

PARK USE PERMIT 1506

CYPRESS BOWL RECREATIONS LIMITED PARTNERSHIP

Consolidated for Convenience

November 14, 1986

PREFACE

This Document Consolidates the following:

1. Park Use Permit 1506
dated September 13, 1984
2. Modification Agreement No. 1
dated November 5, 1986

and also includes:

1. The Service Contract
dated November 5, 1986
- 2(a) The Road Clearing Contract
dated September 13, 1984
- (b) The Road Clearing Modification Agreement
dated November 5, 1986
3. The Surrender Agreement
dated November 5, 1986

THIS AGREEMENT dated for reference the 13th day of September, 1984.

(Consolidated for Convenience November 14, 1986)

B E T W E E N :

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA
represented by the Minister of Lands,
Parks and Housing

(hereinafter called the "Province")

OF THE FIRST PART

A N D :

CYPRESS BOWL RECREATIONS LIMITED PARTNERSHIP

(hereinafter called the "Permittee")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

- A. The Minister (as hereinafter defined) has agreed to allow the Permittee to use, occupy and carry on business and to carry on the operation of ski, lodge, recreational, food and beverage facilities within Cypress Provincial Park on the terms and conditions herein contained; AND
- B. The Minister has determined that the issuance of this permit is necessary for the maintenance of the recreational values of Cypress Provincial Park.

NOW THEREFORE, in consideration of the covenants and agreements set forth below, the parties agree as follows:

ARTICLE I - DEFINITIONS

1.01 In this agreement, unless the context otherwise requires

"Alpine Ski Area" means that part of the Park Area described in Exhibit 1 and labelled ALPINE SKI AREA;

"Bonus Bid" means the sum of \$500,000;

"Commencement Date" means the commencement date established in the interim agreement;

"Controlled Recreation Area" means the Alpine Ski Area and Nordic Ski Area;

"Day Skier Facility" means any building that is within the Controlled Recreation Area and that provides day use facilities for skiers;

"Development Plan" means, until the Province approves the Master Plan, the plan of development attached as Schedule "A" and on approval of the Master Plan by the Province, means this Master Plan;

"Event of Default" means an event referred to in Section 6.01;

"Fees" means the money payable to the Province pursuant to Section 5.01;

"Financial Year" means the financial year of the Permittee for the purpose of this Permit ending on January 31st in each year during the term of this agreement, provided this will not require a January 31st year end for income tax purposes;

"General Operations" means all sales or rentals of goods and services and all business activities whatsoever at, in, upon or from the Controlled Recreation Area by the Permittee and by any subpermittee or licensee of the Permittee;

"Gross Revenue" means the total gross receipts and receivables of the Permittee and any subpermittee or licensee of the Permittee (excluding liquor sales revenue) including subsequent recoveries of receivables previously written off, but does not include uncollectable receivables written off by the Permittee in accordance with generally accepted accounting principles (nor receipts or receivables of the Permittee from a subpermittee or licensee);

"Hikers Trail Services Agreement" means an agreement between the parties dated the 5th of November, 1986, concerning the provision by the Permittee of certain services within the Park Area;

"Improvements" includes the recreation improvements, ski trails, day skier facility, parking facilities, maintenance facilities and utilities;

"Interest" means the rights of the Permittee under this agreement and the business activities of the Permittee in connection therewith;

"Lifts" means any ski lifts that exist at the commencement date;

"Lift Areas" means those areas within the Controlled Recreation Area identified as Lifts each of which is deemed to have a width of 10 meters;

"Maintenance Area" means that part of the Park Area described as Parcel D in Exhibit 1;

"Maintenance Facilities" means those buildings and facilities located in the Maintenance Area;

"Maintenance Operations" means the operation of maintenance facilities directly related and incidental to the business carried on in the Controlled Recreation Area within the building designated for such use;

"Master Plan" means a master plan submitted by the Permittee pursuant to paragraph (w) of Schedule "E" to this agreement;

"Member" means a registered or beneficial owner of an interest in the capital of the Permittee;

"Minimum Fee" means the fee referred to in subsection 5.01(a);

"Minister" means that member of the Executive Council of the Province who is from time to time charged with the administration of the Park Act, and includes any one appointed by the Province or the Minister to act as his representative;

"Nordic Ski Area" means that part of the Park Area described in Exhibit 1 and labelled NORDIC SKI AREA and includes, after approval for development is granted by the Minister, the portion of the Surrounding Lands so approved for development by the Minister under paragraph (x) of Schedule "E";

"Park Area" means Cypress Provincial Park;

"Parking Facilities" means the vehicular parking lots in the Alpine Ski Area;

"Percentage Fees" means the fees referred to in subsection 5.01(b);

"Permittee" means Cypress Bowl Recreations Limited Partnership;

"Province" means Her Majesty the Queen in Right of the Province of British Columbia;

"Provincial Ski Area Policy" means the policy of the Province in effect from time to time relating to the operation of ski areas;

"Recreation Improvements" means any lifts (including a lift terminal facility, pylons, cables, gondolas, chairs and equipment used in connection with a lift) day skier facility, parking facilities, and any other similar improvement or facility related to or incidental to the use of the Controlled Recreation Area;

"Road Clearing Contract" means an agreement dated the 13th day of September, 1984, as amended, concerning snow clearing services to be performed by the Permittee in the vicinity of Cypress Park;

"Ski Season" means the period commencing on the 1st day of November in any one year and ending on May 31st in any one year;

"Ski Trails" means those cleared areas identified as existing ski trails, ski runs or trails within the Controlled Recreation Area;

"Summer Season" means any period other than the ski season;

"Surrounding Lands" means that part of the Park Area described on Exhibit A and labelled Surrounding Lands;

"Utilities" means the existing sewer and water utilities;

"Utilities Area" means that area identified as water and sewer lines in Exhibit 1, each of which is deemed to have a width of 5 meters.

ARTICLE II - REPRESENTATIONS OF THE PERMITTEE

2.01 The Permittee warrants and represents to the Province that

- a) it is not in breach of any statute, regulation or by-law applicable to the Permittee or its operations;
- b) the making of this agreement and the completion of the transactions contemplated hereby and the performance of and compliance with the terms of this agreement does not conflict with or result in a breach of, or the acceleration of any indebtedness under, any terms, provisions or conditions of, or constitutes a default under, the constating documents of the Permittee or any indenture, mortgage, deed of trust, agreement, lease, franchise, certificate, consent, permit, licence, authority or other instrument to which the Permittee is a party or is bound or any judgment, decree, order, rule or regulation of any court or administrative body by which the Permittee is bound or, to the knowledge of the Permittee, any statute or regulation applicable to the Permittee; and
- c) the information relating to the Permittee in Schedule "C" is correct.

2.02 The Permittee acknowledges and agrees that

- a) it has inspected the Improvements and Controlled Recreation Area;
- b) it is satisfied that the Improvements and Controlled Recreation Area are suitable for its business purposes;
- c) it has made its own investigation of the economic feasibility of the business activities permitted hereunder;
- d) except for representations made in a letter dated September 7, 1984, and signed by the Deputy Minister of Lands, Parks and Housing, there are no representations, warranties, collateral agreements or conditions affecting the agreement except as expressed herein and that this agreement constitutes the entire agreement between the parties; and
- e) this agreement may not be modified except by subsequent agreement in writing between the parties.

ARTICLE III - GRANT OF SKI AREA RIGHTS

3.01 Subject to this agreement and the Park Act, the Minister hereby grants to the Permittee, during the term of this agreement, the exclusive right to use and occupy the lands within

- a) the Alpine Ski Area to carry on the operation of ski ticket sales, food and beverage, ski school and ski accessory business activities together with those activities set out in Schedule "A" and any other commercial or recreational activities approved by the Minister;
- b) the Nordic Ski Area to carry out those activities set out in Schedule "D" together with any other commercial or recreational activities approved by the Minister;
- c) the Parking Facilities during each Ski Season and a non-exclusive right to use and occupy them in the Summer Season for the purpose of maintaining them and using them for business activities;
- d) the Maintenance Areas for the purpose of carrying on the Maintenance Operations;
- e) the Utilities Area for the purpose of using and maintaining the Utilities.

3.02 Subject to this agreement and the Park Act, the Minister, in addition to the rights referred to in Section 3.01, and in order to ensure the safe and orderly use of the Controlled Recreation Area by all persons, hereby grants to the Permittee, during each Ski Season, the exclusive right to control the Controlled Recreation Area for the sole purpose of ensuring the safe and orderly use thereof by all persons, including the right and privilege and authority

- a) to establish and delineate a ski area boundary within the Controlled Recreation Area and to designate such boundary by notices, posted signs, fences or otherwise;
- b) to control, regulate and direct the movement and activities of skiers and all other persons within the Controlled Recreation Area upon such terms and conditions as the Permittee may determine in its discretion;
- c) to regulate the access and entry of all persons to the Controlled Recreation Area upon such terms and conditions as the Permittee may determine in its discretion;
- d) to evict persons from the Controlled Recreation Area;
- e) to regulate the use and movement of vehicles of any nature whatsoever within the Controlled Recreation Area and at all times and upon such terms and conditions as the Permittee may determine in its discretion;
- f) to regulate the landing of aircraft within the Controlled Recreation Area upon such terms and conditions as the Permittee may determine in its discretion;

and for such purposes, the Permittee may enter into such agreements and arrangements as it may determine with the Municipality of West Vancouver or others for the purpose of enforcing the foregoing.

3.03 The Permittee shall use reasonable efforts during each Ski Season to ensure that skiers and other persons permitted to use the Controlled Recreation Area

a) do not enter into areas within the Controlled Recreation Area that are, in the Permittee's opinion, unsafe due to existing or potential hazards; and

b) do not carry on activities within the Controlled Recreation Area that are prohibited under the Park Act;

provided that this section shall not impose on the Permittee any obligation to make safe any area or areas within the Controlled Recreation Area or to remove any existing hazards within such areas except to the extent it is required to do so under its operating covenants set forth in Schedule "E".

