

A G R E E M E N T

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

WHISTLER MOUNTAIN SKI CORPORATION,  
a company organized under the laws of  
British Columbia and having an office  
at 602 - 325 Howe Street, Vancouver,  
British Columbia

(hereinafter called "Whistler")

OF THE SECOND PART



Province of  
British Columbia

Ministry of  
Attorney-General

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THIS AGREEMENT dated for reference the 30th day of September, 1982.

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THE PROVINCE OF BRITISH COLUMBIA  
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WHISTLER MOUNTAIN SKI CORPORATION, a company  
organized under the laws of British  
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325 Howe Street, Vancouver,  
British Columbia

(hereinafter called "Whistler")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

- A. Whistler operates a recreational ski development on land that is owned by the Province and has submitted a detailed proposal to the Province for the future expansion of the development;
- B. The Province has agreed to permit Whistler to continue to operate the development and carry out the expansion of the development on the terms and conditions herein contained.

## ARTICLE I - DEFINITIONS

1.01 In this Article, unless the context otherwise requires

"Access Routes" means the access required to be provided under section 4.02 and includes any other access required by government agencies having jurisdiction;

"Appraised Market Value" in reference to a Recreation Improvement, the Gondola Base or the North Side Base, means the appraised market value of it determined under section 13.05 or by arbitration under Article XIX;

"Base Areas" means any area designated as such in Schedule "B" except any parts of such Base Areas owned by Whistler and any other areas designated as Base Areas in an amendment to the Whistler Master Plan;

"Base Area Phases" means the phases of development of the Base Areas in the stages described in the Phasing Schedule;

"Bed Units" in reference to a Base Area Phase means the number of created bed units shown for that Base Area Phase in the Phasing Schedule;

"Controlled Recreation Area" means all the Resort Area and includes all lands on which Recreation Improvements have been or are intended to be constructed in the Resort Area;

"Construction and Completion Schedule" means a construction and completion schedule referred to in section 4.02 (a) (vi);

"Corresponding Mountain Phase" in reference to a Base Area Phase, means the Mountain Phase described opposite to that Base Area Phase in the Phasing Schedule;

- "Crown Land" means land in a Base Area that is owned by the Province;
- "Day Skier Facility" means any building in the Controlled Recreation Area that is designed to provide day use facilities for skiers;
- "Day Skier Visits" means the total number of people, exclusive of employees of Whistler, in a particular day who use any of the Lifts regardless of whether the use is pursuant to a day ticket, pass for a fixed period of time, season pass, ski school arrangement or otherwise;
- "Development Scheme" means the proposed scheme of subdivision or development referred to in section 14.04 (b) (i);
- "Engineer" means the engineer or architect appointed by Whistler to supervise the construction of the Recreation Improvements and the development of the Base Areas;
- "Event of Default" means an event referred to in section 12.01;
- "Fees" means the money payable to the Province under section 8.01;
- "Financial Information" means the audited financial statement of Whistler for its financial year ending October 31, 1981 prepared by Messrs. Peat Marwick and Mitchell, Chartered Accountants;
- "Financial Year" means the financial year of Whistler ending on October 31 in each year during the currency of this agreement or on any other date permitted under Article VIII;
- "Gondola Base" means that part of the Whistler Lands described as Block A of D.L. 5316, on which a Base Terminal Facility or a Lift is now or may hereafter be located, including a reasonable skier milling area adjacent thereto;

"Gross Revenue" means all the receipts or receivables of Whistler during any Financial Year for the right to use the Recreation Improvements determined in accordance with generally accepted accounting principles and includes, without limitation

- (i) amounts paid to Whistler by the user or other wholesale or retail purchaser, as the case may be, for an hourly or day ticket, pass for a fixed period, season or other pass,
- (ii) where the right to use the Recreation Improvements is included in a package, that portion of the package price that represents the Recreation Improvement charges based on customary charges for hourly or single day use, or, if discounted as part of the package price, the discounted price to be received by Whistler from the user or other wholesale or retail purchaser,
- (iii) subsequent recoveries of receivables previously written off or reserved (to be included in the Financial Year in which they are recovered),

but does not include uncollectable or doubtful receivables written off or reserved by Whistler in accordance with generally accepted accounting principles and the right to use Recreation Improvements does not include the sale of food, beverages, ski lessons, ski repairs or other similar services;

"Hiking Trail" means a trail designated as a hiking trail on Schedule "A";

"Independent Recreation Facility" means any recreation facility owned by Whistler in the Resort Area and open to the public that is not part of a hotel or condominium complex and includes without limitation swimming pools, gymnasiums, skating rinks, tennis and raquet courts, riding stables, golf courses, playing fields, toboggan and sled runs, and similar recreation facilities that are open to the public;

"Interest" means the rights of Whistler in respect of the Resort Area under this agreement including the Recreation Improvements, the Tenures and the business and operations of Whistler conducted in the Controlled Recreation Area in connection therewith;

"Lift" means a ski lift that has or is to be constructed pursuant to this agreement;

"Lift Terminal Facility" means the structure at either end of a Lift for the loading or unloading of skiers and any building that is used to house the mechanical or structural end of a Lift;

"Maintenance Facility" means any facility constructed in the Resort Area for the purpose of housing, storing or maintaining equipment;

"Minimum Fee" means the fee referred to in section 8.01 (c);

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

"Mountain Phases" means the phases of development of the Recreation Improvements in the stages in the Phasing Schedule";

"Moveable Recreation Improvement" means all Lifts and their component parts and other Recreation Improvements which are in the nature of tenant's improvements and would at common law be removeable by a tenant on the expiration of a term of years;

"North Side Base" means that part of the Whistler Lands described in subparagraph (iv) of the definition of Whistler Lands;

"Parking Facility" means any vehicular parking lot in the Resort Area that is intended to provide parking space for the users of the Recreation Improvements;



"Percentage Fee" means the fee referred to in section 8.01 (c);

"Performance Bond" means the bond referred to in section 9.03;

"Phasing Schedule" means the summary of phased development for the Resort Area set out in Schedule "C" and includes all maps, plans, summaries and other documents referred to in the Phasing Schedule;

"Preceding Mountain Phase" means the Mountain Phase shown in the Phasing Schedule that immediately precedes a Corresponding Mountain Phase;

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

"Recreation Improvement" means any Lift (including a Lift Terminal Facility, pylons, cables, gondolas, chairs, equipment and equipment used in connection with a Lift) Day Skier Facility, Maintenance Facility, Parking Facility, Ski Trail and Access Route that is located within or is intended to be constructed within the Resort Area and includes any other similar facility within the Resort Area;

"Regional Director" means that employee of the Province who, from time to time, holds the position of Regional Director, Lower Mainland Region, Ministry of Lands, Parks and Housing, or any other person designated by the Minister;

"Resort Area" means the area shown outlined in red on Schedule "A" except the Whistler Lands and Base Areas acquired by Whistler under this agreement;

"Renewal Offer" means the offer referred to in section 16.02;

"SAOT Formula" means the skier at one time formula described in Schedule "D";

"Season" means the period commencing on the 1st day of December, in any one year and continuing for the next 150 days;

"Security Bond" means the bond referred to in section 9.01;

"Sites 1, 2, 3, 5, and 6" mean the parcels of land shown on Schedule "B" under those designations and that are described in Table 2.02 of Schedule "C" and "Site" means any one of Sites 1, 2, 3, 5, and 6;

"Ski Trail" means a ski trail, ski run or hiking trail shown in or contemplated by the Whistler Master Plan;

"Skier Carrying Capacity"

- (i) in reference to a Lift means the skier at one time capacity of it based on the SAOT Formula,
- (ii) in reference to a Mountain Phase, the skier at one time capacity of that Mountain Phase based on the SAOT Formula;

"Substantial Completion"

- (i) in reference to a Recreation Improvement means the condition arrived at, as certified by the Engineer under his professional seal, when the construction of it has been completed in accordance with the design, plans and specifications for the Recreation Improvement and it is in a condition of presentable appearance and is ready for its intended use with the exception of minor deficiencies that do not affect its appearance or impair its use;
- (ii) in reference to a Mountain Phase means the condition arrived at when all of the Recreation Improvements in that Mountain Phase are in a state of Substantial Completion,
- (iii) in reference to the improvements contemplated in a Base Area Phase, means the condition arrived at, as certified by the Engineer, under his professional seal, when

the construction of the improvements have been completed and are ready for their intended use except for minor deficiencies that do not impair its use;

"Tenure" means any lease, right-of-way or licence issued to Whistler by the Province in respect of a Recreation Improvement, and includes the land that is described in the instrument creating that Tenure;

"Utilization"

- (i) in reference to a Season means the aggregate of the Day Skier Visits during the Season divided by 150,
- (ii) in reference to Weekdays, means the aggregate of the Day Skier Visits on Weekdays during a Season divided by the number of Weekdays during that Season,
- (iii) in reference to Weekends and Holidays, means the aggregate of the Day Skier visits on Weekends and Holidays during a Season divided by the number of days of Weekends and Holidays during that Season;

"Weekdays" means days other than days that are Weekends and Holidays;

"Weekends and Holidays" means Saturdays, Sundays, statutory holidays in British Columbia and days on which public schools in British Columbia are not required to be open pursuant to the School Act and regulations under that Act;

"Whistler Lands" means the interests in lands owned by Whistler situate in the Resort Municipality of Whistler including the lands legally described as follows:

- (i) Lot 1, Block F, D.L. 4749, Plan 18962, N.W.D.,
- (ii) Block A of D.L. 5316,
- (iii) D.L. 4751, Group 1, N.W.D., and

- (iv) strata lots 1, 5, and 6 and an undivided one-half interest in strata lots 3 and 4, D.L. 3020, Strata Plan VR 1163, including the interests of Whistler in the limited common property designated for the exclusive use of Whistler and the operator of Blackcomb Mountain;

"Whistler Master Plan" means the document entitled "Whistler Mountain Ski Area Master Plan" prepared by Ecosign Mountain Recreation Planners Ltd. and dated November, 1979 as amended from time to time in accordance with this agreement.

## ARTICLE II - STATEMENT OF OBJECTIVES

- 2.01 It is the policy of the Province to encourage the economic development of ski facilities and related resort development in British Columbia and to allocate lands owned by it to this use where the Province considers that allocation is in the public interest.
- 2.02 In accordance with its policy, the Province has agreed to permit Whistler to develop the Resort Area, in phases,
- (a) by constructing and operating the Recreation Improvements in accordance with acceptable British Columbia industry standards in a manner that will attain the development objectives of the Whistler Master Plan;
  - (b) by developing the Base Areas to provide a balanced mix of commercial and residential accommodation that compliments the utilization of the Recreation Improvements;
- on the terms and conditions contained in this agreement.
- 2.03 It is contemplated that the Recreation Improvements will be constructed in specific stages in accordance with the Whistler Master Plan and the Phasing Schedule subject to the provisions of this agreement.
- 2.04 It is further contemplated that Whistler shall be entitled to purchase from the Province Crown Lands in the Base Areas, in stages that correspond to particular Mountain Phases, for development in accordance with the land uses and densities specified in the Whistler Master Plan on the terms and conditions contained in this agreement.

### ARTICLE III - REPRESENTATIONS OF WHISTLER

3.01 Whistler warrants and represents to the Province that

- (a) Whistler is a corporation duly incorporated and existing under the laws of British Columbia, is a non-reporting company and is in good standing with respect to the filing of returns in the office of the registrar of companies of British Columbia;
- (b) Whistler has all the corporate power, capacity and authority to enter into this agreement and to carry out its obligations contemplated herein, all of which have been duly and validly authorized by all necessary corporate proceedings;
- (c) the authorized capital of Whistler consists of 1,000,000 common shares without par value of which 100,000 common shares are issued and outstanding;
- (d) the following persons are the owners of shares in the capital of Whistler in the amounts set opposite their respective names:

<u>Name</u>	<u>Number and Class of Shares</u>
Hastings West Investments Ltd.	61,904 common
Morell Enterprises Ltd.	19,048 common
Canarim Holdings Ltd.	19,048 common

- (e) there are no outstanding securities of Whistler that are convertible into shares in its capital and there are no outstanding options or rights to subscribe for any of the unissued shares in the capital of Whistler;
- (f) the directors and officers of Whistler are as follows:

#### Directors

Franz M. Wilhelmsen  
Kenneth R. Tolmie  
Frank Barker  
Peter M. Brown  
John McLernon

Gilbert G. Bradner  
Alan D. Laird  
Peter C. Alder  
William F. Sirett

### Officers

Franz M. Wilhelmsen	-	President
Peter C. Alder	-	Vice-President & General Manager
David F. Balfour	-	Vice-President, Finance & Administration
William F. Sirett	-	Secretary

- (g) the Financial Information was prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior years, was true and correct in every material particular on October 31, 1981 and accurately reflects the results of Whistler's operations to that date;
- (h) there are no liabilities of Whistler that are not disclosed or reflected in the Financial Information except those incurred in the ordinary course of business since October 31, 1981 and indebtedness owed to shareholders.
- (i) Whistler has good title to and possession of all its assets, free and clear of all liens, charges or encumbrances except those described in the Financial Information and those granted by Whistler to secure monies borrowed by or indebtedness or other obligations incurred by Whistler in the ordinary course of its business;
- (j) Whistler is not a party to or threatened with any litigation and has no knowledge of any claims against it that would materially affect its undertaking or financial condition;
- (k) Whistler has filed all income tax returns for all years up to and including the fiscal year of Whistler ending December 30, 1980 and the liability of Whistler for income taxes, penalties and interest thereon on income earned up to and including October 31, 1981 does not exceed the sum set forth in the Financial Information;

- (l) Whistler has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and has complied with all workers compensation legislation and other similar legislation to which it may be subject and has paid all taxes, fees and assessments calculated to be due by Whistler under those laws as of the date of this agreement;
- (m) Whistler is not, to the best of its knowledge, in breach of any statute, regulation or by-law applicable to Whistler or its operations that would adversely affect in any material respect its financial condition or ability to conduct its business in the ordinary course;
- (n) 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 constitute a default under, the memorandum or articles of Whistler or any indenture, mortgage, deed of trust, agreement, lease, franchise, certificate, consent, permit, licence, authority or other instrument to which Whistler is a party or is bound or any judgment, decree, order, rule or regulation of any court or administrative body by which Whistler is bound or, to the knowledge of Whistler, any statute or regulation applicable to Whistler.



