

11A

LAND TITLE ACT

00 MAY 15 11 21

BP109793

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

FABPIS & COMPANY

LTO CLIENT NO. 10294

40 CAVAN ST., PO BOX 778

Nanaimo, B.C. V9R 5M8

Pamela Hunken.

(1-250)-753-6661

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

(LEGAL DESCRIPTION)

024-755-893

Strata Lot *11*, District Lot 4214, Group 1, New Westminster District, Strata Plan LMS4141

3. NATURE OF INTEREST:*

DESCRIPTION

DOCUMENT REFERENCE
(page and paragraph)

PERSON ENTITLED TO INTEREST

Sublease of Lease *BP88756*

Entire Instrument

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only):

(a) Filed Standard Charge Terms

D.F. Number:

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S)/LESSOR(S):*

HORSTMAN OWNERS' ASSOCIATION (Inc. No. S-40895), 4205 Village Square, Whistler, British Columbia, V0N 1B4

6. TRANSFEE(S)/LESSEE(S): (including postal address(es) and postal code(s))*

WILLIAM DUNNIGAN, Dentist, and SHARON DUNNIGAN, Homemaker,
3574 Oakride Drive, Nanaimo, BC, V9T 1M4, as JOINT TENANTS

LAND TITLE ACT
FORM C

(Section 233)

Province of British Columbia
GENERAL INSTRUMENT - PART 1

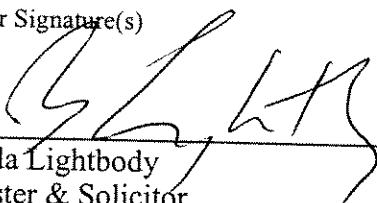
(This area for Land Title Office use)

7. ADDITIONAL or MODIFIED TERMS:* Nil

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

USE BLACK INK ONLY

Officer Signature(s)


Brenda Lightbody
Barrister & Solicitor
1300 - 777 Dunsmuir Street
Vancouver, B.C. V7Y 1K2

Execution Date

Y M D


00	04	17
00	01	09


USE BLACK INK ONLY

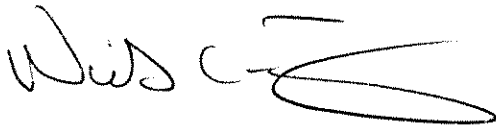
Party(ies) Signature(s)

HORSTMAN OWNERS' ASSOCIATION, by its authorized signatory:


Doug Ogilvy


William Dunnigan


Sharon Dunnigan


NICOLAI FABRIS
Barrister & Solicitor
P.O. BOX 778
NANAIMO, B.C.
V9R 5M2

OFFICER CERTIFICATION: Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

- * If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
- ** If space in any box insufficient, continue executions on additional page(s) in Form D.

HORSTMAN HOUSE
QUARTER USE SUBLEASE

This Sublease dated April 17, 2000

BETWEEN:

HORSTMAN OWNERS' ASSOCIATION

(the "Lessor")

AND:

THE OWNER NAMED IN SECTION 1.1

(the "Owner")

WHEREAS:

- A. The Owner has acquired an undivided one-quarter fee simple interest in the Strata Lot;
- B. As a mechanism for allocating rights and obligations relating to the Strata Lot among the owners from time to time of the four undivided one-quarter fee simple interests in the Strata Lot, and for facilitating the use and enjoyment of the Strata Lot, the Strata Lot is subject to a head lease (the "Association Lease") in favour of the Lessor pursuant to which the Lessor has a leasehold interest in the Strata Lot for a 99 year term commencing on April 10, 2000 and expiring on April 9, 2099, with automatic renewal for a further term of 99 years subject to the terms and conditions thereof, and the Lessor is obligated under the Association Lease to grant subleases of Quarter Use Periods in the form of this Sublease;
- C. Pursuant to the Purchase Agreement, the Owner agreed to enter into this Sublease to facilitate the use and occupation of the Strata Lot by the owners from time to time of the four undivided one-quarter fee simple interests in the Strata Lot; and
- D. The Owner and the Lessor wish to provide for the rental management of the Strata Lot in accordance with the Rental Management Addendum.

NOW THEREFORE the parties agree as follows:

**ARTICLE 1
BASIC TERMS AND DEFINITIONS**

1.1 Basic Terms. The parties agree to the following basic terms of this Sublease:

Name of Owner: William Dunnigan and Sharon Dunnigan

Address of Owner: 3574 Oakridge Drive, Nanaimo, BC, V9T 1M4

Strata Lot: Strata Lot //, District Lot 4214, Group 1, New Westminster District, Strata Plan LMS4141, together with an interest in the common property in proportion to the unit entitlement of the Strata Lot as shown on Form 1

Quarter Use Period: A [Group A, B, C or D]

Term of this Sublease: 99 years less one day, plus one renewal term of 99 years less one day (see section 2.4)

Commencement Date: April 10, 2000

Expiry Date: one day prior to last day of Association Lease

1.2 Defined Terms. The following words and expressions shall have the following meanings:

- (a) "Additional Rent" means the amount specified in any Notice of Assessment, any amount assessed as a result of Damage and any other assessment against the Owner relating to the Strata Lot which the Lessor or Strata Corporation is authorized to make from time to time;
- (b) "Base Rent" means the sum of one dollar (\$1.00);
- (c) "Capital Reserve Contribution" means a monthly contribution by each Quarter Owner toward a reserve for the replacement due to normal wear and tear of in-suite furniture, fixtures and equipment in the Residential Units, in accordance with section 7.2;
- (d) "Capital Reserve Fund" means the aggregate of all Capital Reserve Contributions paid by the Quarter Owners;
- (e) "Damage" means any damage or loss caused during the Owner's Quarter Use Period to the Strata Lot and any furnishings, fixtures, equipment and supplies within or about the Strata Lot, as determined by the Lessor and not covered by policies of insurance maintained by the Lessor, reasonable wear and tear and damage caused by

negligence and omission of the Lessor excepted. It shall also include cleaning costs if in the opinion of the Lessor the Strata Lot, furnishings or fixtures are left by the Owner in an unreasonably dirty condition;

- (f) "Development" means the residential condominium development known as "Horstman House" at 4653 Blackcomb Way, Whistler, British Columbia, of which the Strata Lot forms a part;
- (g) "Lease Year" means each consecutive year (or, in the case of the first and last Lease Years, part year) during the term of the Association Lease commencing on, subject to subsection 1.3(c), the first Friday in January of each calendar year and ending one year later. Each Lease Year is divided into weeks and Quarter Use Periods as set out in section 1.3.
- (h) "Management Agreement" means any agreement that may exist between the Lessor and/or the Strata Corporation and the Manager for managing, maintaining and operating the Strata Lots and/or the common property;
- (i) "Manager" means the manager appointed pursuant to the Management Agreement;
- (j) "Municipality" means Resort Municipality of Whistler;
- (k) "Notice of Assessment" means the notice or notices given in each Lease Year to the Owner setting out estimated annual Operating Costs in accordance with the provisions of this Sublease and the by-laws of the Owners' Club and the Strata Corporation;
- (l) "Operating Costs" means those operating, maintenance and replacement costs, reserves fees, expenses and charges relating to the Strata Lot in a Lease Year designated as such by the Lessor or Manager including those outlined in Schedule B and other reasonable outlays including legal and accounting fees;
- (m) "Owners' Association" means the society comprising the Lessor of which the Owner becomes a member pursuant to section 10.1, incorporated under the *Society Act* (British Columbia) as #S-40895;
- (n) "Prime Rate" means the rate of interest used by the Owners' Association's primary bank (or such other Schedule 1 bank as may from time to time be designated by the Owners' Association) as a reference rate for establishing rates of interest for Canadian dollar loans payable on demand in effect from time to time and commonly known as its prime rate;
- (o) "Prospectus" means the prospectus offering undivided one-quarter fee simple interests in the strata lots in Strata Plan LMS4141 on the date of the Purchase Agreement under the laws of the jurisdiction governing such offering;
- (p) "Purchase Agreement" means that certain agreement entitled "Offer to Purchase and Agreement of Sale" entered into between Intrawest Resort Corporation and the

Owner relating to the purchase by the Quarter Owner of an undivided one-quarter fee simple interest in the Strata Lot and which provides that the parties will enter into this Sublease;

- (q) "Quarter Owners" means all of the owners of undivided one-quarter interests in the Residential Units;
- (r) "Quarter Use Period" means the minimum 12 week per year period of use of the strata lots offered by the Prospectus and, where the context requires, the Quarter Use Period of use of the Strata Lot as set out herein;
- (s) "Rent" means the Base Rent and Additional Rent, and where the context requires, any interest thereon;
- (t) "Rental Covenant" means the covenant under section 219 of the *Land Title Act* (British Columbia) registered against title to the Strata Lot under No. BL434529 and any modification or replacement thereof;
- (u) "Rental Management Addendum" means Schedule A to this Sublease entitled "Rental Management Addendum" which is incorporated into and forms part of this Sublease;
- (v) "Residential Units" means strata lots 1 to 51 inclusive in the Development and includes the Strata Lot;
- (w) "Special Resolution" means a special resolution of the members of the Owners' Association passed in accordance with the bylaws of the Owners' Association;
- (x) "Strata Corporation" means the strata corporation known as The Owners, Strata Plan No. LMS4141;
- (y) "Strata Lot" means the strata lot which is described in section 1.1 of this Sublease; and
- (z) "Sublease" means this sublease and includes the Rental Management Addendum and, if the context requires, any other sublease in similar form with respect to the Strata Lot and other strata lots which are part of Strata Plan LMS4141.

1.3 Division of Sublease Year into Weeks and Quarter Use Periods.

- (a) Each Lease Year (other than the first and last Lease Years) is divided into fifty-two weeks, numbered consecutively. The first week commences on the first Friday in January of each calendar year and is numbered "1" and each week thereafter is numbered consecutively up to "52". The weeks are allocated sequentially to four Quarter Use Periods designated A, B, C and D, so that each Quarter Use Period includes every fourth week; provided, however, that:

- (i) the Lessor or Manager shall have the right to reserve and occupy the Strata Lot for one week each year for maintenance, which week will form part of the Quarter Use Period of the Quarter Owner to whom that week would otherwise have been allocated (but the schedule will be designed to ensure that the maintenance week only falls within a Quarter Owner's Use Period once every four years). For example:

Week 40	Quarter Use Period One
Week 41	Quarter Use Period Two
Week 42	Quarter Use Period Three
Week 43	Quarter Use Period Four
Week 44	maintenance week (Quarter Use Period One)
Week 45	Quarter Use Period Two, and so forth.

(This is an example only.)