3.04 The Permittee's duty of care to persons entering the Controlled Recreation Area and its liability arising from its use, occupation and control of the Controlled Recreation Area shall not exceed that of an occupier under the Occupiers Liability Act.

3.05 The Province covenants and agrees that it will not, and will not authorize or permit any other person, firm or corporation to, carry on

a) any commercial or industrial activity in the Controlled Recreation Area or Maintenance Area without the prior written consent of the Permittee, which consent the Permittee may arbitrarily withhold; or

b) within the Park Area, any commercial activity in connection with a permanent or seasonal establishment, including without limiting the foregoing, any campground, restaurant, off-highway transportation system, vehicle park, hotel, motel, inn or observation tower; or

c) any other commercial or industrial activity outside of the Controlled Recreation Area and Maintenance Area without the prior written consent of the Permittee, which consent the Permittee will not withhold unreasonably.

For the purposes of subsection (c), the withholding of consent will not be unreasonable if the activity proposed to be carried on or authorized by the Province is likely to compete or interfere with or adversely affect the business operations or activities carried on by the Permittee or permitted to be carried on by the Permittee hereunder or interfere with or adversely affect the rights of the Permittee hereunder in a material way. In any proceeding under this paragraph, the Province has the burden of proving that the withholding of consent was unreasonable and that the activity proposed to be carried on or authorized by the Province will not compete or interfere with, or adversely affect, the operations, activities or rights of the Permittee.

- 3.06 The Permittee shall have the right to charge any person using or passing through the Controlled Recreation Area such fees in such amounts as the Permittee may determine from time to time during the Ski Season.
- 3.07 Sections 3.08 to 3.14 do not apply to the Surrounding Lands that are a part of the Nordic Ski Area.
- 3.08 Subject to the Park Act and this agreement, the Province and the Permittee hereby acknowledge and agree that
- a) the Permittee may enter on and occupy the Surrounding lands for the purpose of
 - i) utilizing the Surrounding Lands to provide access to the Utilities Area, Maintenance Area, Snow Play Area, the Controlled Recreation Area or the Park Area,
 - ii) to carry out its obligations under this Agreement, the Hikers Trail Services Agreement and the Road Clearing Contract, or
 - iii) to carry on any of the activities set out in Schedule "D", and
 - b) the Province or any person authorized by the Province may enter on and occupy the Surrounding Lands
 - i) in conjunction with using, or in order to better use, the Parking Facilities or Hikers Trail, as defined in the Hikers Trail Services Agreement, Snow Play Area and the Park Area,
 - ii) in order to obtain access to the Controlled Recreation Area, or
 - c) the Surrounding Lands may be jointly occupied by the Permittee, the Province and any persons authorized by the Province.
- 3.09 Subject to this agreement, the Permittee shall allow any other person to enter on and occupy the Surrounding Lands, for the purposes set out in Section 3.08(b), freely and without charge.
- 3.10 Subject to this agreement, the Province shall allow the Permittee to enter on and occupy the Surrounding Lands for the purposes set out in Section 3.08(a) freely and without charge.
- 3.11 Notwithstanding Section 3.08, the Province shall not permit anyone to change the surface of the Surrounding Lands, to develop the Surroundings Lands, or place, erect or construct any building or permanent structure on the Surrounding Lands.
- 3.12 Subject to Section 3.14, the Province hereby agrees to release and discharge the Permittee from all the covenants, terms and conditions of this agreement to the extent that the covenants, terms and conditions apply to Surrounding Lands.

- 3.13 Subject to Section 3.14, the Permittee hereby agrees to release and discharge the Province from all the covenants, terms and conditions of this agreement, to the extent that the covenants, terms and conditions apply to Surrounding Lands.
- 3.14 Sections 3.12 and 3.13 do not apply to covenants, terms and conditions set out in Sections 3.07 to 3.12, Section 12.12 and paragraph (x) of Schedule "E".

ARTICLE IV - COVENANTS OF THE PERMITTEE

4.01 The Permittee covenants and agrees to

- a) observe, abide by and comply with all the terms and conditions of this agreement;
- b) observe, abide by and comply with, subject to Section 4.02, all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority (including, without limiting the generality of the foregoing, the District of West Vancouver) which, but for Section 29 of the Park Act, in any way affect the Controlled Recreation Area, (including the improvements within it) the use and occupation of the land on which they are situate, or that affect the undertaking of the Permittee or the manner in which it carries on its business activities or operations, provided that such is not in breach of any provision of the Park Act;
- c) use all reasonable efforts to minimize the adverse environmental impact of work within the Controlled Recreation Area and comply in respect of any work undertaken by the Permittee in all material respects with the environmental requirements set forth in Schedule "F";
- d) operate the Improvements in accordance with generally accepted industry standards for similar developments in British Columbia, and without limiting the generality of the foregoing, comply with all the operating covenants set forth in Schedule "E";
- e) provide all management and technical expertise necessary to carry out its obligations under this agreement;
- f) take out or cause to be taken out and keep or cause to be kept in force the following policies of insurance
 - i) comprehensive public liability insurance in respect of claims for personal injury, death or property damage arising out of any one occurrence in the Controlled Recreation Area to an amount not less than \$5,000,000, which amount shall be adjusted from time to time in keeping with the amounts customarily carried by prudent operators of similar ski developments in Canada, and which policy may permit a reasonable deductible amount having due regard to the net worth from time to time of the Permittee; and
 - ii) such other insurance as would in the reasonable opinion of the Minister be maintained by a prudent operator of a similar ski development in Canada, including, without limitation, policies of insurance to cover the risk, if any, associated with the operation of any motor vehicle or aircraft, including helicopters;

- g) cause each policy of insurance required to be maintained by it
 - i) to name the Province as a named insured under the policy,
 - ii) to prohibit the insurer from exercising any rights of subrogation against the Province,
 - iii) to afford protection to the Province in respect of cross-liability between the Province and the Permittee and to provide that the coverage under the policy shall not be cancelled or any provisions changed or deleted unless 30 days prior written notice is given to the Province by the insurer;
- h) provide to the Minister from time to time, upon request, proof that all premiums for the policies required to be maintained by the Permittee have been paid and that all such policies are in full force and effect and contain the above terms;
- i) pay when due all taxes, rates, assessments, levies and other dues now or hereafter charged, rated, assessed or levied against all or any part of the land comprised in the Controlled Recreation Area and all or any part of the Improvements and all other taxes, rates, assessments, levies and other dues payable by the Permittee under any Federal or Provincial statute including without limitation the Income Tax Act (Canada) and the Workers Compensation Act;
- j) pay interest to the Province on Fees in arrears at the rate of interest prescribed from time to time under the Financial Administration Act in respect of money payable to the Province;
- k) indemnify and save the Province harmless against all loss, damage, reasonable costs and liabilities, including fees of solicitors and other professional advisors which the Province may be required to pay and does pay, arising out of
 - i) any breach, violation or non-performance by the Permittee of any covenant, term or condition contained in this agreement,
 - ii) any personal injury, death, or property damage occurring in the Controlled Recreation Area, or as a consequence of any activity carried out by the Permittee in the Controlled Recreation Area including any matter or thing permitted or omitted (whether negligent or otherwise) by the Permittee, or any of its directors, officers, servants, agents, contractors or subcontractors,

and the amount of that loss, damage, costs and liabilities shall be added to the Fees and the Permittee shall pay the amount so added to the Province on demand provided, however, that if any action or claim shall be brought against the Province in respect of which indemnity may be sought from the Permittee, under this subsection, the Province shall forthwith give notice to the Permittee of such action or claim and the Permittee may, subject to the Crown Proceedings Act, assume the defence thereof and the payment of all expenses;

- l) pay all accounts and expenses as they become due for labour or services performed on or materials supplied for the Improvements save and except for money that the Permittee is required to hold back under the Builders Lien Act and if any claim of lien is made under that Act, the Permittee shall take all necessary steps to have the same discharged unless the claim of lien is being contested in good faith by the Permittee and the Permittee has taken steps to ensure that the claim will not subject any of its interests under this agreement or the Improvements to sale or forfeiture;
- m) place written notices immediately after the commencement of any construction within the Controlled Recreation Area, in at least two conspicuous places, pursuant to the Builders Lien Act, giving notice that the Province shall not be responsible for the cost of any labour, services or materials performed on or supplied to the Controlled Recreation Area;
- n) pay the Fees required to be paid by the Permittee under this agreement;
- o) not erect or construct, alter or modify any improvements on the land within the Controlled Recreation Area except as approved pursuant to the Development Plan or by the Minister from time to time;
- p) use the Controlled Recreation Area and the Improvements, solely for the purposes permitted hereunder, or such other purposes approved by the Minister in writing from time to time;
- q) on the expiration or earlier termination of this agreement, to peaceably quit, surrender, yield up and deliver the Controlled Recreation Area to the Province, in a safe, clean and sanitary condition, satisfactory to the Minister, and subject to Article VII, all rights and interests of the Permittee in the Controlled Recreation Area and Improvements shall cease and vest in the province;
- r) keep the Controlled Recreation Area, Maintenance Area and Improvements in a safe, clean and sanitary condition, satisfactory to the Minister provided, however, that this covenant shall not apply during the Summer Season to the Baden Powell, Howe Sound Crest, Yew Lake, Hollyburn Ridge, Burfield, Telemark, Sitzmark, Wells Grey, Jack Pratt, West Lake or Grand National trails;
- s) permit all persons to make use of the Parking Facilities and Ski Trails in the Summer Season, without charge, subject to such regulations as the Permittee may determine in order to comply with its obligations under Section 3.02 provided that this shall not authorize the Permittee to close the Parking Facilities and Ski Trails in the Summer Season without the prior consent of the Minister;

- t) to cooperate with and assist the Greater Vancouver Water District in the prevention of incursions by persons using the Controlled Recreation Area into lands owned or leased by the District adjacent to the Park Area; and
- u) maintain the culverts, catch basins, utilities, sewers, pipes and drains in the Controlled Recreation Area and maintain the Parking Facilities and Ski Trails in their present operating condition, provided that the obligations of the Permittee under this clause will only extend to repairs of a non-capital nature to the said culverts, catch basins, utilities, sewers, pipes and drains, Parking Facilities and Ski Trails, and those repairs and maintenance required resulting directly from damage caused by the Permittee's failure to carry out its obligations under this clause and for greater certainty no capital repairs or maintenance will be required under this clause resulting from damage caused by force majeure. Force majeure in this Agreement means acts of God, fire, flood, avalanche, explosion, earthquake, torrential rain and shifting of earth. The Permittee acknowledges that nothing in this agreement requires the Province to carry out repairs and maintenance of a non-capital or capital nature.

