H 3L5
Telecopy No.:

Any party may change such party's address for notices or copies of notices by giving notice to the other parties in accordance with this section.

10. Choice of Law. The validity and construction of this Agreement shall be governed by the laws of the Province of British Columbia.
11. Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective heirs, executors, legal and personal representatives, successors in interest or assigns, as applicable. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, executors, legal and personal representatives, successors and assigns, and any purchaser or purchasers at foreclosure of the Leased Premises, and their respective heirs, executors, legal and personal representatives, successors and assigns.
12. Reliance. Tenant acknowledges that Successor Head Landlord, Landlord and Lender and each of their members, partners, shareholders, successors and assigns shall be entitled to rely upon Tenant's agreements and representations set forth in this Agreement. This Agreement shall be binding upon and inure to the benefit of Successor Head Landlord, Landlord, Tenant and Lender, and their respective members, partners, shareholders, successors and assigns.
13. Counterparts / Fax. This Agreement may be executed and delivered by counterparts and by fax, and when executed and delivered by all parties shall be binding on all parties as if all parties had executed and delivered the same original copy of this Agreement. If this Agreement is so executed and delivered, each signatory hereto shall execute and deliver an original counterpart of this Agreement at the request of any party at any time.
14. Recourse Limited to Trust Assets. The parties acknowledge and confirm that notwithstanding anything to the contrary herein, the liability of R&H US Canadian Property Limited will be limited to the property and assets of US Canadian Property Trust Alpha from time to time.

IN WITNESS WHEREOF, Successor Head Landlord, Landlord, Tenant and Lender have duly executed and delivered this Agreement as of the day and year first above written.

“SUCCESSOR HEAD LANDLORD”:

R&H US CANADIAN PROPERTY LIMITED
solely in its capacity as trustee of
US CANADIAN PROPERTY TRUST ALPHA

By: _____

Name: _____

Its: _____
(Authorized Signatory)

“INTERIM LANDLORD”:

CNL INCOME CANADA LESSEE CORP.

By: _____

Name: _____

Its: _____
(Authorized Signatory)

“LANDLORD”:

INTRAWEST ULC

By: _____

Name: _____

Its: _____
(Authorized Signatory)

“TENANT”:

~~BELL CANADA~~ BELL CANADA

By: _____

Name: _____

Its: _____
(Authorized Signatory)

“LENDER”:

**CONGRESS FINANCIAL CORPORATION
(CANADA)**

By: _____

Name: _____

Its: _____
(Authorized Signatory)

SCHEDULE A

THE LEASED PREMISES

The “**Leased Premises**” are the property described as follows:

Strata Lot 21
District Lots 4749 and 5316
Group 1, New Westminster District
Strata Plan LMS4421

together with all improvements thereon and all rights and benefits appurtenant thereto.

SCHEDULE B

THE LEASE

[Attach copy of Lease.]

SCHEDULE G

STRATA DEVELOPMENT ASSESSMENTS

STRATA DEVELOPMENT ASSESSMENTS

From and after the Occupancy Date, Tenant shall pay to Landlord, as Additional Rent, any and all amounts due from Landlord, Interim Landlord or Head Landlord to the Strata Corporation as assessments in respect of the Premises as contemplated in the Strata Corporation Documents.

