

EXHIBIT D
Co-Owner's Agreement

**FIRCREST CO-OWNERSHIP AGREEMENT AND
LICENSE**

BETWEEN

0972514 BC Ltd.

AND

1190304 B.C. LTD. DBA

FIRCREST RESORT OWNERS' CORPORATION

AND

«Purchaser»

| | |
|-----------|---|
| ARTICLE 1 | DEFINITIONS |
| 1.1 | Definitions |
| ARTICLE2 | GRANT |
| 2.1 | Owner's Site |
| ARTICLE3 | FINANCES |
| 3.1 | Financial Management |
| 3.2 | Contribution Formula |
| 3.3 | Direct Expenses |
| 3.4 | Common Costs |
| 3.5 | Payment and Adjustments of Common Costs |
| 3.6 | Payment for Irregular Periods |
| 3.7 | Place of Payment |
| 3.8 | Special Levies |
| 3.9 | Contingency Reserve Fund Contributions |
| 3.10 | Financial Statements |
| 3.11 | Status Certificate |
| 3.12 | Certificate of Full Payment |
| ARTICLE4 | PROPERTY |
| 4.1 | Repair and Maintenance |
| 4.2 | Repair and Maintenance of Common Items |
| 4.3 | Major Renovations/Repair |
| 4.4 | Developer's Rights |
| ARTICLE 5 | RIGHTS OF OWNERS |
| 5.1 | Owner's Rights |
| ARTICLE6 | OWNER'S OBLIGATIONS |
| 6.1 | Owner's Duties |
| 6.2 | Indemnity |
| 6.3 | Corporate Owner |
| ARTICLE 7 | NUISANCE |
| 7.1 | Obligation not to Cause a Nuisance |
| 7.2 | Noise |
| 7.3 | Termination of Nuisance |

| | |
|------------|--|
| ARTICLE 8 | WASTE |
| 8.1 | Obligation not to Cause Waste |
| ARTICLE 9 | RUBBISH |
| 9.1 | Obligations Relating to Refuse |
| ARTICLE 10 | COMPLIANCE WITH LAWS |
| 10.1 | Obligation to Comply with Applicable Laws |
| ARTICLE 11 | ENVIRONMENT |
| 11.1 | General Obligations to Comply with Environmental Legislation |
| 11.2 | Hazardous Substances |
| 11.3 | Report of Release |
| 11.4 | Removal of Hazardous Substances |
| 11.5 | Increased Risks |
| 11.6 | Inspection |
| 11.7 | Title to Hazardous Substances |
| 11.8 | Additional Rights |
| 11.9 | Environmental Indemnity |
| ARTICLE 12 | TRANSFER OF AN OWNER'S INTEREST |
| 12.1 | Procedure |
| ARTICLE 13 | OWNERS' ASSOCIATION |
| 13.1 | Creation |
| 13.2 | Duties of Owners' Association |
| 13.3 | Funding of Owners' Association |
| 13.4 | Access |
| 13.5 | Right to Suspend/Disconnect Services |
| 13.6 | Breach |
| 13.7 | Delegation |
| 13.8 | Corporate Governance/Directors |
| ARTICLE 14 | OWNERS' POWERS |
| 14.1 | Powers |
| 14.2 | Duties |
| ARTICLE 15 | OWNERS' MEETINGS |
| 15.1 | Meetings |

ARTICLE 16 OWNERS' ASSOCIATION AND DEVELOPER'S CONTROL

- 16.1 Voting Trust Agreement
- 16.2 First Directors of the Owners' Association
- 16.3 Powers
- 16.4 Phases

ARTICLE 17 OWNERS' ASSOCIATION DEFAULT REMEDIES

- 17.1 Events of Default
- 17.2 Rights and Remedies Upon Default
- 17.3 Interest
- 17.4 Non-Waiver

ARTICLE 18 ADDITIONAL PHASES AND SITE PLAN

- 18.1 Additional Phases

ARTICLE 19 GENERAL PROVISIONS

- 19.1 Limited Rights
- 19.2 Legend on Share Certificates
- 19.3 Entire Agreement
- 19.4 Amendment
- 19.5 Waivers
- 19.6 Enurement
- 19.7 Arbitration
- 19.8 Severability
- 19.9 Time
- 19.10 Notice
- 19.11 Further Documents and Assurances
- 19.12 Events Beyond A Party's Reasonable Control
- 19.13 The Laws of British Columbia
- 19.14 Payments
- 19.15 Execution in Counterparts
- 19.16 Headings
- 19.17 Independent Legal Advice
- 19.18 Gender, Number and Other Terms
- 19.19 No Contra Preferentum
- 19.20 Conflict

SCHEDULES

- Schedule A Bylaws
- Schedule B Site Plan
- Schedule C The Owners and Site Numbers
- Schedule D Voting Trust Agreement

CO-OWNERSHIP AGREEMENT

THIS AGREEMENT is dated «Closing_Date»

BETWEEN:

0972514 BC Ltd., having an office at 1411B 8th Avenue SE, Calgary,
AB, T2G 0N1

(the "**Developer**")

AND:

**1190304 B.C. Ltd. DBA FIRCREST RESORT
OWNERS' CORPORATION**, a British Columbia
company, having an office at 1411B 8th Avenue SE,
Calgary, AB, T2G 0N1

(the "**Owners' Association**")

AND:

«**Purchaser**»

«Purchasers_Address»
(the "**Owners**")

WHEREAS:

The Developers, Owners' Association and the Owners wish to set out their respective rights and obligations as parties to this Agreement and shareholders in the Owners' Association and to provide for a mechanism for the use and management of the Resort Lands, as defined herein, and the activities carried out thereon.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree with each other as follows:

1.0 DEFINITIONS

Definitions

In this Agreement, the following terms have the meanings set out below:

- (a) "**Assessments**" means the costs and levies assessed by the Owners' Association to an Owner, and payable by that Owner in respect of operating, maintenance and replacement costs, reserves, fees, expenses, charges and other reasonable outlays relating to the Resort, pursuant to this Agreement;

a copy of which is attached as Exhibit C to the Disclosure Statement;

- (b) "**Business Corporations Act**" means the *Business Corporations Act* (British Columbia), S.B.C. 2002, c. 57, and the Regulations thereto, as may be amended or replaced from time to time;
- (c) "**Bylaws**" means those rules and regulations passed from time to time by the Owners' Association governing the use, enjoyment, safety and cleanliness of the Resort (including the Common Items and the Sites). A copy of the current Bylaws is attached hereto as Schedule A;
- (d) "**Common Areas**" means those portions of the Resort Lands and improvements thereon that are not included within the boundary of the Sites and that are designated by the Developer or the Owners' Association as common areas, which designation may be changed by the Developer or the Owners' Association from time to time;
- (e) "**Common Assets**" means the personal property owned by the Owners' Association acquired for the use of all the Owners as well as the fixtures, pipes, wires and other facilities used for generation, storage, collection or distribution of water, sewage, drainage, electricity, telephone, garbage collection and other utility services;
- (f) "**Common Costs**" means the total of the costs and expenses (without duplication) incurred by the Owners' Association to operate, manage, insure, repair, maintain and replace the Common Items (but excluding the Sites), including without limitation:
- (i) all costs and expenses to repair, maintain, replace and decorate the Common Items;
 - (ii) the Cost of Insurance;
 - (iii) the Tax Cost for the Common Items;
 - (iv) all costs and expenses for gardening and landscaping, line painting and repainting, rental of equipment, garbage removal, sanitary control or removal, snow removal and cleaning of Common Areas and the Common Facilities;
 - (v) wages and other amounts paid for maintenance, security and operating personnel;
 - (vi) all accounting and other professional fees, costs and expenses relating to the operation, management, insurance, repair, maintenance and replacement of the Common Items;
 - (vii) water and sewer for the Resort; and