#### ARTICLE IV - RECREATION IMPROVEMENTS

- 4.01 Whistler may operate its existing Recreation Improvements and may construct and operate future Recreation Improvements within the Resort Area in accordance with the Whistler Master Plan subject to the provisions of this agreement.
- 4.02 Whistler shall not construct any Recreation Improvements in a Mountain Phase
- (a) until Whistler has delivered to the Province
    - (i) a statement of the estimated capital costs of the Recreation Improvements in that Mountain Phase verified by the Engineer under his professional seal;
    - (ii) applications under the Land Act for rights-of-way for all Recreation Improvements in that Mountain Phase that consist of Lifts together with a preliminary site plan for each of them,
    - (iii) applications under the Land Act for ground leases for all Recreation Improvements other than Lifts, Ski Trails and Access Routes together with preliminary boundary plans for each of them,
    - (iv) applications under the Land Act for a licence to construct Recreation Improvements in that Mountain Phase that are Ski Trails or Access Routes together with preliminary site plans and cutting and clearing plans (where cutting and clearing is required) for each of them,
    - (v) a Security Bond and a Performance Bond (if a Performance Bond is required under Article IX),
    - (vi) a construction and completion schedule for that Mountain Phase,
  - (b) unless the Recreation Improvement for that Mountain Phase is shown or provided for in the Whistler Master Plan and the Phasing Schedule for that Mountain Phase;
  - (c) that consists of a Recreation Improvement that is to be a building unless the design and location of it is consistent with the Whistler Master Plan;

- 4.03 Whistler shall provide or cause to be provided Access Routes
- (a) by way of dedicated or gazetted road or by way of right-of-way to each Parking Facility;
  - (b) by way of pedestrian foot paths (having a width of not less than 5 metres) from each Parking Facility to a Lift Terminal Facility;
  - (c) by way of dedicated or gazetted road or by way of right-of-way to the Gondola Base.
- 4.04 All Access Routes shall be located in areas that are approved by the Province, and where an Access Route, or any part of it, is located on land that is not Crown Land, Whistler shall at the request of the Province and at the expense of Whistler, cause the Access Route (or that part of it that is not located on Crown land) to be conveyed by way of right-of-way to the Province, free and clear of any liens, charges and encumbrances except existing utility easements and rights-of-way.
- 4.05 Prior to the construction of any Recreation Improvement that consists of a Parking Facility, Lift, Lift Terminal Facility, Maintenance Facility or Day Skier Facility, Whistler shall, if that Recreation Improvement or any part of it is to be located on land that is not Crown Land, other than Whistler Lands, at its expense, cause the Recreation Improvement (or that part of it that is not located on Crown land) to be conveyed to the Province free and clear of any liens, charges and encumbrances except existing utility easements and rights-of-way.
- 4.06 Where Whistler conveys land or causes land to be conveyed to the Province under section 4.05 and has applied for a permitted Tenure of that land under the Land Act, the conveyance shall be conditional upon a grant by the Province of the Tenure over that land for its intended purpose in accordance with Article VI.

- 4.07 Whistler shall not construct any Recreation Improvement that is a Ski Trail without the consent of the Province which consent shall not be unreasonably withheld, so long as its design and location conform to the Whistler Master Plan.
- 4.08 Land conveyed to the Province under this Article shall be added to and form part of the Controlled Recreation Area.

## ARTICLE V- MOUNTAIN PHASES

5.01 Whistler shall, at its expense, construct the Recreation Improvements in the Mountain Phases set out in the Phasing Schedule

- (a) in compliance with the Whistler Master Plan and this agreement;
- (b) in a good and workmanlike manner consistent with accepted industry standards for new and similar developments in British Columbia;
- (c) within the time frame for their completion specified in a Construction and Completion Schedule for each Mountain Phase delivered under section 4.02 (a) (vi);

and shall provide all labour, materials and supplies incidental thereto.

5.02 When the Recreation Improvements of a Mountain Phase are in a state of Substantial Completion, Whistler shall undertake the construction of the Recreation Improvements specified for each succeeding Mountain Phase in the order set out in the Phasing Schedule and Article IV applies to each succeeding Mountain Phase.

5.03 Notwithstanding section 5.02, Whistler shall not be required to proceed with any succeeding Mountain Phase until the Utilization of the last completed Mountain Phase during a Season on Weekdays is 35% and on Weekends and Holidays is 80% of the Skier Carrying Capacity of all completed Mountain Phases.

5.04 Whistler shall not without the consent of the Province (which consent shall not be unreasonably withheld) proceed with the construction of Recreation Improvements in a succeeding Mountain Phase until all of the Recreation Improvements in preceding Mountain Phases are in a state of Substantial Completion.

5.05 It is a condition of the obligation of Whistler to construct a Recreation Improvement that

- (a) the permitted Tenure for that Recreation Improvement shall have been granted to Whistler; and

(b) the time from the date Whistler commences construction of the Recreation Improvement to the expiry of the term of the Tenure is

(i) in respect to a Lift, Parking Facility, Ski Trail or Lift Terminal Facility, at least 10 years,

(ii) in respect of Recreation Improvements other than a Parking Facility, Ski Trail or Lift Terminal Facility, at least 20 years.

ARTICLE VI - FORMS OF TENURE (RECREATION IMPROVEMENTS)

- 6.01 The form of Tenure for Recreation Improvements other than Lifts, Access Routes and Ski Trails shall be by way of lease substantially in the form of lease set out in Schedule "E".
- 6.02 The form of Tenure for Recreation Improvements that are Lifts shall be by right-of-way substantially in the form of right-of-way set out in Schedule "F".
- 6.03 The form of Tenure for Recreation Improvements that are Ski Trails or Access Routes shall be by way of licence authorizing Whistler to construct and maintain them substantially in the form of licence set out in Schedule "G".
- 6.04 Not later than 12 months after the construction of a Recreation Improvement (other than a Ski Trail or Access Route) is in a state of Substantial Completion, Whistler shall
- (a) for any Recreation Improvement that is a Lift, prepare a surveyed right-of-way plan that encompasses land reasonably required for the operation and maintenance of that Recreation Improvement, which shall not without the consent of the Province encompass a strip of land more than 15 metres in perpendicular width lying between lines parallel to and situated such number of centimetres from each side of the centre line of the Lift;
  - (b) for any Recreation Improvement other than a Lift, Ski Trail or Access Route, prepare a surveyed boundary plan that encompasses land that is occupied by the Recreation Improvement and land reasonably required for its intended use.
- 6.05 Whistler shall prepare the plans referred to in section 6.04, in compliance with the standards of the Surveyor-General and instructions issued by him from time to time and deliver two approved copies of them to the Regional Director for his acceptance.
- 6.06 On the acceptance of a survey plan by the Regional Director under section 6.05,
- (a) Whistler shall affix one copy of the accepted plan

to the appropriate Tenure for the Recreation Improvement described in it, and

- (b) the Regional Director shall retain the other copy for his records

and thereafter the plan so affixed shall in all respects establish, govern and define the land forming part of the Tenure and any surplus land shall be released and discharged from the rights therein granted.

- 6.07 The term of each Tenure issued to Whistler in connection with a Recreation Improvement shall commence on the date it is issued and shall terminate on September 30, 2032.
- 6.08 The Province shall not be under any obligation to grant a Tenure for a Recreation Improvement until the expiration of 30 days after any conditions precedent to the grant of the Tenure have been met provided such conditions precedent shall be restricted to the usual and customary conditions precedent required by the Regional Director in respect of grants of similar tenures to lands owned by the Province.

ARTICLE VII - COVENANTS OF WHISTLER

7.01 Whistler shall

- (a) observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Recreation Improvements, the use and occupation of the land on which they are situate, or that affects the undertaking of Whistler or the manner in which it carries on its business and to indemnify and save the Province harmless from all loss, damage cost or expense suffered by the Province by reason of the failure of Whistler to do so;
- (b) use all reasonable efforts to minimize the adverse environmental impact of the development contemplated herein and comply in all material respects with the environmental requirements set forth in Schedule "H";
- (c) operate the Recreation Improvements in accordance with industry standards for similar developments in British Columbia, and without limiting the generality of the foregoing, comply in all material respects with all its operating covenants set forth in Schedule "I";
- (d) provide all management and technical expertise necessary for Whistler to carry out its obligations under this agreement;
- (e) take out or cause to be taken out and keep or cause to be kept in force at all times, the following policies of insurance:
  - (i) fire insurance and extended coverage supplemental risks contract on all Recreation Improvements in an amount not less than 100% of their full replacement cost,
  - (ii) 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 \$10,000,000 which



amount should be adjusted from time to time in keeping with the amounts customarily carried by prudent operators of similar ski areas in Canada, and which policy may permit a reasonable deductible amount; and

- (iii) such other insurance as would be maintained by a prudent operator of a ski area in Canada, including without limitation, policies of insurance to cover the risk, if any, associated with the operation of any motor vehicle and aircraft, including helicopters, that are owned or leased by Whistler;
- (f) cause each policy of insurance required to be maintained by it
- (i) to name the Province as a named insured as its interest may appear 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 Whistler 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;
- (g) apply all proceeds of the insurance referred to in section 7.01 (e) (i) to be used for the repair or rebuilding of Recreation Improvements damaged or destroyed by the hazard insured against and cause that policy of insurance to provide that the proceeds shall be paid to Whistler or its mortgage creditor having a charge on a Recreation Improvement (as their interests appear) and when received by Whistler or such mortgage creditor, to be used in accordance with this covenant;

- (h) provide to the Province from time to time, upon request, proof that all premiums under the policies required to be maintained by Whistler have been paid and that they are in full force and effect and contain the above terms;
- (i) use all reasonable efforts to procure from each mortgage creditor referred to in section 7.01 (g) an agreement with Whistler that the insurance proceeds under policies referred to in section 7.01 (e) (i) will be dealt with as provided in section 7.01 (g) notwithstanding any default under such creditor's mortgage or charge;
- (j) pay when due all taxes, rates, assessments, levies or other dues now or hereafter charged, or levied against the land comprised in the Tenures and all Recreation Improvements constructed or installed thereon and all other taxes, rates and assessments payable by Whistler under any Federal or Provincial statute including without limitation the Income Tax Act (Canada) and the Workers Compensation Act;
- (k) pay interest to the Province on Fees in arrears at the rate of interest prescribed from time to time under the Land Act in respect of money payable to the Province under that Act;
- (l) subject to section 7.02, indemnify and save the Province harmless against all loss, damage, costs and liabilities, including fees of solicitors and other professional advisors arising out of
  - (i) any breach, violation or non-performance of any covenant, term or condition contained in this agreement or in a Tenure or other interest in land granted to Whistler under Article VI,
  - (ii) any personal injury, death, or property damage occurring in the Controlled Recreation Area, or the activities carried out by Whistler in the Controlled Recreation Area including any matter or thing permitted or omitted (whether negligent or otherwise) by Whistler, its servants, agents, contractors or subcontractors,

and the amount of that loss, damage, costs and liabilities shall be added to the Fees and Whistler shall pay the amount so added to the Province immediately;

- (m) pay all accounts and expenses as they become due for labour performed on or materials supplied for constructing or repairing the Recreation Improvements save and except for money that Whistler is required to holdback under the Builders' Lien Act and if any claim of lien is made under that Act, Whistler shall take all necessary steps to have the same discharged unless the claim of lien is being contested in good faith by Whistler and Whistler has taken steps to ensure that the claim will not subject any of its Tenures or the Recreation Improvements to sale or forfeiture;

- (n) notwithstanding Article XVII, permit any person to pass and repass by foot on the Hiking Trails during the months of May to November of each year without fee or charge;

7.02 The obligation of Whistler under section 7.01 (1) (ii) does not apply to any personal injury, death or property damage sustained by a person as a result of his passing or repassing on a Hiking Trail by foot, motor vehicle, motorcycle or any other means during the period from the first day of May to the last day of November of each year during the continuance of this agreement.

## ARTICLE VIII- FEES

- 8.01 In consideration of the development rights granted herein and as rental for all Tenures granted hereunder, Whistler shall pay to the Province:
- (a) an initial fee of \$100 for each Tenure issued hereunder, payable in advance on the date of issuance;
  - (b) a minimum fee in an amount equal to 1% of the Gross Revenue of Whistler during its last completed Financial Year payable in advance on January 1, 1983 and on January 1 in each and every year thereafter during the term of this agreement; and
  - (c) a percentage fee of 2%, or such other percentage determined in accordance with section 8.02, of the Gross Revenue of Whistler calculated in respect of each Financial Year less the Minimum Fee;
- 8.02 The percentage of the Percentage Fee shall be reviewed by the Province on December 1, 1993 and on each 10th anniversary of that date and the Province may at each review, increase the percentage by an amount it may determine but no increase shall be more than 1% and no increase shall be so large as to cause the Percentage Fee to be an amount greater than the highest fee then charged by the Province under any Provincial Ski Area Policy then in effect.
- 8.03 Within 120 days after the end of each Financial Year, Whistler shall deliver to the Province a detailed statement of Gross Revenue for that Financial Year audited by the auditor of Whistler together with payment of the Percentage Fee as required by section 8.01.
- 8.04 Whistler shall give notice in writing to the Province of its Financial Year end and any changes to that date and no fiscal year of Whistler shall exceed 12 months.
- 8.05 The Province 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 Whistler pertaining to Gross Revenue upon reasonable notice and at reasonable times.
- 8.06 The fees provided in section 8.01 are in addition to the fees provided in the Land Act or regulations under that Act in effect from time to time in respect of processing of applications for the Tenures and issuing them.

ARTICLE IX- SECURITY BOND AND PERFORMANCE

- 9.01 The Security Bond required to be delivered to the Province under section 4.02 (a) (v) shall
- (a) be in the amount of \$50,000;
  - (b) be in the form of an unconditional letter of credit issued by a Canadian chartered bank that remains in effect until the Mountain Phase in respect of which it is given is in a state of Substantial Completion, or in any other form acceptable to the Province.
- 9.02 The Province may use the Security Bond given by Whistler with respect to any Mountain Phase for the payment of all costs and expenses incurred by the Province to cure or compel Whistler to cure any Event of Default that relates to the construction of Recreation Improvements for that Mountain Phase or to remedy any material damage to the environment caused by that construction or by the activities of Whistler, its servants, agents or contractors.
- 9.03 When the Recreation Improvements in a Mountain Phase are in a state of Substantial Completion, the Province shall return the Security Bond to Whistler less all sums drawn down by the Province to pay or provide for the payments of costs and expenses under section 9.02.
- 9.04 Where the Province draws down money under the Security Bond under section 9.02, Whistler shall, within 30 days of that event, deliver another Security Bond to the Province in an amount equal to the amount drawn down by the Province under section 9.02.
- 9.05 Subject to section 9.07, Whistler shall, at the request of the Province, post security in the form of an unconditional letter of credit issued by a Canadian chartered bank and that remains in effect until the Mountain Phase in respect of which it is given is in a state of Substantial Completion (or in any other form acceptable to the Province) in an amount equal to 100% of the estimated capital costs of the Recreation Improvements for the Mountain Phase that may be called and drawn down if Whistler fails to construct the Recreation Improvements for which the security is given to a state of Substantial Completion.