4.02 Nothing in subsection 4.01(b) of this agreement shall be construed as requiring the Permittee to seek or obtain any approvals from the District of West Vancouver concerning the use or development of the Controlled Recreation Area, the Maintenance Area or the Utilities Area other than normal business licences and permits and such building permits as may generally be required to construct works specifically approved by the Minister.

ARTICLE V - FEES

- 5.01 In consideration of the rights granted under paragraphs 3.01 and 3.02 thereof the Permittee shall pay to the Province
- a) a minimum fee
 - i) of \$4,063.00 payable on the Commencement Date during the first year of this agreement, and
 - ii) thereafter, an amount equal to 1% of the Gross Revenue from General Operations during its last Financial Year payable in advance on January 31st, 1985 and on January 31st in each and every year thereafter during the term of this agreement; and
 - b) a total percentage fee in an amount equal to 2%, or such other percentage as may be determined in accordance with Section 5.02, of the Gross Revenue from General Operations calculated in respect of each Financial Year less the Minimum Fee.
- 5.02 The percentage of the Percentage Fees shall be reviewed by the Minister on August 1st, 1994 and on each 10th anniversary of that date and the Minister may, at each review, increase the percentages by an amount it may determine, but no single increase of either of the Percentage Fees shall be more than 1% and no increase shall be so large as to cause the Percentage Fees to be an amount greater than the highest aggregate fees then charged by the Province under any Provincial Ski Area Policy then in effect.
- 5.03 Within 120 days after the end of each Financial Year, the Permittee shall deliver to the Minister an audited detailed statement of Gross Revenue from General Operations for that Financial Year prepared by the Permittee together with payment of the Percentage Fees.
- 5.04 The Permittee shall give notice in writing to the Minister of any changes to its fiscal year.
- 5.05 The Minister shall have the right to inspect and take copies of and cause an audit to be taken by an independent auditor of the books and records of the Permittee and any subpermittee or licensee of the Permittee pertaining to Gross Revenue from General Operations upon reasonable notice and at reasonable times, at the cost of the Province.
- 5.06 No Financial Year shall exceed twelve months.

ARTICLE VI - EVENTS OF DEFAULT

6.01 The Province may exercise any one or more of its remedies under Section 6.02 on the happening of any one or more of the following events

- a) if the Permittee fails to pay Fees when due and the default continues for a period of 15 days after written notice has been given by the Minister to the Permittee specifying the default and requiring the same to be remedied;
- b) if the Permittee fails to observe or perform or keep any of its covenants or obligations under this agreement (other than its covenants to pay Fees) and the default continues for a period of 30 days after written notice has been given by the Minister to the Permittee specifying the default and requiring the same to be remedied, or if the nature of the default reasonably requires more than 30 days to be cured, the Permittee fails to commence curing the default within the 30 day period and thereafter fails to prosecute to completion with diligence and continuity the curing of the default;
- c) if an order is made or a resolution passed for the liquidation or winding up of the Permittee or if a petition is filed for the liquidation or winding up of the Permittee;
- d) if the Permittee becomes insolvent or makes an assignment for the general benefit of its creditors or if a bankruptcy petition is filed or presented against the Permittee or the Permittee consents to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging the Permittee bankrupt under any law relating to bankruptcy or insolvency;
- e) if any execution, sequestration, extent or other process of any court becomes enforceable against the Permittee or if a distress or analogous process is levied on its interest or any of its property and the Permittee fails to defend such process in good faith;
- f) if the Permittee, without the prior written consent of the Minister, ceases to regularly and continuously carry on its permitted business within the Controlled Recreation Area under this agreement, in whole or in part, for a consecutive period of two years, provided that weather conditions are such that the Permittee's business could reasonably be carried out;
- g) if the members of the Permittee or any of them sell, pledge, assign, mortgage or otherwise dispose of their interest in the capital of the Permittee or enter into an agreement to do so without the prior written consent of the Minister;
- h) if the beneficial ownership and effective control of the Permittee or a member thereof as outlined in Schedule "C" is changed, or without limiting the foregoing if anyone who has any interest,

direct or indirect, in the Permittee sells, pledges, assigns, mortgages (other than to a chartered bank or trust company in Canada) or otherwise disposes of their interest or enters into an agreement to do so without the prior written consent of the Minister, provided that the Province will permit the Jefferson Cypress Bowl Recreations Limited Partnership to issue limited partnership units so long as the Province approves the identity of the beneficial owner of such limited partnership units and no more than 15 limited partners are admitted to such partnership;

- i) if a representation of the Permittee under Section 2.01 is, or is proven to be, materially untrue;
- j) if, without the prior written consent of the Minister, the Permittee is amalgamated or combined with another company or is reorganized;
- k) if, without the prior written consent of the Minister, the Permittee directly or indirectly enters into an agreement whereby another party acquires an interest in the Improvements, or any part of them, or if the Permittee disposes of an interest in the Improvements, or any part of them, to any person, firm or corporation by any method whatsoever; and
- l) if, the Permittee defaults in its obligations under the Road Clearing Contract or the Hikers Trail Services Agreement and the default continues for a period of 30 days after written notice has been given by the Minister to the Permittee specifying the default and requiring same to be rectified.

6.02 On the happening of an Event of Default, or at any time thereafter, the Province may, after notice and after the period to cure default has passed, do any one or more of the following:

- a) pursue any remedy available to it at law or in equity, it being acknowledged by the Permittee that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy to cure an Event of Default;
- b) take all actions in its own name or in the name of the Permittee that may reasonably be required to cure the Event of Default in which case all payments, costs and expenses incurred by the Province shall be payable by the Permittee to the Province on demand;
- c) suspend, in whole or in part, the rights granted the Permittee under this agreement;
- d) terminate, in whole or in part, the rights granted the Permittee under this agreement;
- e) appoint a receiver or receiver-manager under Article 6.03; and
- f) waive the Event of Default.

- 6.03 On the happening of an Event of Default or at any time thereafter, the Minister may by instrument in writing appoint a receiver or receiver-manager of the Interest or any part of it and may remove the receiver or receiver-manager so appointed and appoint another in his stead and the following provisions shall take effect
- a) the receiver or receiver-manager may take possession of the Interest of the Permittee and carry on its business and operations incidental thereto or any part of that business and operations and in so doing may do any act and take any proceeding in the name of the Permittee or otherwise as he shall deem necessary;
 - b) the receiver or receiver-manager may, with the prior written consent of the Minister, borrow money for the purpose of carrying on the business and operations of the Permittee, in whole or in part, or for the maintenance of the Improvements or any of them or for other purposes approved by the Minister and any amounts so borrowed, together with interest on it, shall form a charge upon the Interest and all revenues derived from the business and operations of the Permittee in connection therewith;
 - c) the Minister may from time to time fix reasonable remuneration for the receiver or receiver-manager and direct the payment of that remuneration out of revenues derived from the business and operations of the Interest;
 - d) the receiver or receiver-manager shall, so far as concerns responsibility for his acts, be deemed the agent of the Permittee, and the Province shall not in any way be responsible for any misconduct or negligence of the receiver or receiver-manager; and
 - e) the receiver or receiver-manager in exercising the powers under this section shall not be liable for any loss whatsoever unless the same is caused by his own negligence or wilful default.

ARTICLE VII - DISPOSITION OF IMPROVEMENTS

- 7.01 All improvements now or hereafter brought onto, made to, erected on, affixed or buried under the land within the Controlled Recreation Area shall, subject to Section 7.03, be and remain vested in the Permittee absolutely, provided that the Permittee shall not remove or dispose of the improvements except as provided by Sections 7.02 or 8.03.
- 7.02 On the termination of this agreement or its expiration by effluxion of time, the Permittee may, within one year of the date of such termination or expiration, remove any or all of the Improvements from the Controlled Recreation Area provided that the Permittee may remove the Improvements from the Controlled Recreation Area if any Provincial legislation, Orders-in-Council or regulations are passed which materially and adversely affect the activities of the Permittee authorized by this agreement.
- 7.03 All improvements not removed by the Permittee pursuant to Section 7.02 within the time period specified therein, shall become the property of the Province and the Permittee releases the Province from any claims with respect to the same.
- 7.04 Where the Permittee removes an Improvement pursuant to Section 7.02, it shall remove all concrete foundations (other than lift tower footings) and leave the surface of the land in a safe, clean and tidy condition satisfactory to the Minister.