- (viii) all costs of utilities, taxes and other amounts payable in connection with the Common Areas and the Common Facilities, together with a Contingency Reserve Fund for each Year as determined by the Owners Association.
- (g) "**Common Facilities**" means those facilities within the Resort that are designated by the Developer or Owners' Association as common facilities, which designation may be changed by the Owners' Association from time to time, including but not limited to the roads, electrical and mechanical systems, drainage and sewer systems, waterworks and fire prevention systems primarily located in the Common Areas;
- (h) "**Common Items**" means, collectively, the Common Assets, Common Facilities and Common Areas;
- (i) "**Contingency Reserve Fund**" means a fund for Common Costs which occur less often than once a year, as described in Section 3.9 of this Agreement;
- (j) Left Blank
- (k) "**Cost of Insurance**" means the annual cost to the Owners' Association to take out and maintain the insurance required to be taken out and maintained by the Owners' Association under the terms of this Agreement and such other insurance as the Owners' Association shall deem necessary from time to time;
- (l) "**Court**" means the Supreme Court of British Columbia, except for monetary matters falling within the jurisdiction of the Small Claims Division of the Provincial Court in which case it shall mean the Provincial Court;
- (m) "**Day Guest**" means any person using and occupying the Site of an Owner or any of the Common Areas or Common Facilities for less than 24 continuous consecutive hours, and is a person who is not Immediate Family to the Owner;
- (n) "**Developer**" means 0972514 BC Ltd.;
- (o) "**Encumbrances**" means any security interest, mortgage, charge, pledge, hypothec, lien, encumbrance, restriction, option, adverse claim, right of others or other encumbrance of any kind;
- (p) "**Environment**" means all the components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and all lands submerged under water), soil, water (including, without limitation, surface and underground water), organic and inorganic matter and living organisms, the interacting natural systems that include the foregoing, and all other external conditions or influences under which humans, animals and plants live or are developed;
- (q) "**Environmental Laws**" means any laws relating, in whole or in part, to the protection and enhancement of the Environment, occupational safety, product liability, public health, public safety, and transportation of dangerous goods;
- (r) "**Environmental Management Act**" means the *Environmental Management Act* [SBC 2003] c. 53 and any regulations made pursuant to it, as amended or replaced from time to time;

- (s) **Event of Default**" means any of the events of default described in Section 17.1 of this Agreement;
- (t) **"Governmental Authority"** means any federal, provincial, city, municipal, county, regional, or local government or government authority, and includes any department, commission, bureau, board, administrative agency, or regulatory body of any of the foregoing;
- (u) **"Hazardous Substance"** means:
 - (i) any pollutants, wastes, special wastes or other such substances, including, without limitation, any flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls, chlorofluorocarbons, hydro chlorofluorocarbons, urea formaldehyde foam insulation, radon gas, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous waste, toxic substances (as that term is used in the *Environmental Management Act*) or related materials, nutrients and petroleum and petroleum products, and any substance declared to be hazardous or toxic under any Environmental Laws; and
 - (ii) any substances, whether or not defined as hazardous, toxic, or a threat to public health or the Environment under any Environmental Laws, that the Developer or Owners' Association reasonably deem to be hazardous;
- (v) **"House"** means the house located on the Resort Lands;
- (w) **"Immediate Family"** means the spouse of an Owner, the children and grandchildren of the Owner and any spouses of any such children or grandchildren of the Owner. For the purposes of this Agreement and the Bylaws the term **"spouse"** shall include a common-law spouse;
- (x) **"Lands"** means the lands and premises comprising the Resort Lands;
- (y) **"Licence"** means the licence forming part of the Owner's Interest to use and occupy the RV Site corresponding to the Share registered in the name of the Owner as recorded in the Site Register, unless terminated as herein provided, together with the right in common with the other Owners, the Developer, the Owners' Association and their respective employees, agents, contractors and other invitees to the non-exclusive use of the Common Items, subject to the terms and conditions contained in this Agreement;
- (z) **"Manager"** means the manager appointed initially by the Developer and any subsequent manager appointed by the Owners' Association from time to time;
- (aa) **"Operating Budget"** means the budget passed by the Owners at the annual general meeting to pay for those Common Costs occurring at least once a year or more often;
- (bb) **"Ordinary Resolution"** means a resolution passed at a general meeting of the Owners' Association, by a simple majority of the votes cast by the Owners entitled to vote thereon under this Agreement, present at a general meeting in person or by proxy and

not abstaining;

- (cc) **"Owner"** means the registered owner of a Share, and **"Owners"** shall mean all of the owners of the Shares from time to time as shown on Schedule D to this Agreement, as amended from time to time;
- (dd) **"Owners' Association"** means "Fircrest Resort Owners' Corporation" (and any successor thereto), being a company incorporated under the laws of British Columbia, of which all the Owners are shareholders and which is given the authority pursuant to Article 16 of this Agreement to manage the Resort Lands and Common Items on behalf of the Owners;
- (ee) **"Owner's Interest"** means, together, the Share and the Licence acquired by each Owner from the Developer or as a result of a transfer from a previous owner;
- (ff) **"Owner's Proportionate Share"** means that fraction, the numerator of which is the aggregate number of Shares owned by an Owner and the denominator of which is the total number of Shares allocated to the RV Site within one or more completed phase of the Resort;
- (gg) **"Owner's Site"** means that portion of the Resort Lands identified on Schedule D of this Agreement as the Owner's Site for the use of the Owner, subject to the terms of this Agreement;
- (hh) **"Parties"** means the parties set out on Schedule 'D' to this Agreement as amended from time to time;
- (ii) **"Permitted Transferee"** of an Owner means:
 - (i) in the case of an Owner who is a natural person:
 - (A) a corporation all of the outstanding shares of which are beneficially owned and controlled by such Owner; and
 - (B) a trust of which the Owner is the sole trustee and all of the beneficiaries of which are the Owner, the Owner's spouse and/or any lineal descendants of the Owner; and
 - (ii) in the case of an Owner that is a legal person, any affiliate of the Owner, as that term is defined in the *Business Corporations Act*;
- jj) **"Phase 1 RV Sites"** means the RV Sites numbered 1 to 30 as shown on the Site Plan;
- (kk) **"Phase 2 RV Sites"** means the RV Sites numbered 31 to 104 as shown on the Site Plan;

- (ll) Left Blank

- (mm) Left Blank

- (nn) Left Blank
- (oo) "**Property Taxes**" means all taxes, levies, local area improvement charges, municipal utility rates and similar charges, rates and levies imposed by the British Columbia Surveyor of Taxes or other Governmental Authority having jurisdiction over the Resort Lands in respect of the Resort Lands;
- (pp) "**Release**" includes releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping;
- (qq) "**Resort**" means the Fircrest RV Resort located on the Resort Lands;
- (rr) "**Resort Lands**" means Parcel A (38046E and Plan B6004) of District Lot 5037, Lillooet District, Except Plans 6847, 20135 and KAP77955;
- (ss) "**RV Sites**" means the RV Sites and Cabin sites located or proposed as being located upon the Lands as shown on the Site Plan or as shown on an amended Site Plan, and "RV Site" has the corresponding meaning;
- (tt) "**Shares**" means the issued and outstanding Class A Shares of the Owner's Association which have been allocated to a specific existing or proposed Site;
- (uu) "**Site Register**" means the register maintained by the Owners' Association within which a record of the attachment of specific RV Sites to specific shares will be maintained along with the registered owners of such shares. The Site Register must be kept at the Owners' Associations Registered and Records Office;
- (vv) "**Site**" means any one, and "**Sites**" means all, of the existing or proposed sites described herein as may be identified on the Site Plan, as amended from time to time;
- (ww) "**Site Plan**" means the site plan attached hereto as Schedule B;
- (xx) "**Special Levy**" means an assessment pursuant to Section 3.8 of this Agreement, approved by the Owners at a general meeting by way of a Special Resolution to which all Owners must contribute their Owner's Proportionate Share of the Special Levy;
- (yy) "**Special Resolution**" means:
- (i) a resolution passed at a general meeting of the Owners' Association under the following circumstances:
 - (A) notice of the meeting specifying the intention to propose the resolution as a special resolution is sent to all Owners holding shares that carry the right to vote at general meetings at least the prescribed number of days before the meeting;
 - (B) a 66% majority of the votes cast by Owners voting shares that carry the right to vote at general meetings is cast in favour of the resolution;