9.06 A Performance Bond may provide partial releases as follows:

- (a) by an amount equal to 25% on receipt by the Province of a certificate from the Engineer under his professional seal stating that 25% of the work to be undertaken by the contract has been completed or is in place;
- (b) by an amount equal to 25% on receipt by the Province of a certificate from the Engineer under his professional seal stating that 50% of the work to be undertaken by the contract has been completed or is in place;
- (c) by an amount equal to 25% on receipt by the Province of a certificate from the Engineer under his professional seal stating that 75% of the work to be undertaken by the contract has been completed or is in place; and
- (d) the balance in 60 days after receipt by the Province of a certificate of the Engineer under his professional seal stating that the work to be undertaken by the contract is in a state of Substantial Completion.

9.07 Notwithstanding section 9.05, the Province shall not be entitled to request Whistler to post a Performance Bond unless it relates to a Mountain Phase that is not in a state of Substantial Completion at the time the Province conveys to Whistler Crown land required for the construction of the Base Area Phase described in Column II of the Phasing Schedule immediately opposite to that Mountain Phase.

## ARTICLE X - MODIFICATIONS TO WHISTLER MASTER PLAN

- 10.01 Whistler shall, in consultation with the Province, continually review and re-evaluate the Whistler Master Plan and the Phasing Schedule and in conducting that review and re-evaluation shall take into account changing technology in the industry and changing public requirements.
- 10.02 Where, on the basis of a review under section 10.01, Whistler considers that the Whistler Master Plan, the Phasing Schedule, or any part of either of them should be altered in a material way, it shall submit the proposed alteration to the Province for its approval.
- 10.03 A proposal under section 10.02 shall be in writing and shall be accompanied by maps, schedules and other documents that show conceptually and in detail the alterations being recommended and the impact of them on the existing Whistler Master Plan and the Phasing Schedule.
- 10.04 A change or alteration to the Whistler Master Plan or the Phasing Schedule that
- (a) does not require the Province to discharge a restrictive covenant or condition referred to in section 14.09;
  - (b) does not reduce the Skier Carrying Capacity of Recreation Improvements that are Lifts, Lift Terminal Facilities or Ski Trails;
  - (c) does not increase the number of Bed Units to be constructed in a Base Area; or
  - (d) does not decrease the number of parking spaces referred to in paragraph (x) of Schedule "I";
  - (e) does not identify further Base Areas;
- does not constitute a change to the Whistler Master Plan or the Phasing Schedule that requires the consent of the Province but Whistler shall give written notice of those changes to the Province.
- 10.05 The Province shall not unreasonably refuse to approve an alteration under this Article so long as it does not,
- (a) impair the objectives of the parties referred to in Article II or render them unattainable;
  - (b) conflict with the Provincial Ski Area Policy.

## ARTICLE XI - EXISTING RECREATION IMPROVEMENTS

- 11.01 Prior to or contemporaneously with the execution of this agreement, Whistler shall deliver the following to the Province
- (a) applications under the Land Act for rights-of-way for each Recreation Improvement in Mountain Phases I to VII that is a Lift together with a surveyed right-of-way plan for each of them prepared in accordance with Article VII;
  - (b) applications under the Land Act for leases for each Recreation Improvement (other than a Lift, Ski Trail or Access Route) together with a surveyed boundary plan of each of them prepared in accordance with Article VII; and
  - (c) an application under the Land Act for one licence for all existing Recreation Improvements that are Ski Trails or Access Routes together with a sketch plan showing the general area in which they are located;
  - (d) other information and documentation that the Province reasonably requires under its land administration policy and procedure (as it exists from time to time) to grant the leases, licences, and rights-of-way applied for under this Article.
- 11.02 The Province shall, within 120 days of the receipt of the material referred to in section 11.01, grant the Tenures applied for to Whistler.
- 11.03 The Tenures issued under this Article shall, on the dates they are issued, supercede and replace all other rights, titles, interests, in land previously issued by the Province to Whistler in the Controlled Recreation Area, and on and after those dates those earlier rights, titles and interests and the instruments creating them shall be void.



## ARTICLE XII - EVENTS OF DEFAULT

12.01 The Province may exercise its remedies under section 12.03 on the happening of any one or more of the following events:

- (a) if Whistler fails to pay Fees when due and the default continues for a period of 15 days after written notice has been given by the Province to Whistler specifying the default and requiring the same to be remedied;
- (b) if Whistler fails in any material respect to observe or perform or keep any of its covenants or obligations under this agreement (other than its covenants to pay Fees) or any Tenure granted hereunder, and the default continues for a period of 30 days after written notice has been given by the Province to Whistler 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, Whistler 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 Whistler or if a petition is filed for the liquidation or winding up of Whistler;
- (d) if Whistler makes an assignment for the general benefit of its creditors or if a bankruptcy petition is filed or presented against Whistler or Whistler consents to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging Whistler bankrupt under any law relating to bankruptcy or insolvency;
- (e) if any execution, sequestration, extent or other process of any court becomes enforceable against Whistler in respect of any part of its Interest or if a distress or analogous process is levied on its Interest or any part of it and Whistler fails to defend such process in good faith while having taken steps to ensure that its Interest or such part of it will not be subject to sale or forfeiture;

- (f) if Whistler ceases to carry on its business as a ski area operator in the Resort Area;
- (g) if any floating charge granted by Whistler over its Interest crystallizes or becomes enforceable or if any other charge or encumbrance granted, created or issued over its Interest becomes enforceable (including the appointment of a receiver or receiver-manager) and in either case such enforcement adversely affects in any material respect the Interest or Whistler's ability to carry on its business as a ski area operator in the Resort Area;
- (h) if Whistler does any act or thing or omits to do any act or thing that constitutes a default under any indenture, mortgage, deed of trust, bill of sale or other security instrument that affects its Interest to which it is a party or is bound and which default adversely affects in any material respect the ability of Whistler to carry on its business as a ski area operator in the Resort Area;
- (i) if without the consent of the Province, Hastings West Investment Ltd. ceases to own or control, directly or indirectly at least 51% of the issued and outstanding voting shares in the capital of Whistler;
- (j) if, without the consent of the Province, Whistler is amalgamated with another company or is reorganized and Hastings West Investment Ltd. does not acquire, directly or indirectly or through a corporation in which it owns not less than 51% of the issued voting shares, ownership or effective control of, or thereafter ceases to be the owner of or to retain effective control of, at least 51% of the issued and outstanding voting shares in the capital of the amalgamated or reorganized company;
- (k) if, without the consent of the Province, Whistler directly or indirectly enters into a partnership or co-ownership agreement whereby the other party to it acquires an interest in a Recreation Improvement or Whistler sells or transfers an interest in a Recreation Improvement to any person, firm or corporation.

12.02 Section 12.01 (k) does not apply where Whistler transfers, sells or disposes of its Interest to a partnership or limited partnership in which Hastings West Investment Ltd.

(a) is a partner; and

(b) pursuant to the partnership agreement, either directly or indirectly or through a corporation in which it owns not less than 51% of the issued voting shares, Hastings West Investment Ltd. controls the business and affairs of the partnership.

12.03 On the happening of an Event of Default or at any time thereafter, the Province may do any one or more of the following:

(a) pursue any remedy available to it at law or in equity, it being acknowledged by Whistler 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 Whistler that may reasonably be required to cure the Event of Default in which case all payments, costs and expenses incurred therefor shall be payable by Whistler to the Province on demand;

(c) suspend the rights of Whistler under this agreement to acquire any further Tenures or any Crown Lands in a Base Area;

(d) terminate this agreement and any Tenure granted hereunder;

(e) waive the Event of Default provided, however, that any waiver of the particular Event of Default shall not operate as a waiver of any subsequent or continuing Event of Default.

# ARTICLE XIII - DISPOSITION OF RECREATION IMPROVEMENTS

- 13.01 All Recreation Improvements constructed on Tenures, exclusive of Moveable Recreation Improvements and Independent Recreation Facilities outside the Controlled Recreation Area shall be and remain vested in the Province absolutely.
- 13.02 Whistler shall not remove any Moveable Recreation Improvements during the term of this agreement except for the purpose of repair or replacement in accordance with its normal maintenance program or the Whistler Master Plan.
- 13.03 On the expiration of this agreement by effluxion of time, all Recreation Improvements shall vest in and become the property of the Province absolutely except those that the Province, by notice in writing to Whistler, elects not to retain in which case Whistler may, within two years of the date of expiration, remove the Recreation Improvements described in the notice.
- 13.04 Where Whistler removes a Recreation Improvement described in a notice given under section 13.03, 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 Regional Director.
- 13.05 If this agreement is terminated by the Province under section 12.03, the market value of each of the Recreation Improvements, Gondola Base and the North Side Base shall be determined by an independent appraiser acceptable to the parties which appraiser shall determine the amount that a purchaser in an arms length transaction would pay for them and the right to operate them on a going concern basis in their then existing condition and location on the basis that they would be situate on Tenures having a maximum term of years permitted under the Provincial Ski Area Policy in effect as of the date of termination at the rents specified in that policy for those tenures and the cost of such appraisal shall be borne equally by the parties.

- 13.06 Within 30 days after the Appraised Market Value of the Recreation Improvements has been determined under section 13.05, the Province shall, by way of public tender, solicit offers for the right to purchase and operate the Recreation Improvements in their existing state over the maximum term of years permitted under and on terms and conditions consistent with the Provincial Ski Area Policy in effect on the date of termination.
- 13.07 If the Province wishes to accept an offer solicited under this Article and the bid price specified in it for the Recreation Improvements and the right to operate them is in the aggregate, less than the Appraised Market Value of them, the Province shall, on the closing of the purchase and sale contemplated by the offer, pay to Whistler an amount equal to the difference between the Appraised Market Value of them and the bid price for the Recreation Improvements that was specified in the offer.
- 13.08 Section 13.07 does not apply where Whistler consents in writing to the acceptance of an offer by the Province for the right to operate the Recreation Improvements at an amount less than their Appraised Market Value.
- 13.09 If the Province elects not to accept any offer made as a result of the solicitation under section 13.06, the Province shall within the 12 month period following the closing of tenders, make a second solicitation for offers for the right to operate the Recreation Improvements in their existing state over the maximum term of years permitted under and on terms and conditions of the Provincial Ski Area Policy in effect on the date of termination.
- 13.10 Sections 13.07 and 13.08 apply in respect of offers made in response to a solicitation made under section 13.09.
- 13.11 If the Province elects not to accept an offer made in response to a solicitation under section 13.09, Whistler shall remove all Recreation Improvements that are Lifts, Lift Terminal Facilities and buildings from the Tenures (save and except for concrete footings of the Lift towers) and leave the surface of the Tenures in a safe, clean and tidy condition satisfactory to the Regional Director.

- 13.12 Where the Province accepts an offer made in response to a solicitation under this Article, it shall, subject to section 13.07, pay to Whistler an amount equal to the amount bid for the Recreation Improvements on the same terms and conditions and at the time the Province is paid for them.
- 13.13 If the Province fails to comply with sections 13.06 to 13.12, Whistler shall be entitled to solicit offers for the purchase of the Recreation Improvements and the right to operate them and the Province shall accept and agree to an offer presented by Whistler under this section.
- 13.14 Notwithstanding any other provision of this Article, the Province shall not be entitled to refuse to accept any offer to purchase and operate the Recreation Improvements if the price specified in the offer is equal to or greater than the Appraised Market Value.
- 13.15 On the expiration or earlier termination of this agreement, Whistler shall sell and the Province shall purchase the Gondola Base and the North Side Base for a price equal to the Appraised Market Value determined in accordance with section 13.05.

ARTICLE XIV - BASE AREA DEVELOPMENT

14.01 So long as Whistler is not in default under this agreement, it shall be entitled to purchase the Crown Land in the Base Areas from the Province, in phases, for development in accordance with the Whistler Master Plan on the terms and conditions set forth in this Article.

14.02 Subject to section 14.10, the purchase price for

(a) Sites 1, 2, 3, 5, and 6, if purchased by Whistler on or before September 30, 1992, shall be as follows:

G.I. Site 1 - \$ 72,000  
Site 2 - \$136,000  
Site 3 - \$130,000 22 ha.  
Site 5 - \$212,000 62  
Site 6 - \$ 92,000; and

(b) a parcel of Crown land in a Base Area identified in an amendment to the Whistler Master Plan that is purchased by Whistler on or before September 30, 1992, shall be the value of such parcel as at September 30, 1982 as determined by the Province in accordance with the Provincial Ski Area Policy;

and after September 30, 1992 shall be fixed by the Province in accordance with the Provincial Ski Area Policy in effect from time to time.

14.03 Subject to section 14.04, Whistler shall be entitled, from time to time, to apply under the Land Act for a fee simple grant of Crown Land in the Base Areas in the consecutive phases shown in the Phasing Schedule and the application for the Crown Land comprised in a Base Area Phase shall

(a) identify only those parcels that are necessary for the development of that Base Area Phase; provided that in the case of Base Area Phase I, Whistler shall be entitled to purchase any one or more of Sites 1, 2, 3, 5, and 6 from time to time and shall purchase not less than all of each such Site;

- (b) identify those parcels necessary for the construction of Independent Recreation Facilities, if any, and describe the nature or type of them;
- (c) be accompanied by evidence, in the form of a certificate of the Engineer under his professional seal

- (i) that the Recreation Improvements comprised in the Preceding Mountain Phases that are described in the Phasing Schedule are in a state of Substantial Completion, and
- (ii) that construction of the Recreation Improvements comprised in the Corresponding Mountain Phase has commenced or is in a state of Substantial Completion, as the case may be,

and if the Corresponding Mountain Phase is not in a state of Substantial Completion, the Province may request a Performance Bond under section 9.05.