ARTICLE VIII - TRANSFERS AND ENCUMBRANCES

- 8.01 Subject to Sections 8.02 and 8.03, the Permittee shall not sell, assign, transfer or otherwise dispose of its Interest without the prior written consent of the Minister.
- 8.02 The Permittee may with the prior written consent of the Minister grant a subpermit, license or concession to all or part of its Interest, subject to the Park Act.
- 8.03 The Minister shall not unreasonably refuse to consent to a sale, assignment, transfer or disposition under Section 8.01 (herein called a "Disposition") to a purchaser (herein called the "Purchaser") as long as
- a) the Permittee is not in default hereunder;
 - b) the Disposition represents a transfer of all of the Permittee's Interest;
 - c) the Purchaser has, in the opinion of the Minister, the financial equity, proven management abilities and business experience to operate and maintain the Improvements in accordance with this agreement;
 - d) the Purchaser will be bound by supplemental agreement to abide by, observe and perform all the terms of this agreement; and
 - e) the Disposition is effective not less than one year after the Commencement Date.
- 8.04 The Permittee shall have the right from time to time to grant a mortgage of its Interest, by way of assignment, (herein called the "Mortgage"), with the prior written consent of the Minister, which consent shall not be unreasonably refused provided that the proposed mortgagee is satisfactory to the Minister and enters into an agreement with the Province to be bound by the terms and conditions of this agreement.
- 8.05 The Permittee shall give notice to the Minister of any Mortgage together with a copy of the instrument creating the same within 30 days after it is granted.
- 8.06 So long as the Minister has received written notice of a Mortgage to which he has consented he will
- a) give the mortgagee thereunder notice of any defaults delivered to the Permittee under Section 6.01;
 - b) not accept a surrender or voluntary cancellation of this agreement without the written consent of such mortgagee; and
 - c) permit such mortgagee to make any payments and do any acts that may be necessary to remedy an Event of Default by the Permittee.

- 8.07 If by reason of the default of the Permittee under subsection 6.01(d), this agreement is terminated before the expiration of the term, the Province shall enter into a new agreement with such mortgagee for the period that but for such termination would have been the remainder of the term, the new agreement to become effective immediately on the termination of this agreement, on all of the terms, provisions, covenants and agreements contained in this agreement, subject to the rights of any person then in possession of the Controlled Recreation Area so long as the mortgagee has made a written request to the Province for a new agreement within 30 days of its termination and the request is accompanied by payment to the Province of all sums of money then due to the Permittee hereunder including reasonable legal fees and expenses in connection with the foregoing and with the preparation of the new agreement.
- 8.08 The failure of the mortgagee to execute and deliver to the Province the new agreement within 30 days after it is tendered by the Province or to comply with any other provisions of this Article shall conclusively be deemed an abandonment and waiver on the part of the mortgagee of all rights to obtain the new agreement and of any and all rights against the Province.
- 8.09 The Province hereby represents that the mortgagee shall be entitled to rely on the provisions of this Article and to enforce them against the Province subject to the provisions of this agreement.

ARTICLE IX (deleted)

ARTICLE X - TERM AND RENEWAL

- 10.01 This agreement and the rights of the Permittee hereunder shall be for a term of 50 years commencing on the Commencement Date and expiring October 31, 2034, subject to earlier termination of the Permittee's rights in accordance with Article VI.
- 10.02 The Permittee may, on or after the 40th anniversary of the Commencement Date, but no later than the 45th anniversary of the Commencement Date, apply to the Province for a renewal of this agreement.
- 10.03 So long as the Permittee is not in default under this agreement, the Province shall, within 180 days after receiving the application under Section 10.02, make an offer to the Permittee, in writing, setting out the terms and conditions of the renewal.
- 10.04 The Permittee shall have a period of three years from the receipt of the Renewal Offer to accept, in writing, the Renewal Offer on the terms and conditions contained in such offer, provided the Permittee is not in default hereunder at that time.
- 10.05 If the Permittee declines to accept the Renewal Offer on the terms and conditions contained in the Renewal Offer within the time period specified in Section 10.04, the Province shall be at liberty to enter into an arrangement with any other party for the right to operate within the Controlled Recreation Area but in so doing the Province shall not, for a period of one year after the date of the expiration or termination of this agreement, offer to enter into an agreement with any party on terms and conditions more favourable than those specified in the Renewal Offer without first offering to the Permittee a renewal of this agreement on those terms and conditions.
- 10.06 An agreement entered into by the Province with another party under Section 10.05 shall not, so far as it relates to the Controlled Recreation Area, come into force until one year after the expiration or earlier termination of this agreement.

ARTICLE XI - PARK ACT

- 11.01 On the execution of this agreement by the Province it shall, for the purpose of the Park Act, constitute a Park Use Permit to operate within the Controlled Recreation Area in accordance with the terms of this agreement.
- 11.02 Nothing in this agreement shall be construed as precluding the right of the Province to exercise its powers under the Park Act with respect to the management and administration of the Controlled Recreation Area such right being hereby expressly reserved.

ARTICLE XII - GENERAL TERMS AND CONDITIONS

- 12.01 The Permittee and the Province shall perform such further acts and execute such further documents as may be required from time to time to give effect to the intent of this agreement.
- 12.02 Nothing in this agreement shall constitute the Permittee, the agent, joint venturer or partner of the Province or give the Permittee any authority or power to bind the Province in any way.
- 12.03 If due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of any governmental authority, enemy or hostile action, civil commotion, fire or other casualty and any condition or cause beyond the reasonable control of the Permittee or the Province other than natural reasons, including weather, the Permittee or the Province is delayed in performing any obligation under this agreement, then the time for completion of performance of that obligation shall be extended by a period of time equal to the period of time of the delay so long as
- a) the party in default gives written notice to the other party within 30 days after the commencement of the delay setting forth the nature of it and a revised schedule for completion of the obligation; and
 - b) the party in default diligently attempts to remove the delay.
- 12.04 Nothing in this agreement constitutes an obligation, express or implied, of the Province to use public funds for the construction or maintenance of any part of the operations contemplated herein.
- 12.05 Any notice, demand, consent or request required to be given by either party to the other shall be deemed to be well and sufficiently given if in writing and mailed by prepaid registered mail in Canada addressed or delivered at the address of the other as follows

to the Province:

Mr. D. H. Eggen, District Manager
Fraser Valley District
Parks and Outdoor Recreation Division
Ministry of Lands, Parks and Housing
Box 10
Cultus Lake, British Columbia
VOX 1H0

to the Permittee:

Cypress Bowl Recreations Limited Partnership
P.O. Box 91252
West Vancouver, British Columbia
V7V 3N9

Attention: Wayne Booth

with a copy to Bull, Housser & Tupper
Barristers and Solicitors
3000 - 1055 West Georgia Street
Vancouver, British Columbia
V6C 3A7

Attention: Grant Weaver

or at such other address as either party hereto may from time to time direct in writing, and any such notice, demand, consent or request shall be deemed to have been received if delivered on the day of delivery, and if mailed, 48 hours after the time of mailing except in the case of mail interruption in which case actual receipt is required.

12.06 The Province reserves the right to reserve for its own purposes and to grant other dispositions of the land within the Controlled Recreation Area, or any part of it, for public utility services, with the prior consent of the Permittee, which consent shall not be unreasonably withheld with respect to any such resumption or grant to

- i) a Crown corporation or agency
- ii) a municipality
- iii) a regional district
- iv) a public utility company

and, upon such consent being given, the Permittee shall forthwith execute and deliver to the Province such instrument as may be necessary to subordinate the Permittee's rights in the Controlled Recreation Area under this agreement to any such grant.

12.07 For the purposes of Section 12.06, the Permittee shall be deemed to have withheld its consent reasonably if a grant under that section would materially affect the exercise by the Permittee of any of its rights hereunder.

ENVIRONMENTAL REQUIREMENTS

1. Wheeled vehicle traffic shall not violate established drainage patterns except along predetermined access routes which provide adequate structures for channel protection at points of crossing.
2. All streambanks shall be protected from soil breakdown by wheeled or tracked vehicle traffic other than for timber removal and initial road construction. During approved timber removal and all phases of road construction, soil disturbance of streambeds shall be kept to a minimum.
3. Approved construction activity close to drainages on higher elevation areas shall be held to a minimum until the dry season (July, August, September) results in reduced streamflows.
4. Approved construction in drainages may require the diversion of the clear water around the work site in some form of piping or culvert.
5. Where culverts and drainage are required, all culverts shall be sized for maximum stream flow conditions.
6. All reasonable efforts shall be used so that buffer strips or trees and natural rough vegetation are left between work areas and drainages.
7. Wet areas on trails should be drained subsurface where practicable, using proper drainage methods, perforated pipe and rock fill. Drainage should be deep enough to prevent freeze-up. Manmade drainages, both surface and subsurface, should discharge into natural drainages or rough, rocky terrain.
8. Manmade drainages should not overload natural drainages thereby threatening their possibly fragile channel stability.
9. Care should be taken to ensure that surface flows from the side do not encroach on top of buried culverts.
10. Culverts should be placed so as to accept water flows straight on or have rock headers.
11. Use of existing work roads on the mountain shall be undertaken in order to minimize requirements for new access roads.
12. Approved temporary access routes must be filled and revegetated at the earliest opportunity.

13. Throughout the term of the agreement there shall be continual use of erosion control procedures including hay bailing of minor drainages, water-barring of the work area, containment of water flows within trail contouring and configuration, and settling ponds where sediment is being carried in the water, if required, prior to points of entry into a water course.
14. Waterbars shall have a maximum 10% cross slope fall.
15. Waterbars and drainage control procedures shall be checked as circumstances may require.
16. All Ski Trails should be seeded, where practical and to the reasonable satisfaction of the Province.
17. Final grading should follow as closely behind the rough grading as is physically possible.
18. Chip mulching is acceptable, but even distribution is often hard to achieve. Hay mulch is preferable and shall be laid in to cover disturbed ground as quickly as practical.
19. Soil tests shall be taken in order to develop the appropriate seed and fertilizer mixtures and ratios.
20. On slopes in excess of 40 percent grades, the use of machines must be undertaken only after individual consideration of the specific problems directly related to each circumstance.
21. Completion of erosion control procedures must be an integral part of all work. On steeper faces mulch cover may be held down with light biodegradable nylon mesh. Jute matting may be required to enhance soil stability.
22. All areas requiring significant cut and fill should be mapped out in advance, with special consideration given to identifying beforehand the placement and configuration of erosion controls.
23. In all cases, management of the visual aspects of trail development shall be considered. These include scalloping of trails, feathering tree cover, the use of islands and bays, etc.
24. An integral part of approved trail work will be the removal of diseased, damaged, or hazardous trees adjacent to trails. Any indication of infestation shall be reported to the Province.