- (b) The Quarter Owner to whom the maintenance week would otherwise have been allocated will be allocated two consecutive weeks which include December 25 and any adjustments required to ensure that no Quarter Owner loses the use of the Residential Unit to which he would otherwise be entitled will be made.
- (c) The weeks included in the Owner's Quarter Use Period will vary from year to year and will be determined pursuant to subsections 1.3(a) and (b). At the commencement of each five-year period during the term of the Association Lease, the Manager or the Lessor will publish a calendar for the next ensuing five-year period setting out the weeks allocated to the Owner's Quarter Use Period. By virtue of the week selected for maintenance by the Lessor or the Manager and the extra week allocated to Quarter Owner affected by the maintenance week, the weeks allocated to the Owner's Quarter Use Period will vary from year to year.
- (d) Notwithstanding subsection 1.3(a), the Owners' Association may from time to time after the first Lease Year, by Special Resolution, change the day of the week on which each week begins and ends for the purpose of determining the Quarter Use Period.
- (e) The determination of the maintenance week in each calendar year will be established by agreement between the Manager and the Lessor.

**ARTICLE 2
GRANT AND TERM**



2.1 Grant.

- (a) The Lessor subleases to the Owner ~~the fee simple interest in~~ the Strata Lot for the term set out in section 1.1, commencing on the Commencement Date and expiring on the Expiry Date, at and for the Base Rent and Additional Rent and subject to the covenants, provisos and conditions contained herein, which the Owner hereby agrees

to observe, keep and perform. For greater certainty, the sublease granted herein includes all rights appurtenant to the Strata Lot to use and enjoy, during the applicable Quarter Use Period, any limited common property designated for the use of the Strata Lot (whether alone or in common with the owners of other Residential Units) and, subject to subsection 2.1(b) of this Sublease and section 5.6 of the Rental Management Addendum, the common property of the Strata Corporation, without any additional fee or charge, including the ski storage room, the bicycle storage room and the recreational facilities, subject to any bylaws, rules and regulations of the Strata Corporation regulating the use thereof, provided such bylaws, rules and regulations are of general application to all Quarter Owners and do not impose any fee or charge with respect to the use thereof.

- (b) Notwithstanding subsection 2.1(a), it is acknowledged that the right of the Quarter Owners to use any parking stall which is not designated as limited common property for any Residential Unit was reserved out in favour of the Quarter Owners under the Association Lease, provided that the Owner acknowledges that the Owner is entitled only to use a maximum of one of such parking stalls, free of charge, for temporary day parking only, when the Owner is not occupying the Strata Lot, subject to any bylaws, rules and regulations of the Strata Corporation imposed to regulate such use based on demand, availability, usage patterns and similar concerns.

2.2 Quarter Use Period. Subject to the Owner reserving in advance with the Lessor each week of use in accordance with the Rental Management Addendum, the Owner shall be entitled to the exclusive use, occupation and possession of the Strata Lot and all of the other rights referred to in subsection 2.1(a) during each week that is included in the Owner's Quarter Use Period, but not otherwise.

2.3 Rental Management Addendum.

- (a) The parties acknowledge and agree that this Sublease and the subject matter hereof are subject to the rights and duties of the parties set out in the Rental Management Addendum. The Owner and the Lessor each agree that by executing and delivering this Sublease, they have executed and delivered the Rental Management Addendum and covenant and agree to observe strictly and to be bound by all of the terms and conditions set out therein. The terms and conditions of the Rental Management Addendum are hereby incorporated into this Sublease and form an integral part hereof.

- (b) In the case of a conflict between any of the terms or conditions of this Sublease and any of the terms or conditions of the Rental Management Addendum, the terms and conditions of the Rental Management Addendum will prevail.

2.4 Renewal. Upon the expiry of the initial term of this Sublease, this Sublease will be automatically renewed for a further term of 99 years less one day, commencing on the first day of the renewal term of the Association Lease, unless, during the final year but before the end of the initial term, the Owners' Association, by Special Resolution, elects not to renew the Association Lease in accordance with its terms.

**ARTICLE 3
RIGHT OF OCCUPATION**

- 3.1 Advance Reservations. The Owner shall reserve in advance with the Lessor each week of use in accordance with the Rental Management Addendum.
- 3.2 Duration of Week. The Owner's right of occupation in each week that is reserved in accordance with section 3.1 commences at 4:00 p.m. on the first day of the week of use and terminates at 11:00 a.m. on the last (seventh) day of the week of use.
- 3.3 Occupancy Restrictions. The Owner shall abide by and shall not exceed the following occupancy restrictions with respect to the Strata Lot:

<u>Type of Strata Lot</u>	<u>Maximum Number of Persons</u>
one bedroom	4
two bedroom	6
two bedroom townhouse	6
three bedroom townhouse	8

- 3.4 Furnishings. The Strata Lot shall be provided at the commencement of the term with furnishings and fixtures as indicated in the Prospectus. The Owner acknowledges that such furnishings and fixtures are the property of the Owners' Association.
- 3.5 In-Suite Storage Lockers. The Strata Lot is provided with four storage lockers, one each for the personal use of the Owner and the other three owners of undivided one-quarter fee simple interests in the Strata Lot. The Owner will not tamper with any other owner's personal locker. The Owner acknowledges that the Owner will only have access to his or her locker during a week in which the Owner is actually occupying the Strata Lot.

**ARTICLE 4
RENT**

- 4.1 Rent. The Owner shall pay the Lessor the prepaid Base Rent upon execution of this Sublease, and the Additional Rent when due in the manner set out in section 5.1 and the Rental Management Addendum.

**ARTICLE 5
OWNER'S COVENANTS**

- 5.1 Owner's Covenants. The Owner covenants with the Lessor:
- (a) to pay the Lessor all rent (including Additional Rent) hereunder, when due, including all Operating Costs applicable to the Owner's undivided one-quarter fee simple interest in the Strata Lot and the Owner's leasehold interest pursuant to this Sublease when due;

- (b) to pay interest at the Prime Rate plus six percent per annum calculated monthly (or such other rate as may be approved from time to time by the Owners' Association in accordance with its bylaws) on all sums payable to the Lessor which are not paid as and when they are due. A delinquency occurs if said sums due not paid within thirty (30) days after the date the Lessor bills the Owner for same;
- (c) in the course of the use of the Strata Lot, not to create a nuisance or do any act which would interfere with the use and enjoyment of other owners;
- (d) at the end of each week of use, to vacate promptly when required by section 3.2 hereof, and to pay the costs of relocating another owner or guest if caused by the late departure of the Owner, and if the Owner overstays any of the Owner's allocated weeks, to pay as Additional Rent a charge determined by the Lessor in its discretion, the proceeds of which (where recovered) shall be paid or credited to the other owner of an undivided one-quarter fee simple interest in the Strata Lot so affected;
- (e) at the end of each week of use, to leave the Strata Lot in a good and reasonable state of repair;
- (f) to pay to the Lessor forthwith upon demand any and all costs incurred by the Lessor as a result of necessary repair or replacement resulting from the abuse or misuse of or Damage to the Strata Lot or its furnishing or fixtures by the Owner or by any Permitted User (as defined in the Rental Management Addendum);
- (g) to permit the authorized officers, agents or employees of the Manager, the Lessor and the Strata Corporation to enter the Strata Lot at all reasonable times for the purpose of cleaning, maintaining, repairing or examining the condition of the Strata Lot;
- (h) not to engage in any activities that would render the insurance on the Strata Lot void or that would increase the rate of such insurance;
- (i) not to commit waste or do or permit to be made any alteration, addition, change or improvement in the Strata Lot without the written consent of the Lessor and the Strata Corporation, which consent may be arbitrarily withheld. The Lessor shall not be liable to any contractor, subcontractor, material man, or to any person, for any claim of any nature in connection with any alteration, addition or improvement carried out by the Owner or his servants or agents;
- (j) to comply with all provisions of law including without limiting the generality of the foregoing all proper enactments of the federal, provincial, and municipal governments, and the Rental Covenant, and to be familiar with and comply with the bylaws of the Strata Corporation and the Owners' Association;
- (k) not to apply for partition and/or sale of the whole Strata Lot;

- (l) not to assign, transfer or convey any interest in the Strata Lot except by way of instruments which individually convey a one-quarter fee simple interest in the Strata Lot;
- (m) not to apply to consolidate the title to the Owner's undivided one-quarter fee simple interest in the Strata Lot with any other undivided one-quarter fee simple interest in the Strata Lot owned by the Owner;
- (n) not to bring or allow to be brought into the Strata Lot or the common property of the Strata Corporation any pet or animal of any kind;
- (o) not to smoke or allow any invitee or designee of the Owner to smoke cigarettes, cigars or pipes of any kind in the Strata Lot or any enclosed common property of the Strata Corporation; and
- (p) upon the reasonable request of the Lessor, the Owner shall, within ten days of the request, execute and deliver in favour of any person identified by the Lessor an estoppel certificate as to the status of this Sublease, the state of the accounts hereunder, any alleged defaults on the part of the Lessor hereunder and such other information as may be reasonably requested by the Lessor.

ARTICLE 6
RIGHT OF ASSIGNMENT, SUBLEASING AND MORTGAGING

- 6.1 General Restriction. The Owner shall not assign, transfer or mortgage this Sublease or sublet the Owner's leasehold interest in the Strata Lot except in compliance with this Article 6. No assignment, transfer, gift or mortgage of the Owner's undivided one-quarter fee simple interest in the Strata Lot or this Sublease and no sublease by the Owner of the Owner's leasehold interest in the Strata Lot which does not comply with this Article 6 shall be of any effect.
- 6.2 Assignment. The Owner may assign his or her interest in this Sublease provided that:
- (a) the Owner provides prior written notice thereof to the Lessor;
 - (b) the Owner may only assign the whole of the interest in this Sublease, and partial assignments are absolutely prohibited;
 - (c) concurrently with such assignment, the Owner also conveys to the assignee his or her undivided one-quarter fee simple interest in the Strata Lot in accordance with the Rental Management Addendum;
 - (d) the assignee enters into an assignment and assumption agreement with the Lessor, in the form attached as Schedule C hereto wherein the assignee agrees to assume all of the obligations of the Owner under this Sublease including the Rental Management Addendum; and.

- (e) the Owner is not in default of its obligations under this Sublease or remedies all such defaults prior to the assignment.

6.3 Mortgaging. The Owner may mortgage the Owner's leasehold interest in the Strata Lot pursuant to this Sublease provided that:

- (a) the Owner provides prior written notice thereof to the Lessor;
- (b) concurrently with such mortgage, the Owner also grants to the same mortgagee a mortgage of the Owner's undivided one-quarter fee simple interest in the Strata Lot;
- (c) the mortgagee executes an agreement in the form attached as Schedule D hereto, granting the option to lease in favour of the Lessor registered against title to the Strata Lot, the Association Lease and this Sublease (including the lien created by section 8.2) priority over the fee simple mortgage, agreeing to be bound by the terms of, inter alia, the Association Lease and this Sublease, agreeing not to enforce the mortgage of this Sublease unless it enforces the mortgage of the fee simple interest (and vice versa) and agreeing that it will require any purchaser in foreclosure of the Owner's undivided one-quarter fee simple interest in the Strata Lot to acquire both a fee simple interest in the Strata Lot and this Sublease;
- (d) the Owner is not in default of its obligations under this Sublease or remedies such defaults prior to the mortgage; and
- (e) no second or subsequent mortgages shall be permitted without the prior written consent of the Lessor which may be withheld at the sole discretion of the Lessor.