14.04 The obligation of the Province to sell Crown Land for the development of a Base Area Phase to Whistler is subject to the following conditions:

- (a) that
  - (i) the Recreation Improvements comprised in the Preceding Mountain Phases that are described in the Phasing Schedule are in a state of Substantial Completion, and
  - (ii) the construction of the Recreation Improvements comprised in the Corresponding Mountain Phase has commenced;
- (b) that Whistler shall have delivered to the Province
  - (i) a proposed scheme of subdivision or development for the land in the Base Area Phase (by way of a proposed subdivision plan under the Land Title Act or a proposed strata plan under the Condominium Act) that shows the number of Bed Units to be allocated to each Site within that Base Area Phase,
  - (ii) a general description of the proposed development of the Base Area Phase and of the number and allocation of Bed Units to the proposed development,



- (iii) a boundary survey of each parcel of Crown Land in the Base Area Phase prepared by a British Columbia land surveyor in accordance with the standards of the Surveyor-General and any instructions issued by him;

and for the purpose of paragraph (i) above, a subdivision or development plan shall specify the number of proposed single family units, condominium units and hotel units and the corresponding number of Bed Units calculated as follows:

1 single family unit	=	6 Bed Units
1 condominium unit	=	4 Bed Units
1 hotel unit	=	2 Bed Units

- (c) that Whistler shall have paid the purchase price for the Crown Land in the Base Area Phase in full, together with all fees charged by the Province under the Land Act for processing and issuing a Crown grant of that Crown Land.
- (d) that the Development Scheme complies in all material respects to the then existing subdivision and zoning by-laws of the Resort Municipality of Whistler.

14.05 Whistler shall be entitled to carry forward undeveloped Bed Units from completed Base Area Phases to succeeding Base Area Phases but sections 14.03 and 14.04 apply to the entitlement of Whistler to develop those succeeding Base Area Phases.

14.06 An instrument conveying Crown Land to Whistler under this Article shall

- (a) except and reserve the rights, titles, interests and privileges referred to in section 47 of the Land Act;
- (b) be subject to
  - (i) any conditional or final water licence or substituted water licence issued or given under the Water Act, or under any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the land and to maintain, repair and operate any works permitted on the land under the licence at the date hereof;

- (ii) the rights under the Mineral Act of holders or owners of subsisting claims, 2 post claims or other interest in or that affect the land acquired or held under that Act or under any prior or subsequent enactment of the Province of British Columbia of like effect;
- (iii) the rights of holders or owners under subsisting licences or permits issued under the Petroleum and Natural Gas Act, or under any prior or subsequent enactment of the Province of British Columbia of like effect, to enter on, use and occupy the land for any purpose authorized by the Act, or the licence, permit or other authority issued under it or any prior or subsequent enactment of the Province of British Columbia to like effect;
- (iv) any statutory right-of-way that burdens the Crown Land.

14.07 Where a parcel of Crown Land has been identified under section 14.03 (b) for the development of an Independent Recreation Facility in a Base Area, the instrument conveying that parcel to Whistler shall contain

- (a) a restrictive covenant in form satisfactory to the Province prohibiting the land described in it from being subdivided or used for any purpose other than construction, operation and maintenance of the Independent Recreation Facility;
- (b) a condition that the fee simple estate is conveyed for so long as the land described in it is used for the purpose of constructing, maintaining and operating the Independent Recreation Facility.

14.08 Section 14.06 (a) and (b) applies to an instrument conveying Crown Land to Whistler under section 14.07.

14.09 Whistler shall execute and deliver to the Province all instruments and assurances that may be necessary to implement the provisions of section 14.07.

- 14.10 Notwithstanding section 14.04 (d), if a Development Scheme delivered by Whistler under section 14.04 (b) (i) does not comply with the subdivision and zoning by-laws of the Resort Municipality of Whistler, Whistler may elect to purchase the land described in the Subdivision Scheme at the price referred to in section 14.02 on the tenth anniversary of the reference date of this agreement.
- 14.11 If Whistler wishes to make an election under section 14.10, it shall
- (a) do so by delivering written notice of its election to the Province; and
  - (b) pay the purchase price of the land to the Province;
- not later than 30 days after the tenth anniversary of the reference date of this agreement.

ARTICLE XV - TRANSFERS AND ENCUMBRANCES

- 15.01 Subject to section 15.04, Whistler shall not sell, convey, transfer, or otherwise dispose of its Interest or any part of its Interest without the prior written consent of the Province.
- 15.02 The Province shall not unreasonably refuse to consent to a sale, conveyance, transfer, or disposition under section 15.01 so long as the purchaser, assignee, or transferee, in the opinion of the Province, has the financial capacity and proven management abilities and business experience to develop, operate and maintain the Recreation Improvements in accordance with industry standards for similar developments in British Columbia, this agreement and the Whistler Master Plan.
- 15.03 Section 15.01 does not apply to a transfer, sale or disposition referred to in section 12.02 or that does not constitute a default under section 12.01 (j) but in such event:
- (a) Whistler shall give written notice of the transfer, sale or disposition to the Province;
  - (b) this agreement and the Tenures shall be assigned by Whistler to the partnership or limited partnership; and
  - (c) the Province shall consent to the assignments referred to in section 15.03 (b).
- 15.04 Whistler shall neither assign this agreement or its rights under it nor mortgage, pledge, charge, assign, or otherwise encumber its Interest or any part of it as security for a debt obligation without, in either case, the written consent of the Province which consent the Province shall not unreasonably refuse so long as the party to whom the Interest or any part of it is assigned, mortgaged, pledged, charged or otherwise encumbered, will, in exercising its remedies, have no greater rights than Whistler.

ARTICLE XVI - RENEWAL

- 16.01 Whistler may, at four year intervals, beginning on the 30th anniversary of the reference date of this agreement, but not after the 47th anniversary of that date, apply to the Province for a renewal of this agreement and the Tenures.
- 16.02 So long as Whistler is not in default under this agreement or the Tenures, the Province shall, within 180 days after the application under section 16.01, make a written offer to Whistler to renew this agreement on terms and conditions that are consistent with the Provincial Ski Area Policy then in effect.
- 16.03 Whistler shall have a period of six months from the receipt of the Renewal Offer to accept the renewal of this agreement and the Tenures on the terms and conditions contained in it.
- 16.04 If Whistler declines to accept the renewal of this agreement and the Tenures on the terms and conditions contained in a Renewal Offer within the time specified in section 16.03, the Province shall at any time after the 47th anniversary of the reference date of this agreement be at liberty to enter into an arrangement with any other person for the right to purchase and operate the Recreation Improvements and develop the Base Areas but in so doing the Province shall not, for a period of five years after the expiration of this agreement, enter into an agreement with or grant Tenures to any person on terms and conditions more favourable than those specified in the most recent Renewal Offer without first offering a renewal of this agreement and the Tenures to Whistler on those terms and conditions.
- 16.05 Where the Province makes an offer to Whistler under section 16.04, the offer shall, unless accepted by Whistler within six months after it is made, be deemed to have been withdrawn and no longer open for acceptance whether or not notice of the withdrawal is given.

- 16.06 An agreement entered into by the Province with another person under section 16.04 shall not, so far as it relates to the purchase and operation of Recreation Improvements and the purchase and development of the Base Areas, come into force until the expiration or earlier termination of this agreement.
- 16.07 If Whistler fails to give notice to the Province of its intention to renew prior to the 47th anniversary of the reference date of this agreement, the Province may at any time thereafter negotiate with any other person for the right to purchase and operate the Recreation Improvements and purchase and develop the Base Area.

ARTICLE XVII - CONTROLLED RECREATION AREA

17.01 Subject to this agreement, the Province grants to Whistler the exclusive use, occupation and control of the Controlled Recreation Area and all authority, rights, and privileges incidental thereto including without limitation the following rights:

- (a) to establish a ski area boundary within the Controlled Recreation Area for the purpose of delineating the area or areas within such boundary operated and controlled by Whistler as a ski area and in which its Recreation Improvements are located 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 at all times and upon such terms and conditions as Whistler may determine in its discretion;
- (c) to regulate the access and entry of all persons to the Controlled Recreation Area at all times and upon such terms and conditions as Whistler 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 Whistler may determine in its discretion;
- (f) to regulate the landing of aircraft within the Controlled Recreation Area at all times and upon such terms and conditions as Whistler may determine in its discretion.

17.02 Whistler may exercise the authority, rights and privileges set out in section 17.01 in any manner it may determine in its discretion provided that nothing contained in this agreement shall confer on Whistler the authority to arrest or detain any person.

17.03 Whistler shall use reasonable effort to ensure that skiers and other persons permitted by it to use the Controlled Recreation Area:

- (a) do not enter into areas within the Controlled Recreation Area that are in Whistler'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 Land Act;

provided that this section shall not impose on Whistler 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 "I".

17.04 Whistler'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.



ARTICLE XVIII - COVENANTS OF THE PROVINCE

18.01 The Province shall:

- (a) not grant to any person, corporation, municipality, governmental agency or Crown corporation title to or any right to use, occupy, lease or acquire in any manner whatsoever any part of the Resort Area or, subject to the existing Timber Licenses Numbers 8080P, 8090P, the area designated on page one of Schedule "A" as "Area for Further Expansion of Resort Area", without the prior written consent of Whistler;
- (b) assure to Whistler vehicular access to
  - (i) the north side Lift system above the North Side Base,
  - (ii) the land owned by the Province above the Gondola Base,
  - (iii) such other access to the Resort Area that may be necessary.

18.02 The Province shall not, without the prior written consent of Whistler, divulge, reveal, make known or deliver to any person, firm or corporation, or publish or otherwise disclose

- (a) the Financial Information or any other financial statement, balance sheet or financial report required to be delivered by Whistler to the Province under this agreement;
- (b) this agreement or any provision of it.

18.03 The Province shall not permit employee access to the information referred to in section 18.02 (a) except to

- (a) employees who are senior governmental employees; and
- (b) professional consultants retained by the Province who undertake to maintain the confidentiality thereof.

## ARTICLE XIX - ARBITRATION

19.01 In the event a dispute arises between the parties concerning

- (a) whether or not a Renewal Offer made by the Province to Whistler under Article XVI is consistent with the Provincial Ski Area Policy in effect at the time the Renewal Offer is made; or
- (b) the amount of the Appraised Market Value of a Recreation Improvement under Article XIII;

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

19.02 Notwithstanding the Arbitration Act

- (a) the costs of the reference and the award shall be borne equally by the parties;
- (b) the arbitrator shall only have jurisdiction to determine the matter referred to him under section 19.01 and shall not have any power to award damages or grant interim or permanent orders for equitable relief.

19.03 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) reasons for judgment;
- (f) pre-arbitration proceedings by way of discovery of witnesses and documents; and
- (g) the examination of witnesses under oath.

ARTICLE XX - MISCELLANEOUS

- 20.01 Whistler and the Province shall perform such further acts and execute all further documents as may be required from time to time to give effect to the intent of this agreement.
- 20.02 If any term, covenant or condition of this agreement or the application of it to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of this agreement or the application of that term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant or condition of this agreement shall be valid and enforced to the fullest extent permitted by law.
- 20.03 Nothing in this agreement constitutes Whistler the agent, joint venturer or partner of the Province or gives Whistler any authority or power to bind the Province in any way.
- 20.04 If due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, laws, ordinances, rules, regulations or orders of governmental authorities, enemy or hostile action, civil commotion, fire or other casualty and any condition or cause beyond the reasonable control of Whistler other than natural reasons, Whistler 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) Whistler gives written notice to the Province within 30 days after the commencement of the delay setting forth the nature of it and a revised development schedule; and
  - (b) Whistler diligently attempts to remove the delay.
- 20.05 For the purpose of section 20.04, the inability of Whistler to obtain financing or the funds necessary for the construction of a Recreation Improvement is not a cause beyond the reasonable control of Whistler.

20.06 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 development contemplated herein.

20.07 Any notice required to be given by either party to the other shall be deemed to be well and sufficiently given if mailed by prepaid registered mail in Canada or delivered at the address of the other as follows:

(a) to the Province:

Regional Director,  
Ministry of Lands, Parks and Housing  
4240 Manor Street,  
Burnaby, British Columbia  
V5G 1B2

(b) to Whistler:

602 - 325 Howe Street,  
Vancouver, B.C.  
V6C 1Z7

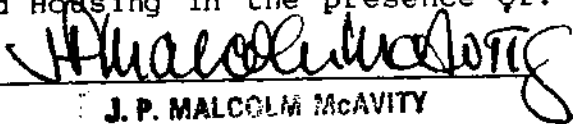
or at such other address as the other may from time to time direct in writing, and any such notice shall be deemed to have been received if delivered on the day of delivery, and if mailed, 48 hours after the time of mailing except in the case of mail interruption in which case actual receipt is required.

ARTICLE XXI - INTERPRETATION

- 21.01 In this agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- 21.02 The headings of Articles are inserted for convenience of reference only and shall not be construed as forming part of this agreement.
- 21.03 In the event of any inconsistency between the terms and conditions of any Tenure and this agreement, this agreement applies.