- (C) the majority of votes cast in favour of the resolution constitutes at least a special majority, or
- (ii) a resolution passed and being consented to in writing by all of the Owners holding shares that carry the right to vote at general meetings;
- (zz) "**Summer Season**" means the period each year commencing on April 1 and ending on the day following Canadian Thanksgiving;
- (aaa) "**Tax Cost**" means the total, without duplication, of all taxes, Property Taxes, trade licenses, rates, levies, service fees and charges, duties and assessments levied or imposed on or in respect of the Common Areas and Common Facilities and, or the Resort Lands, by any competent authority, including without limitation any utilities, services fees or charges;
- (bbb) "**Unanimous Resolution**" means a resolution passed by all of the Owners;
- (ccc) "**Visitor**" means any person using and occupying the Site of an Owner or any of the Common Areas and Common Facilities and who is not Immediate Family to the Owner or a Day Guest;
- (ddd) "**Voting Trust Agreement**" means an agreement between an Owner and the voting trustee(s) appointed under such an Agreement as provided for in Section 16.1, the form of which is attached as Schedule E; and
- (eee) "**Year**" means a calendar year or such other twelve (12) month period as established by the Owners' Association.

2.0 GRANT

2.1 Owner's Site

The Owners' Association hereby acknowledges that, by acquiring the Owner's Interest, each Owner assumed the Licence corresponding to the Owner's Share from the Developer, and the parties agree that such Licence is subject to the terms and conditions contained in this Agreement.

3.0 FINANCES

3.3 Financial Management

The Owners' Association shall:

- (1) establish and manage a Contingency Reserve Fund;
- (2) prepare and present for approval at each annual general meeting an Operating Budget for the following Year;
- (3) administer the Operating Budget;

- (4) notify each Owner of their required contribution to the Operating Budget, Contingency Reserve Fund and any Special Levy; and
- (5) collect from the Owners their contributions to the Operating Budget, Contingency Reserve Fund and any Special Levy in the manner provided for in this Agreement.

3.4 Contribution Formula

Subject to Sections 3.3 and 3.4, each Owner covenants and agrees to pay to the Owners' Association, in lawful money of Canada, without any claim, setoff, compensation or deduction whatsoever, the Owner's Proportionate Share of the Operating Budget, Contingency Reserve Fund and any Special Levy, all of which shall be payable pursuant to the terms of this Agreement, together with such value added, sales, goods and services or other taxes, if any, that may be payable in respect of such payments (including without limitation taxes pursuant to the *Excise Tax Act*, R.S.C. 1985, C.E.-13, or any other federal or provincial enactment that may be applicable to such payments). Any purported set off, withholding or deduction of any such payment by an Owner shall be deemed to be a breach of this Agreement, and entitle the Owners' Association, at its option, to exercise any right or remedy available to it pursuant to this Agreement or at law. The Owner will have no right to a refund of, and the Owners' Association will not be liable to the Owner for refunding, any sums in the event of the termination of this Agreement.

3.5 Direct Expenses

Each Owner shall be responsible for the costs of repair, maintenance and upkeep of their Site and any property taxes levied against an improvement on their Site.

3.6 Common Costs

The Common Costs for each Year shall be estimated by the Owners' Association and communicated to each Owner. The Owners' Association shall have the right at any time during any Year to adjust the budget for the Common Costs for such Year or to allocate specific Common Costs, in whole or in part, to an Owner based on a determination by the Owners' Association that an Owner is solely or partially responsible for such costs, in which event the amount payable by the Owner as the Owner's Proportionate Share of the Common Costs shall be adjusted accordingly. The Owners' Association reserves the right to estimate, bill, re estimate and collect Common Costs to the extent required by the Owners' Association.

3.7 Pavment and Adjustments of Common Costs

An Owner will pay to the Owners' Association the Owner's Proportionate Share, or such other amount calculated under this Agreement, of the estimated Common Costs for each Year on a monthly basis in advance during each Year. Within a reasonable time period following the end of each Year, the Owners' Association will advise the Owner in writing of the actual amount of the Common Costs for the Year and the actual amount required to be paid as the Owner's Proportionate Share of the Common Costs for the Year. In the event that the actual Common Costs for such Year are less than the Common Costs that had been

estimated by the Owners' Association, the overpayment by the Owner shall be applied to the Common Costs payable to the Owners' Association for the next Year. In the event the actual Common Costs for such Year are greater than the Common Costs that had been estimated by the Owners' Association, the Owners' Association shall have the right to either include the amounts of the Common Costs for the upcoming Year or assess the Owner for the shortfall, and the Owner shall pay to the Owners' Association such additional amounts at the time or times required by the Owners' Association.

3.8 Payment for Irregular Periods

All amounts shall be deemed to accrue from day to day and, if for any reason it shall become necessary to calculate any sums for irregular periods of less than one year or one month, as the case may be, an appropriate pro rata adjustment shall be made on a daily basis in order to compute such amounts for such irregular period.

3.9 Place of Payment

All payments required to be made to the Owners' Association pursuant to this Agreement shall be made at the address of the Owners' Association referred to in Section 19.10 unless otherwise directed by the Owners' Association. At the request of the Owners' Association, the Owner shall establish an automatic pre authorized payment plan that will be used to make payments due under this Agreement.

3.10 Special Levies

- (1) In order to pay for Common Costs not payable from the Operating Budget or the Contingency Reserve Fund, or to raise monies in addition to those two funds, the Owners' may, by Special Resolution, approve a Special Levy which shall be payable by all Owners in accordance with Section 3.1.
- (2) The resolution approving the Special Levy must state the following:
 - (a) the purpose(s) for which the funds are to be used;
 - (b) the date or dates when the Special Levy is due and payable; and
 - (c) what is to happen to any funds not used for the purpose(s) of the Special Levy.

3.11 Contingency Reserve Fund Contributions

- (1) The annual contribution to the Contingency Reserve Fund by the Owners shall be determined at the annual general meeting in accordance with this section unless changed by way of a Unanimous Resolution.
- (2) The contribution of each Owner toward the Contingency Reserve Fund shall be calculated as follows:
 - (a) A Contingency Reserve Fund will be established by the Owners' Association to pay for Common Costs that usually occur less often than once a Year or do not usually

occur. The Contingency Reserve Fund will be not less than 5% of the estimated Common Costs after the first annual general meeting of the Owners' Association, and the annual contribution thereafter is required to be at least 10% of the total contribution to the funds for Common Costs for each Year until the Contingency Reserve Fund is at least equal to 25% of the total annual budget contribution to the fund for Common Costs for the immediately preceding fiscal Year, at which time the Owners' Association can approve a different amount. The Developer, while required to pay its share of the Common Costs of the unsold Shared Interests owned by the Developer, will not be making the minimum or any contribution to the Contingency Reserve Fund of 5% of the estimated Common Costs.