6.4 Concurrent Sale and Assignment. The Owner agrees not to sell, transfer, gift or mortgage its undivided one-quarter fee simple interest in the Strata Lot unless it concurrently assigns or mortgages its interest in this Sublease to the same person in accordance with this Article 6.

6.5 Costs. The Owner shall pay all costs, including legal costs, incurred by the Lessor in connection with any assignment, transfer or mortgage of the Owner's interest in the Strata Lot or the Sublease.

ARTICLE 7 LESSOR'S COVENANTS

7.1 Lessor's Covenants. The Lessor covenants with the Owner:

- (a) for quiet enjoyment;
- (b) to keep the Association Lease in good standing;
- (c) not to assign its interest in this Sublease or the Rental Management Addendum without approval by Special Resolution and unless the Lessor concurrently assigns

to the same party its interest in the Association Lease, all other leases of the Residential Units in favour of the Owners' Association and all other subleases relating to such strata lots and also transfers title to Strata Lot 52, Strata Plan LMS4141 to the same party;

- (d) to deposit all funds received from the Owner for the operation and management of the Strata Lot with a savings institution;
- (e) not to permit any other Quarter Owner or person to bring or allow to be brought into the Strata Lot or the common property of the Strata Corporation any pet or animal of any kind;
- (f) not to permit any other Quarter Owner or person to smoke cigarettes, cigars or pipes of any kind in the Strata Lot or any enclosed common property of the Strata Corporation;
- (g) to make all books and records pertaining to the operation and management of the Strata Lot available for inspection by the Owner at all reasonable times upon reasonable prior notice;
- (h) to manage the Strata Lot in a good and businesslike manner, and, without limiting the generality of the foregoing, on behalf and, unless otherwise provided, at the cost of the Owner (and the other owners of undivided one-quarter fee simple interests in the Strata Lot), to:
 - (i) maintain or cause to be maintained fire and extended perils insurance on the furniture, appliances, equipment and furnishings contained within the Strata Lot, at the cost of the Lessor;
 - (ii) subject to the Owner paying its share of Operating Costs and other Additional Rent, attend to the payment of property taxes, utilities and any assessments relating to the Owner's undivided one-quarter fee simple interest in the Strata Lot levied by the Municipality, the Whistler Resort Association and any other authority having jurisdiction;
 - (iii) maintain liability insurance associated with the Owner's use of the Strata Lot; and
 - (iv) to assist in the formation of the annual budget of Operating Costs and the Strata Corporation's annual budget.

7.2 Capital Reserve Fund. The amount of the Capital Reserve Contribution will be determined annually by the Lessor in connection with the preparation of the annual budget of the Lessor. The Owner will pay the Capital Reserve Contribution to the Lessor each month as part of Operating Costs and the Lessor will deposit the Capital Reserve Contribution in a separate bank account in the name of the Lessor together with similar funds collected from the other Quarter Owners, as a reserve for the replacement due to normal wear and tear of in-suite furniture, fixtures and equipment. One representative of the Manager and one member of

the Lessor will at all times be joint signatories with respect to such bank account. The Lessor and the Manager (but not the Owner) will make all final decisions regarding expenditures from the Capital Reserve Fund and no expenditure from the Capital Reserve Fund shall be made unless similar expenditures are concurrently made for replacement of the same items in all of the Residential Units. For greater certainty, the Capital Reserve Fund will not be used for the purposes of repairs to the Strata Lot contemplated in sections 5.4 and 5.5 of the Rental Management Addendum. Any interest earned on the Capital Reserve Fund shall remain in the bank account and form part of the Capital Reserve Fund. The Owner will not be entitled to receive any part of the Capital Reserve Fund at any time including, without limitation, upon sale of his or her interest in the Strata Lot.

ARTICLE 8 DEFAULT

8.1 Lessor's Rights.

- (a) If the Owner is in default of any of the Owner's covenants in this Sublease, and if the Owner fails to rectify such default for a period of thirty (30) days after being given notice of default by the Lessor, then, at the option of the Lessor, the Lessor may suspend any or all rights of the Owner, including the right to vote in the Owners' Association and the right of use and possession of the Strata Lot and the Owner's rights under the Rental Management Addendum, until such default has been rectified (but such suspension of rights shall not suspend the Owner's obligations hereunder). The Owner acknowledges and agrees that if such default remains unremedied at the end of said thirty (30) days the Lessor shall be entitled to rent out the Strata Lot to the general public and apply any rental revenue received, less any expenses incurred by the Lessor including any commission or fee paid to the Manager or any other person for renting out the Strata Lot, towards the amounts owing by the Owner. In the event such rental revenue is less than the amount owing by the Owner, the Owner shall pay the shortfall. In the event the rental revenue exceeds the amount owing by the Owner, the excess shall be paid to the Owner.
- (b) In addition to the remedy of the Lessor set out in subsection 8.2(a), if the Owner is in default of the Owner's obligation to pay Additional Rent hereunder, and if the Owner fails to rectify such default for a period of thirty (30) days after being given notice of default by the Lessor, then, at the option of the Lessor, the Lessor may terminate this Sublease.
- (c) The bankruptcy, insolvency, receivership or winding-up of the Owner, any arrangement for the benefit of the creditors of the Owner, any execution, attachment or distress or similar process taking effect against any of the assets of the Owner or the occurrence of similar events will constitute an event of default under this Sublease which will give the Lessor the right, at its option, to exercise the remedies referred to in subsections 8.1(a) and 8.1(b).

- 8.2 Lien. The Owner hereby grants to the Lessor a lien over the Owner's undivided one-quarter fee simple interest in the Strata Lot for any unpaid Additional Rent owing to the Lessor pursuant to this Sublease. In addition to, and not in substitution for, any right or remedy the Association may have, at law or in equity in respect of such lien, the Lessor shall have the right to appoint a receiver of the Owner's undivided one-quarter fee simple interest in the Strata Lot and a power of sale to enforce the lien if it remains unpaid for a period of thirty (30) days after written demand.
- 8.3 Lessor May Borrow. The Lessor may, at its option, borrow money to pay any unpaid Additional Rent owing to the Lessor pursuant to this Sublease, and all costs of borrowing, including repayment of principal and interest, shall constitute further Additional Rent and shall be due and payable by the Owner immediately upon demand.
- 8.4 Other Remedies. The exercise of any remedy by the Lessor shall be without prejudice to any additional rights or remedies the Lessor may have against the Owner.
- 8.5 Owner Remains Liable. If this Sublease expires or is terminated for any reason all Additional Rent and other amounts due by the Owner hereunder shall nevertheless remain due and owing and be recoverable by the Lessor.

ARTICLE 9 LIABILITY

- 9.1 Exclusion. The Owner agrees that the Lessor shall not be liable or responsible in any way for any personal injury or death that may be suffered or sustained by the Owner or by any person for whom the Owner is responsible or who is an invitee or guest of the Owner and is upon the Strata Lot or the common property of the Strata Corporation, or for any loss of or damage or injury to any property, including motor vehicles and, contents thereof, belonging to the Owner or to the Owner's invitees or guests (including Permitted Users) whether or not caused by the negligence of the Lessor, the Manager, the Strata Corporation or their employees or agents and the Owner hereby agrees to indemnify and save harmless the Lessor from any such liability or responsibility.

ARTICLE 10 OWNERS' ASSOCIATION

- 10.1 Membership in Owners' Association. The Owner shall, without any further act, become a member of the Owners' Association and agrees to observe all of the by-laws, rules, and orders made by the Owners' Association or made by the Manager with authorization of the Owners' Association or the Strata Corporation. The Owner will automatically cease to be a member of the Owners' Association upon transferring ownership of the Owner's interest in the Strata Lot and assigning its interest in this Sublease in accordance with section 6.3 of the Rental Management Addendum.

ARTICLE 11 STRATA CORPORATION VOTING

11.1 Present Arrangements. The Owner acknowledges and agrees that, subject to the Association Lease and section 11.2 hereof, the right to exercise the Strata Lot's one vote in the Strata Corporation will be determined as follows, unless otherwise determined by a simple majority of the Quarter Owners of the Strata Lot:

- (a) the Quarter Owner entitled pursuant to subsection 1.3(b) to the use of the Strata Lot for a two week period which includes December 25 in the current calendar year is entitled to exercise the Strata Lot's vote at any meeting of the Strata Corporation held during the current calendar year;
- (b) if a Quarter Owner is not present, in person or by proxy, at any meeting of the Strata Corporation, or fails to vote in a mail-in vote, then the Quarter Owner entitled pursuant to subsection 1.3(b) to the use of the Strata Lot for a two week period which includes December 25 in the next calendar year will be entitled to exercise the Strata Lot's vote at such meeting, and so on; and
- (c) any Quarter Owner of the Strata Lot may, subject to the bylaws of the Owners' Association provide to the Owners' Association a provisional proxy or mail-in vote in respect of any general meeting of the Strata Corporation, but such proxy or mail-in vote will only be submitted by the Association to the Strata Corporation if the Quarter Owner who provided the same is entitled to exercise the Strata Lot's vote at that meeting in accordance with the foregoing.

11.2 Future Arrangements. Notwithstanding that the Strata Lot is allocated one vote in the Strata Corporation, the Owner agrees and acknowledges that, subject to the Association Lease, if the bylaws of the Strata Corporation are amended to allow each Quarter Owner of the Strata Lot to exercise one quarter of that vote independently of each other, then the Owner will only be entitled to exercise one quarter of that vote and each of the other three Quarter Owners holding an interest in the Strata Lot will be entitled to exercise one of the three remaining one-quarter votes. Any such Quarter Owner, including the Owner, will be entitled to exercise his or her one-quarter votes independently regardless of how the other three Quarter Owners exercise their one-quarter votes.

ARTICLE 12 NOTICE

12.1 Notices. Any notice, communication or payment required to be given under this Sublease may be delivered or mailed by prepaid regular mail addressed to the Lessor at its registered address or addressed to the Owner at the address of the Owner as recorded in the Owners' Association's books, and any notice so mailed shall be deemed to have been received by the Lessor or the Owner seventy-two (72) hours after being so mailed. The Owner agrees to immediately notify the Lessor of any change in its mailing address.