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

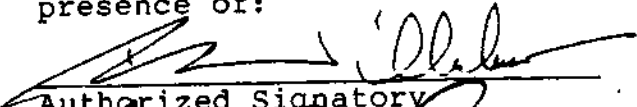
SIGNED, SEALED AND DELIVERED  
on behalf of Her Majesty the  
Queen in right of the Province  
of British Columbia by a duly  
authorized representative of  
the Minister of Lands, Parks  
and Housing in the presence of:

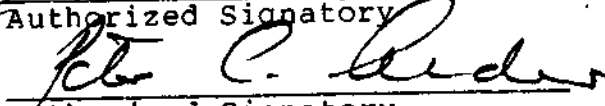


**J. P. MALCOLM McAVITY**  
**Barrister & Solicitor**

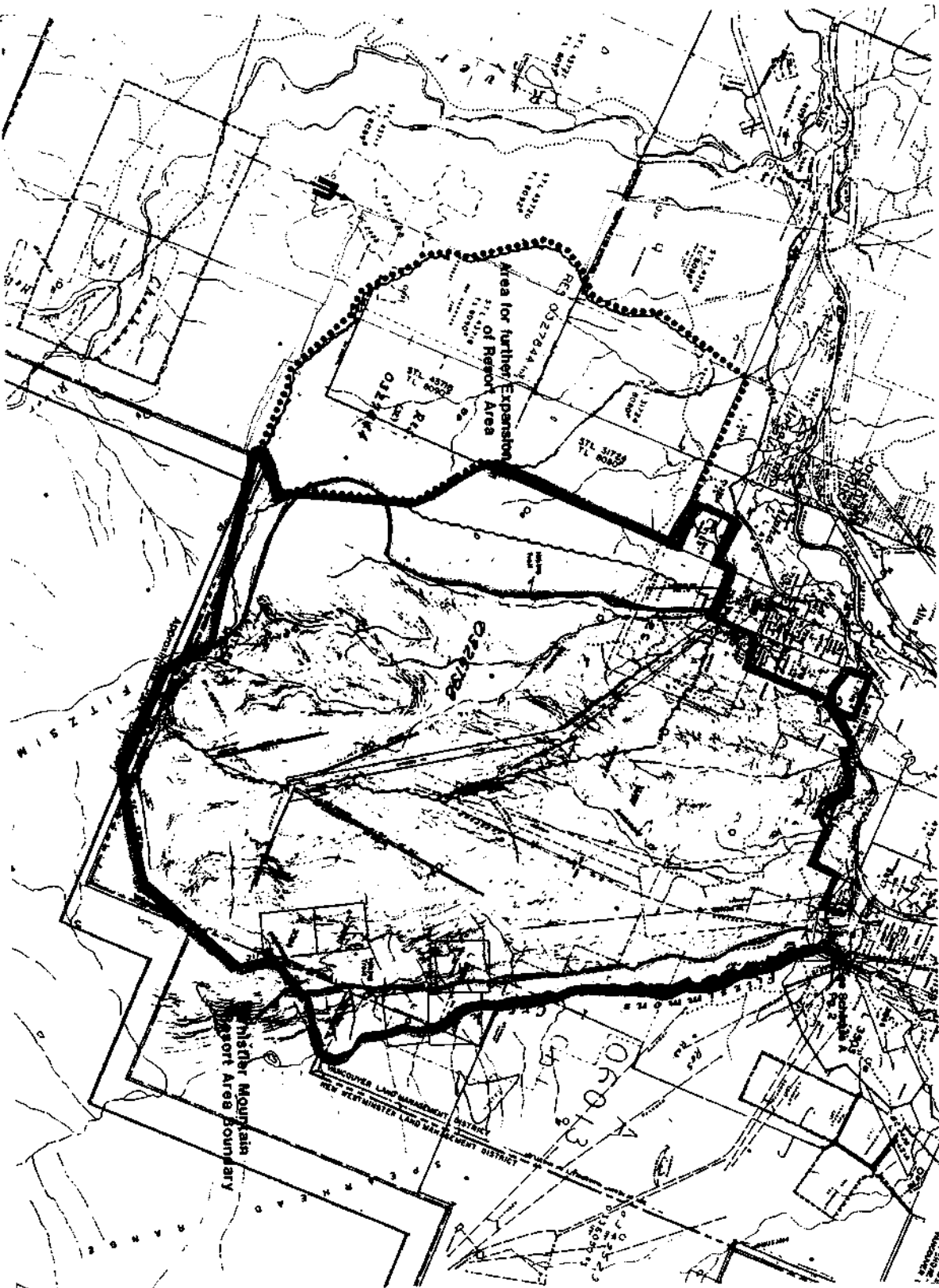
**Ministry of Attorney General**  
**Parliament Buildings**  
**Victoria, B.C.**

The Common Seal of Whistler  
Mountain Ski Corporation  
was hereunto affixed in the  
presence of:

  
Authorized Signatory

  
Authorized Signatory

This is a photo reduction of Plan No. P 76 A dated September 2, 1982 deposited with the Regional Director of the Ministry of Lands, Parks and Housing, Lower Mainland Region.



*[Handwritten signature]*

Resort Area  
Boundary

Hiking  
Trails

Schedule A  
Page 1

WHISTLER  
MOUNTAIN

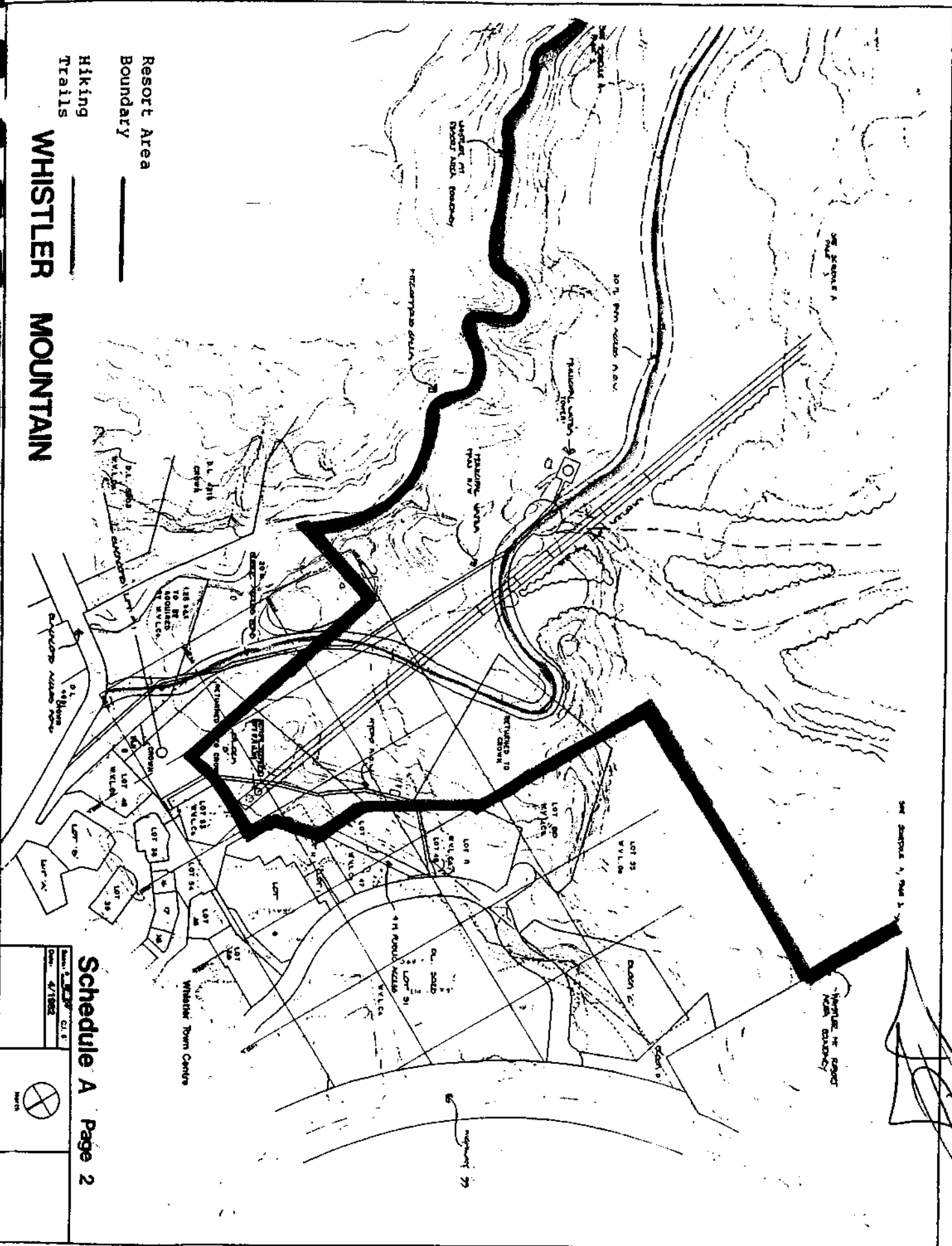


Scale: 1" = 1320' ± 1.500'  
Date: 8/1982  
Project: Whistler Mountain  
Map C - Revision

Figure

This is a photo reduction of Plan dated April, 1982 deposited with the Regional Director of the Ministry of Lands, Parks and Housing, Lower Mainland Region

*[Handwritten signature]*



Resort Area

Hiking Trails

# WHISTLER MOUNTAIN

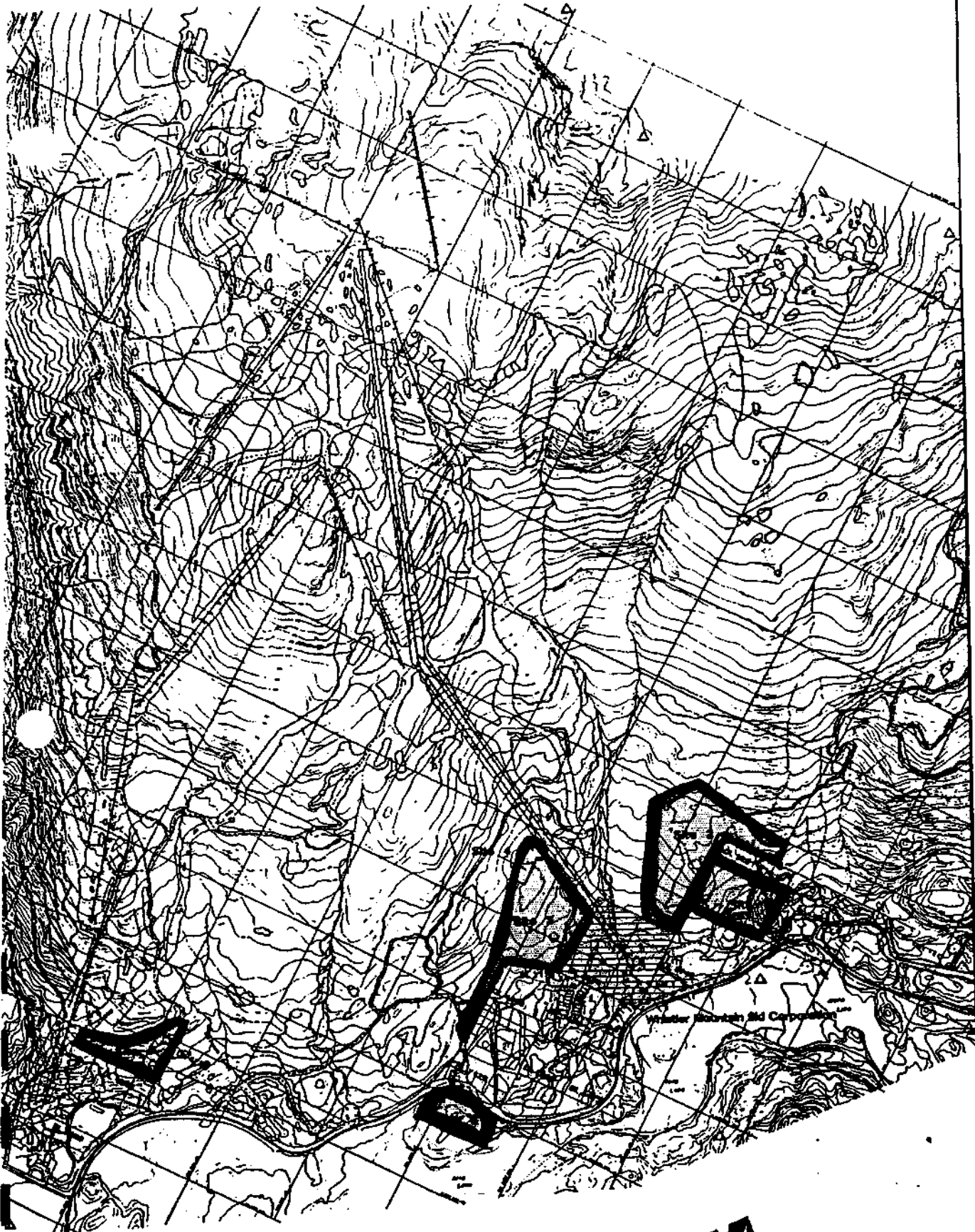
Schedule A Page 2

Map 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100





This is a photo reduction of Plan No. P 76 A dated September 2, 1982 deposited with the Regional Director of the Ministry of Lands, Parks and Housing, Lower Mainland Region.



LEGEND

## Whistler Mountain

Date of Revision: September 2, 1982	
Drawn by: <b>Ecosign</b> Scale: 1" = 100'	By: Date: 9/1982 Title:

Schedule B

FIGURE

# SCHEDULE "C"

Table 1.01

## SKI AREA CLASSIFICATION AND BASE AREA CAPACITY ANALYSIS

SKI AREA CLASSIFICATION: WHISTLER MOUNTAIN

TYPE: D - (DESTINATION)

DESCRIPTION: 13 LIFTS, 220 HECTARES vertical rise 1,309 m. (4295 ft.).

AREA EVALUATION:		PHASES 1 to 7	PHASE 8	PHASE 9
SECTION:		EXISTING	INTERIM	FINAL
A. Variety of Terrain Skier/Density Travel Time access		5	5	5
		5	5	5
		4	4	4
		1	1	1
C. Population (market)		5	5	5
D. Unique qualities 1. (i.e., tourism)		2	2	2
E. Year round experience		4	4	4
Climate length of season snow conditions		3	3	3
		4	4	4
		2	2	2
TOTALS		35	35	35
Mountain Capacity		10,080	10,971	13,503
Capacity Z rating		90%	90%	90%
(Theoretical)				
TOTALS (Bed Units)		9,072	9,874	12,153

1. Garibaldi Provincial Park, Whistler Village, 18 hole golf course, five

SCHEDULE "C"

Table 1.02

Whistler Mountain  
Phasing Schedule

MOUNTAIN PHASES				BASE AREA PHASES	
Phase	Date of Completion	Mountain Capacity	Created Bed Units*	Phase No.	Sites
1 to 5	1975	6113	nil		
6	1978	800	720		
7	1980	<u>3167</u>	<u>2850</u>	1	1,2,3,5&6**
8	projected	891	802	2	Sites to be identified
9	projected	<u>2532</u>	<u>2279</u>	3	Sites to be identified
TOTAL		<u>13,503</u>	<u>6,551</u>		

\* From Table 1.01 (90% of Mountain Capacity)  
 \*\* See Tables 2.01 and 2.02

SCHEDULE "C"

Table 2.01

WHISTLER MOUNTAIN

BASE AREA SITE DESCRIPTIONS

<u>SITE</u>	<u>DESCRIPTION</u>	<u>LOCATION</u>	<u>TOTAL AREA (Hectares)</u>
1	D.L. 7135	Gondola Area	6.55
2	Unsurveyed*	Gondola Area	27.90
3	D.L. 7170 and unsurveyed*	Gondola Area	21.55
4	Unsurveyed*	Gondola Area (maintenance site)	1.98
5	S.T.L. 9434 unsurveyed*	Gondola Area	6.22
6	Unsurveyed*	North Side (above Whistler Village)	7.29

\*See Table 2.02 for description.

SCHEDULE "C"

Table 2.02

WHISTLER MOUNTAIN BASE AREA SITE DESCRIPTIONS

<u>SITE NO.</u>	<u>LEGAL DESCRIPTION</u>	<u>INTENDED USE</u>	<u>AREA/HECTARES</u>
1	Block A, D.L. 7135, New Westminster District	Mixed Residential	6.55
2	Vacant Crown Land*	Mixed Commercial & Residential	27.90
3	Vacant Crown Land*	Mixed Residential	21.55
4	Vacant Crown Land*	Maintenance Area	1.98
5	Portion of STL 9434	Mixed Residential	6.22
6	Vacant Crown Land*	Mixed Residential	7.29

\*See attached metes and bounds descriptions.