- (3) The Owners' Association shall hold in trust, in an interest bearing account, the Contingency Reserve Fund on behalf of the Owners.
- (4) The Owners' Association may spend money from the Contingency Reserve Fund without the approval of the Owners in order to enforce its rights and obligations under this Agreement.
- (5) Expenditures from the Contingency Reserve Fund (other than those authorized elsewhere in this Agreement) must be approved by the Owners by way of a Special Resolution unless the expenditure is required, in the reasonable opinion of the board of directors of the Owners' Association, to meet an emergency.

3.12 Financial Statements

The Owners' Association shall prepare financial statements for each Year, arrange for a review engagement of the same by a qualified accountant, distribute the same to the Owners and keep on record such financial statements for each Year.

3.13 Status Certificate

- (1) The Owners' Association shall, at the request of an Owner or his, her or its authorized agent, provide, at the Owner's expense and within 30 days of such request, a certificate setting out the following:
 - (a) the amount of that Owner's Proportionate Share of the Operating Budget and the Contingency Reserve Fund for the current Year;
 - (b) any amount owing to the Owners' Association by the Owner;
 - (c) the amount, if any, by which the Common Costs for the current Year are expected to exceed the Operating Budget for the fiscal year;
 - (d) the amount of the Contingency Reserve Fund;
 - (e) any amendments to this Agreement;
 - (f) any notices that have been given for a Special Resolution that has not been voted on;

- (g) any Court proceedings by or against the Owners or the Owners' Association, of which it is aware; and
- (h) any Special Levy, the amount of which the Owner is required to pay.

3.14 Certificate of Full Payment

- (1) The Owners' Association, on the written application of an Owner to the Owners' Association, but no more than once in any Year, except as required for a bona fide sale of an Owner's Share, shall, within 14 days of the Owners' Association's receipt of the written application, issue a certificate indicating what monies, if any, are owing to it by the Owner.
- (2) In preparing the certificate, the Owners' Association may include arrears in contributions to the Operating Budget, Contingency Reserve Fund or any Special Levy and fines for breaches of this Agreement, the Bylaws, any other sums owed hereunder by that Owner and unsatisfied judgments against the Owner.

4. PROPERTY

4.1 Repair and Maintenance

- (1) Subject to the terms of this part, the Owners' Association must repair and maintain the Common Items.
- (2) An Owner shall repair and maintain their Site and any improvements thereon and shall do so in accordance with the Bylaws.

4.2 Repair and Maintenance of Common Items

- (1) The Owners' Association shall ensure that all the Common Items are in good repair, good working condition and are safe for use by the Owners and others.
- (2) The Owners' Association may replace any of the Common Items or portions thereof if the replacement is reasonable taking into consideration the cost of repairing the item. Where the same exceeds the depreciated value of the item or market value at the time of the replacement (whichever is greater) than replacement is deemed to be reasonable.
- (3) If an item requires replacement then the Owners' Association shall use commercially reasonable efforts to sell the item being replaced for market value at the time of the replacement. The proceeds of the sale of the item shall be placed into the Contingency Reserve Fund.
- (4) Subject to Section 4.3, the Owners' Association may use the Contingency Reserve Fund or it may propose the passage of a Special Levy to pay for the cost of such a replacement.

4.3 Major Renovation/Repair

If the renovations, repairs, refurbishment, or replacement of a Common Item exceeds

\$5,000 or has reached a cumulative total of \$15,000 for the Year, then the Owners' Association must obtain the approval of the Owners by Special Resolution to continue expenditures from the Contingency Reserve Fund or attempt to pass a Special Levy to raise additional monies, unless the Owners' Association, acting reasonably, deems such an action to be necessary to meet an emergency.

4.4 Developer's Rights

The Owners agree that the Developer has the exclusive right to use, enjoy and occupy the Lands, provided that Owners shall have quiet enjoyment of their Site, subject to the terms of this Agreement. The Developer reserves the right, from time to time and for as many times as necessary, to exclude, by way of this right, Owners from accessing the portions of the Lands, so as to permit the orderly development of the Phase 2 RV Sites.

5. RIGHTS OF OWNERS

5.1 Owner's Rights

Each Owner shall have the following rights:

- (1) The exclusive right to use, enjoy and occupy their Site subject to the terms and conditions of this Agreement, provided that no Owner or any other person shall be permitted to occupy a Site in such a manner as to be domiciled on a Site or to make a Site a fixed and permanent home.
- (2) Each Owner acknowledges that water service to the RV Sites is available only during the Summer Season, provided that such service is subject to weather conditions, such as unusually cold temperatures that may require the early temporary or permanent shut off of the water to the RV Sites during the Summer Season.
- (3) The right to rent their Site to a third party provided that the following criteria are met:
 - (a) An Owner who wishes to rent their Site must apply in writing to the Owners' Association for permission to do so; and
 - (b) An Owner granted such permission shall be responsible for and shall indemnify and save harmless the other Owners and the Owners' Association from all claims, charges, costs and expenses incurred by that third party or any person who is an invitee of that third party.
 - (c) RV Sites not including Cabin Sites are a minimum 3 day rental and the Cabin Sites are a minimum 7 day rental
- (4) Notwithstanding subsection 5.1(3), the Developer may rent any Site owned by it without obtaining the prior permission of the Owners' Association.

6. OWNER'S OBLIGATIONS

6.1 Owner's Duties

- (1) An Owner shall:
 - (a) not use the Resort Lands, the Common Items or their Site in a manner that will

unreasonably interfere with the use and enjoyment of the same by other Owners, occupants or Day Guests;

- (b) not allow their Site to be used in a manner that will cause a nuisance or hazard to any other occupier of the Resort Lands or allow it to become unsanitary or an environmental hazard to the Resort Lands and hereby indemnifies all other Owners for damage and loss caused as a result of such use;
- (c) comply strictly with this Agreement including any Bylaws made pursuant to it;
- (d) promptly pay all monies due under this Agreement;
- (e) not use the Resort Lands or their Site for any illegal or unauthorized purpose;
- (f) permit the Owners' Association and its authorized agent(s) access to their Site at reasonable times with 48 hours' notice or, in the event of an emergency, at any time and without notice;
- (g) not build or permit to be built on a Site, any building or structure except in accordance with the Bylaws and with permission of the Co-Owner's Association;
- (h) be a shareholder in good standing of the Owners' Association; and
- (i) not enter upon any other Owner's Site unless invited by such owner or is otherwise authorized to do so pursuant to this Agreement or the Bylaws.

6.2 Indemnity

Each Owner, based on that Owner's Proportionate Share, shall indemnify and save harmless the Owners' Association and its directors and officers from all claims and judgments against them pertaining to the Resort Lands for acts done in good faith.

6.3 Corporate Owner

Where a corporation is an Owner (the "**Corporate Owner**"), its principals (being the shareholders, directors and officers), hereby covenant and agree to use their best efforts to ensure that the Corporate Owner performs all of its obligations hereunder and they hereby shall, by becoming a party to this Agreement, either by signing below or by executing a joinder instrument, on a joint and several basis, covenant and agree to fully perform any obligation of the Corporate Owner in the event that such Corporate Owner fails to perform the same.

7. NUISANCE

7.1 Obligation Not to Cause a Nuisance

An Owner will not cause, permit or suffer any nuisance in, on or about their Site or on the Resort.

7.2 Noise

Without limiting Section 7.1, an Owner will not permit any persons within the Site nor will it permit itself or any invitee of the Owner, to cause any noise, disturbance or disruption to other Owners, or their invitees, whether from the Site or the Common Areas or the Common Facilities.