**ARTICLE 13
GENERAL**

- 13.1 No Partnership. Nothing in this Sublease or the Rental Management Addendum will create a partnership or joint venture relationship between the Lessor and the Owner, or between the Owner and any other Quarter Owner.
- 13.2 Waiver. Any waiver by the Lessor of any breach of a covenant or obligation of the Owner hereunder shall not constitute a waiver of any other breach of any other covenant or obligation of the Owner or of any subsequent breach of the same covenant or obligation.
- 13.3 Interpretation. In this Sublease, the singular includes the plural, the masculine includes the feminine and neuter, any reference to a party includes that party's heirs, executors, administrators and permitted assigns and in the case of a corporation, its successors and permitted assigns, and any covenant, proviso, condition or agreement made by two or more persons shall be construed as several as well as joint.
- 13.4 Governing Law. This Sublease is governed by and is to be construed in accordance with the laws of the Province of British Columbia.
- 13.5 Enurement / Binding Effect. This Sublease shall enure to the benefit of and be binding upon the Lessor and its successors and assigns and upon the Owner and the heirs, executors, administrators, successors and permitted assigns of the Owner.

IN WITNESS WHEREOF the parties hereto have executed this Sublease on Form C attached hereto.

SCHEDULE A TO QUARTER USE SUBLEASE

RENTAL MANAGEMENT ADDENDUM

FORMING PART OF THE QUARTER USE SUBLEASE TO WHICH
THIS ADDENDUM IS ATTACHED AS SCHEDULE A

**ARTICLE 1
DEFINITIONS**

- 1.1 Definitions. In this Addendum the following terms have the following meanings:
- (a) “Adjusted Gross Revenue” means the Gross Revenue less all hotel tax and other applicable taxes, rates and charges with respect to the rental of the Strata Lot due to public authorities and less Booking Commissions and Credit Card Commissions;
 - (b) “Base Clean” means changing towels, removing garbage and general touch up cleaning;
 - (c) “Booking Commissions” means bona fide booking commissions actually paid or payable by the Lessor to travel agents, wholesalers, and the Whistler Resort Association, and reasonable booking commissions or reservation fees paid or payable to any third party reservation service, in respect of the rental of the Strata Lot during the Owner’s Quarter Use Period, whether or not included in a packaged room rate or imposed as a separate charge but without duplicating any such charge paid directly to the service provider by a guest;
 - (d) “Change Over Clean Up Fee” means the fees charged by the Lessor when a Permitted User departs the Quarter Lot after a period of personal use pursuant to section 7.6;
 - (e) “Credit Card Commissions” means credit card commissions incurred by the Lessor in respect of the rental of the Strata Lot during the Owner’s Quarter Use Period;
 - (f) “Daily User Fee” means the daily fee payable to the Lessor pursuant to section 7.5.
 - (g) “Gross Revenue” means all amounts collected by the Lessor in connection with the rental of the Strata Lot during the Owner’s Quarter Use Period hereunder including room rental, parking charges and long distance telephone charges but excluding monies paid for specific services, such as dry cleaning and laundry, valet, additional or special housekeeping (over and above Base Clean), ski rentals or tickets, payment for viewing movies and any other services which the Lessor may provide in addition to the rental of the room whether or not the charges for such services are included

in a packaged room rate or imposed as a separate charge, which monies shall be retained by the Manager;

- (h) "Lessor" includes the Manager;
- (i) "Management Fee" means the remuneration payable to the Lessor pursuant to section 4.1;
- (j) "Operating Account" means the account or accounts maintained by the Lessor in accordance with section 3.1;
- (k) "Owner's Net Rental Revenue" means the Adjusted Gross Revenue less the Management Fee, and any other amounts payable to the Lessor pursuant to this Addendum;
- (l) "Parking Stalls" means any or all of the parking stalls in the Development designated or allocated for the use of the Owner whether alone or with the owner or owners of any other Residential Units;
- (m) "Permitted User" means the Owner and any other person included in the definition of "Unit Owner" under the Rental Covenant which, for greater certainty but without limitation, includes any person with whom the Owner exchanges his or her right to use the Strata Lot pursuant to a formal time share or interval ownership exchange program in which the Owner is enrolled;
- (n) "Rental Management Arrangement" means the rental management arrangement as a whole undertaken by the Lessor in respect of the Development in accordance with this Addendum and agreements with other owners of undivided one-quarter interests in the Residential Units on same terms and conditions as this Addendum;
- (o) "Season" means the Summer Season or the Winter Season, as the case may be;
- (p) "Sublease" means the sublease between the Lessor, as lessor, and the Owner, as subtenant, to which this Addendum is attached as Schedule A;
- (q) "Summer Season" means each period from 2:00 p.m. on April 30 to 2:00 p.m. on November 1 each year during the Term;
- (r) "Term" means the term of this Addendum, as determined in accordance with section 2.4; and
- (s) "Winter Season" means each period from 2:00 p.m. on November 1 to 2:00 p.m. on April 30 during the Term.

1.2 Sublease. Capitalized terms used in this Addendum but not otherwise defined herein have the meaning ascribed thereto in the Sublease.

1.3 References. References in this Addendum to Articles, sections or subsections are deemed to be references to the indicated Article, section or subsection of this Addendum, unless a contrary intent is expressed.

ARTICLE 2 APPOINTMENT, USE, TERM AND TERMINATION

2.1 Appointment.

- (a) The Owner hereby appoints the Lessor to serve as the Owner's exclusive agent to manage the rental of the Strata Lot during the Owner's Quarter Use Period in accordance with the terms and conditions set out in this Addendum and the Lessor hereby accepts such appointment.
- (b) The Lessor may retain a Manager to manage, maintain and operate the Strata Lot pursuant to the terms of the Management Agreement. If the Lessor has retained a Manager, the Owner will deal with the Manager with respect to all matters relating to the Strata Lot and the Sublease, including this Addendum. In the event the Manager is unable to meet its obligations under the Management Agreement, the Lessor agrees to perform such obligations and shall have the same rights as the Manager in such circumstances until a new manager is appointed by the Lessor.

2.2 Rental Management Arrangement. The Owner acknowledges and agrees that the Lessor will manage the rental of the Strata Lot during the Owner's Quarter Use Period in accordance with this Addendum. The Owner hereby irrevocably covenants and agrees to be bound by the rental bookings of the Strata Lot made by the Lessor in accordance with this Addendum. The Owner will indemnify and save the Lessor harmless from all claims, damages and costs in connection with any failure of the Owner, or anyone claiming under or on behalf of the Owner to comply with such rental bookings.

2.3 Use. Subject to section 7.1, the Lessor will rent the Strata Lot only in accordance with this Addendum for commercial rental to the public for tourists', visitors' and travellers' temporary accommodation and will not be used for any other purpose without the prior written consent of the Owner. Any use of the Strata Lot must comply with the Rental Covenant, all applicable laws and the bylaws and rules and regulations of the Strata Corporation and the Lessor.

2.4 Events upon Termination. The Lessor will not make any rental bookings of the Strata Lot for any days during the Owner's Quarter Use Period beyond the expiry of the Term unless otherwise instructed by the Owner. Following the expiry of the Term:

- (a) the money collected on behalf of the Owner in the Operating Account and held by the Lessor will be paid in accordance with section 3.3 except an amount reasonably estimated to be required for anticipated expenses and anticipated Management Fees for the period prior to the expiry of the Term which sum will continue to be held for a period of 60 days after termination and during this period the Lessor may make withdrawals and payments from the Operating Account with respect to any amount the Lessor is authorized or required to pay pursuant to this Addendum, including the Management Fee and any other amount payable to the Lessor hereunder, and the Owner will reimburse the Lessor for such amounts to the extent that funds held in the Operating Account on behalf of the Owner are insufficient for this purpose;
- (b) except as to liabilities and obligations accrued or arisen, the obligations of the parties shall cease and terminate; and
- (c) the Lessor shall give possession of the Strata Lot, subject to the terms of this Addendum, to the Owner in good order and condition, subject to normal wear and tear.

2.5 Expiration or Termination of Quarter Sublease. This Addendum will be deemed to be terminated concurrently with the termination of the Quarter Sublease if the Quarter Sublease expires or is terminated for any reason.

ARTICLE 3 OPERATING ACCOUNT AND OWNER'S EXPENSE

3.1 Operating Account. The Lessor will maintain a trust account or accounts in respect of the Rental Management Arrangement with a financial institution qualified and authorized to engage in the banking or trust business in British Columbia. The Owner acknowledges and agrees that the Operating Account may contain funds in respect of the rental of other Residential Units or other Quarter Use Periods in respect of the Strata Lot and that the Owner's funds may be commingled with the funds of the other Owners, provided that the Operating Account will be separate from the Lessor's personal accounts. The Lessor will deposit all Gross Revenue in the Operating Account from time to time. All funds held in the Operating Account will be held for the benefit of the Quarter Owners and the Lessor as set out herein and will be disbursed by the Lessor in accordance with this Addendum.

3.2 Payment to Owner. Within 15 days after the end of every March, June, September and December during the Term, the Lessor will, if the Owner's Net Rental Revenue exceeds \$100 for such period, pay to the Owner the Owner's Net Rental Revenue. Such payment will be made by the Lessor mailing the Lessor's cheque for such amount to the Owner in accordance with section 12.1 of the Sublease or by deposit to the Owner's bank account if the Owner notifies the Lessor of all the relevant details of such account. Concurrently with the payment of the Owner's Net Rental Revenue the Lessor will mail to the Owner a written statement of account in respect of

the Gross Revenue, the Adjusted Gross Revenue, the Management Fee, the Owner's Net Rental Revenue (including the calculation thereof) and any applicable withholding tax, goods and services tax or other applicable tax, charge or levy for such period and will include a daily breakdown of revenue.

3.3 GST and Withholding Tax. The Owner will be responsible for the payment of all goods and services tax and other applicable taxes, charges, rates and levies in connection with the Strata Lot or this Addendum, including, without limitation, that payable in connection with the Management Fee. The Lessor will withhold from the Owner's Net Rental Revenue and will remit to Revenue Canada or any other relevant authority any amount required to be withheld from the Owner or remitted on behalf of the Owner in respect of goods and services tax, withholding tax or any other applicable tax, charge, rate or levy which the Lessor is required to withhold or remit.

ARTICLE 4 COMPENSATION

4.1 Management Fee. As compensation for the services rendered by the Lessor pursuant to this Addendum, the Owner will pay to the Lessor a monthly amount equal to either:

- (a) one-twelfth of the Lessor's total budgeted annual bona fide arm's length third party costs of providing such services multiplied by a fraction the numerator of which is the Adjusted Gross Revenue that month and the denominator of which is the Adjusted Gross Revenue for all Residential Units rented by the Lessor that month; or
- (b) if the Association has entered into a Management Agreement, either:
 - (i) the amount payable thereunder by the Association to the Manager in respect of the Owner's interest in the Strata Lot; or
 - (ii) if the remuneration payable by the Association to the Manager is not calculated as a percentage of revenue from the Owner's interest in the Strata Lot or a fixed fee per Residential Unit or per interest in a Residential Unit, then the aggregate remuneration payable to the Manager each month in respect of the Rental Management Arrangement multiplied by the fraction referred to in subsection 4.1(a).