- 12.08 The Permittee hereby acknowledges and agrees that it shall make no claim for compensation, in any form, in respect of a grant under Section 12.06 where such rights do not materially affect the exercise by the Permittee of any of its rights hereunder.
- 12.09 This agreement and the term herein granted is subject to the following prior rights
- a) the occupiers of recreational cottages lying within the boundaries of the Nordic Ski Area;
 - b) British Columbia Telephone Company; and
 - c) British Columbia Hydro and Power Authority.
- 12.10 No term, condition, covenant or other provisions of this agreement shall be considered to have been waived by the Province unless such waiver is expressed in writing by the Minister. The waiver by the Province of any breach by the Permittee of any term, condition, covenant or other provision herein shall not be construed as or constitute a waiver of such term, condition, covenant or provision, or, any further or other breach of the same or any other term, condition, covenant, or other provision and the consent or approval of the Minister to any act by the Permittee requiring the consent or approval of the Permittee shall not be considered to waive or render unnecessary such consents or approvals to any subsequent similar act by the Permittee.
- 12.11 The schedules to this agreement are an integral part of it as if set out, in length, in the body hereof.
- 12.12 The Minister shall not unreasonably withhold his approval of the Master Plan or the plan for development of the Surrounding Lands submitted under paragraph (x) of Schedule "E".
- 12.13 For the purpose of this agreement, the Minister shall be deemed to have reasonably withheld his consent or approval under this agreement, if his consent or approval would result in improvements that are inconsistent with the theme and values of the Park Area or Provincial Park policy.

ARTICLE XIII - ARBITRATION

13.01 In the event a dispute arises between the parties concerning

- a) whether or not a Renewal Offer made by the Province to the Permittee under Section 10.03 is consistent with the Provincial Ski Area Policy in effect at the time the Renewal Offer is made; or
- b) whether or not a proposed grant under Section 12.06 would materially affect the exercise by the Permittee of any of its rights hereunder;

either party may refer the matter in dispute to a single arbitrator for determination pursuant to the Arbitration Act.

13.02 Notwithstanding the Arbitration Act

- a) the costs of the reference and the award shall be borne equally by the parties; and
- b) the arbitrator shall only have jurisdiction to determine the matter referred to him under Section 13.01 and shall not have any power to award damages or grant interim or permanent orders for equitable relief.

13.03 Where a dispute is referred to an arbitrator under this Article, each party shall have the right to

- a) representation by counsel;
- b) introduce written and oral evidence;
- c) submit written argument;
- d) insist upon transcripts of oral proceedings;
- e) written reasons for judgment;
- f) pre-arbitration proceedings by way of discovery of witnesses and documents; and
- g) examine witnesses under oath.

ARTICLE XIV - INTERPRETATION

- 14.01 In this agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- 14.02 The headings of Articles are inserted for convenience of reference only and shall not be construed as forming part of this agreement.
- 14.03 This agreement shall be interpreted according to the laws of the Province of British Columbia.
- 14.04 Where in this agreement there is a reference to an enactment of the Province of British Columbia or of Canada, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.
- 14.05 If any section of this agreement, or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be, shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.
- 14.06 Time shall be of the essence of this agreement.

ARTICLE XV - MISCELLANEOUS

15.01 The Province will provide easements as may be required for all utilities presently in the Park Area.

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

SIGNED, SEALED AND DELIVERED on behalf of)
Her Majesty the Queen in Right of the)
Province of British Columbia by a duly)
authorized representative of the Ministry)
of Lands, Parks and Housing in the)
presence of:)

_____)
_____)
_____)

Cypress Bowl Recreations Limited Partnership

Per:

Cypress Bowl Recreations Ltd., its General
Partner

DEVELOPMENT PLAN

1. The Permittee may (with the prior written consent of the Minister on terms he considers appropriate, such consent not to be unreasonably withheld) erect, construct, place, alter or modify improvements on the land within the Controlled Recreation Area if
 - a) those improvements are described in Section A of the Development Plan,
 - b) the Permittee provides the Minister with plans and specifications of the proposed work along with a construction schedule, in a form satisfactory to the Minister, and such other information as the Minister may reasonably require, and
 - c) where the activity is not provided in this Permit, the Permittee agrees to amend this Park Use Permit so that it is permitted.

2. The Permittee may conduct feasibility studies and prepare concept plans for those improvements and activities described in Section B of the Development Plan provided that the Permittee specifically acknowledges and agrees that the Province has not expressly or impliedly approved the construction of such improvements regardless of the results of the studies and if the Province does give approval in principle to construct or carry out the activities, the Permittee must comply with section 4.01(b) of the Permit and Section 1(b) of the Development Plan.

SECTION A

ALPINE SKI AREA

1. Installation of lights for night skiing on Black Mountain ski runs and Sunshine rope tow ski areas.
2. Repairs and renovations to existing cafeteria building. Immediate plans include the addition of washroom facilities and the possibility of increasing square footage by the addition of a sundeck and one or two temporary 10' x 52' units to the existing structure.
3. Installation of small surface ski lift (handle tow) in ski school beginners area (Squirrel Bowl).
4. Expand ski rental building by the addition of one 10' x 52' temporary unit for use as group ski rental.
5. Commence site investigations including soils, hydrology, sewer and water for new day lodge.
6. Winter services, as set out in this Schedule under the title "Winter Services Alpine Ski Area", to the area designated as Mount Strachan in Exhibit "A".

WINTER SERVICES - ALPINE SKI AREA

1. Day and night skiing
2. Food and beverage service
3. Ski School - group and private lessons
4. Ski rental shop
5. Brown bag room
6. Ski check services
7. Souvenir and gift shop sales
8. Ski repair and ski accessories sales
9. Day care for children
10. Bus transportation
11. Snow play facilities
12. Season pass
13. Information area
14. Lost and found area
15. Parking facilities

NORDIC SKI AREA

1. Set up Nordic outbuildings consisting of portable trailer units for use as:
 - a) Ski rental shop
 - b) Ski school and staff building
 - c) Ticket booth
 - d) Administration building and first aid
2. Modify and renovate existing warming hut building for use as brown bag room and information centre. Food and beverage services will be introduced in this area.
3. Studies are underway to determine the most practical system for ticket sales to the Nordic ski area. This will either be a central ticket office located adjacent to the existing warming hut or a main gate system at the entrance to the parking lot.

SUMMER OPERATIONS

Alpine Ski Area

Construct summer loading ramps on Black chair lift.
Scenic chair lift rides
Souvenir and gift shop sales in existing facilities
Food and beverage services
Hiking programs
Keep fit programs
Outdoor school and naturalist programs
Day camps
Child care
Equipment rental and sales, i.e. hiking equipment, bicycle rentals

SECTION B

HOLLYBURN LODGE

It is planned to repair and upgrade Hollyburn Lodge and outbuildings.

SUMMER OPERATIONS

Alpine Ski Area:

Construct viewpoints at the top of the Black chair and at the lookout point on Panorama Ski Trail. Kiosks will be constructed as required at these sites to provide light food and beverage service to chair lift customers.

Light food and beverage service in kiosks
Racket sports
Mat skiing
Swimming
Horseback riding
Concerts and festivals

Alpine Ski Area:

New permanent day lodge incorporating restaurant, cafeteria, assembly rooms, ski school and ski shop, maintenance facility and offices.

Lighting for night skiing expanded to Green Chair area.

Ski trail development and expansion.

Ski lift facilities expanded, including Mount Strachan.

Nordic Ski Area:

Permanent lodge facilities to incorporate restaurant, cafeteria, ski school, ski shop, offices and ancillary services.

It is planned to relocate existing portable units from the Alpine ski area upon completion of the new lodge in that area. These units would be substantially repaired and modified to conform to the surrounding area and be aesthetically pleasant. These units would be replaced with a new permanent facility some time in the future.

Lights installed on Nordic ski trails, snow play areas and parking lots for night skiing and recreational use.

Development and expansion of Nordic ski trails.

Hollyburn Lodge Area:

It is intended that this area be developed for year round recreational use. Development of this area would include repair, restoration and replacement, if necessary, to conform to standards and be aesthetically pleasing.

The restored main lodge would provide restaurant and cafeteria service. The outbuildings would be used for equipment rentals, gift shops, staff security and caretaker facilities and classrooms for outdoor school.

Maintenance and Service Area:

Long term plans may require additional maintenance and service facilities in the present maintenance area.