SCHEDULE "C"

Table 2.02

METES & BOUNDS DESCRIPTIONS FOR WHISTLER  
MOUNTAIN BASE AREA SITE DESCRIPTIONS

Site 1

Block A      D.L. 7135, New Westminster District

Site 2

Commencing at a post planted at the southwest corner of D.L. 5316, New Westminster District, thence  $89^{\circ}45'15''$  and along the southerly boundary of said D.L. 5316 178.18 meters thence to the westerly boundary of a ski lift Right of Way as shown on Reference Plan 8181, thence  $157^{\circ}25'35''$  and along said westerly boundary 638.52 meters, thence  $225^{\circ}00'$  a distance of 264 meters, thence  $279^{\circ}50'$  a distance of 586 meters, thence north a distance of 108 meters, to intersection with southerly boundary of D.L. 2291, thence easterly along southerly boundary of D.L. 2291 a distance of 340 meters more or less to the southeasterly corner of D.L. 2291, thence northerly and along the easterly boundaries of D.L. 2291, 7135 and 4749 to the point of commencement.

Site 3

Commencing at a post planted at the northeast corner of D.L. 7170, New Westminster District, thence easterly and along the southerly border of D.L. 4979 to the southeasterly corner, thence  $0^{\circ}02'20''$  and along the easterly border of D.L. 4979 to the northeasterly corner of said D.L., thence northerly and along the easterly boundary of D.L. 7179 a distance of 280 meters, thence  $151^{\circ}10'$  a distance of 70 meters, thence  $177^{\circ}15'$  a distance of 349 meters, thence  $167^{\circ}45'$  a distance of 500 meters, thence

Metes & Bounds Descriptions/Page 2

259°25' a distance of 63 meters, thence 176°30' a distance of 150 meters, thence 248°10' a distance of 71 meters more or less to the intersection with the northerly boundary of a ski lift Right of Way as shown on Plan 8181 at a distance of 375 meters along said northerly boundary from the westerly end of said boundary thence northwesterly and along said northerly boundary to intersection with the easterly boundary of D.L. 5316, thence northerly and along said easterly boundary of D.L. 5316 to the southwesterly corner of D.L. 7170, thence easterly along the southern boundary of D.L. 7170 to the southeast corner of D.L. 7170, thence northerly and along the easterly boundary of D.L. 7170 to the point of commencement.

Site 4

Beginning at the easterly corner of a ski lift Right of Way which lies to the east of the easterly boundary of D.L. 5316 as shown on Reference Plan 8181, thence 120°01'07" and along the northerly boundary of said ski lift Right of Way a distance of 375 meters to the point of commencement, thence 68°10' a distance of 71 meters, thence 356°30' a distance of 150 meters, thence 79°25' a distance of 63 meters, thence 167°45' a distance of 155 meters, thence 199°00' a distance of 110 meters more or less to intersection with the said northerly boundary of said chairlift Right of Way, thence 300°01'07" and along said northerly boundary 135 meters more or less to the point of commencement.

Site 5

That portion of S.T.L. 9434 bounded on the south by HWY 99, Plan 91, New Westminster District, on the east by the westerly boundary of D.L. 7258, on the north by the southerly boundary of D.L. 5411 and on the west by the

Metes & Bounds Description/Page 3

easterly boundary of D.L. 2749 and a portion of HWY 99.

Site 6

Commencing at a post planted at the southwest corner of D.L. 4980 thence  $270^{\circ}00'00''$  and along the southerly boundary of D.L. 4980 and its production easterly a distance of 460 meters, thence south a distance of 50 meters, thence  $255^{\circ}00'$  a distance of 235 meters, thence  $224^{\circ}55'$  a distance of 190 meters, thence  $215^{\circ}00'$  a distance of 104 meters, thence west a distance of 46 meters more or less to intersection with the southerly production of the easterly boundary of D.L. 4750 thence northerly and along said southerly production and the easterly boundary of D.L. 4750 a distance of 330 meters more or less to the point of commencement.



## SCHEDULE "H"

### ENVIRONMENTAL REQUIREMENTS

1. Wheeled vehicle traffic will not violate drainage patterns except along predetermined access routes which provide adequate structures for channel protection at points of crossing.
2. All streambanks must be protected from soil breakdown by wheeled or tracked vehicle traffic other than for timber removal and initial road construction. During timber removal and all phases of road construction, soil disturbance of streambeds should be kept to a minimum.
3. Construction activity close to drainages on higher elevation areas should be held to a minimum until the dry season (July, August, September) results in reduced streamflows.
4. 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 should be sized for maximum stream flow conditions.

6. Wherever possible, buffer strips or trees and natural rough vegetation should be 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. Temporary access routes must be filled and revegetated at the earliest opportunity.

13. Throughout the construction process there should 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. Trees should be closecut by power saw rather than bulldozed over, except where grooming standards may otherwise require.
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. The Land Management Branch may be consulted relative to mixtures which have been used successfully at higher altitudes.
20. On slopes below 15 percent gradient, machine clearing should not be a problem. However, attention should be paid to sensitive areas, and existing work roads utilized insofar as possible. Mulch cover of disturbed areas should be implemented as quickly as possible consistent with reasonably construction procedures.
21. On slopes from 15-40 percent, use of machines should be allowable with the same constraints as noted above. Use of waterbars should be increased according to increases in slope and mulch laid down quickly.
22. 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.
23. Completion erosion control procedures must be an integral part of steep work. On steeper faces mulch cover may be held down with light biodegradeable nylon

mesh. Jute matting may be required to enhance soil stability.

24. 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.
25. In all cases, management of the visual aspects of trail development should be considered. These include scalloping of trails, feathering tree cover, the use of islands and bays, etc.
26. An integral part of trail work will be the removal of diseased, damaged, or hazardous trees adjacent to trails. Any indication of infestation should be reported.
27. On steeper slopes (in excess of 40%) and in areas where environmental sensitivity so dicates, construction of ski trails with bulldozers should be limited. Felled trees should be stacked and burned if removal is not possible. A hand crew may be required to finish off and smooth the terrain to enhance the skiability of the trail surface.

Schedule "I"

OPERATING COVENANTS

Whistler covenants and agrees with the Province as follows:

- (a) to maintain at or near 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 the management, supervision, maintenance and operation of the Controlled Recreation Area;
- (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 British Columbia industry standards of ski area development;
- (c) to keep the Ski Trails in satisfactory condition in accordance with British Columbia standards of ski area development;
- (d) to station in the Controlled Recreation Area not less than two first aid toboggans complete with necessary equipment for each major Lift 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 Access Routes and Parking Facilities;
- (f) to maintain avalanche forecasting, patrol and control for all parts of the Controlled Recreation Area serviced by Lifts within the Ski Area Boundary as determined from time to time by Whistler;

- (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 Facilities substantially free of litter and to maintain sufficient litter barrels;
- (i) in connection with slope, trail and other clearing, to pay stumpage and royalty and all other charges payable under the Forest Act and dispose of any remaining timber and slash by piling and burning, lopping and scattering or chipping, all as may be approved by the Chief Forester, as defined in the Forest Act and in accordance with any necessary cutting permit obtained under the Forest Act;
- (j) at the request of the Province, to erect information signs indicating that the Controlled Recreation Area is under the management and control of Whistler;
- (k) to establish and maintain a preventive maintenance programme on all Lifts with trained maintenance personnel and to operate and maintain the Lifts in accordance with the requirements of Government Agencies;
- (l) to maintain the trails in accordance with British Columbia industry standards including the use of snowcats and grooming equipment to pack and groom;
- (m) to maintain a qualified staff of trained ski patrol during winter hours of operation to serve the skiing public;

- (n) to maintain a dispatch office on the mountain through which all snow safety programmes and the dispatching of patrollers will be handled;
- (o) to maintain in the Day Skier Facility a holding area for injured skiers;
- (p) to provide Ski Trail international identification signs within the Ski Area Boundary and provide appropriate postings and notices with respect to the degrees of skier ability required for 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 British Columbia industry standards;
- (r) not to impose any charge for the use of Parking Facilities without the written consent of the Province and without including such charge in Gross Revenue provided that the Province shall not unreasonably withhold its consent to a charge for the use of Parking Facilities if such is the common practice in comparable ski area developments in British Columbia;
- (s) to operate or cause to be operated a ski school adequate for the Controlled Recreation Area with substantially all the instructors certified by the Canadian Ski Instructors Alliance or the Professional Ski Instructors of America or the international equivalent;
- (t) not to charge for use by the public of brown bag rooms and sanitation facilities;
- (u) 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 balance sheet, signed by two directors of Whistler,
- (iii) the auditors report on those statements and balance sheet;
- (v) within 120 days after a Season, deliver to the Province a statement showing the number of Day Skier Visits during that Season, on Weekdays and on Weekends and Holidays certified by the Secretary of Whistler;
- (w) not to reduce the Skier Carrying Capacity of a Lift or a Mountain Phase unless that reduction is expressly provided for in the Whistler Master Plan or approved by the Regional Director in writing;
- (x) to provide, in the vicinity of the Gondola Base, parking facilities for day skiers to accomodate approximately 1,030 vehicles;
- (y) not to construct Recreation Improvements or undertake any other works that may in any manner contaminate the waters of Whistler Creek without the prior approval of the Minister.

## SCHEDULE "D"

### SAOT FORMULA

$$\text{CP} = \frac{\text{CL} \times \text{VR} \times \text{LE} \times \text{HO}}{\text{VSD}}$$

Where:

- CP = effective lift pod capacity
- CL = hourly lift capacity (skiers/hour)
- VR = vertical rise of specific lift
- LE = lift loading efficiency (.9)
- HO = hours of operation (7)
- VSD = vertical skied per day (10,000' except for beginners)

## SCHEDULE "E"

### FORM OF LEASE

THIS LEASE executed in triplicate and dated for reference the       day of       , 19       , BETWEEN Her Majesty the Queen in right of the Province of British Columbia, represented by the Minister of Lands, Parks and Housing, (the "Lessor") of the one part, AND Whistler Mountain Ski Corporation, a company incorporated under the laws of British Columbia and having an office at 602 - 325 Howe Street, Vancouver, British Columbia (the "Lessee") of the other part.

WITNESSES THAT WHEREAS the Lessor and the Lessee are parties to an agreement (the "Development Agreement") dated for reference the 30th day of September, 1982 for the development of the Resort Area (as defined in the Development Agreement);

AND WHEREAS pursuant to the Development Agreement, the Lessor has agreed to lease various parcels of land in the Resort Area to the Lessee on the terms and conditions therein set forth.

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

#### ARTICLE I - GRANT OF LEASE

1.01 The Lessor demises and leases to the Lessee that parcel of land described as follows:

and being more particularly shown outlined in red on the plan annexed hereto as Schedule "A" (the "Land").

1.02 This lease and the estate herein granted is subject to the terms and conditions of the Development Agreement, and if there is any inconsistency between a provision of this instrument and a provision of the Development Agreement, the provision of the Development Agreement shall prevail.

ARTICLE II - TERM

2.01 TO HAVE AND TO HOLD the Land unto the Lessee for the term of years beginning on the reference date of this instrument and ending on the 30th day of September, 2032.

ARTICLE III - RENT

3.01 YIELDING AND PAYING THEREFORE the rent provided in Article VIII of the Development Agreement.

ARTICLE IV - LESSEE'S COVENANTS

4.01 The Lessee covenants with the Lessor

- (a) to pay rent at the times and in the manner specified in the Development Agreement, including Fees (as defined in the Development Agreement);
- (b) to observe, comply with and perform all of the terms and conditions of the Development Agreement;
- (c) to pay all taxes, rates, duties and assessments whatsoever charged, levied or assessed on the Land;
- (d) to use the Land solely for the purpose of constructing, operating and maintaining the Recreation Improvement (as defined in the Development Agreement) described or shown in Schedule "A";
- (e) to pay and discharge when due all charges for electricity, gas and other utilities supplied to the Land;
- (f) to observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land or the Recreation Improvement that is now or becomes situated on the Land;
- (g) to keep the Land and the Recreation Improvement situate on it in a safe, clean and sanitary condition and in repair and to repair according to notice;

- (h) on the expiration of or earlier termination of the term, to peaceably quit, surrender, yield up and deliver the Land and the Recreation Improvement on it to the Lessor in a safe, clean and sanitary condition and in repair (reasonable wear and tear excepted) and all right, interest and estate of the Lessee in the Land and the Recreation Improvements on it shall cease and vest in the Lessor;
- (i) to permit the Lessor, its servants and agents at all times to enter on and inspect the Land and any Recreation Improvement situate thereon;
- (j) not to cut, destroy or remove timber or trees standing on the Land except in compliance with the Forest Act, and then only to the extent necessary to develop the Land in compliance with the Development Agreement;

#### ARTICLE V - ASSIGNMENT

- 5.01 The Lessee shall not assign, sublet or transfer this lease without the written consent of the Lessor.
- 5.02 Any assignment of this lease by operation of any law of bankruptcy or insolvency or any assignment of this lease for the benefit of the Lessee's creditors shall of itself be a forfeiture of this lease and the estate herein granted, but no forfeiture hereunder shall be deemed to affect any rights or damages that may have accrued to the Lessor against the Lessee by reason of any breach of the Lessee's covenants or obligations herein contained.

#### ARTICLE VI - MISCELLANEOUS

- 6.01 The Lessor is under no obligation to provide access to the Land or to maintain or improve existing or future access roads.
- 6.02 Any interference with the rights of the Lessee under this lease by virtue of the operation of the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act, or Water Act or any certificate, lease, permit or licence issued under any of those Acts shall not constitute a breach of the Lessor's implied covenant of quiet enjoyment.

6.03 This lease and the estate herein granted is subject to:

- (a) all subsisting grants to, or rights of, any person made or acquired under the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act or Water Act whether or not the Lessee has actual notice of them;
- (b) the exceptions and reservations of rights, interests, privileges and titles referred to in section 47 of the Land Act.

6.04 The terms and provisions of this lease shall extend to, be binding upon and enure to the benefit of the parties hereto, their successors and permitted assigns.

## ARTICLE VII - INTERPRETATION

7.01 In this lease, unless the context otherwise requires:

- (a) defined terms shall have the meaning assigned to them in the Development Agreement;
- (b) the singular includes the plural and the masculine includes the feminine gender and a corporation.

7.02 The captions and headings contained in this lease are for convenience of reference only and are not to be construed as defining or in any way limiting the scope or intent of the provisions hereof.