SCHEDULE H

TENANT INSURANCE REQUIREMENTS

1. Tenant's Insurance.

- (a) Tenant shall maintain throughout the Term, at Tenant's expense, the following insurance, in the amounts specified below ~~or such other amounts as Landlord from time to time reasonably requests: (a) public: (a) comprehensive general~~ liability and property damage insurance, with limits of at least One Million Dollars (\$1,000,000) for death or injury to one person, Three Million Dollars (\$3,000,000) for death or injury to more than one person per occurrence and Five Hundred Thousand Dollars (\$500,000) for property damage per accident or occurrence, ~~which public liability and property damage insurance shall include premises operations on an occurrence form indicating contractual liability with an insured limit of \$3,000,000 per occurrence, including tenant's legal liability,~~ personal injury, ~~employers'~~ blanket contractual liability, products/completed operations hazard, broad form property damage and independent contractors coverages and provisions for cross-liability and severability of interest ~~(the required insured limit may be comprised of any combination of primary and excess (or "umbrella") insurance policies;~~ (b) property insurance covering ~~(i) all of Tenant's leasehold improvements (including Tenant's Work), trade fixtures, and other personal property from time to time during the Term in, on or upon the Premises, and (ii) those portions of the Premises that do not constitute common property of the Strata Development (including, without limitation, interior demising walls),~~ in an amount not less than the full replacement cost thereof, without deduction for depreciation, providing protection against any peril included within the classification "all risks" insurance, ~~which insurance may be subject to a deductible of not more than three percent of the replacement cost of the property insured,~~ and, except with respect to Tenant's trade fixtures and other personal property, must contain the standard mortgage clause of any Secured Lender; ~~(c) business interruption and use and occupancy insurance on a profits form with coverage equal to 100 percent of anticipated net profits and insured standing charges for at least one year; and (d) any additional insurance that Landlord or a Secured Lender may reasonably require from time to time. Any. If applicable, any~~ policy proceeds shall be used for the repair or replacement of the property damaged or destroyed, unless this Lease shall cease and terminate hereunder or Landlord consents in writing to another use.
- (b) All policies of ~~public~~ comprehensive general liability and property ~~damage~~ insurance maintained by Tenant under this Lease shall ~~name~~ include the Landlord, each Secured Lender, the Strata Corporation and such other Persons as Landlord specifies from time to time as additional insureds as their interests may appear. ~~Executed copies of such policies or certificates thereof, but solely with respect to liability arising out of the negligence of the Tenant, its employees, agents and contractors. Certificates evidencing such policies~~ shall be delivered to Landlord prior to Tenant's occupancy of the Premises and thereafter at least thirty days prior to ~~the expiration of the term of each~~ any cancellation of such policy or at such other times as Landlord reasonably requests in writing. Such certificates shall state that Landlord, each Secured Lender and the Strata Corporation are additional insureds ~~and the coverage provided by Tenant's insurer is primary to any and all insurance placed by or on behalf of such additional insureds. All public liability and property damage policies shall contain a provision that Landlord and the other additional insureds, although named as insured, shall nevertheless be entitled to recover under such policies for any loss occasioned to any of them, their servants, agents, members and employees by reason of the negligence or wilful misconduct of Tenant.~~
- (c) Tenant shall maintain the insurance policies it is required to maintain under this Schedule with insurance companies ~~and on forms reasonably acceptable to Landlord and any Secured Lender~~ authorized to carry on business in British Columbia and maintaining at least an A.M. Best "A" rating. The policies shall require at least thirty days written notice sent by registered or certified mail to Landlord before any cancellation or material change that reduces or restricts the

insurance to the detriment of the Landlord. Each policy of insurance maintained by Tenant is to be primary, non-contributing with, and not in excess of any other insurance available to Landlord, the Strata Development or any Secured Lender to the extent of their rights as additional insureds under the insurance policy(ies).

- (d) Tenant shall not at any time carry any stock of goods, or do or suffer or permit anything to be done in or about the Premises that is hazardous or that in any manner will violate, suspend, void, make inoperative or tend to increase the rate of any policies of insurance of any kind at any time carried by Landlord, Resort Owner or the Strata Corporation upon the Premises, the Commercial Strata Lot, the Commercial Space, the Strata Development, the Strata Development or the Resort and the fixtures and property therein. Any increase in the cost of any insurance carried by Landlord, Resort Owner or the Strata Corporation that is attributable to Tenant's activities in or about the Premises or Tenant's failure to perform and observe its obligations and covenants under this Lease shall be borne by Tenant and payable to Landlord from time to time, as Additional Rent, or to Resort Owner or the Strata Corporation as the case may be, on demand, regardless of whether Landlord shall have consented to such activities. Tenant, at its expense, shall comply with all rules, orders, regulations and requirements of the insurance underwriters having jurisdiction over the Premises, the Commercial Strata Lot, the Commercial Space, the Strata Development, the Strata Development or the Resort.
- (e) Tenant shall promptly comply, at its expense, with all requests of its insurers or any insurance advisory body regarding the Premises or Tenant's use of other portions of the Commercial Strata Lot, the Commercial Space, the Strata Development, the Strata Development or the Resort. Tenant shall rectify, to Landlord's reasonable satisfaction, within the time period given by Landlord to do so, any situation within the Premises which causes or may cause any insurance policy affecting the Premises, the Commercial Strata Lot, the Commercial Space, the Strata Development, the Strata Development or the Resort to be cancelled, failing which Landlord may terminate this Lease by giving written notice to Tenant, without prejudice to Landlord's other rights or remedies.

SCHEDULE I

PERMITTED USE AND MERCHANDISE LIST

1. Use.

Tenant shall use the Premise for the purpose of telecommunications infrastructure storage and servicing.

2. Exclusive Use Rights.

None.