Schedule "B" (Deleted)

Schedule "C" (Confidential Financial Information)

This is SCHEDULE "D" to the Park Use Permit granted by the Provincial Government to Cypress Bowl Recreations Limited Partnership

NORDIC SKI AREA USES

1. Nordic skiing
2. Food and beverage services
3. Nordic ski school - group and private lessons
4. Nordic ski rental shops
5. Brown bag room
6. Ski check services
7. Souvenir and gift shop sales
8. Ski repair and ski accessories sales
9. Day care for children
10. Bus transportation
11. Snow play facilities
12. Season pass
13. Information area
14. Lost and found area
15. Snow play rental equipment, i.e. snowshoes, toboggans, etc.
16. Outdoor school programs
17. Nature programs

OPERATING COVENANTS

The Permittee covenants and agrees with the Province as follows

- a) to maintain within the Controlled Recreation Area a management office with a full-time on-site manager, and a sufficient staff of management, supervisors, operating and maintenance personnel to adequately perform its covenants under the Permit;
- b) to maintain and repair all Recreation Improvements, including without limiting the generality of the foregoing the Lifts and all ancillary facilities, in keeping with accepted British Columbia industry standards of ski area development;
- c) to keep the Ski Trails in satisfactory condition in accordance with accepted British Columbia standards of ski area development;
- d) to maintain a first aid office with adequate trained personnel and to station in the Controlled Recreation Area two first aid toboggans for each Lift complete with necessary equipment and to provide such number of first aid caches as may be necessary to serve the Controlled Recreation Area adequately;
- e) to maintain or cause to be maintained and to provide snow removal on all service roads and Parking Facilities within the Controlled Recreation Area;
- f) to maintain avalanche patrols and avalanche precautionary services for all ski trails in the Controlled Recreation Area;
- g) to dispose of solid waste and comply with all applicable laws relating thereto;
- h) to maintain the Controlled Recreation Area, Parking Facilities and Day Skier Facility substantially free of litter and to maintain sufficient litter barrels;
- i) at the request of the Province, to erect information signs indicating that the Controlled Recreation Area is under the management and control of the Permittee pursuant to this agreement;
- j) to establish and maintain a preventative maintenance program on all Lifts with trained maintenance personnel in the event of an emergency shut-down, and to operate the Lifts in accordance with the requirements of government agencies;

- k) to maintain the Ski Trails in accordance with accepted British Columbia industry standards for an Alpine and Nordic Ski Area including the use of snowcats and grooming equipment to pack and groom;
- l) to provide a qualified staff of trained ski patrols during winter hours of operation to serve the skiing public;
- m) to maintain a dispatch office on the mountain through which all snow safety programs and the dispatching of patrollers will be handled;
- n) to maintain in the Day Skier Facility a holding area for injured skiers;
- o) subject to snow and weather conditions, and force majeure, to operate the Lifts and ancillary services and facilities daily during each Season;
- p) to provide and maintain Ski Trail international identification signs in the Controlled Recreation Area and provide appropriate postings and notices with respect to the degrees of skier ability required for them and the daily existing snow conditions for each of them;
- q) to maintain appropriate traffic and direction signs, adequately supervise the flow of traffic in the Parking Facilities whenever reasonably required, and otherwise supervise and control the Parking Facilities in accordance with accepted British Columbia standards of a ski area;
- r) to operate or cause to be operated a high quality ski school adequate for the Controlled Recreation Area with substantially all the instructors certified by the Canadian Ski Instructors Alliance;
- s) not to charge for use by the public of brown bag rooms and sanitation facilities;
- t) within 120 days after the end of each Financial Year, deliver to the Province an audited financial statement for that Financial Year, made up of
 - (i) a statement of profit and loss,
 - (ii) a statement of surplus,
 - (iii) a balance sheet, signed by two directors of the Permittee;
- u) within 120 days after a Season, deliver to the Province a statement showing the number of day skier visits during that Season on weekends and holidays certified by the Secretary of the Permittee;
- v) take all reasonable precautions to prevent and suppress fires in the Controlled Recreation Area;

- w) prepare and submit to the Province not later than December 31, 1987, an overall master plan for the Controlled Recreation Area in accordance with accepted British Columbia standards for an alpine and nordic ski area;

- x) in respect of Surrounding Lands that are not in the Nordic Ski Area, not to place, erect or construct a building or permanent structure on those Surrounding Lands, not to change the surface of those Surrounding Lands and not to develop those Surrounding Lands, unless
 - (i) the Permittee has submitted a plan for the development of all or that part of the Surrounding Lands,

 - (ii) the Province has approved the plan for development submitted under subparagraph (i) of this subsection, and

 - (iii) the placement, erection or construction of the building or permanent structure, the change to the surface of the Land and the development of the Land is in accordance with the plan for development approved under subparagraph (ii) of this subsection.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA

OF THE FIRST PART

AND:

CYPRESS BOWL RECREATIONS
LIMITED PARTNERSHIP

OF THE SECOND PART

MODIFICATION AGREEMENT

Ministry of Attorney General
609 Broughton Street
Victoria, British Columbia
V8V 1X4 Phone: 384-4434

Elizabeth King
Barrister and Solicitor

THIS AGREEMENT dated the 13th day of September, 1984.

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister of Lands, Parks and Housing

(herein called the "Province")

OF THE FIRST PART

A N D:

CYPRESS BOWL RECREATIONS LIMITED PARTNERSHIP

(herein called the "Contractor")

OF THE SECOND PART

WHEREAS the Contractor and the Province have entered into a Park Use Permit (herein called the "Permit") authorizing the Contractor to carry out certain activities within Cypress Park;

AND WHEREAS the Contractor and the Province wish to provide for certain snow clearing services to be performed on public road and parking lot facilities from the West Vancouver Municipal Yard leading up to and within Cypress Park;

WITNESSES that in consideration of the covenants, terms and agreements hereinafter set forth, the parties agree as follows:

APPOINTMENT AND TERM

1. The Province hereby retains the Contractor to provide the snow clearing services (herein called the "Services") described in Schedule "A" of this agreement and the Contractor hereby accepts such appointment.
2. This agreement will be effective for the period commencing on the Commencement Date as defined in the Permit and ending on the 31st day of October, 2034 unless earlier terminated under paragraph 16.

SCOPE OF THE WORK

3. Provided that the payment under paragraph 14 hereof is made in each Ski Season as defined in the Permit, the Contractor will undertake all work and supply all materials necessary to perform the Services in accordance with the terms of reference and the criteria contained in Schedule "A".

4. The Contractor will not assign this agreement to any person, firm or corporation, and will not, without the prior written consent of the Province, subcontract out any of the Services, which consent will not be unreasonably withheld.
5. The appointment of subcontractors by the Contractor will not relieve the Contractor of its responsibility to perform the Services or for the quality of the work undertaken by them.
6. The Contractor will cause every approved subcontractor to be bound by the terms of this agreement so far as they apply to the work to be performed by such subcontractor.
7. Nothing in this agreement will create any contractual relationship between the Province and a subcontractor of the Contractor.

STANDARD OF CARE

8. In performing the Services the Contractor will at all times exercise the standards of care, skill and diligence normally exercised and observed by persons engaged in the performance of services similar to those contemplated in this agreement.

INDEPENDENT CONTRACTOR

9. During the continuance of this agreement, the Contractor will be an independent contractor and not the servant of the Province.
10. The Contractor will ensure that all personnel employed by him to perform the Services hereunder are competent to perform them and will ensure that no person is employed by him to undertake any of the work contemplated herein unless he has been adequately trained and instructed to do that work and he is adequately supervised.
11. The Province will be entitled to give such instructions to the Contractor as it may consider necessary from time to time, but the Contractor shall not be subject to the control of the Province in respect of the manner in which such instructions are carried out.
12. All personnel hired by the Contractor to perform the work contemplated hereunder will remain at all times the employees of the Contractor and not of the Province and the Contractor will be solely responsible for the arrangement of reliefs and substitutions, pay, supervision, discipline, unemployment insurance, workers' compensation, leave, and all other matters arising out of the relationship of employer and employee.
13. The Contractor will not in any manner whatsoever commit or purport to commit the Province to the payment of any money to any person, firm or corporation.

REMUNERATION OF CONTRACTOR

14.01 In Sections 14.01 to 14.07 inclusive of this agreement

"Base Amount" means for each Year of each Cost Period an amount equal to \$157,608.00 multiplied by a fraction, the numerator of which is the C.P.I. as of October, 1988 and the denominator of which is the C.P.I. as of October, 1985;

"Annual Guarantee" means for any particular Year of the term of this agreement an amount equal to the greater of the Base Amount or the Average Annual Cost in effect for that particular Year;

"Actual Costs" means the costs and expenses incurred by the Contractor to perform that portion of the Services described in paragraph 1 of Schedule "A" and attributable to the performance of the Service, under generally accepted accounting principles and without limiting the generality of the foregoing includes the following

- a) equipment depreciation as computed in accordance with Schedule "C";
- b) equipment maintenance;
- c) labour; and
- d) fuel;

"Average Annual Cost" means

- a) for each Year of the first Cost Period, an amount equal to one-third of the sum of the Actual Costs incurred during the period from November 1, 1986 to October 31, 1989, and
- b) for each Year of each succeeding Cost Period, an amount equal to one-third of the Actual Costs incurred during the immediately preceding Cost Period;

"Contract Price" means all monies payable to the Contractor for performance of the Services;

"Cost Period" means the period from November 1, 1989 to October 31, 1992 and each successive period of three Years thereafter;

"C.P.I." means the consumer price index for the greater Vancouver area as published from time to time by the government of Canada;

"Year" means a 12 month period of the term beginning on the first day of November of any calendar year and ending on the 31st day of October of the next calendar year."