4.2 Payment of Fees. The Management Fee and all other deductions from Adjusted Gross Revenue will be payable monthly, at the end of each calendar month and the Owner hereby authorizes the Lessor to withdraw such fees from the Operating Account at any time and from time to time when such fees are due.

**ARTICLE 5
LESSOR'S RESPONSIBILITIES**

5.1 Lessor's Responsibilities. The Lessor will, at its sole cost and expense, unless otherwise stated:

- (a) operate, supervise, manage, maintain, control and rent the Strata Lot in such manner as would a prudent owner of a condominium development comparable to the Development and shall employ competent personnel to do so;
- (b) provide and maintain a 24 hour, 365 day a year, switch board service for the Residential Units;
- (c) provide a 24 hour, 365 day a year reservation system for the Development;
- (d) staff and operate the front desk of the Development according to a schedule established by the Lessor, and ensure there are adequate arrangements for off-site check-in and check-out facilities for the Development when the front desk is closed;
- (e) determine the rate of rental for the Strata Lot, having regard to the seasonal uses of the Strata Lot and the market for the rental of strata lots in Whistler, British Columbia similar to the Strata Lot;
- (f) collect all rents, taxes, fees and other amounts payable in connection with the rental of the Strata Lot, give receipts and acknowledgements therefor, and if reasonable, make abatements and allowances in respect thereof, and deposit such amount in to the Operating Account;
- (g) charge the renters of the Strata Lot and all Permitted Users for all long distance telephone calls made by such renters from the Strata Lot and remit all amounts collected on behalf of the Owner to the long distance telephone service provider for the Development;
- (h) give to the renters of the Strata Lot such notices and statements as may be required hereunder or deemed appropriate by the Lessor from time to time;
- (i) provide a full clean of the Strata Lot upon checkout of paying guests and Permitted Users so as to maintain the Strata Lot in a first class state of readiness and available for rental at all times not being used by the Owner;
- (j) keep and maintain the Strata Lot while it may be unoccupied in a state of cleanliness;
- (k) keep or cause to be kept full and adequate books of account and such other reasonable records reflecting the Operating Account, the Gross Revenue, the

Adjusted Gross Revenue, the Management Fee, and the Owner's Net Rental Revenue and the Lessor will permit the Owner and its agents the right during normal business hours and on reasonable notice to examine or make copies of extracts of such books and records at the Lessor's office, but such examination will be done at the cost of the Owner and with as little disruption as possible to the day to day operations of the Lessor;

- (l) warn off and prohibit and proceed against any person who trespasses upon the Strata Lot or any part of the Strata Lot with the knowledge of the Lessor by due process of law as the Lessor may deem appropriate either before or after such warning off or prohibition;
- (m) use reasonable efforts to ensure that the Strata Lot and the use and occupancy thereof comply with all fire and safety codes, rules and requirements of all governmental or regulatory authorities, including the Rental Covenant and the bylaws and applicable rules and regulations of the Strata Corporation, subject at all times to the duties of the Owner as the owner of the Strata Lot and provided that the Lessor will not be obligated to advance or utilize any of its own funds in respect of the foregoing;
- (n) take out and maintain at all times during the Term the following insurance, naming the Owner as an additional insured:
 - (i) comprehensive public liability insurance in an amount of at least \$5,000,000 for claims for personal injury, death, or property damage arising out of any one occurrence;
 - (ii) any innkeeper's liability, worker's compensation or other similar insurance as may be required by law;
 - (iii) employer's liability insurance with a minimum liability limit of \$5,000,000; and
 - (iv) fidelity and honesty insurance and bonding in such reasonable amount as the Lessor shall deem advisable;
- (o) faithfully perform its duties and responsibilities hereunder and to otherwise use its best efforts to supervise and direct the rental of the Strata Lot in an efficient and profitable manner consistent with the standard of the Development, it being the intention of the parties that the Lessor will have the control for all customary purposes and the right to determine all operating policies with respect to reasonable standards of operations, quality of services and any other matters affecting the rental of the Strata Lot but will not make any significant change to policies or, standards of operations without the consent of the Owner, not to be unreasonably withheld;

- (p) procure and maintain all such licenses and permits as are necessary in connection with the performance by the Lessor of its obligations under this Addendum;
- (q) provide such general administrative, supervisory and management staff and keep in stock such cleaning and other supplies from time to time required to carry out the obligations of the Lessor under this Addendum;
- (r) take such steps, so far as it may be within its power to do so, to ensure that all restrictions and limitations with respect to the use of the Strata Lot are observed and fulfilled; and
- (s) ensure all front desk, bellman and concierge personnel are outfitted with uniforms unique to the Development.

5.2 Equitable Rental of Strata Lots. The Lessor will make all commercially reasonable efforts to ensure that the Strata Lot is rented during the Owner's Quarter Use Period with substantially the same frequency as the other Residential Units in rentable condition and available for rental at the same time and will not prefer any of the Residential Units over the Strata Lot, and vice versa, in connection with rentals under the Rental Management Arrangement.

5.3 Obligation to Rent. The Lessor will not be required to rent the Strata Lot pursuant to this Addendum and the Rental Management Arrangement unless it is in rentable condition and available for rental on a particular day. The Strata Lot will be considered to be "in rentable condition" on a particular day if, in the reasonable opinion of the Lessor, it is fit for occupancy by renters. The Strata Lot will be considered to be "available for rental" on a particular day unless it is booked for use by the Owner in accordance with Article 7.

5.4 Damage to Strata Lot.

- (a) The Lessor will be responsible for the repair of any damage (other than that due to normal wear and tear) to the Strata Lot caused by any renter of the Strata Lot pursuant to the Rental Management Arrangement.
- (b) Subject to subsection 5.4(a) and section 5.5, the Lessor will notify the Owner promptly of any material damage to the Strata Lot. If the Lessor deems the Strata Lot to be unfit for rental for any reason whatsoever at any time during the Term, the Lessor will notify the Owner of such condition and take such steps as the Lessor deems reasonably necessary to remedy such condition. Subject to subsection 5.1(f) of the Sublease, such steps will be taken at the sole cost and expense of the Owner and the other owners of undivided one-quarter fee simple interests in the Strata Lot (and the costs and expenses will be shared equally among them and payable as Additional Rent under the Sublease) and the Lessor will not be obligated to advance or utilize any of its own funds, including the Management Fee or any other amount owing to the Lessor pursuant to this Addendum, in respect thereof.

5.5 Repairs. The Owner hereby authorizes the Lessor to make or cause to be made, at the sole cost and expense of the Owner, any minor repairs not exceeding \$500.00 (or such other amount as the parties may mutually agree) for any single repair and any emergency repairs to the Strata Lot or the contents thereof as the Lessor may determine are necessary, and to annually deep clean the Strata Lot, and one-quarter of the cost of such repairs and cleaning shall be payable as Additional Rent under the Sublease. Except for damage (other than that due to normal wear and tear) caused by a renter of the Strata Lot, the Owner will reimburse the Lessor in respect of any amount incurred in connection with such repairs, replacements or cleaning that is not deducted from the Owner's Net Rental Revenue forthwith upon receipt by the Owner of the Lessor's invoice therefor and such amounts will be considered to be Additional Rent for the purposes of the Sublease. Under no circumstances will the Lessor be obligated to make or cause to be made any repairs to the Strata Lot or the contents thereof, except for damage caused by renters.

5.6 Use of Parking, Recreational Facilities and Storage Areas. The Owner and the Lessor acknowledge and agree that:

- (a) a Permitted User will only be entitled to use a Parking Stall designated as limited common property for the use of the Strata Lot while the Permitted User is occupying the Strata Lot during the Owner's Quarter Use Period and at all other times the use of any such Parking Stall is to be administered by the Lessor pursuant to the Rental Management Arrangement;
- (b) the Owner will be entitled to use a maximum of one ski storage locker within the ski storage room designated for that purpose within the common property, without charge, for temporary or permanent ski equipment and ski clothing storage purposes, whether or not the Owner is occupying the Strata Lot during the Owner's Quarter Use Period;
- (c) the Owner will be entitled to use the bicycle storage area designated for that purpose within the common property, without charge, for temporary or permanent bicycle storage purposes subject to any bylaws, rules and regulations of the Strata Corporation imposed to regulate such use based on demand, availability, usage patterns and similar concerns, whether or not the Owner is occupying the Strata Lot during the Owner's Quarter Use Period; and
- (d) the Owner will be entitled to use the recreational facilities within the common property without charge subject to any bylaws, rules and regulations of the Strata Corporation imposed to regulate such use based on demand, availability, usage patterns and similar concerns, whether or not the Owner is occupying the Strata Lot during the Owner's Quarter Use Period.

ARTICLE 6
OWNER'S RESPONSIBILITIES/SALE OF STRATA LOT

- 6.1 Owner's Responsibilities. The Owner will, at the Owner's sole cost and expense:
- (a) strictly comply with the terms and conditions of the Rental Covenant, the Sublease and this Addendum;
 - (b) to the extent not already authorized hereunder or under the Sublease, authorize the Lessor to control the keys or other entry device, in accordance with modern hotel security standards, for the Strata Lot, any parking facility or storage area applicable to the Strata Lot other than the in-suite storage locker allocated to the Owner, the entrance to the Development and any other locked facility in the Strata Lot to which the renters of the Strata Lot pursuant to the Rental Management Arrangement will be permitted access and the Owner hereby authorizes the Lessor to duplicate any such keys or other entry device as required by the Lessor;
 - (c) to the extent not already required hereunder or under the Sublease, ensure that the Lessor, the Lessor's agents and representatives and the renters of the Strata Lot have full, free and uninterrupted access to the Strata Lot and all parking spaces and storage areas (other than the in-suite storage locker allocated to the Owner) applicable to the Strata Lot as contemplated in this Addendum;
 - (d) not remove from the Strata Lot any of the furniture, furnishings or equipment which are owned by the Lessor, provided that no major refurbishing of the Strata Lot will be undertaken without prior consent of the Owner, such consent not to be unreasonably withheld;
 - (e) promptly pay when due all amounts owing under any financing of the Strata Lot arranged by the Owner;
 - (f) not permit any lien, charge or encumbrance to be filed against title to the Strata Lot except in connection with the Owner's financing thereof and strictly in accordance with the Sublease;
 - (g) ensure that the Strata Lot is serviced with water, sewer, propane gas, electricity, telephone (including connections to the switchboard for the Development) and cablevision at all times during the Term;
 - (h) take out and maintain at all times during the Term the following insurance pertaining to the Strata Lot:

- (i) comprehensive public liability insurance in the amount of at least \$2,000,000 for claims for personal injury, death or property damage arising out of any one occurrence; and
 - (ii) such other insurance as may be reasonably required by the Lessor from time to time;
- (i) indemnify and save the Lessor harmless from any claim, damage and cost incurred by the Lessor within the scope of its authority in connection with the management of the Strata Lot and to carry, at the expense of the Owner, adequate insurance to protect the Lessor against any such claim, damage and cost in the same manner and to the same extent as the Owner naming the Lessor as one of the insured; and
 - (j) not charge the Lessor or hold it responsible for any liability for any error of judgment or for any mistake of fact or law or for anything which it may do or refrain from doing in connection with this Addendum except in case of gross negligence or wilful misconduct; and
 - (k) comply with and observe the terms of the Rental Covenant.

