

Aboriginal Affairs and Northern Development Canada Application for Registration

Affaires autochtones et Développement du Nord Canada Demande d'enregistrement Envoyer deux copies à:

Send Two Copies to:

Aboriginal Affairs and Northern Development Canada Indian Lands Registry Terrasses de la Chaudiere Ottawa, Ontario K1A 0H4 Attention: Registrar of Indian Lands

Affaires autochtones et Développement du Nord Canada Registre des terres indiennes Terrasses de la Chaudiere Ottawa, Ontario K1A 0H4 Attention: Le registraire des terres indiennes

The undersigned hereby requests that the instrument, the particulars of which are set out below, be entered, pursuant to the Indian Act, in the appropriate register of the Indian Land Registry. / Le/La soussigné(e) demande par la présente que le document dont les détails sont indiqués ci-dessous, soit inscrit conformément à la loi sur les Indiens dans le Registre des terres indiennes concerné.

Registration # / # au registre: 6065004 Received Date / Date au registre: Regional File # / # de dossier régional: E5643-07395-239

NAME OF PARTIES TO INSTRUMENT / NOM DES PARTIES DU DOCUMENT Grantor / Cédant: Crown Canada Grantee / Cessionnaire: CDR Limited Partnership

Instrument Type / Type de document: Lease 014 Instrument Date / Date du document: 2012/04/01 Purpose / Objet: RESIDENTIAL Remarks / Remarques:

LAND DESCRIPTION / DESCRIPTION DE LA TERRE Province: Reserve Name / Nom de la réserve: Crown Land Name / Nom de la terre de la couronne: Legal Description - Land Affected / Description Légal - Terre: Lot 239-1 CLSR Plan 100139

List of Supporting documentation (must be attached to document or a registration number quoted) / Liste des documents de support annexés (doivent être attachés ou cités un numéro d'enregistrement):

Applicant Email: Band Email:

Signature of Applicant / Signature du requérant, Tel. # of Applicant / # Tél. du requérant, email / courriel, Date

Return To: Theresa Marion AANDC-BC Region 600-1138 Melville Street Vancouver, BRITISH COLUMBIA V6E 4S3

Registration Number / Numéro d'enregistrement: 6065004 Registration Date / Date d'enregistrement: June 7/12 and Time / et heure: 10:27am Signature of Registration Office / Signature de l'officier d'enregistrement: [Signature] Date: June 7/12

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Registre des terres indiennes
Terrasses de la Chaudière
Ottawa, Ontario K1A 0H4
Attention: Le registraire des terres indiennes

Comments / Commentaires:

Reason for return / la raison du retour

Signature of Registration Office / Signature de l'officier d'enregistrement

Date

LEASE

Her Majesty in Right of Canada

and

CDR Limited Partnership

and

Canyon Desert Villas Owners Association

and

Osoyoos Indian Band

Osoyoos Indian Reserve No. 1

Lot #239-1

Reference Date: April 1, 2012

TABLE OF CONTENTS

1.	GUIDE TO THIS LEASE	2
2.	THE LAND AND ITS USE	3
3.	RENT	5
4.	WORKS	7
5.	INSURANCE	11
6.	LAWS	15
7.	ENVIRONMENT	16
8.	INSPECTION & ADVERTISING	19
9.	ASSIGNMENTS, SUBLEASES AND OTHER SUB INTERESTS AND RIGHTS	19
10.	MORTGAGES	24
11.	BANKRUPTCY AND INSOLVENCY	27
12.	DEFAULTS & THE END OF THIS LEASE	28
13.	INDEMNITY	31
14.	DISPUTE RESOLUTION	32
15.	GENERAL PROVISIONS	33
	SCHEDULE A – DEFINITIONS	39
	SCHEDULE B – LENDER AGREEMENT	44
	SCHEDULE C – BAND COUNCIL RESOLUTION	50

LEASE

This lease is made on April 1, 2012

Between:

Her Majesty in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development

(referred to as the *landlord*)

and:

CDR Limited Partnership, a limited partnership registered under the laws of British Columbia (Registration Number LP561866) as represented by its general partner, **CDR GP Inc.**, a corporation incorporated under the laws of British Columbia (Incorporation Number C0888384) having a registered address at 800-885 West Georgia Street, Vancouver, British Columbia, V6C 3H1

(referred to as the *tenant*)

and:

Canyon Desert Villas Owners Association, a society incorporated under the laws of British Columbia (Society Number S-0059550) having a registered office at 1000 – 595 Burrard Street, Vancouver, British Columbia, V7X 1S8

(referred to as the *owners association*)

and:

Osoyoos, a “band” as defined under the *Indian Act* (Canada), also known as Osoyoos Indian Band, having a mailing address at Site 25, Comp. 1, RR#3, McKinney Road, Oliver, British Columbia, V0H 1T0

(referred to as the *First Nation*)

Background:

Title to the *land* is held by the *landlord* for the *First Nation*'s use and benefit.