7.3 Termination of Nuisance

Without limiting Sections 7.1 and 7.2, an Owner will, upon written notice from the Owners' Association or the Manager, abate any nuisance arising directly or indirectly out of the use or occupation of their Site or the Resort by the Owner, by any family member, Day Guest, Visitor, contractor, agent or invitee of the Owner or by any other person.

8. WASTE

8.1 Obligation Not to Cause Waste

The Owner of a Site will not cause, permit or suffer the commission of any waste on their Site or on the Resort.

9. RUBBISH

9.1 Obligations Relating to Refuse

Without limiting Article 7 or Article 8, an Owner will not cause, permit or suffer any refuse, rubbish or debris to be placed or left in, on or about their Site or the Resort, and will take all necessary precautions to protect their Site and the Resort against fire.

10. COMPLIANCE WITH LAWS

10.1 Obligation to Comply with Applicable Laws

Each Owner will, at its expense, observe and perform all of its obligations under, and all matters and things necessary or expedient to be observed or performed by it, by virtue of any applicable law, statute, bylaw, ordinance, regulation or lawful requirement of the federal, provincial or municipal government or authority or any public utility company lawfully acting under statutory power.

11. ENVIRONMENT

11.1 General Obligations to Comply with Environmental Legislation

Without limiting the generality of Article 10 (Compliance with Laws), an Owner will at all times use and occupy their Site and the Resort in strict compliance with all applicable Environmental Laws.

11.2 Hazardous Substances

An Owner will not use or permit or suffer the use of their Site to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce or process any Hazardous Substances except in strict compliance with Environmental Laws and with the prior written consent of the Owners' Association, which consent may be unreasonably and arbitrarily withheld. An Owner will not use or permit or suffer the use of their Site to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce or process any Hazardous Substances except in strict compliance with Environmental Laws and with the prior written consent of the Owners' Association, which consent may be unreasonably and arbitrarily withheld. No person will have any fireworks unless under permit, and no stand-alone heaters are to be left unattended in RV at any time.

11.3 Report of Release

Upon the Release of Hazardous Substances, or discovery of a Release of Hazardous Substances, by an Owner in, on or under their Site, the Owner will:

- (1) immediately deliver written notice to the Owners' Association or Manager and any appropriate Governmental Authority of the occurrence of the Release and details relating to the Release including, without limitation, the time of the Release, the estimated amount of Hazardous Substances which were released, and remedial action taken prior to the delivery of the notice, the remedial action which the Owner intends to take in order to contain or rectify the Release and any persons observed who appeared to have caused or who were in the vicinity of the Release;
- (2) at its own expense, immediately take all remedial action necessary, in compliance with all Environmental Laws, to fully rectify the effects of the Release;
- (3) provide the Owners' Association with an independent audit, satisfactory to the Owners' Association, of its activities under paragraph 11J(b) and the state of their Site after such activities compared with the state of their Site prior to the Release; and
- (4) do such further activities as the Owners' Association may reasonably require, based on the audit referred to in paragraph 11.3(c), to rectify the Release.

11.4 Removal of Hazardous Substances

If requested by the Owners' Association or any Governmental Authority, the Owner will at its own expense remove from their Site any Hazardous Substances which are or have been located, stored or incorporated in, on or under their Site. Prior to any sale or transfer of a Share, the Owner will at its own expense remove from their Site any Hazardous Substances which are or have been located, stored or incorporated in, on or under their Site.

11.5 Increased Risks

An Owner will not carry out any operations or activities or construct any alterations or improvements which materially increase the risk of liability to the Owners' Association (whether direct or indirect) as a result of the application of Environmental Laws (as determined by the Owners' Association acting reasonably).

11.6 Inspection

The Owners' Association may, at any time, inspect an Owner's Site in order to assess the

existence of any Hazardous Substances and to conduct an environmental site assessment, environmental audit or any other testing or investigations which the Owners' Association deems reasonably necessary in order to ascertain the compliance of the Owner's operation on their Site with Environmental Laws and to determine the extent of any contamination of their Site due to the presence of any Hazardous Substances in, on or under their Site. The reasonable costs to the Owners' Association of conducting any of the foregoing will be deemed to be payable by the Owner upon the Owners' Association delivering notice of its costs.

11.7 Title to Hazardous Substances

Each Owner acknowledges and agrees that, notwithstanding any rule of law to the contrary, any Hazardous Substances, which are located, stored or incorporated in, on or under their Site remain the sole and exclusive property of such an Owner and will not become the property of the other Owners of the Resort Lands regardless of any degree of affixation of the Hazardous Substances to the Site. This section will survive the expiration or earlier termination of this Agreement.

11.8 Additional Rights

Without limiting Article 11, upon:

- (1) the breach by an Owner of any provision contained in this Article; or
- (2) the Owners' Association becoming aware of a breach by an Owner of Environmental Laws with respect to their Site or the presence of any Hazardous Substances on, in or under their Site which is not present in strict compliance with Environmental Laws and which raise a material risk of liability to the Owners' Association or other Owners of the Resort Lands, as determined by the Owners' Association,

such event will constitute a default for the purposes of Section 17.1 of this Agreement.

11.9 Environmental Indemnity

Each Owner hereby agrees to indemnify and save harmless the Owners' Association and the Owners from and against all claims, demands, actions, suits or other proceedings, judgments, damages, penalties, fines, costs, liabilities and losses (including any diminution in the market value of the Resort Lands, based on the highest and best use of the Resort Lands, as opposed to the uses permitted by this Agreement), sums paid in settlement of any claims, reasonable legal, consultant and expert fees or any costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any authority which arise during or after an Owner's interest in the Resort Lands and are in any way based upon, arise out of or are connected with:

- (1) the presence or suspected presence of Hazardous Substances in, on or under their Site or in the soil, groundwater or surface water in, on, under or near their Site as a result of the actions or omissions of the Owner; or

(2) the Release of any Hazardous Substances in, on or under their Site by or at the direction of the Owner,

unless the presence of the Hazardous Substances is solely attributable to the negligence or wilful misconduct of the Owners' Association. This indemnity will survive the expiration or earlier termination of this Agreement.

12. TRANSFER OF AN OWNER'S INTEREST

12.1 Procedure

- (1) If an Owner is not in default under this Agreement, then that Owner may transfer, sell, assign or otherwise dispose of his, her or its Owner's Interest subject to:
 - (a) providing the Owners' Association with 21 days prior notice of the impending transfer of the Owner's Interest, except where such transfer is to a Permitted Transferee, in which case the Owner must provide the Owners' Association not less than 5 days prior notice;
 - (b) the transferor Owner and the transferee Owner executing an assignment and assumption agreement with respect to the Licence and this Agreement in the form prescribed by the Owners' Association (the "**Assumption Agreement**") and delivering the executed Assumption Agreement to the Owners' Association prior to the transfer; and
 - (c) the transferor Owner transferring its Share in the Owners' Association and the transferee owner becoming a shareholder thereof.
- (2) If for any reason a transferee Owner does acquire title to a Share but has not executed the Assumption Agreement, then the transferor Owner will remain bound by this Agreement, and all of his, her or its obligations under this Agreement shall continue until such time as the transferee Owner executes the Assumption Agreement and delivers same to the Owners' Association. Thereafter, and subject to an express provision in this Agreement to the contrary, the transferor Owner will be released from any liabilities or obligations under this Agreement which arise after the completion of the sale to the transferee.
- (3) A transferee Owner who does not execute the Assumption Agreement shall not become a shareholder of the Owners' Association or be entitled to use the Common Facilities.
- (4) On the sale of his, her or its Owner's Interest, an Owner shall not have a claim either against the Contingency Reserve Fund or for a refund of contributions to the Operating Budget or a Special Levy.