SCHEDULE J

2010 OLYMPIC BID PROVISIONS

Notwithstanding the foregoing or any other provision of the Lease contained herein or elsewhere, the following provisions shall apply:

1. Acknowledgement of Olympic Bid. Tenant acknowledges that it is aware that a successful bid has been made for Vancouver, B.C. to host the 2010 Winter Olympic Games (the “**Games**”). As a result, several Olympic events will take place in the Whistler area and it is very likely that general public access to many areas in the Whistler vicinity, including the area in which the Premises are located will be restricted or prohibited for, at a minimum, the three weeks that the Games take place.
2. Vacant Possession of Premises. Tenant acknowledges and agrees that:
 - (a) the organizers (the “**Organizers**”) of the Games may require possession of the Premises to facilitate organization, administration and operation of the Games and if the Organizers notify Landlord that they require the Premises, Tenant shall, upon receiving not less than 90 days prior written notice from Landlord, provide vacant possession of the Premises on the date and for the duration specified in such notice;
 - (b) the period during which Tenant may be required to provide vacant possession of the Premises contemplated herein may occur as far in advance of the Games and for such period after the Games as the Organizers require; and
 - (c) Tenant shall have the option of removing all of its inventory, trade fixtures and personal property from the Premises prior to commencement of the period of vacant possession or removing only its personal property and leaving its trade fixtures and inventory in the Premises, provided if its inventory and trade fixtures are left in the Premises, then Landlord will require the Organizers to use reasonable efforts to secure the same within the Premises but, for greater certainty, the inventory and trade fixtures will be stored within the Premises at the sole risk and responsibility of Tenant and Tenant will have no claim against either Landlord or the Organizers with respect to any alleged loss of or damage to inventory or trade fixtures left in the Premises during the period of vacant possession.
3. Compensation. Tenant’s obligation pursuant to paragraph 2 of this Schedule J shall be subject to the following:
 - (a) the Organizers agreeing to pay to Landlord on behalf of Tenant during the period Tenant is required to provide vacant possession of the Premises to the Organizers, all payments on account of Rent payable by Tenant under the Lease on the due dates therefor as set out in the Lease (and for such period, Landlord shall enforce the obligation to pay Rent hereunder against the Organizers and not Tenant); and
 - (b) the Organizers agreeing to reimburse Tenant for all other reasonable, direct, actual and substantiated costs and expenses of Tenant in providing vacant possession of the Premises for the period required within a reasonable period of time after Tenant incurs such costs and expenses, including without limitation:
 - (i) the cost of storing its personal property, inventory and trade fixtures away from the Premises;
 - (ii) the cost of repair of any damage to the Premises caused during the period of vacant possession;

- (iii) all other expenses of occupancy pursuant to this Lease in addition to Rent as provided for in paragraph 3(a) of this Schedule J above, during the period of interruption in the occupancy by Tenant of the Premises; and
- (iv) business profits foregone by Tenant during the period of vacant possession, Tenant acknowledging and agreeing that such lost business profits shall be deemed to be ____% of the average Gross Revenue of Tenant for the corresponding period in each of the three immediately preceding years (or if Tenant has not been open for business at the Premises for the preceding three years, then for the corresponding period in each of the two immediately preceding years or in the immediately preceding year, respectively, where Tenant has been open for business at the Premises for the preceding two years or for the preceding year, as the case may be).

In the event Tenant and the Organizers are unable to agree on any matter relating to compensation or reimbursement to be paid pursuant to this paragraph 3, or to the timing of such payments, the matter shall be referred to arbitration under the rules of the British Columbia International Commercial Arbitration Centre, by a single arbitrator.

4. Release of Landlord. Tenant acknowledges that Landlord will have no control over closures or restriction of public access or other disruptions as a result of or relating to preparation for or the holding of the Games. Tenant covenants and agrees that Landlord shall have no liability to Tenant with respect to any inconvenience, business interruption, loss of business or other cause of loss or damage resulting from or relating to activities related to the Games or restrictions relating thereto, nor with respect to Tenant providing vacant possession of the Premises as contemplated herein, and Tenant hereby releases Landlord and its officers, directors, employees and agents from any liability for same. Tenant acknowledges that the only claim for any compensation it will have with respect to any such matters shall be a claim against the Organizers in accordance with paragraph 3 of this Schedule J.
5. Application of Lease Terms. For greater certainty, Tenant acknowledges and agrees that all terms of the Lease, including those requiring payment of Rent, shall remain in full force and effect during the entire Term, including any period during which Tenant provides vacant possession of the Premises as contemplated herein.

Document comparison done by DeltaView on Monday, October 1, 2007 10:16:10 AM

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Document 2	pcdocs://vdo_docs/1558876/3
Rendering set	MTStandard

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Statistics:	
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Deletions	467
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Moved to	0
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Format changed	0
Total changes	645