Having possession of the *land*, the *First Nation* designated it for lease on November 18, 2009, which was accepted by the Governor in Council on September 23, 2010 by P.C. #2010-1146, both of which are registered in the *registry* under No. 375256.

There were no improvements on the *land* at the *start date*.

This lease is made under subsection 53(1) of the *Indian Act*.

The parties agree as follows:

1. GUIDE TO THIS LEASE

1.1 Lease Structure

1.1.1 These are the parts of this lease: article (1.), section (1.1), subsection (1.1.1), paragraph (1.1.1(a)), and subparagraph (1.1.1(a)(i)). Unless stated otherwise, any reference in this lease to an article, section, subsection, paragraph, or subparagraph means the appropriate part of this lease.

1.1.2 Wording within square parentheses “[]” and headings are for convenience and reference only and are not to be used to interpret any part of this lease.

1.1.3 While an attachment to this lease labelled as a “Schedule” forms part of this lease, an attachment labelled as an “Appendix” is included only for the parties’ information and does not form part of this lease.

1.2 Interpretation of Words and Phrases

1.2.1 Some words used in this lease are defined in Schedule A and are identified by italic type. A defined term may be read as having an appropriate corresponding meaning when it is used in the plural or verb form.

1.2.2 A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it.

1.2.3 The words include, includes, and including are to be read as if they are followed by the phrase “without limitation”

1.2.4 The phrases “when this lease ends” and “the ending of this lease” include an ending by cancellation or surrender.

1.2.5 Any reference to a statute means that statute, and any regulations made under it, all as changed or replaced over time.

1.2.6 When a party is required to consent to something under this lease, that consent must not be unreasonably withheld, unless the provision states otherwise.

2. THE LAND AND ITS USE

2.1 Use of the Property

2.1.1 The *landlord* hereby leases the *land* to the *tenant* for the *term*, and the *tenant* is entitled to quiet enjoyment of the *property*, subject to every other part of this lease.

2.1.2 The *tenant* must obtain and maintain legal access to and from the *land*.

2.1.3 The *property* must only be used for

- (a) the marketing, development, construction, occupation, repair and maintenance of *villas*, up to a maximum of 81 *villas*, and improvements and facilities necessary or ancillary to the *villas*;
- (b) uses necessary for or which assist with the use of the *land* in accordance with paragraph 2.1.3(a); and
- (c) access, utility, or servicing purposes necessary for or to assist with the use of land in the *reserve* that is adjacent to the *land*.

2.1.4 Except where reasonably required by the *permitted uses*, the *tenant* must not cause or allow a nuisance on the *property*.

2.1.5 The *tenant* must not cause or allow any waste of the *property*.

2.1.6 The *tenant* must not vacate or abandon the *property* without first getting the written consent of each of the *landlord* and the *First Nation*, which consents may be withheld in their respective discretions.

2.1.7 If any burial site, human remains, or Indian artifact of archaeological or cultural interest is discovered on the *land*, then the *tenant* must promptly notify the *First Nation*. If there is no applicable *First Nation* or federal *laws*, then the *tenant* must comply with the requirements set out in the Heritage Conservation Act, R.S.B.C. 1996, c. 187, to the extent possible, and the reasonable requirements of *Council*.

2.1.8 The *tenant* must ensure that any disturbed legal control survey monuments are replaced by a duly qualified surveyor to the satisfaction of the Surveyor General of Canada (or any successor).

2.1.9 If there are no applicable *laws* about the use of billboards (or other large-scale advertising devices), then the *tenant* must not construct, or allow the construction of,

any billboard (or other large-scale advertising device) without first getting the written consent of the *Council*, which consent may be withheld in its discretion.

2.2 Representations About the Lands and Uses

2.2.1 The *land* is leased “as is” and no representations or warranties are made about the *land* (including the application of *laws*, compliance with *laws*, and the *land*’s condition, title, encumbrances, or suitability for the *tenant*).

2.2.2 The *tenant* represents the following:

- (a) The *tenant* conducted all inspections of the *land* that it considered necessary.
- (b) The *land* is suitable for the *tenant*’s intended uses.
- (c) The *tenant*’s intended uses are within the scope of the *permitted uses*.

2.3 The Landlord May Create Other Interests and Rights

2.3.1 The *landlord* may grant an interest or right to an *authority*, utility company, a *First Nation* owned entity, or other third party, for access, utility, or servicing purposes necessary for or to assist with the use of land in the *reserve* that is adjacent to the *land*, as may be approved by the *First Nation*, as long as the interest or right granted has no material adverse effect on the *permitted uses*. On being given written notice of the interest or right by the *landlord*, the *tenant* must promptly sign and give the *landlord* the necessary documentation to subordinate the *tenant*’s rights under this lease to the interest or right granted.