13. OWNERS' ASSOCIATION

13.1 Creation

An Owner will become a shareholder of the Owners' Association upon the Owners' Association receiving fully executed copies of the Assumption Agreement and instrument

of transfer in respect of the Share. When all Shares for the Resort Lands have been issued, such number of issued Shares shall equal the number of voting Owners in the Owners' Association, and each Owner shall have one vote for each share held in the Owners' Association.

13.2 Duties of Owners' Association

The Owners' Association covenants and agrees with each Owner to control, manage and administer the Common Items for the benefit of all Owners. Specific obligations of the Owners' Association are contained in its Bylaws, a copy of which is attached to this Agreement as Schedule A. The rights and obligations of the Owners' Association shall be subject and subordinate to an Owner's rights under this Agreement.

13.3 Funding of Owners' Association

Each Owner acknowledges that the operations of the Owners' Association will be paid for by the Association. Each Owner covenants and agrees to pay all Assessments made by the Owners' Association when due. Such Assessments shall bear interest as provided for in this Agreement if not paid when due and shall afford the Owners' Association with all remedies available to them pursuant to this Agreement.

13.4 Access

The Owners' Association, and its agents, employees and contractors, shall have the right to enter upon the Sites and the Common Areas and Common Facilities to enable it to carry out its duties and responsibilities in connection with the Common Areas and Common Facilities.

13.5 Right to Suspend/Disconnect Services

Without limiting any right or remedy of the Owners' Association, if an Owner fails to pay an Assessment when due, the Owners' Association may, without notice, temporarily suspend or permanently disconnect that Owner's Site from any one or more service or utility that passes on, over, under or through any Common Area or Common Facility, to that Owner's Site, including, without limitation, the provision of water, sewer, electricity or other service.

13.6 Breach

A breach or default by the Owners' Association of any obligation under this Agreement shall not give an Owner any right to avoid its obligations under this Agreement.

13.7 Delegation

The Owners' Association may, from time to time, delegate to the Manager or other person appointed by the Owners' Association all or any part of the Owners' Association's rights and obligations hereunder, including, without limitation, the right to grant approvals or consents, and may change such delegation from time to time.

13.8 Corporate Governance/Directors

Subject to Article 16, the Owners' Association shall have the number of directors set by Ordinary Resolution of the Owners from time to time. Only Owners, if individuals, and nominees of Owners, if Corporate Owners, shall be eligible to be elected directors of the Owners' Association.

14. OWNERS' POWERS

14.1 Powers

- (1) Until the Expiry Date (as defined in Section 16.1), the powers of the Owners are subject to the Voting Trust Agreement provided for in Section 16.1 below.
- (2) The Owners may, by Ordinary Resolution, recommend and advise the Owners' Association in the exercise of its powers and performance of its duties, except in the collection of monies owing under this Agreement.
- (3) The Owners may, by Special Resolution:
 - (a) borrow money jointly (with or without security) required by the Owners or the Owners' Association in the performance of their respective duties or the operation of the Resort Lands and the Common Items;
 - (b) secure the repayment of money borrowed jointly by them in relation to the Resort Lands and the payment of interest, by a security agreement over unpaid contributions, whether levied or not, provided that no Owner shall be obligated to give a personal guarantee or other security including a mortgage; and
 - (c) amend the **Articles** of the Owners' Association as further provided for and in accordance with the most current version of the **Articles** and the *Business Corporations Act*.

14.2 Duties

- (1) The Owners' Association shall only be authorized to carry out and exercise the duties, powers and rights set out in this Agreement and the **Articles**. The Owners irrevocably authorize and empower the Owners' Association to act as the agent and attorney in fact of the Owners to carry out such duties, powers and rights and to enforce the provisions of this Agreement against the Owners.
- (2) In addition to those duties set out elsewhere in this Agreement or under the **Articles**, and subject to any restrictions contained therein, the Owners' Association shall:
 - (a) obtain and maintain full replacement value insurance on the Common Items (including any buildings and structures situate thereon) and third party liability insurance of at least 5 million dollars;
 - (b) collect and receive all contributions by Owners toward the Operating Budget, the Contingency Reserve Fund and any Special Levy, deposit same with a savings institution and manage those deposits;
 - (c) pay the Common Costs as they become due;
 - (d) present at the annual general meeting a summary of all insurance policies in place;
 - (e) enforce the Bylaws in accordance with Article 17 herein;
 - (f) send to all Owners unaudited annual balance sheets and financial statements prepared in accordance with Section 3.10;
 - (g) keep, in one location, or in the possession of a designated person, and make available for inspection on request of an Owner or a person authorized by him or her:
 - (i) a copy of this Agreement and any amendments to it and assignments thereof;
 - (ii) a copy of all agreements to which the Owners' Association (as agent) and/or the Owners themselves are a party, including without limiting the generality of the foregoing, contracts, insurance policies, insurance trustee agreements, deeds, agreements for sale, leases, licenses, easements or rights of way;
 - (iii) a copy of the Site Register, setting out the Site number, associated Share the name of the Owner(s) and the mailing address of the Owner(s);
 - (iv) all annual budgets approved by the Owners;
 - (v) proper books of accounts in respect of all sums of money received and expended by it, noting also the nature of each transaction; and
 - (vi) copies of all financial statements;

- (h) be responsible for the implementation of all decisions made pursuant to Article 15 and Section 16.3 of this Agreement;
- (i) ensure (to the best of its abilities) that:
 - (vii) the Resort Lands (including the Common Items) are managed and operated for the benefit of all Owners;
 - (viii) the Common Items are properly repaired and maintained year round;
 - (ix) sewer, water, electrical services, garbage pickup and any other services the Owners decide should be provided are provided to the Resort Lands and each Site; and
 - (x) the Owners have access by automobile to their Sites.
- (3) The Owners' Association may charge a reasonable fee for the photocopying and delivery of copies of any documents to an Owner or his, her or its authorized agent.
- (4) All acts done in good faith by the Owners' Association, its officers and directors are, notwithstanding it is afterwards discovered that there was some defect in the appointment or continuance in office of an officer or director of the Owners' Association, as valid as if the officer or director had been duly appointed or had duly continued in office.
- (5) An officer or director of the Owners' Association who acts honestly and in good faith shall not be liable to the Owners or the Owners' Association and its shareholders for any act or omission of that officer or director.

15. OWNERS' ASSOCIATION MEETINGS

15.1 Meetings

- (1) General meetings of the Owners' Association will be held at the time and place, in accordance with the **Articles**, that the Directors decide.
- (2) An annual general meeting shall be held once each year and not more than 15 months shall elapse between one annual general meeting and the next.

16. OWNERS' ASSOCIATION AND DEVELOPER'S CONTROL

16.1 Voting Trust Agreement

Each Owner hereby covenants and agrees to execute a voting trust agreement in the form attached in Schedule E to this Agreement (the "**Voting Trust Agreement**") and to abide by the terms and conditions of the Voting Trust Agreement. The Voting Trust Agreement shall remain in full force and effect until not later than six months from the date (the "Expiry Date") of the Developer giving written notice to the Owner's Association of substantial completion and sale of all of the sites in the last phase of the Resort.

The Voting Trust Agreements shall automatically expire on the Expiry Date and the Owners shall thereafter vote their Shares in their sole discretion, in accordance with the **Articles** and the *Business Corporations Act*. For greater certainty, the Developer or its nominee shall, as of the Expiry Date, exercise voting rights only with respect to any Shares owned by the Developer.