6.2 Owner's Authorizations. The Owner hereby authorizes the Lessor to take any and all such steps as are reasonably necessary or desirable to enable the Lessor to perform efficiently its functions and duties under this Addendum including, without limitation, depositing and withdrawing funds from the Operating Account as set out herein and performing the Lessor's obligations set out in sections 5.1 and 5.2. The Owner hereby covenants and agrees to provide the Lessor with all documents and instruments of whatsoever nature reasonably required by the Lessor and to cooperate with the Lessor in connection with any of the foregoing matters.

6.3 Sale of the Strata Lot. The Owner and the Lessor agree that if at any time the Owner wishes to sell or otherwise directly or indirectly dispose of his or her undivided one-quarter fee simple interest in the Strata Lot to any person (in this section 6.3 called a "Transferee") (other than by way of financing):

- (a) prior to entering into any contract or agreement with any Transferee, the Owner will
 - (i) notify the proposed Transferee of the existence and substance of the Sublease (including this Addendum) and the fact that the ownership and use of the Strata Lot are subject to the rights of the Lessor and renters pursuant to the Sublease (including this Addendum) and the Rental Management Arrangement, (ii) notify the proposed Transferee of its right to obtain from the Lessor the items described in subsection 6.3(c), (iii) notify the proposed Transferee of any bookings of the Strata Lot by the Owner pursuant to Article 7, (iv) provide the proposed Transferee with a true copy of the Sublease (including this Addendum), and (v) notify the Lessor of the intended sale to the Transferee and the scheduled completion date;

- (b) the Owner will not, and will not permit any agent acting on behalf of the Owner to, advertise the expected economic benefits of the Rental Management Arrangement or the Sublease (including this Addendum) to any Transferee or prospective Transferee;
- (c) the Lessor will, upon reasonable written notice of an intended sale by the Owner, deliver to the prospective Transferee before an agreement of purchase and sale with the Transferee is entered into, quarterly statements of revenues and expenses for the Strata Lot for the two-year period preceding the entering into of the agreement of purchase and sale, to the extent the Owner participated in the Rental Management Arrangement during that two-year period;
- (d) the Owner will not directly or indirectly sell, lease or otherwise directly or indirectly dispose of the Owner's undivided one-quarter fee simple interest in the Strata Lot or any interest therein unless prior to the completion of such transaction the proposed Transferee enters into a written assignment and assumption agreement in the form attached as Schedule C to the Sublease and the Lessor will provide the Owner and the Transferee with copies of such agreement, duly executed by the Lessor, as soon as reasonably possible thereafter;
- (e) upon written request from the Owner, the Lessor will provide any prospective Transferee therein with details of any bookings of the Strata Lot during the Owner's Quarter Use Period;
- (f) the Owner or the Transferee will notify the Lessor of the completion of the sale or other disposition of the Strata Lot and provide the Lessor with reasonable evidence thereof, together with the assignment and assumption agreement described in subsection 6.3(d), duly executed by the Owner and the Transferee;
- (g) the Lessor will not be required to make any adjustments as between the Owner and any Transferee and the Lessor will be deemed to have fully discharged its obligations hereunder if the Lessor pays the Owner's Net Rental Revenue to or to the order of the person who was, according to the records of the Lessor, the registered owner of the undivided one-quarter fee simple interest in the Strata Lot on the days such Owner's Net Rental Revenue was earned; and
- (h) upon the execution and delivery of the assignment and assumption agreement described in subsection 6.3(d) by the Owner and the Transferee and the transfer of title of the undivided one-quarter fee simple interest of the Owner to the Transferee:
 - (i) the Owner will be released from its duties and obligations under this Addendum for the period from and including the date of such transfer of title;

- (ii) the Transferee will be responsible for all duties and obligations under this Addendum for the period from and including the date of such transfer of title; and
- (iii) all references to the Owner in the Sublease and this Addendum will thereafter be deemed to be references to the Transferee.

ARTICLE 7 OWNER USE OF STRATA LOT

7.1 Booking by Owner.

- (a) If any Permitted User wishes to use the Strata Lot during any week comprising part of the Owner's Quarter Use Period, the Owner must first reserve the use of the Strata Lot by a notice in writing to the Manager at least three (3) months prior to the commencement of the Season in which the Permitted User wishes to use the Strata Lot. The Lessor will ensure that the Strata Lot is available for use by a Permitted User if it is reserved in accordance with this subsection 7.1(a).
- (b) Subject to the Owner making prior reservations in accordance with subsection 7.1(a) and subject to the Rental Covenant, the Owner may permit any other Permitted User to use any week of use during the Owner's Quarter Use Period, provided that the Owner informs the Manager in writing at least five (5) days in advance of the commencement of the week of use of the name or names of the persons who will be occupying the Strata Lot during such week.
- (c) The Owner will be responsible for any breach of the terms contained in this Sublease by any Permitted User or any guest or invitee of the Owner.
- (d) The Lessor will not charge any Permitted User a nightly room charge for use of the Strata Lot hereunder, but a Permitted User will be required to pay for any services utilized such as, for instance but without limitation, maid service (as contemplated in sections 7.5 and 7.6), laundry service, valet, in-suite movies, long distance telephone calls and the like.
- (e) Subject to the use by the Permitted Users pursuant to this section 7.1, the Strata Lot will be available at all times during the Owner's Quarter Use Period for rental to the public.

7.2 Change in Use. The Owner will forthwith notify the Lessor if the Owner determines or discovers at any time that a Permitted User will not use the Strata Lot on any of the dates for which the Owner gave notice therefor pursuant to subsection 7.1(a) and the Lessor may then rent out the Strata Lot on such dates. If a Permitted User wishes to use the Strata Lot on a date or dates during

the Owner's Quarter Use Period for which the Owner has not given notice pursuant to section 7.1, the Owner may make application to the Lessor requesting the use of the Strata Lot. The Lessor will, subject to any rental bookings of the Strata Lot pursuant to the Rental Management Arrangement, permit the Permitted User to use the Strata Lot on such date or dates.

7.3 Keys/Passcards. The Lessor shall provide the Permitted Users with keys or passcards to provide access to the Strata Lot at the commencement of a period of use reserved pursuant to section 7.1. The Owner shall not copy or permit any other person to copy any keys or passcards provided by the Lessor. The Permitted User shall at the end of such period of use return all keys or passcards as provided hereunder to the Lessor and vacate and leave of the Strata Lot in good and clean condition.

7.4 Security for Costs or Damage. At the commencement of any period of use, a Permitted User will leave with the Lessor, if requested, a signed blank credit card imprint, to be processed by the Lessor in the event Damage to the Strata Lot occurs or other costs are incurred as contemplated herein.

7.5 Maid Service - Daily. If a Permitted User wishes to utilize the maid and linen services offered by the Lessor on the days a Permitted User uses the Strata Lot, a Permitted User may do so provided he or she pays the Lessor the Daily User Fee in respect thereof which shall be an amount determined by the Lessor which reflects the Lessor's reasonable estimate of the incremental cost of providing the services requested. The Lessor may change the Daily User Fee at any time upon notice to the Owner. If the Permitted User does not pay the Daily User Fee, the Lessor may deduct such amount from the Owner's Net Rental Revenue and withdraw it from the Operating Account, and such amount will constitute Additional Rent under the Sublease.

7.6 Maid Service - Change Over. The Permitted User will leave the Strata Lot in a reasonably neat and tidy condition following his or her use thereof. The Permitted User will vacate the Strata Lot by 10:00 a.m. on the day following the last evening of the Permitted User's use thereof. The Permitted User will pay to the Lessor the Change Over Clean Up Fee when the Permitted User completes his or her use of the Strata Lot. The Change Over Clean Up Fee shall be an amount determined by the Lessor which reflects the Lessor's reasonable estimate of the incremental cost of providing the services requested. The Lessor may change the Change Over Clean Up Fee at any time upon notice to the Owner. If the Owner does not pay the Lessor's Change Over Clean Up Fee the Lessor may deduct such amount from the Owner's Net Rental Revenue and withdraw it from the Operating Account and such amount will constitute Additional Rent under the Sublease.

7.7 Use by or on Behalf of Owner. Under no circumstances will the Owner during the Term directly or indirectly charge rent or accept any form of consideration for the use of the Strata Lot except in accordance with the Rental Management Arrangement and this Addendum.