- 14.02 The Province will pay to the Contractor for the performance of the Services
- a) during the first and second Years of the term of this agreement the sums of \$80,000.00 and \$82,608.00 respectively;
 - b) during each Year of the next three Years of the term of this agreement, an annual sum equal to \$157,608.00 multiplied by a fraction, the numerator of which is the C.P.I. as of the month immediately preceding the commencement of such Year and the denominator of which is the C.P.I. as of October, 1985; and
 - c) during the Year commencing November 1, 1989 and each subsequent Year of the term of this agreement
 - (i) an annual sum equal to the Annual Guarantee in effect for that Year, plus
 - (ii) the amount, if any, by which the Actual Costs incurred during that Year exceeds the Annual Guarantee in effect for that Year.
- 14.03 The Province will pay the Contract Price to the Contractor as follows
- a) each of the annual sums referred to in subsection 14.02(a) shall be payable
 - (i) by an installment equal to 50% of such annual sum when an advance lease payment is made under the Permit, and
 - (ii) by an installment equal to the balance of such annual sum when the balance of a lease payment is paid under the Permit;
 - b) each of the annual sums referred to in subsection 14.02(b) shall be payable
 - (i) by an installment equal to 75% of such annual sum on the 1st day of November of the Year in respect of which such annual sum is payable, and
 - (ii) by an installment equal to 25% of such annual sum on the 1st day of March of the Year in respect of which such annual sum is payable;
 - c) each of the annual sums referred to in subsection 14.02(c)(i) shall be payable
 - (i) by an installment equal to 75% of such annual sum on the 1st day of November of the Year in respect of which such annual sum is payable, and
 - (ii) by an installment equal to 25% of such annual sum on the 1st day of March of the Year in respect of which such annual sum is payable;

- d) each amount referred to in subsection 14.02(c)(ii) shall be payable within 60 days following delivery by the Contractor to the Province of the detailed statement of Actual Costs referred to in Section 14.06.
- 14.04 For the purpose of calculating the Actual Costs and the Average Annual Cost the Contractor shall keep detailed books of account and records and shall cause to be entered therein all matters pertaining to the Actual Costs and the Average Annual Cost.
- 14.05 The Province shall have the right, at its cost, to inspect and take copies of and cause an audit to be taken by an independent auditor of the aforesaid books of account and records of the Contractor upon reasonable notice and at reasonable times.
- 14.06 The Contractor shall, not later than 60 days following the completion of each Year of the term of this agreement, prepare and deliver to the Province a detailed statement of the Actual Costs incurred during that Year.
15. Notwithstanding any other provision of this agreement, the payment of funds by the Province to the Contractor pursuant to this agreement is subject to
- a) there being sufficient monies available in an appropriation, as defined in the Financial Administration Act, R.S.B.C. 1979, c. 15 (the Financial Administration Act and every amendment made thereto being herein collectively called the "Act"), to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Contractor falls due pursuant to this agreement, to make that payment; and
 - b) Treasury Board, as defined in the Act, not having controlled or limited, pursuant to the Act, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.

TERMINATION

16. In the event of substantial failure to perform in accordance with the terms hereof, or default under the Permit, and the default continues for a period of 30 days after written notice has been given by the Minister to the Contractor specifying the default and requiring the same to be rectified, this agreement may be terminated by the Province.
17. The right to terminate is in addition to any other remedy, or remedies available to the Province.

INDEMNITY

18. The Contractor covenants and agrees to indemnify and save the Province harmless against all loss, damage, reasonable costs and liabilities, including fees of solicitors and other professional advisors which the Province may be required to pay and does pay, arising out of
- a) any breach, violation or non-performance by the Contractor of any covenant, term or condition contained in this agreement;
 - b) any personal injury, death, or property damage occurring as a consequence of any activity carried out by the Contractor in performing the Services including any matter or thing permitted or omitted (whether negligent or otherwise) by the Contractor, or any of its directors, officers, servants, agents, or subcontractors;

and the amount of that loss, damage, costs and liabilities shall be paid by the Contractor to the Province on demand; provided, however, that if any action or claim shall be brought against the Province in respect of which indemnity may be sought from the Contractor, under this subsection, the Province shall forthwith give notice to the Contractor of such action or claim and the Contractor may, subject to the Crown Proceedings Act, assume the defence thereof and the payment of all expenses.

INSURANCE

19. The Contractor will, during the term of this contract provide, maintain and pay for insurance in such form and amounts and with such deductibles as may be acceptable to the Province, more particularly, comprehensive general liability insurance protecting the Province, the Contractor, his subcontractors, and their respective servants, agents, or employees (without any rights of cross-claim or subrogation against the Province) against claims for personal injury, death, property damage, products liability or third party or public liability, arising from the provisions by the Contractor, his subcontractors, and their respective servants, agents or employees of the Services, up to an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) inclusive of any one occurrence.
20. The Contractor will deliver to the Province from time to time, upon demand, copies of insurance policies required to be maintained by the Contractor and receipts or other evidence of payment of the insurance premiums for the aforesaid insurance policies.

GENERAL CONSIDERATIONS

21. The parties will do such acts and things and execute and deliver such further and other documents and assurances as may be reasonably required for the purposes of carrying out the true meaning and intent of this agreement.

SERVICES

1. The Contractor shall, as that term is defined in the Permit, clear and remove snow and ice from the roads and parking lots described in Schedule "B" (hereinafter referred to as the "Road") so as to ensure safe and adequate vehicular access along the road during all such times as they may be open to the public.
2. The Contractor may close the Road in order to facilitate the performance of the Services and to ensure public safety at such times and for such duration as authorized by the Minister.
3. The Contractor shall, at his expense, repair any damage to the surface of the Road, subsurface of the Road and the curbs, signs, gutters, drain gates, culverts and catch basins on or near the Road caused by the Contractor in performing the Services and without restricting the generality caused when the Contractor fails to comply with paragraph 4 provided that the Contractor is not responsible to repair reasonable wear and tear and damage resulting from structural defect.
4. The Contractor shall not use or not cause to be used flanged vehicles on the Road surface and shall keep all catch basins free from snow, ice and sand during run-off in the Ski Season in order to prevent erosion and will remove any and all debris from culverts which the Permittee caused to be there in the carrying out of the Services.

SCHEDULE "C"

Equipment Depreciation will be computed for the purposes of the definition of Actual Costs by using the rates set out in Table 1 and based on the following

- a) for equipment owned by the Contractor on November 1, 1986 and used by the Contractor to perform the Services, depreciation will be based on its fair market value as at November 1, 1986;
- b) for equipment that is purchased by the Contractor after November 1, 1986, it is generally appropriate for the services to be performed by it under this agreement, and is used to perform those Services, depreciation will be based on the purchase price paid by the Contractor for that equipment;
- c) the amount of depreciation included in the Actual Costs, will be multiplied by a fraction, the numerator of which is the hours that the equipment is used on the Services during a year and the denominator of which is the total hours that the equipment is used during that year.

"year" in paragraph (c) of this Schedule means the 12 consecutive months from

- a) November 1, 1986 or the latest anniversary of that date, as the case may be, in the case of equipment owned by the Contractor on November 1, 1986, and
- b) in the case of equipment purchased by the Contractor after November 1, 1986, the date of purchase of that equipment or the latest anniversary of that date, as the case may be.

TABLE ONE

HEAVY EQUIPMENT OTHER THAN TRUCKS			TRUCKS	
YEAR FROM THE DATE OF PURCHASE, OR IN THE CASE OF EQUIP. OWNED BY A CONTRACTOR ON NOV. 1, 1986 FROM NOV. 1, 1986	WHERE AGE OF EQUIP. IS ONE YEAR OR UNDER AT NOV. 1, 1986 OR IF PURCHASED AFTER NOV. 1, 1986, AT DATE OF PURCHASE	WHERE AGE OF EQUIP. IS OVER ONE YEAR AT NOV. 1, 1986 OR IF PURCHASED AFTER NOV. 1, 1986, IS OVER ONE YEAR AT DATE OF PURCHASE	WHERE AGE OF A TRUCK IS ONE YEAR OR UNDER AT NOV. 1, 1986 OR IF PURCHASED AFTER NOV. 1, 1986, AT DATE OF PURCHASE	WHERE AGE OF A TRUCK IS OVER ONE YEAR AT NOV. 1, 1986 OR IF PURCHASED AFTER NOV. 1, 1986, IS OVER ONE YEAR AT DATE OF PURCHASE
1	25%	30%	30%	40%
2	18%	20%	25%	35%
3	12%	20%	20%	25%
4	10%	15%	15%	
5	10%	15%	10%	
6	10%			
7	10%			
8	5%			

INTERPRETATION

1. "Year" in this Table means any consecutive 12 month period.

THIS AGREEMENT made the 5th day of November, 1986

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF BRITISH COLUMBIA as
represented by the Minister of
Environment and Parks

(herein called the "Province")

OF THE FIRST PART

AND:

CYPRESS BOWL RECREATIONS LIMITED
PARTNERSHIP

(herein called the "Contractor")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

A. The Contractor has agreed to perform certain services within a portion of Cypress Provincial Park (herein called the "Park");

NOW THEREFORE in consideration of the covenants, terms and agreements hereinafter set forth* and in consideration of the sum of ONE DOLLAR now paid by the Province to the Contractor (the receipt and sufficiency of which is hereby acknowledged) the parties agree as follows:

1. In this agreement

"Hikers Trail" means the area of the Park designated as such on Exhibit "A" hereto;

"Parking Lot" means the area of the Park designated as such on Exhibit "A" hereto;

"Services" means the services referred to in Section 2;

"Ski Season" has the same definition as set out for "Ski Season" in Section 1.01 of the Permit Agreement;

"Snow Play Area" means the area of the Park designated as such on Exhibit "A" hereto;

* and in the amendments to the Road Clearing Contract dated November 5th, 1986 between the Contractor and the Province.

Province may be required to pay and does pay, arising out of any personal injury, death, or property damage occurring as a consequence of any failure by the Contractor or any of its directors, officers, servants, agents or subcontractors to exercise in performing the Services the standards of care, skill and diligence referred to in Section 5.