IN WITNESS WHEREOF the parties hereto have executed their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED  
by the Minister of Lands, Parks  
and Housing or his duly  
authorized representative on  
behalf of Her Majesty the Queen  
in right of the Province of  
British Columbia in the presence of:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

)  
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)  
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)  
)

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The Common Seal of )  
WHISTLER MOUNTAIN SKI )  
CORPORATION was hereunto )  
affixed in the presence of: )  
)  
)

\_\_\_\_\_  
Authorized Signatory )  
)  
)

\_\_\_\_\_  
Authorized Signatory )  
)

E-5

SCHEDULE "F"

FORM OF RIGHT-OF-WAY

THIS INDENTURE, executed in triplicate and dated for reference the        day of        , 19    , BETWEEN Her Majesty the Queen in right of the Province of British Columbia, represented by the Minister of Lands, Parks and Housing (the "Grantor"), of the one part, AND Whistler Mountain Ski Corporation, a company organized under the laws of British Columbia and having an office at 602 - 325 Howe Street, Vancouver, British Columbia (the "Grantee") of the other part.

WITNESSES THAT WHEREAS the Grantor and the Grantee are parties to an agreement (the "Development Agreement"), dated for reference the 30th day of September, 1982 for the development of the Resort Area (as defined in the Development Agreement); AND WHEREAS pursuant to the Development Agreement, the Grantor has agreed to grant to the Grantee a right-of-way over that parcel of land described as

and being more particularly shown outlined in red on the plan annexed as Schedule "A" (the "Land") on the terms and conditions set forth below.

NOW THEREFORE in consideration of the premises and of the Fee (as defined in the Development Agreement) to be paid by the Grantee to the Grantor, the parties agree as follows.



#### ARTICLE I - GRANT OF RIGHT-OF-WAY

- 1.01 The Grantor hereby grants to the Grantee the full, free and uninterrupted right and privilege, for itself, its servants, agents, contractors, licensees and invitees to enter, pass and repass over the Land for the purpose of constructing, operating, maintaining and using a Recreation Improvement (as defined in the Development Agreement) that is a Lift or a Lift Terminal Facility (as defined in the Development Agreement), described or shown in Schedule "A".
- 1.02 The right-of-way herein granted is subject to the Development Agreement and if there is any inconsistency between a provision of this agreement and a provision of the Development Agreement, the Development Agreement shall prevail.

#### ARTICLE II - DURATION

- 2.01 The duration of the right-of-way herein granted shall be for the term of years beginning on the reference date of this agreement and ending on the 30th day of September, 2032.

#### ARTICLE III - FEES

- 3.01 The Grantee shall pay to the Grantor the Fees (as defined in the Development Agreement) at the times and in the manner specified in Article VIII of the Development Agreement.

#### ARTICLE IV - GRANTEE'S COVENANTS

- 4.01 The Grantee covenants with the Grantor
- (a) to observe, comply with and perform all of the terms and conditions of the Development Agreement;
  - (b) to pay all taxes, rates, duties and assessments whatsoever charged, levied or assessed on the Land;

- (c) to use the Land solely for the purpose for which this right-of-way is granted;
- (d) to pay and discharge when due all charges for electricity, gas and other utilities supplied to the Land;
- (e) to observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land or a Recreation Improvement constructed on it;
- (f) to keep the Land and any Recreation Improvement constructed on it in a safe, clean and sanitary condition and in repair and to repair according to notice;
- (g) on the expiration or earlier termination of this agreement, to peaceably quit, surrender, yield up, deliver and vacate the Land any any Recreation Improvement on it to the Grantor in a safe, clean and sanitary condition and in repair (reasonable wear and tear excepted) and all right, interest and estate of the Grantee in the Land and the Recreation Improvements on it shall cease and vest in the Grantor;
- (h) to permit the Grantor, its servants and agents at all times to enter on and inspect the Land and any Recreation Improvement constructed on it;
- (i) not to cut, destroy or remove timber or trees standing on the Land except in compliance with the Forest Act and then only to the extent necessary to develop the Land in compliance with the Development Agreement.

#### ARTICLE V - ASSIGNMENT

- 5.01 The Grantee shall not assign this agreement or the rights herein granted without the prior written consent of the Grantor.

- 5.02 Any assignment of this agreement or the rights herein granted by operation of any law of bankruptcy or insolvency or any assignment made for the benefit of the Grantee's creditors shall of itself be a forfeiture of the rights herein granted, but no forfeiture hereunder shall be deemed to affect any rights or damages that may have accrued to the Grantor against the Grantee by reason of any breach of the Grantee's covenants herein contained.

#### ARTICLE VI - MISCELLANEOUS

- 6.01 This agreement shall not confer any right to interfere with the rights of any person under or by virtue of the operation of the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act or Water Act or any certificate, lease, permit or licence issued under any of those Acts.
- 6.02 This agreement and the rights herein granted are subject to:
- (a) all subsisting grants to or rights of any person made or acquired under the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act or Water Act whether or not the Licensee has actual notice of them;
  - (b) the exceptions and reservations of rights, interests, privileges and titles referred to in section 47 of the Land Act.
- 6.03 The terms and provisions of this agreement shall extend to, be binding upon and enure to the benefit of the parties, their successors and permitted assigns.
- 6.04 The Grantor is under no obligation to provide access to the Land or to maintain or improve existing or future access roads.

#### ARTICLE VII - INTERPRETATION

- 7.01 In this agreement, unless the context otherwise requires
- (a) defined terms shall have the meaning assigned to them in the Development Agreement;

(b) the singular includes the plural and the masculine includes the feminine gender and a corporation.

7.02 The captions and headings contained in this agreement are for the convenience of reference only and are not to be construed as defining or in any way limiting the scope or intent of the provisions hereof.

IN WITNESS WHEREOF the parties have set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED )  
by the Minister of Lands, )  
Parks and Housing or his duly) authorized representative on )  
behalf of Her Majesty the )  
Queen in right of the )  
Province of British Columbia )  
in the presence of: )

The Common Seal of Whistler )  
Mountain Ski Corporation was )  
hereunto affixed in the )  
presence of: )

Authorized Signatory

Authorized Signatory

c/s

SCHEDULE "G"

FORM OF LICENCE

This agreement executed in triplicate and dated for reference the       day of       , 19       BETWEEN Her Majesty the Queen in right of the Province of British Columbia, represented by the Minister of Lands, Parks and Housing (the "Owner") of the one part, AND Whistler Mountain Ski Corporation, a company incorporated under the laws of British Columbia and having an office at 602 - 325 Howe Street, Vancouver, British Columbia (the "Licensee") of the other part.

WITNESSES THAT WHEREAS the Owner and the Licensee are parties to an agreement (the "Development Agreement") dated for reference the 30th day of September, 1982 for the development of the Resort Area (as defined in the Development Agreement); AND WHEREAS pursuant to the Development Agreement the Owner has agreed to grant to the Licensee a licence over that parcel of land described as

and being more particularly shown outlined in red on the plan annexed as Schedule "A" (the "Land") on the terms and conditions set forth below.

NOW THEREFORE, in consideration of the Fee (as defined in the Development Agreement) to be paid by, and the covenants of, the Licensee, the parties agree as follows.

## ARTICLE I - GRANT OF LICENCE

- 1.01 The Owner, on the terms set forth herein, hereby grants to the Licensee a licence to enter on the Land for the purpose of constructing, operating and maintaining Recreation Improvements (as defined in the Development Agreement) that consist of the Ski Trails or Access Routes (as defined in the Development Agreement) described or shown in Schedule "A".
- 1.02 This licence, and the rights herein granted are subject to the Development Agreement, and if there is any inconsistency between a provision of this agreement and a provision of the Development Agreement, the Development Agreement shall prevail.

## ARTICLE II - DURATION

- 2.01 The duration of the licence and the rights herein granted shall be for the term of years beginning on the reference date of this agreement and ending on the 30th day of September, 2032.

## ARTICLE III - LICENCE FEES

- 3.01 The Licensee shall pay to the Owner the Fees (as defined in the Development Agreement) at the times and in the manner specified in Article VIII of the Development Agreement.

## ARTICLE IV - LICENSEE'S COVENANTS

- 4.01 The Licensee covenants with the Owner
- (a) to observe, comply with and perform all of the terms and conditions of the Development Agreement;
  - (b) to pay all taxes, rates, duties and assessments whatsoever charged, levied or assessed on the Land;
  - (c) to use the Land solely for the purpose for which this licence is granted;
  - (d) to pay and discharge when due all charges for electricity, gas and other utilities supplied to the Land;

- (e) to observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land or a Recreation Improvement constructed on it;
- (f) to keep the Land and the Recreation Improvement in a safe, clean and sanitary condition and in repair and to repair according to notice;
- (g) on the expiration or earlier termination of this agreement, to peaceably quit, surrender, yield up, deliver and vacate the Land and the Recreation Improvement on it to the Owner in a safe, clean and sanitary condition and in repair (reasonable wear and tear excepted);
- (h) to permit the Owner, its servants and agents at all times to enter on and inspect the Land and any Recreation Improvement situate thereon;
- (i) not to cut, destroy or remove timber or trees standing on the Land except in compliance with the Forest Act and then only to the extent necessary to develop the Land in compliance with the Development Agreement;

#### ARTICLE V - ASSIGNMENT

- 5.01 The Licensee shall not assign this licence or sublicence it (except to the extent necessary to permit its customers to use the Recreation Improvements constructed on the Land) without the prior written consent of the Owner.
- 5.02 Any assignment of this agreement or the licence herein granted by operation of any law of bankruptcy or insolvency or any assignment made for the benefit of the Licensee's creditors shall of itself be a forfeiture of the rights herein granted, but no forfeiture hereunder shall be deemed to affect any rights or damages that may have accrued to the Owner against the Licensee by reason of any breach of the Licensee's covenants herein contained.

IN WITNESS WHEREOF the parties hereto have set their hands  
and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED )  
by the Minister of Lands, Parks )  
and Housing or his duly )  
authorized representative on )  
behalf of Her Majesty the Queen )  
in right of the Province of )  
British Columbia in the presence of: )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Common Seal of WHISTLER MOUNTAIN )  
SKI CORPORATION was hereunto affixed )  
in the presence of: )

\_\_\_\_\_  
Authorized Signatory )

\_\_\_\_\_  
Authorized Signatory )

G-4



LICENSE

THIS AGREEMENT, executed in triplicate and dated for reference the 8th day of November, 1982.

BETWEEN:

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

(hereinafter called the "Owner")

OF THE ONE PART

AND

WHISTLER MOUNTAIN SKI CORPORATION, a company  
organized under the laws of British Columbia  
and having an office at #602 - 325 Howe Street,  
Vancouver, British Columbia

(hereinafter called the "Licensee")

OF THE OTHER PART

WITNESSES THAT WHEREAS the Owner and the Licensee are parties to an agreement (the "Development Agreement"), dated for reference the 30th day of September, 1982 for the development of the Resort Area (as defined in the Development Agreement); AND WHEREAS pursuant to the Development Agreement, the Owner has agreed to grant to the Licensee a license over that parcel of land described as:

all those parcels or tracts of land situated in Group 1, New Westminster District, and being more particularly shown in white and identified as ski trails, ski runs and open bowls and glacial areas on the plan annexed as Schedule "A" (the "Land") on the terms and conditions set forth below.

NOW THEREFORE, in consideration of the Fee (as defined in the Development Agreement) to be paid by, and the covenants of, the Licensee, the parties agree as follows.

## ARTICLE I - GRANT OF LICENSE

- 1.01 The Owner, on the terms set forth herein, hereby grants to the Licensee a license to enter on the Land for the purpose of constructing, operating, and maintaining Recreation Improvements (as defined in the Development Agreement) that consist of the Ski Trails or Access Routes (as defined in the Development Agreement) described or shown in Schedule "A".
- 1.02 This license, and the rights herein granted are subject to the Development Agreement, and if there is any inconsistency between a provision of this agreement and a provision of the Development Agreement, the Development Agreement shall prevail.

## ARTICLE II - DURATION

- 2.01 The duration of the license and the rights herein granted shall be for the term of years beginning on the reference date of this agreement and ending on the 30th day of September, 2032.

## ARTICLE III - LICENSE FEES

- 3.01 The Licensee shall pay to the Owner the Fees (as defined in the Development Agreement) at the times and in the manner specified in Article VIII of the Development Agreement.

## ARTICLE IV - LICENSEE'S COVENANTS

- 4.01 The Licensee covenants with the Owner
- (a) to observe, comply with and perform all of the terms and conditions of the Development Agreement;
  - (b) to pay all taxes, rates, duties and assessments whatsoever charged, levied or assessed on the Land;
  - (c) to use the Land solely for the purpose for which this license is granted;
  - (d) to pay and discharge when due all charges for electricity, gas and other utilities supplied to the Land;

- (e) to observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land or a Recreation Improvement constructed on it;
- (f) to keep the Land and any Recreation Improvement in a safe, clean and sanitary condition and in repair and to repair according to notice;
- (g) on the expiration or earlier termination of this agreement, to peaceably quit, surrender, yield up, deliver and vacate the Land and the Recreation Improvement on it to the Owner in a safe, clean and sanitary condition and in repair (reasonable wear and tear excepted);
- (h) to permit the Owner, its servants and agents at all times to enter on and inspect the Land and any Recreation Improvement situate thereon;
- (i) not to cut, destroy or remove timber or trees standing on the Land except in compliance with the Forest Act and then only to the extent necessary to develop the Land in compliance with the Development Agreement;

#### ARTICLE V - ASSIGNMENT

- 5.01 The Licensee shall not assign this license or sublicense it (except to the extent necessary to permit its customers to use the Recreation Improvements constructed on the Land) without the prior written consent of the Owner.
- 5.02 Any assignment of this agreement or the license herein granted by operation of any law of bankruptcy or insolvency or any assignment made for the benefit of the Licensee's creditors shall of itself be a forfeiture of the rights herein granted, but no forfeiture hereunder shall be deemed to affect any rights or damages that may have accrued to the Owner against the Licensee by reason of any breach of the Licensee's covenants herein contained.