SCHEDULE B TO QUARTER USE SUBLEASE

OPERATING COSTS

Strata Corporation assessments and levies applicable to the Strata Lot

Cablevision service for the Strata Lot

Basic telephone service for the Strata Lot

Whistler Resort Association fees and assessments applicable to the Strata Lot

Property taxes for the Strata Lot

Municipality utility rates for the Strata Lot

Owners' Association assessments and levies applicable to the Strata Lot including (without limitation):

- (a) Capital Reserve Fund contributions
- (b) operating reserves
- (c) electricity for the Residential Units
- (d) propane for the Residential Units
- (e) cost of staffing the front desk of the Development

SCHEDULE C TO QUARTER USE SUBLEASE
ASSIGNMENT AND ASSUMPTION AGREEMENT

“Lessor”

HORSTMAN OWNERS’ ASSOCIATION

“Vendor”

“Purchaser”

Name	Name
Address	Address
Tel: (H) _____	Tel: (H) _____
(W) _____	(W) _____
This Purchaser’s GST Registered Number is: _____	This Purchaser’s GST Registered Number is: _____
This Purchaser’s Social Insurance Number is: _____	This Purchaser’s Social Insurance Number is: _____
This Purchaser [is / is not] resident in Canada for the purposes of the <i>Income Tax Act</i>	This Purchaser [is / is not] resident in Canada for the purposes of the <i>Income Tax Act</i>
“Strata Lot”	Strata Lot 11, District Lot 4214, Group 1, New Westminster District, Strata Plan LMS4141
“Sale Date”	_____

WHEREAS:

- A. The Vendor is the owner of an undivided one-quarter fee simple interest in the Strata Lot;
- B. The Vendor and the Purchaser have entered into a contract for the sale of the Vendor’s undivided one-quarter fee simple interest in Strata Lot from the Vendor to the Purchaser on the Sale Date;
- C. The Strata Lot is subject to a head lease (the “Association Lease”) in favour of the Lessor registered under instrument number _____;

D. The Vendor (directly or by assignment) and the Lessor are parties to a sublease (the "Quarter Use Sublease") registered under instrument number _____ in respect of the use of the Strata Lot and the operation of Horstman House (the "Development"); and

E. The parties are required to enter into this Agreement in accordance with the Quarter Use Sublease.

THEREFORE in consideration of the transfer of the Strata Lot from the Vendor to the Purchaser on the Sale Date and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by all of the parties, the parties agree as follows:

1. Assignment to Purchaser. Effective as of the Sale Date, the Vendor hereby absolutely assigns, transfers and conveys, effective from and including the Sale Date, all of the Vendor's right, title and interest in and to the Association Lease and the Quarter Use Sublease insofar as they arise from ownership of an interest in and relate to the Strata Lot, and all rights and benefits to be derived thereunder (including any amounts payable to the Vendor thereunder) insofar as such rights and benefits arise from ownership of and relate to the Strata Lot.
2. Direction to Pay. The Vendor and the Purchaser hereby direct the Lessor to pay any amounts payable under the Association Lease and the Quarter Use Sublease in respect of the Strata Lot that relate to the period before the Sale Date to the Vendor at its address above and any such amounts that relate to the period from and including the Sale Date to the Purchaser at the address set out above.
3. Assumption and Indemnity by Purchaser. The Purchaser acknowledges that its interest in the Strata Lot is subject to the Option and the Association Lease, and hereby assumes, from and including the Sale Date, all of the duties, obligations and covenants of the Vendor under the Association Lease, the Quarter Use Sublease and the Rental Covenant (as defined in the Quarter Use Sublease), insofar as such duties and obligations arise from ownership of and relate to the Strata Lot, and covenants and agrees with the Vendor and the Lessor to perform and observe all of such duties and obligations from and including the Sale Date.
4. Other Strata Lots Excluded. This Agreement relates only to the Vendor's undivided one-quarter fee simple interest in Strata Lot and not to any other interest in the Strata Lot or any other strata lots in the Development.
5. Miscellaneous. If either the Vendor or the Purchaser is comprised of more than one person, the covenants and obligations of the Vendor or the Purchaser, as the case may be, are joint and several covenants and obligations. This Addendum will be binding upon and enure to the benefit of the heirs, executors, successors, legal and personal representatives and assigns of the parties, as applicable.

6. **Purchaser's Acknowledgement.** The Purchaser acknowledges that the Purchaser has received a copy of and has been given an opportunity to read the Quarter Use Sublease.

DATED: _____

BY THE VENDOR:

(if a corporation)

THE COMMON SEAL OF _____)
_____ was hereunto)
affixed in the presence of:)

_____)
Title: _____)
Authorized Signatory)

C/S

_____)
Title: _____)
Authorized Signatory)

(if an individual)

SIGNED, SEALED AND DELIVERED by _____)
_____ in the presence of:)

_____)
Name)

_____)
Address)

_____)
Occupation)

BY THE PURCHASER:

(if a corporation)

THE COMMON SEAL OF _____)
_____ was hereunto)
affixed in the presence of:)
_____)

Title: _____) C/S
Authorized Signatory)
_____)

Title: _____)
Authorized Signatory)

(if an individual)

SIGNED, SEALED AND DELIVERED by _____)
_____ in the presence of:)
_____)

_____)
Name)

_____)
Address)

_____)
Occupation)

_____)
•

HORSTMAN OWNERS' ASSOCIATION hereby agrees that the Vendor is hereby released from all of the Vendor's duties and obligations under the Quarter Use Sublease and the Rental Covenant arising from and including the Sale Date, insofar as such duties and obligations arise from ownership of or relate to Vendor's undivided one-quarter fee simple interest in the Strata Lot.

DATED _____

HORSTMAN OWNERS' ASSOCIATION

Per: _____

**SCHEDULE D TO QUARTER USE SUBLEASE
SECURITY HOLDER'S NON-DISTURBANCE AGREEMENT**

THIS AGREEMENT made _____, 2000

AMONG:

[Name, address and fax number of the Lender]

(the "Lender")

AND:

HORSTMAN OWNERS' ASSOCIATION
4205 Village Square
Whistler, B.C.
V0N 1B4

Fax: (604) 935-1178

(the "Owners' Association")

AND:

(the "Owner")

WHEREAS:

A. The Owner is the owner of an undivided one-quarter fee simple interest in the lands and premises situated in Resort Municipality of Whistler, British Columbia and legally described as follows:

Strata Lot 11
District Lot 4214
Group 1, New Westminster District
Strata Plan LMS4141

(the "Strata Lot");

B. The Strata Lot is subject to a head lease (the "Association Lease") in favour of the Owners' Association registered under instrument number BP88756 . ;

C. The Owner (directly or by assignment) and the Owners' Association are parties to a sublease (the "Quarter Use Sublease"), and title to the Strata Lot is or will be subject to three additional subleases in favour of the registered owners of undivided one quarter fee simple interests in the Strata Lot respectively (the Quarter Use Sublease and such other subleases are collectively referred to as the "Subleases"), in respect of the use of the Strata Lot and the operation of the Horstman House development (the "Development");

D. The Strata Lot is encumbered by a section 219 covenant (the "Rental Covenant") in favour of Resort Municipality of Whistler (the "Municipality"), which Rental Covenant is registered in the Land Title Office under instrument number BL434529, as modified by BN147317;

E. The Strata Lot is also encumbered by a restrictive covenant (the "Management Covenant") in favour of the Strata Lot 52 of the Development, which Management Covenant is registered in the Land Title Office under instrument number BP88744 . ;

F. The Owner has granted to the Lender a mortgage of the Owner's undivided one-quarter fee simple interest in the Strata Lot and a mortgage of the Owner's interest under the Quarter Use Sublease (together, the "Security") in favour of the Lender, which Security is or will be registered in the Land Title Office; and

G. The Association Lease provides that the Owner will not grant a mortgage or otherwise encumber the Owner's fee simple interest in Strata Lot, and the Quarter Use Sublease provides that the Owner will not grant a mortgage or otherwise encumber the Owner's interest in the Quarter Use Sublease, unless the Lender enters into this Agreement with the Owner and the Owners' Association.

NOW THEREFORE, in consideration of the mutual promises and agreements contained in this Agreement, the Lender and the Manager hereby promise and agree as follows:

1. The Lender hereby confirms and acknowledges to:
 - (1) the Owners' Association in respect of the Association Lease, the Subleases (including the Quarter Use Sublease) and the Management Covenant;
 - (2) the Owner in respect of the Quarter Use Sublease and the Management Covenant; and
 - (3) the Municipality in respect of the Rental Covenant,

that the Association Lease, the Subleases (including the Quarter Use Subleases and any lien arising pursuant to section 8.2 thereof, regardless of whether it arises before or after the advance of funds secured by the Security), the Rental Covenant and the Management Covenant have priority over the Lender's right, title and interest in and to the Owner's interest in the Strata Lot under the Security and the Lender does hereby postpone the Security and all of its right, title and interest thereunder to those agreements and encumbrances whether they are registered before or after the Security.

2. The Owners' Association hereby represents and warrants to the Lender that, as of the date of this Agreement:
 - (1) the Quarter Use Sublease is in good standing and has not been amended;
 - (2) there are no arrears of rent, including Additional Rent, under the Quarter Use Sublease; and
 - (3) the Owners' Association has not determined to act or give notice of its intention to act upon any default under the Quarter Use Sublease.

The Owners' Association hereby acknowledges that it has received notice of the Security as contemplated in paragraph 4(e)(i) of the Association Lease.

3. The Owners' Association hereby covenants and agrees to and with the Lender that notwithstanding anything to the contrary contained in the Quarter Use Sublease:
 - (1) until the Lender advises the Owners' Association that its charge against the Quarter Use Sublease is no longer in effect, the Owners' Association will give notice to the Lender, concurrently with giving notice to the Owner, of any breach by the Owner or default of or under the terms of the Quarter Use Sublease upon which the Owners' Association proposes to act and which would give rise to a right in the Owners' Association to terminate the Quarter Use Sublease, suspend the Owner's rights thereunder or enforce the lien arising pursuant to section 8.2 thereof;

- (2) the Owners' Association will allow the Lender a period of not less than twenty-one (21) days after receipt of notice pursuant to subsection 3(1) hereof to cure any such breach or default (provided that the Lender will have no obligation to cure any default whatsoever including any default of the nature described in subsection 3(5), and the provisions of that subsection will apply to any such default), and no exercise by the Owners' Association of any of its rights or remedies against the Owner consequent upon such breach or default will be effective against the Owner or the Lender or deprive the Lender of its Security unless the Owners' Association has given such notice and allowed such curing period;
- (3) with respect to breaches or defaults other than defaults of the nature described in subsection 3(5) hereof, if such breach or default is remedied within the period referred to in subsection 3(2) hereof, the Owners' Association will not by reason thereof terminate the Quarter Use Sublease, suspend the Owners' rights thereunder or enforce the lien arising pursuant to section 8.2 thereof and the Owners' Association will have no other rights with respect to such breach or default; provided that if any such breach or default (other than a breach or default from the failure of the Owner to pay any amount owing under the Quarter Use Sublease, in which case such twenty-one (21) day period will not be extended) is capable of being cured by the Lender but is not by its nature capable with due diligence of being cured within such twenty-one (21) day period, the period of time given to the Lender to cure such breach or default will be extended to allow the Lender proceeding with due diligence to cure such breach or default;
- (4) the Owners' Association will not terminate the Quarter Use Sublease by reason of the receivership of the Owner under, or the enforcement of, the Security;
- (5) in the event of the bankruptcy, insolvency, receivership or winding-up of the Owner or of any assignment for the benefit of the creditors of the Owner or of any execution, attachment for the benefit of the creditors of the Owner or of any execution, attachment or distress or similar process taking effect against any of the assets of the Owner or upon the occurrence of any similar event or in the event of any other default of a similar nature under the terms of the Quarter Use Sublease the Owners' Association will not exercise any right under the Quarter Lease Sublease to terminate the Quarter Use Sublease or suspend the Owners' rights thereunder or enforce the lien arising pursuant to section 8.2 thereof if, within twenty-one (21) days after receipt by the Lender of notice of the Owners' Association's intention to act, the Lender or any receiver-manager appointed by the Lender or any permitted assignee of the Quarter Use Sublease brings any rental arrears, including Additional Rent (as defined in the Quarter Use Sublease), into good standing and thereafter maintains the Quarter Use Sublease in good standing and, if the same is capable of being cured by the Lender, cures any breach of any of the covenants in the Quarter Use Sublease upon which the Owners' Association had given notice to the Lender of its intention to act prior to giving notice under this subsection 3(5). In such event,

in connection with the enforcement of the Security by the Lender the Owners' Association will, upon request by the Lender, grant a new sublease in the form of the Quarter Use Sublease for the remainder of the term thereof to the Lender, any receiver-manager appointed by the Lender or a purchaser in foreclosure of the Owner's undivided fee simple interest in the Sublease;