16.2 First Directors of the Owners' Association

Subject to Section 16.1, the Owners shall cause the voting trustee(s) appointed under the Voting Trust Agreements to elect the Developer's nominee(s) to act as director(s) of the Owners' Association and such director(s) shall hold office for a term not exceeding three years. Thereafter, the director(s) of the Owners' Association shall be elected by the Owners at each annual general meeting in accordance with the procedure set out in the **Articles**.

16.3 Powers

- (1) The Owners' Association, on behalf of the Owners (in addition to those powers given to it elsewhere in this Agreement) may:
 - (a) If authorized by Special Resolution or elsewhere in this Agreement, purchase, lease or otherwise acquire new personal property for use by the Owners in connection with their enjoyment of the Resort Lands and the Common Facilities;
 - (b) borrow money required for the performance of its duties or the exercise of its powers;
 - (c) employ for and on behalf of the Owners and itself, such agents and employees it deems proper for the control, management and administration of the Common Items and the Resort Lands (the cost of which is to be included in the Operating Budget);
 - (d) enter into contracts on behalf of the Owners which pertain to its duties hereunder; and
 - (e) carry on other business activities ancillary to the operation of the Resort Lands (which are of benefit to the Owners).
- (2) Except where otherwise stated in this Agreement, all matters concerning the daily management and operation of the Resort Lands and the Common Items will be decided by the Owners' Association through its board of directors.

17. OWNERS' ASSOCIATION DEFAULT REMEDIES

17.1 Events of Default

It shall be an Event of Default under this Agreement if an Owner (for purposes of this Article 17, a "**Defaulting Owner**"):

- (1) fails to pay any sum required to be paid by the Defaulting Owner when due under this Agreement, whether demanded or not or purports to set off, withhold or deduct any amount due;
- (2) fails to perform or observe any other term, agreement, condition, covenant, warranty or proviso of this Agreement (including without limitation the Schedules hereto and the Bylaws), whether demanded or not; or
- (3) fails to pay any Assessment when due to the Owners' Association, whether demanded or not.

17.2 Rights and Remedies Upon Default

Upon the happening of an Event of Default, the Owners' Association shall have the following rights and remedies, which shall be in addition to those rights and remedies established under the Bylaws and this Agreement, and the Owners' Association shall have discretion as to which right or remedy to rely upon:

(1) **Lawsuits**

The Owners' Association may recover from a Defaulting Owner, on behalf of all the Owners, in a Court, any sum of money owing pursuant to this Agreement. The Owners' Association is hereby irrevocably authorized to act as agent of the other Owners for that purpose. Should the Owners' Association be successful in the prosecution of the action or the defence of an action brought against it by a Defaulting Owner, it shall be entitled to be reimbursed by that Owner for its legal costs on a solicitor and own client basis. The Owners' Association may spend monies from the Contingency Reserve Fund with the approval of the Owners to prosecute or defend such an action.

(2) **Forced Sale of Owner's Interest**

- (a) The Owners' Association may (without further authorization), at any time there are monies owed pursuant to this Agreement, for which a demand for payment has been made pursuant to this paragraph 17.2(2)(b), take steps to sell and assign the Owner's Interest of the Defaulting Owner to a third party purchaser.
- (b) Before the Owners' Association may take any steps to sell the Owner's Interest of a Defaulting Owner to a third party purchaser, it must give the Defaulting Owner written notice of its intention to do so and shall provide the Defaulting Owner 21 days to pay any monies owing to the Owners' Association, failing which it may proceed at once to offer the Owner's Interest for sale to a third party purchaser. (in the case of fines, paragraph 17.2(3)(c) shall have first been complied with).
- (c) The parties agree that the Owners' Association shall be entitled to its legal costs on a solicitor and own client basis.
- (d) Upon the sale of the Owner's Interest, the net sale proceeds after paying to the Owners' Association the debt due will be remitted to the Defaulting Owner. The directors shall

not be liable for any loss suffered by the Defaulting Owner as a result of the directors acting as the agent for the Defaulting Owner in selling the Owner's Interest.

- (e) Each Owner hereby covenants and agrees to execute any instruments, documents and certificates and to undertake any acts as may be requested by the Owners' Association or its solicitors to validly transfer title to such Owner's Interest upon the occurrence of an Event of Default to which the provisions of this Section 17.2(2) apply. In the event that a Defaulting Owner does not deliver to the Owners' Association or its solicitors the instruments, documents or certificates required to be delivered in connection with any sale described in this Section 17.2(2), such Defaulting Owner hereby irrevocably constitutes and appoints any director, officer or employee of the Owners' Association as his, her or its true and lawful attorney to execute, for and in the name of, and on behalf of such Defaulting Owner, all such instruments, documents or certificates as may be necessary to effect the purchase and sale of the defaulting Owner's Interest. Such appointment and power of attorney, being coupled with an interest, shall not be revocable by a Defaulting Owner nor terminated by the insolvency, bankruptcy, death, incapacity or dissolution of such Defaulting Owner, or otherwise by operation of law. The Defaulting Owner hereby ratifies and confirms and agrees to ratify and confirm all that such attorney may lawfully do or cause to be done pursuant to such power of attorney.

(3) Fines

- (a) The Owners' Association may:
 - (i) subject to paragraph 17.2(3)(c), impose fines in the amounts and at the frequency set out in the Bylaws against an Owner for any breach or continuing breach of this Agreement or the Bylaws by that Owner, their Immediate Family, Day Guest or any other person using or occupying their Site or the Common Items with the knowledge of the Owner;
 - (ii) deprive an Owner of rights or privileges in relation to the use of all or some of the Common Items (such rights to be restored immediately upon cure of the breach and payment of any fines and legal costs); and
 - (iii) in the case of an Event of Default which constitutes a default under the Bylaws, impose any fines or penalties as set out in the Bylaws;
 - (iv) the Owners' Association may, but shall not be obliged to, itself observe and perform any covenant or agreement in respect of which an Owner has made default and for such purpose may enter onto their Site without liability to the Defaulting Owner, provided that such performance by the Owners' Association shall not in any way relieve the Defaulting Owner from its obligations and liabilities with respect to the performance of the covenant or agreement;
 - (v) the Owners' Association shall have the right to collect from a Defaulting Owner any and all costs and expenses incurred by the Owners' Association in enforcing the covenants and agreements set out in this Agreement and in performing the

covenants and agreements of the Owner set out in this Agreement, including without limitation legal fees as between solicitor and his or her own client, together with interest thereon at the rate set out in Section 17.3 from the date that the costs and expenses are incurred to the date the same are paid by the Defaulting Owner; and

- (vi) the Owners' Association shall be entitled to such other rights and remedies as may be available to it pursuant to this Agreement, at law or in equity, including without limitation rights of distress, the right to claim damages against a defaulting Owner and the right to seek and obtain injunctive or other equitable relief upon the happening of an Event of Default.
- (vii) Each Owner agrees to pay to the Owners' Association on demand, any amounts levied in accordance with paragraph 17.2(3)(a).
- (ix) Before levying a fine against an Owner, the Owners' Association shall advise the Owner of the particulars of the allegations against him and the intention of the Owners' Association to impose a fine, and provide the Owner a period of 14 days within which to provide a written reply or to request a hearing before the Owners' Association's board of directors. A hearing must be held within 30 days and may be done by telephone conference call.

17.3 Interest

Any money payable under this Agreement which is not paid by an Owner when due shall bear interest until paid at a rate of 3% per annum above the prime commercial lending rate for demand loans from time to time designated by the main branch of the Owners' Association's bank or credit union, compounded semi-annually not in advance. A certificate issued by the manager of the said bank or credit union shall be conclusive evidence of the rate of interest in effect from time to time.