10. The Contractor will, during the term of this agreement, provide, maintain and pay for insurance in such form and amounts and with such deductibles as may be acceptable to the Province, more particularly, comprehensive general liability insurance protecting the Province, the Contractor, his subcontractors, and their respective servants, agents, or employees (without any rights of cross-claim or subrogation against the Province) against claims for personal injury, death, property damage, products liability or third party or public liability, arising from the provision of the Services by the Contractor, his subcontractors, and their respective servants, agents or employees up to an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) inclusive of any one occurrence.
11. The Contractor will deliver to the Province from time to time, upon demand, copies of insurance policies required to be maintained by the Contractor and receipts or other evidence of payment of the insurance premiums for the aforesaid insurance policies.
12. Time shall be of the essence of this agreement.
13. Any notice required to be given hereunder shall be delivered or mailed by prepaid registered mail addressed as follows and any such notice shall be deemed to be received 48 hours after mailing

a) to the Contractor

Cypress Bowl Recreations Limited Partnership
Box 91252
West Vancouver, British Columbia
V7V 3N9

Attention: Wayne Booth

with a copy to Bull, Housser & Tupper
Barristers and Solicitors
3000 - 1055 West Georgia Street
Vancouver, British Columbia
V6C 3A7

Attention: Grant Weaver

DATED THIS DAY OF , 1986

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA

OF THE FIRST PART

AND:

CYPRESS BOWL RECREATIONS
LIMITED PARTNERSHIP

OF THE SECOND PART

SURRENDER AGREEMENT

Ministry of Attorney General
609 Broughton Street
Victoria, British Columbia
V8V 1X4 Phone: 384-4434

Elizabeth King
Barrister and Solicitor

THIS AGREEMENT made the 5th day of November, 1986.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of
Environment and Parks

(herein called the "Province")

OF THE FIRST PART

AND:

CYPRESS BOWL RECREATIONS LIMITED
PARTNERSHIP

(herein called the "Permittee")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

- A. The Permittee and Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Lands, Parks and Housing entered into an agreement (herein called the "Permit Agreement") dated the 13th day of September, 1984 whereby the Permittee was granted the right, inter alia, to operate certain businesses and facilities within Cypress Provincial Park (herein called the "Park");
- B. The Permittee has, subject to the terms and conditions of this agreement, agreed to surrender part of its rights under the Permit Agreement;
- C. The Province has agreed to take certain steps to inform the public as to the Permittee's rights in the Park;
- D. The Province has agreed to do certain things and enter into certain covenants with the Permittee.

NOW THEREFORE in consideration of the covenants, terms and agreements hereinafter set forth and in consideration of the sum of ONE DOLLAR now paid by each party to the other (the receipt and sufficiency of which is hereby acknowledged) the parties agree as follows:

1. In this agreement:

"Brochure" means a brochure suitable for distribution to the public advising the public as to the rights of the Permittee in relation to the Park and as to the location and intended purpose of the Hikers Trail;

"Hikers Trail" means the area of the Park designated as such on Exhibit "A" hereto;

"Hikers Trail Services Agreement" means an agreement between the parties dated the 5th day of November, 1986 concerning the provision by the Permittee of certain services within the Park;

"Parking Lot" means the area of the Park designated as such on Exhibit "A" hereto;

"Ski Season" has the same definition as set out for "Ski Season" in section 1.01 of the Permit Agreement;

"Snow Play Area" means the area of the Park designated as such on Exhibit "A" hereto;

"Surrounding Lands" means Surrounding Lands as defined in the Modification Agreement dated November 5, 1986 to the Permit Agreement, but does not include any Surrounding Lands that are a part of the Nordic Ski Area as defined in that Modification Agreement dated November 5, 1986.

2. The Permittee hereby agrees to surrender and yield up its interest under the Permit Agreement to the Hikers Trail, Parking Lot and Snow Play Area to the Province.

3. The Province hereby agrees to release and discharge the Permittee from all of the covenants, terms and conditions of the Permit Agreement as the same pertain to the Hikers Trail, Parking Lot and Snow Play Area.

4. The Permittee hereby agrees to release and discharge the Province from all of the covenants, terms and conditions of the Permit Agreement as the same pertain to the Hikers Trail, Parking Lot and Snow Play Area.
5. The parties acknowledge and agree that the purpose of the Hikers Trail is to provide unrestricted public access to and from the Hollyburn Peak area of the Park.
6. The Province acknowledges that the Hikers Trail is not intended to be used as an alternate groomed ski trail and agrees to ensure that it is not used for such purpose.
7. The Province shall cause the Hikers Trail to:
 - (a) follow generally the route as shown on Exhibit "A" hereto;
 - (b) be clearly separated from that portion of the Park which the Permittee is entitled to occupy under the Permit Agreement either by way of the use of natural boundaries or features, appropriate fencing, signs or any combination thereof;
 - (c) be confined to a maximum width of six meters except where, due to steep terrain, it is necessary to increase such width in order to provide a safe hiking trail as more specifically set out in Exhibit "A".
8. The Province shall not, during the term of any Ski Season groom or pack the Hikers Trail or permit the same to be groomed or packed.
9. The Permittee acknowledges that the Province shall be entitled to groom and clear the Hikers Trail at any time other than during a Ski Season in order to prepare and maintain the Hikers Trail as a safe hiking trail.
10. The Province shall not bring any action or commence any proceeding against the Permittee based on the liability of the Permittee
 - (a) under the Occupier's Liability Act or
 - (b) liability of the Permittee as an occupier under the common law, if any such liability exists in addition to the Occupier's Liability Act,

in respect of any loss or damage suffered by any person using the Hiker's Trail, Parking Lot, Surrounding Lands or the Snow Play Area, unless a court determines that the loss or damages suffered or a portion of the loss or damages suffered is directly or indirectly a consequence of the Permittee's failure to perform its obligations under the Hiker's Trail Services Agreement in accordance with that Agreement and directions of the Province given pursuant to that agreement.

11. Subject to sections 12 and 13, the Province agrees to indemnify and save harmless the Permittee from any loss or damage, reasonable costs and liabilities, including fees of solicitors and other professional advisers which the Permittee may be required to pay and does pay, that the Permittee may suffer, where

(a) an action or proceeding is commenced

(i) against the Permittee based on the Permittee's liability under the Occupier's Liability Act or as an occupier under the common law, if any liability under the common law exists, and

(ii) resulting from any person using the Hiker's Trail, Parking Lot, Surrounding Lands or the Snow Play Area, and

(b) the loss or damage suffered is not totally or in part a consequence of the Permittee's negligence or failure to perform its obligations under the Hiker's Trail Services Agreement in accordance with that agreement and the direction of the Province given pursuant to that Agreement.

12. For the purposes of section 11, where the loss or damage suffered is in part a consequence of the Permittee's negligence or failure to perform its obligations under the Hiker's Trail Services Agreement, in accordance with that agreement and the directions of the Province given pursuant to that agreement, the Province agrees to indemnify and save harmless the Permittee under section 11 to the extent that the liability is not attributable to the Permittee for the Permittee's negligence or failure in so performing its obligations under the Hiker's Trail Services Agreement.

13. The Province shall not be liable under sections 11 or 12 in respect of any one event or occurrence which results in a claim for more than \$100,000 unless
 - (a) Treasury Board approves the increase of the indemnification beyond \$100,000 and in which case the Province does from the date of such approval, agree to indemnify the Permittee in accordance with the terms of sections 11 or 12 for any amount approved by Treasury Board, but not exceeding \$1,000,000, or
 - (b) the Minister of Finance or Lieutenant Governor in Council approves, the increase of indemnification sections 11 and 12, and in which case the Province does from the date of such approval, agree to indemnify the Permittee in accordance with and subject to sections 11 and 12 for the amount of loss or damage suffered by the Permittee.
14. The Province hereby agrees to use its best efforts to obtain the approval of Treasury Board, the Minister of Finance or the Lieutenant Governor in Council in order to increase the amount of indemnification under section 13.
15. The Province shall cause the Snow Play Area and the Hiker's Trail to be fenced where in the reasonable opinion of the Permittee such fencing is necessary in order to clearly separate the Snow Play Area, the Hiker's Trail or both from the area of the Park which the Permittee is entitled to occupy under the Permit Agreement.
16. The Province shall, at its expense:
 - (a) during each Ski Season, provide a sufficient number of uniformed Park staff to patrol the Park and the Hikers Trail and to advise the public as to the rights of the Permittee in relation to the Park;
 - (b) prepare the Brochure and submit the same to the Permittee for its approval, and following such approval, deliver to the Permittee a reasonable number of copies of the Brochure for distribution to the public and shall actively distribute and make available the Brochure to the public;
 - (c) post a sufficient number of signs containing wording approved by the Permittee to advise the public as to:

(b) to the Province:

Mr. D.H. Eggen, District Manager
Fraser Valley District
Ministry of Environment and Parks
Parks and Outdoor Recreation Division
Box 10
Cultus Lake, British Columbia
VOX 1H0

or at such other address as either party may from time to time designate by notice in writing to the other.

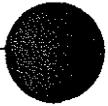
- 21. This agreement shall be binding upon the parties and their respective successors and permitted assigns.
- 22. No provision of this agreement and no breach by the Permittee of any such provision will be deemed to have been waived unless such waiver is in writing signed by the Province.
- 23. The written waiver by the Province of any breach of any provision of this agreement by the Permittee will not be deemed a waiver of any subsequent breach of the same or any other provision of this agreement.

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

SIGNED, SEALED AND DELIVERED by a)
duly authorized representative of)
the Minister of Environment and)
Parks on behalf of Her Majesty)
the Queen in Right of the)
Province of British Columbia in)
the presence of:)

Elizabeth King)
 _____)
 ELIZABETH KING)
 Barrister & Solicitor)
 MINISTRY OF ATTORNEY GENERAL)
 PARLIAMENT BUILDINGS)
 VICTORIA, B.C.)

M. V. Collins)
 _____)

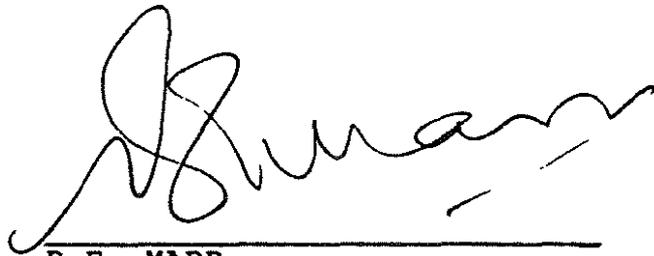


FINANCIAL ADMINISTRATION ACT APPROVAL

I, B.E. Marr, Deputy Minister of the Ministry of Environment and Parks, hereby give my prior approval, pursuant to section 9 of the Financial Administration Act General Regulation, B.C. Reg. 474/81, to the government agreeing to indemnify and save the Permittee (as defined in the attached agreement) harmless in the circumstances described in the attached agreement and up to an amount not exceeding \$100,000.00.

Nov 1, 1986

Date



B.E. MARR