- (6) in the event the Owners' Association suspends any or all of the rights of the Owner under the Quarter Use Sublease pursuant to the terms thereof, the Owners' Association will not subsequently terminate the Quarter Use Sublease or take any steps to enforce the lien arising pursuant to subsection 8.2 thereof without first giving the Lender notice of its intention to do so pursuant to subsection 3(1) and providing the Lender the right to cure the breach or default pursuant to subsection 3(2);
- (7) in the event of the Lender taking enforcement proceedings under the Security and advising the Owners' Association of its intention to maintain the Quarter Use Sublease, the Lender shall only be liable for:
 - (a) the payment of any rental arrears, including Additional Rent, that are outstanding (whether or not the Owners' Association has given notice thereof to the Lender) and any other breach of any of the covenants in the Quarter Use Sublease upon which the Owners' Association had given notice to the Lender of its intention to act prior to the commencement of enforcement proceedings by the Lender; and
 - (b) the performance of the Owner's covenants and obligations under the Quarter Use Sublease from the time of commencement of enforcement proceedings until any assignment or transfer of the Quarter Use Sublease pursuant to the terms thereof or any surrender, cancellation or other termination of the Quarter Use Sublease,

and nothing contained herein or in the Quarter Use Sublease shall render the Lender liable for the performance of any of the covenants or other provisions of the Quarter Use Sublease, including without limitation the covenants for the payment of rent including Additional Rent, with respect to any period of time subsequent to the period of any actual possession of the leasehold premises by the Lender or in the absence of such possession, subsequent to any assignment or transfer of the Quarter Use Sublease approved by the Owners' Association pursuant to the terms thereof or any surrender, cancellation or other termination of the Quarter Use Sublease, and the Lender (if the Lender takes possession of the Strata Lot pursuant to the Quarter Use Sublease) or any receiver-manager appointed by the Lender shall be entitled to the same rights of assignment as are available to the Owner under the Quarter Use Sublease;

- (8) the Owners' Association will not, without the written consent of the Lender:
 - (a) accept the surrender of the Quarter Use Sublease unless required to do so pursuant to the terms thereof or by operation of law;
 - (b) terminate the Quarter Use Sublease or suspend any rights thereunder except in accordance with its terms of this Agreement; or
 - (c) amend or vary the Quarter Use Sublease in any way which materially alters the obligations of the parties thereunder;
- (9) so long as the Security remains outstanding, there will be no agreement between the Owners' Association and the Owner for the cancellation, surrender, acceptance of surrender, modification or amendment of or subordination of the Quarter Use Sublease without the written consent of the Lender first had and received, such consent not to be unreasonably withheld;
- (10) if the Quarter Use Sublease is forfeited, surrendered or otherwise terminated for any reason whatsoever while the Security remains outstanding, the Owners' Association will, if requested by the Lender, grant to the Lender (or any receiver or receiver-manager appointed in connection with the Security) a new Quarter Use Sublease of the Strata Lot at the same rent and upon the same terms and conditions as reserved and contained in the Quarter Use Sublease (or any renewal thereof), for a term equal to the then unexpired portion of the term of the Quarter Use Sublease (or any renewal thereof), including, without limitation, any right to renew;
- (11) as long as the Quarter Use Sublease is charged by the Security, the Owners' Association, concurrently with any assignment of the Association Lease, will cause the assignee to concurrently assume the obligations of the Owners' Association hereunder, the Lender agreeing that upon such assignee agreeing in writing to do so the Owners' Association will automatically be released from its obligations hereunder;
- (12) the Owners' Association will provide the Lender, on an annual basis, with an estoppel certificate concerning the Quarter Use Sublease confirming that the matters set out in section 2 hereof are true as at the date of the certificate or, if any of the matters in section 2 is not true, particulars thereof; and
- (13) the Owners' Association will give notice to the Lender either by personal delivery or by mailing same by prepaid registered mail to the Lender at its address aforesaid, and any such notice shall be deemed to have been received on the third business day following such mailing. In the event of any known disruption of postal service, any such notice shall be personally delivered to the Lender.

4. The Lender covenants with the Owners' Association and the Owner that if either:
- (1) any proceedings are brought by the Lender for foreclosure or sale or other suit, sale or proceeding under the Security in respect of the Owner's interest in the Strata Lot; or
 - (2) the Lender becomes the owner of the Strata Lot pursuant to the proceedings referred to in subsection 4(1) above or of any transfer or quit claim in respect of the Owner's interest in the Strata Lot is made by the Owner to the Lender,

then:

- (a) the Lender will not disturb or otherwise interfere with:
 - (i) any of the rights and privileges of the Owners' Association under the Association Lease or any of the Subleases; or
 - (ii) any of the rights and privileges of the registered owners of undivided one-quarter fee simple interests in the Strata Lot (other than the Owner) pursuant to the other Subleases, and the rights of any lender to any such registered owner under any registered mortgage of such registered owner's fee simple or leasehold interest;
- (b) the Lender will not disaffirm the Association Lease, the Subleases, the Rental Covenant or the Management Covenant;
- (c) the Lender shall not, except as may be necessary or required in accordance with any applicable law, make the Owners' Association a party to any foreclosure or other suit, sale or proceeding under the Security and the same shall not affect the rights or estate of the Owners' Association under the Association Lease; and
- (d) the Lender shall, upon the issue of a writ of possession, transfer or quit claim of the Owner's interest in the Strata Lot in favour of the Lender, or upon the Lender becoming the owner of the Owner's interest in the Strata Lot, assume and observe and perform all of the obligations of the Owner under the Association Lease, the Quarter Use Sublease, the Rental Covenant and the Management Covenant accruing on and after such date and shall be entitled to all of the rights and benefits of the Owner on and after such date, including any rights of termination.

5. If the Lender succeeds to the interest of the Owner in the Strata Lot:

- (1) the Owners' Association will be bound to the Lender as under all of the Owners' Association promises and agreements contained in the Association Lease, the Quarter Use Sublease and the Management Covenant, insofar as such promises and agreements relate to the Owner's interest in the Strata Lot, for the balance of the term of the Association Lease and the Quarter Use Sublease (including any renewals thereof), as if the Lender were the owner of the Owner's interest in the Strata Lot under the Association Lease and the Quarter Use Sublease (including any renewals thereof); and
- (2) the Lender will be bound to the Owners' Association under all of the Owner's promises and agreements contained in the Association Lease, the Quarter Use Sublease and the Management Covenant insofar as such promises and agreements relate to the Owner's interest in the Strata Lot, for the balance of the term of the Association Lease and the Quarter Use Sublease (including any renewals thereof) as if the Lender were the owner of the Owner's interest in the Strata Lot under the Association Lease and the Quarter Use Sublease (including any renewals thereof).

6. The Owners' Association will, from and after the Lender's succession to the interest of the Owner in the Strata Lot, have the same remedies against the Lender for any breach of the Association Lease, the Quarter Use Sublease or the Management Covenant as the Owners' Association would have had under the Association Lease, the Quarter Use Sublease or the Management Covenant, as the case may be, against the Owner if the Lender had not succeeded to the interest of the Owner, provided that the Lender will not be:

- (1) liable for any act or omission of any prior owner of the Strata Lot or the Owner's interest in the Strata Lot, including the Owner;
- (2) subject to any set-off or defence that the Owners' Association may have against any prior owner of the Strata Lot or the Owner's interest in the Strata Lot, including the Owner;
- (3) bound to make any payment that was required to be made by the Owner or make any improvements in, alterations to or replacements of the Strata Lot that was required to be made, in either case, under the Quarter Use Sublease prior to the Lender's succession to the interest of the Owner in the Strata Lot; or
- (4) bound by any amendment or modification of the Quarter Use Sublease made after the date hereof without the written consent of the Lender.

7. (1) Subject to subsection (2), if the Lender realizes upon the Security, the Lender will cause any assignee or transferee of the Lender's interest under the Quarter Use Sublease to execute and deliver to the Owners' Association an assignment and

assumption agreement in the form and content of Schedule C to the Quarter Use Sublease prior to completion of the assignment or transfer.

- (2) If the Lender's interest under the Quarter Use Sublease is assigned or transferred pursuant to a court order arising from an action for foreclosure under the Security, the Lender will use all commercially reasonable efforts to cause (but, having used all commercially reasonable efforts, will not be responsible to the Owners' Association for any order not requiring) any assignee or transferee of the Lender's interest under the Quarter Use Sublease pursuant to such court order to execute and deliver to the Owners' Association the assignment and assumption agreement in the form of Schedule C to the Quarter Use Sublease prior to completion of the transfer.

8. The Lender will not assign or transfer the Security unless the Lender requires the assignee or transferee to execute and deliver to the Owners' Association an agreement with the Owners' Association and the Owner on the same terms and conditions as this Agreement. Notwithstanding the foregoing, if the Lender assigns or transfers the Security as part of a bulk transfer or securitisation involving an assignment or transfer of security relating to other strata lots in the Development to the same party, then the Lender will cause the transferee or assignee to assume, in writing, the Lender's covenants and obligations under this Agreement and other agreements in the same form relating to the other strata lots.

9. The Lender acknowledges that the Security includes a mortgage of the Owner's interest in the Strata Lot and the Owner's interest in the Quarter Use Sublease, and the Lender covenants and agrees not to take any proceedings in realization upon the Security unless it takes proceedings concurrently in respect of both the Strata Lot and the Quarter Use Sublease.

10. It is a condition of this Agreement that nothing herein contained shall be deemed to waive or modify any of the rights of the Lessor under the Quarter Use Sublease except as expressly provided herein or to release the Owner from the observance or performance of any term, condition or covenant contained therein.

11. This Agreement may only be modified by an agreement in writing signed by the parties hereto.

12. This Agreement will be governed and construed in accordance with the laws of British Columbia.

13. This Agreement will enure to the benefit of and be binding upon the successors and assigns of the parties.

14. The Lender acknowledges that the Lender has received a copy of and has been given an opportunity to read the Association Lease and the Quarter Use Lease.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

BY THE LENDER:

[Name of Lender]

Per: _____

BY THE OWNERS' ASSOCIATION:

HORSTMAN OWNERS' ASSOCIATION

Per: _____

BY THE OWNER:

- END OF DOCUMENT -