17.4 Non-Waiver

No condoning, excusing or overlooking by the Owners' Association or an Owner of any default, breach or non-observance by the other in respect of any covenant, proviso or condition herein contained shall operate as a waiver of the Owners' Association's or an Owner's rights hereunder in respect of any continuing or subsequent default, breach or non-observance or so as to defeat or affect in any way the rights of the Owners' Association or an Owner in respect of any continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by the Owners' Association or an Owner, save only express waivers in writing.

18 ADDITIONAL PHASES AND SITE PLAN

18.1 Additional Phases

The Developer intends to develop and market the current and planned future RV Sites over multiple phases. The Phase 1 RV Sites and Phase 2 RV Sites are shown on

the Site Plan.

The Owners agree that the Developer may, with notice to the Owners but without the consent of the Owners, amend this Agreement and the Site Plan as required to reflect the inclusion of new Sites, provided that an Owner's RV Site will not be altered nor shall any Owner's quiet enjoyment of their Site be interfered with. The Common Areas and the Common Facilities of the prior phase shall be extended to include Common Areas and Common Facilities within such additional phase, and the Owners of the Sites in the additional phase shall have the same rights to use the Common Items as held by Owners of Sites in the prior phase.

19. GENERAL PROVISIONS

19.1 Limited Rights

This Agreement does not create any interest registerable at any Land Title Office in British Columbia (including that of a tenancy) in the Resort Lands and no subdivision of the Resort Lands shall have been effected or deemed to be effected by this Agreement. Nor does this Agreement create a partnership or other similar relationship amongst and between the Owners.

19.2 Legend on Share Certificates

All share certificates issued by the Owners' Association (including existing certificates) shall have typed or otherwise written thereon the following legend:

"The shares represented by this certificate are subject to the provisions of an agreement dated _____ among the shareholders of the Company, which agreement contains restrictions on the right of the holder hereof to sell, exchange, transfer, assign, gift, pledge, encumber, hypothecate or otherwise alienate the shares represented hereby and notice of those restrictions is hereby given."

19.3 Entire Agreement

This Agreement and the Schedules hereto are the entire agreement and understanding among the parties hereto and supersede all prior agreements (whether oral or written), pertaining to the subject matter hereof. This Agreement may be amended and assigned in accordance with the provisions hereof and such amendments and revisions shall constitute part of the Agreement.

19.4 Amendment

This Agreement (other than an assignment of rights hereunder in accordance with Article 12) may only be amended by Special Resolution of the Owners (as at the time such resolution is passed) at a property constituted meeting of the Owners' Association. Upon passage of such

resolution, all Owners shall be deemed to have agreed to the amendment.

19.5 **Waivers**

Any waiver of a term, provision or condition of this Agreement must be in writing and signed by all the Owners (as at the time of the waiver) to be effective. The waiver must state the particular provision or provisions being waived. No waiver of any one or more provisions shall be deemed to be a further continuing waiver of such terms, provisions or condition or any other term, provision or condition unless the waiver specifically so states. Neither the Owners' Association nor any director or officer thereof may waive compliance with a term, provision or condition of this Agreement.

19.6 **Enurement**

This Agreement shall enure to the benefit of and be binding upon each of the parties hereto and their respective executors, administrators, heirs, successors and permitted assigns.

19.7 **Arbitration**

Provided that a Court action pertaining to the interpretation of this Agreement or the determination of rights hereunder has not been commenced, an Owner may refer the dispute to arbitration pursuant to the terms of the *Commercial Arbitration Act*, R.S.B.C. 1996 c. 55. This section shall not apply to any matter or dispute arising under or in connection with Article 17 or Section 19.5 of this Agreement.

19.8 **Severability**

Should any part of this Agreement be declared or held to be invalid for any reason, such invalidity shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect and be construed as if this Agreement does not contain the invalid provision.

19.9 **Time**

Time shall be of the essence of this Agreement and the transactions contemplated in this Agreement.

19.10 **Notice**

Any communication must be in writing and either:

1. personally delivered;
2. sent by prepaid, registered mail; or
3. sent by facsimile, e-mail or functionally equivalent electronic means of communication, charges (if any) prepaid, and confirmed by prepaid registered mail.

Any communication may be sent to an Owner at the address set out in the Site Register or at any other address as the Owner may from time to time advise the Owners' Association by written communication given in accordance with this section. Any notice to be given hereunder to the Owners' Association shall be sufficiently given if delivered or sent by regular mail, postage prepaid to the Owners' Association's address set out in this Agreement or to its Registered Office. Any communication may be sent to an Owner at the facsimile number or email address provided by the Owner from time to time. Any communication may be sent to the Owners' Association at the facsimile number or email address provided to the Owners by the Owners' Association from time to time. Any communication delivered to the party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that party's address, provided that if that day is not a Business Day then the communication will be deemed to have been given and received on the next Business Day. Any communication transmitted by facsimile or other form of electronic communication will be deemed to have been given and received on the day on which it was transmitted (but if the communication is transmitted on a day which is not a Business Day or after 3:00 p.m. (local time of the recipient)), the communication will be deemed to have been received on the next Business Day. Any communication given by registered mail will be deemed to have been received on the fifth Business Day after which it is so mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every communication must be effected by personal delivery, or by facsimile, e-mail or functionally equivalent electronic means.

19.11 Further Documents and Assurances

The Owners from time to time agree to provide such other documents and assurances as may be reasonably required to give full effect to the intent and meaning of this Agreement.

19.12 Events Beyond a Party's Reasonable Control

No party hereto shall be obligated to carry out a duty hereunder if doing so has been rendered impossible by events beyond that party's control including, without limiting the generality of the foregoing, war, riot, strikes and labour disruptions, unanticipated regulatory delays and acts of God, but excluding a lack of monies and events which could have reasonably been foreseen by that party. All times herein provided for shall be extended by the period necessary to cure a default resulting from such events and the party affected shall use all reasonable means to do so promptly.

19.13 The Laws of British Columbia

This Agreement shall be construed in accordance with the laws of the Province of British Columbia.

19.14 Payments

All payments herein shall be made by way of cash, cheque, bank draft or e-transfer in Canadian currency.

19.15 **Execution in Counterparts**

This Agreement and any amendments and assignments may be executed in two or more counterparts and/or by facsimile each of which shall be deemed an original, but all of which together shall constitute one and the same instrument

19.16 **Headings**

Headings are inserted for convenience of reference only and shall not be considered in the interpretation of this Agreement.

19.17 **Independent Legal Advice**

Each of the parties hereto acknowledge having received or been given the opportunity to receive independent legal advice, including tax advice, with respect to the subject matter of this Agreement

19.18 **Gender, Number and Other Terms**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include both genders, "or" is not exclusive and "including" is not limiting, whether or not non-limiting language (such as "without limitation") is used with reference thereto.

19.19 **No Contra Preferentum**

The language in all parts of this Agreement will in all cases be construed as a whole and neither for nor strictly against any of the parties to this Agreement.

19.20 **Conflict**

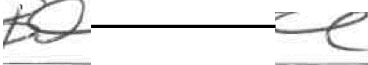
If there is a conflict between the terms of this Agreement and the terms of the **Articles** or Bylaws, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF the parties have executed this Agreement.

THE DEVELOPER

0972514 BC Ltd.

Per:



Authorized Signatory

THE OWNERS' ASSOCIATION

**FIRCREST RESORT OWNERS'
CORPORATION**

Per:



Authorized Signatory

Owner's Signature Page

Signed Sealed and Delivered this ____ day of ____, 2020 in)
the Presence of:)

Witness Signature)

Name:)

Occupation:)

Owner Signature
«Purchaser»)

Owner Signature
«Purchaser»)