IN WITNESS WHEREOF the parties hereto have set their hands  
and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED )  
by the Minister of Lands, )  
Parks and Housing or his duly )  
authorized representative on )  
behalf of Her Majesty the )  
Queen in right of the )  
Province of British Columbia )  
in the presence of: )

L. Gamm )  
4240 MANOR ST. )  
BURNABY, B.C. )

The Common Seal of WHISTLER )  
MOUNTAIN SKI CORPORATION was )  
hereunto affixed in the )  
presence of: )

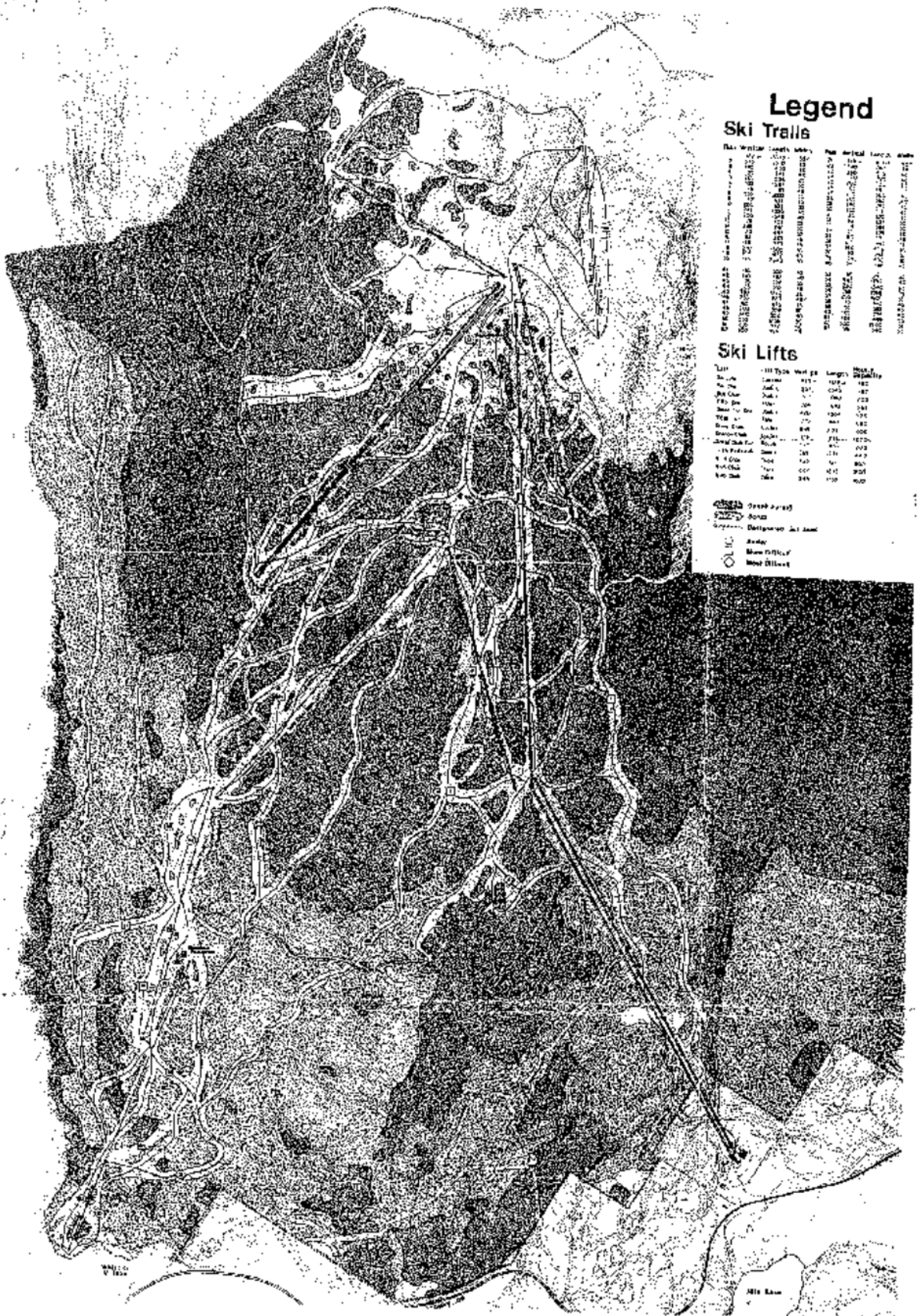
W. F. Smith )  
Authorized Signatory Stry )  
P. L. Smith V.P. )  
Authorized Signatory )

B. J. [Signature] )  
**REGIONAL DIRECTOR**



## ARTICLE VIII- FEES

- 8.01 In consideration of the development rights granted herein and as rental for all Tenures granted hereunder, Whistler shall pay to the Province:
- (a) an initial fee of \$100 for each Tenure issued hereunder, payable in advance on the date of issuance;
  - (b) a minimum fee in an amount equal to 1% of the Gross Revenue of Whistler during its last completed Financial Year payable in advance on January 1, 1983 and on January 1 in each and every year thereafter during the term of this agreement; and
  - (c) a percentage fee of 2%, or such other percentage determined in accordance with section 8.02, of the Gross Revenue of Whistler calculated in respect of each Financial Year less the Minimum Fee;
- 8.02 The percentage of the Percentage Fee shall be reviewed by the Province on December 1, 1993 and on each 10th anniversary of that date and the Province may at each review, increase the percentage by an amount it may determine but no increase shall be more than 1% and no increase shall be so large as to cause the Percentage Fee to be an amount greater than the highest fee then charged by the Province under any Provincial Ski Area Policy then in effect.
- 8.03 Within 120 days after the end of each Financial Year, Whistler shall deliver to the Province a detailed statement of Gross Revenue for that Financial Year audited by the auditor of Whistler together with payment of the Percentage Fee as required by section 8.01.
- 8.04 Whistler shall give notice in writing to the Province of its Financial Year end and any changes to that date and no fiscal year of Whistler shall exceed 12 months.
- 8.05 The Province 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 Whistler pertaining to Gross Revenue upon reasonable notice and at reasonable times.
- 8.06 The fees provided in section 8.01 are in addition to the fees provided in the Land Act or regulations under that Act in effect from time to time in respect of processing of applications for the Tenures and issuing them.



## Legend

### Ski Trails

Trail	Length	Difficulty	Notes
Blackcomb	1.5	Intermediate	
Whistler	1.5	Intermediate	
...	...	...	...

### Ski Lifts

Lift	Type	Length	Capacity
...	...	...	...

- Symbol for Ski Lift
- Symbol for Ski Trail
- Symbol for Ski Lift
- Symbol for Ski Trail

## SCHEDULE "A"

## Whistler Mountain

Phase 7

Figure



LEASE

THIS INDENTURE, executed in triplicate and dated for reference the 8th day of November, 1982.

BETWEEN:

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

(hereinafter called the "Lessor")

OF THE ONE PART

AND

WHISTLER MOUNTAIN SKI CORPORATION, a company  
incorporated under the laws of British Columbia  
and having an office at #602 - 325 Howe Street,  
Vancouver, British Columbia

(hereinafter called the "Lessee")

OF THE OTHER PART

WITNESSES THAT WHEREAS the Lessor and the Lessee are parties to an agreement (the "Development Agreement"), dated for reference the 30th day of September, 1982 for the development of the Resort Area (as defined in the Development Agreement);

AND WHEREAS pursuant to the Development Agreement, the Lessor has agreed to lease various parcels of land in the Resort Area to the Lessee on the terms and conditions therein set forth.

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

## ARTICLE I - GRANT OF LEASE

( ) 11 The Lessor demises and leases to the Lessee that parcel of land described as follows:

- (a) Lot 3635, Group 1, New Westminster District;
- (b) all those parcels or tracts of land lying within the boundaries of reference plan 12394, Group 1, New Westminster District filed in the Land Title Office, Vancouver;

and being more particularly shown outlined in red on the plans annexed hereto as Schedule "A" (the "Land").

1.02 This lease and the estate herein granted is subject to the terms and conditions of the Development Agreement, and if there is any inconsistency between a provision of this instrument and a provision of the Development Agreement, the provision of the Development Agreement shall prevail.

## ARTICLE II - TERM

2.01 TO HAVE AND TO HOLD the Land unto the Lessee for the term of years beginning on the reference date of this instrument and ending on the 30th day of September, 2032.

## ARTICLE III - RENT

3.01 YIELDING AND PAYING THEREFORE the rent provided in Article VIII of the Development Agreement.

## ARTICLE IV - LESSEE'S COVENANTS

4.01 The Lessee covenants with the Lessor

- (a) to pay rent at the times and in the manner specified in the Development Agreement, including Fees (as defined in the Development Agreement);
- (b) to observe, comply with and perform all of the terms and conditions of the Development Agreement;



- (c) to pay all taxes, rates, duties and assessments whatsoever charged, levied or assessed on the Land;
- (d) to use the Land solely for the purpose of constructing, operating and maintaining the Recreation Improvement (as defined in the Development Agreement) described or shown in Schedule "A";
- (e) to pay and discharge when due all charges for electricity, gas and other utilities supplied to the Land;
- (f) to observe, abide by and comply with all laws, by-laws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Land or a Recreation Improvement that is now or becomes situated on the Land;
- (g) to keep the Land and the Recreation Improvement situate on it in a safe, clean and sanitary condition and in repair and to repair according to notice;
- (h) on the expiration or earlier termination of the term, to peaceably quit, surrender, yield up and deliver the Land and the Recreation Improvement on it to the Lessor in a safe, clean and sanitary condition and in repair (reasonable wear and tear excepted) and all right, interest and estate of the Lessee in the Land and the Recreation Improvements on it shall cease and vest in the Lessor;
- (i) to permit the Lessor, its servants and agents at all times to enter on and inspect the Land and any Recreation Improvement situate thereon;
- (j) not to cut, destroy or remove timber or trees standing on the Land except in compliance with the Forest Act, and then only to the extent necessary to develop the Land in compliance with the Development Agreement.

ARTICLE V - ASSIGNMENT

- 5.01 The Lessor shall not assign, sublet or transfer this lease without the written consent of the Lessor.
- 5.02 Any assignment of this lease by operation of any law of bankruptcy or insolvency or any assignment of this lease for the benefit of the Lessee's creditors shall of itself be a forfeiture of this lease and the estate herein granted, but no forfeiture hereunder shall be deemed to affect any rights or damages that may have accrued to the Lessor against the Lessee by reason of any breach of the Lessee's covenants or obligations herein contained.

ARTICLE VI- MISCELLANEOUS

- 6.01 The Lessor is under no obligation to provide access to the Land or to maintain or improve existing or future access roads.
- 6.02 Any interference with the rights of the Lessee under this lease by virtue of the operation of the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act or Water Act or any certificate, lease, permit or licence issued under any of those Acts shall not constitute a breach of the Lessor's implied covenant of quiet enjoyment.
- 6.03 This lease and the estate herein granted is subject to:
- (a) all subsisting grants to, or rights of, any person made or acquired under the Mineral Act, Petroleum and Natural Gas Act, Coal Act, Forest Act or Water Act whether or not the Lessee has actual notice of them;
  - (b) the exceptions and reservations of rights, interests, privileges and titles referred to in section 47 of the Land Act.
- 6.04 The terms and provisions of this lease shall extend to, be binding upon and enure to the benefit of the parties hereto, their successors and permitted assigns.

ARTICLE VII - INTERPRETATION

7. In this lease, unless the context otherwise requires:

- (a) defined terms shall have the meaning assigned to them in the Development Agreement;
- (b) the singular includes the plural and the masculine includes the feminine gender and a corporation.

7.02 The captions and headings contained in this lease are for the convenience of reference only and are not to be construed as defining or in any way limiting the scope or intent of the provisions hereof.

IN WITNESS WHEREOF the parties have set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED )  
by the Minister of Lands, )  
Parks and Housing or his duly )  
authorized representative on )  
behalf of Her Majesty the )  
Queen in right of the )  
Province of British Columbia )  
in the presence of: )

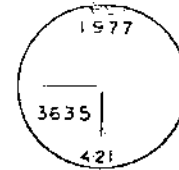
R. Sparrow )  
4240 MARJOR ST )  
BURNABY, B.C. )

The Common Seal of WHISTLER )  
MOUNTAIN SKI CORPORATION was )  
hereunto affixed in the )  
presence of: )

W. F. Thier )  
Authorized Signatory Sec'y )  
John L. Baker O.P. )  
Authorized Signatory )

John L. Baker )  
REGIONAL DIRECTOR )

c/s

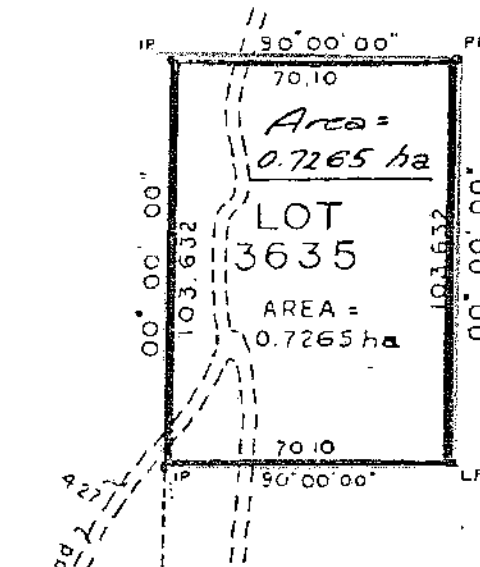


No B.T's available

UNSURVEYED

CROWN

LAND



634.149

90° 00' 00"  
101.846

132° 51' 35.09"

50"  
REF. PLAN 11194  
Orange Chair Lift

NORTH

SCHEDULE "A"



## ARTICLE VIII- FEES

- 8.01 In consideration of the development rights granted herein and as rental for all Tenures granted hereunder, Whistler shall pay to the Province:
- (a) an initial fee of \$100 for each Tenure issued hereunder, payable in advance on the date of issuance;
  - (b) a minimum fee in an amount equal to 1% of the Gross Revenue of Whistler during its last completed Financial Year payable in advance on January 1, 1983 and on January 1 in each and every year thereafter during the term of this agreement; and
  - (c) a percentage fee of 2%, or such other percentage determined in accordance with section 8.02, of the Gross Revenue of Whistler calculated in respect of each Financial Year less the Minimum Fee;
- 8.02 The percentage of the Percentage Fee shall be reviewed by the Province on December 1, 1993 and on each 10th anniversary of that date and the Province may at each review, increase the percentage by an amount it may determine but no increase shall be more than 1% and no increase shall be so large as to cause the Percentage Fee to be an amount greater than the highest fee then charged by the Province under any Provincial Ski Area Policy then in effect.
- 8.03 Within 120 days after the end of each Financial Year, Whistler shall deliver to the Province a detailed statement of Gross Revenue for that Financial Year audited by the auditor of Whistler together with payment of the Percentage Fee as required by section 8.01.
- 8.04 Whistler shall give notice in writing to the Province of its Financial Year end and any changes to that date and no fiscal year of Whistler shall exceed 12 months.
- 8.05 The Province 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 Whistler pertaining to Gross Revenue upon reasonable notice and at reasonable times.
- 8.06 The fees provided in section 8.01 are in addition to the fees provided in the Land Act or regulations under that Act in effect from time to time in respect of processing of applications for the Tenures and issuing them.