2.4 Minerals

2.4.1 The *landlord* reserves all minerals in the *land*, including –

- (a) ore of metal and every natural substance that can be mined and that –
 - (i) occurs in fragments or particles lying on, above, or adjacent to the bedrock source from which it is derived (commonly described as talus); or
 - (ii) is in the place in which it was originally formed or deposited (as distinguished from loose, fragmentary, or broken rock or float, which, by decomposition or erosion of rock, is found in wash, loose earth, gravel, or sand), and

- (b) coal, petroleum, and all other hydrocarbons (regardless of gravity and how or where recovered), gases (including natural gas, methane, coal bed methane), building and construction stone, limestone, dolomite, marble, shale, clay, sand, and gravel.

2.4.2 The *landlord* may authorize a *person* to enter the *property* to prospect for, drill for, or remove the substances referred to in subsection 2.4.1, as long as the activity has no material adverse effect on the *permitted uses*.

3. RENT

3.1 Rent to be Paid

3.1.1 The *tenant* must pay the *landlord* all *rent* due at the time and in the manner set out in this lease. *Rent* must be –

- (a) paid in Canadian dollars;
- (b) made payable to the Receiver General for Canada (or other *person* designated in writing by the *landlord*); and
- (c) paid without any set-off, deduction, or prior demand.

3.2 Base Rent

3.2.1 *Base rent* in the aggregate sum of TWO MILLION (\$2,000,000) Dollars must be paid by the *tenant* as provided for in this section 3.2.

3.2.2 The *tenant* must pay, on account of the *base rent*, the *per villa amount* within 10 days of registration in the *registry* of the first sublease of a *villa*.

3.2.3 Regardless of whether any sublease of a *villa* is registered in the *registry*, the *tenant* is required to have paid, on account of the *base rent*, an amount no less than the amount set forth on a cumulative basis in Column 1 of the table below, on or before the date provided for in the corresponding row in Column 2 of the table below:

Column 1	Column 2
\$ 25,000	April 3, 2012

	\$ 370,500	September 30, 2013
	\$ 642,200	September 30, 2014
	\$ 913,900	September 30, 2015
	\$ 1,185,600	September 30, 2016
	\$ 1,457,300	September 30, 2017
Total:	\$2,000,000	September 30, 2018

For greater certainty, each amount provided for in Column 1 of the table above includes all amounts paid on account of the *base rent*, including all *per villa amounts*, up to the date provided for in the corresponding row in Column 2 of the table above.

3.2.4 As the *landlord* will deposit any *base rent* received to an account for the benefit of the *First Nation*, the *tenant* has no right to a refund of any *base rent* from the *landlord* if this lease ends early.

3.3 HST

3.3.1 The *tenant* must pay to the *landlord*, or the *First Nation*, as the case may be, an amount equal to any and all HST as and when the payment to which the HST applies is made.

3.4 Additional Rent and Additional Fees

3.4.1 The *tenant* must pay any *additional rent* within 30 days after being given written notice of it.

3.4.2 The *tenant* must pay any *additional fees* within 30 days after being given written notice of them.

3.4.3 This section survives the ending of this lease.

3.5 Interest

- 3.5.1** If any *rent* is not paid when due or any *additional fees* are not paid when due, then the *tenant* must pay interest on the amount from the due date until the payment date. Interest is at the then prevailing “bank rate” set by the Bank of Canada, plus 10%. This section survives the ending of this lease.

3.6 Recovery of HST, Additional Rent, and Interest

- 3.6.1** The *landlord* may recover *HST*, *additional rent*, and interest due the *landlord* as if they were unpaid rent. This section survives the ending of this lease.

4. WORKS

4.1 No Construction Allowed Before Approvals and Consent

- 4.1.1** *Works* must not be constructed without first getting the required approvals referred to in section 4.2, the *landlord's* consent to the *development plan* referred to in section 4.3 and the *First Nation's* consent to the *site plan* referred to in section 4.3.

4.2 Approvals Must be Received from Authorities

- 4.2.1** The *tenant* must receive from each appropriate *authority* any required approvals necessary to construct any proposed *works*.

4.3 Process for Landlord's Consent to the Development Plan and for First Nation's Consent to the Site Plan

- 4.3.1** The *tenant* must give a *development plan* for any proposed *works* to the *landlord* (with a copy to the *First Nation*) for the *landlord's* consent.
- 4.3.2** After the *landlord* reviews the *development plan*, the *landlord* must notify the *tenant* (with a copy to the *First Nation*) of any changes that the *landlord* reasonably requires to the *development plan*. The *tenant* must then change the *development plan* and re-submit it to the *landlord* (with a copy to the *First Nation*) for further review under this article. This process may continue until the *landlord* consents.
- 4.3.3** As the *tenant* is not relying on the *landlord's* judgment or expertise when the *landlord* reviews the *development plan*, the *tenant* hereby releases the *landlord* from any liability for reviewing the *development plan*. This subsection survives when this lease ends.

4.3.4 The requirements for, and references to, a *development plan* do not apply if the *land* is no longer in a “reserve” (as that term is defined in the *Indian Act*).

4.3.5 The *tenant* must give a *site plan* for any proposed *works* to the *First Nation* for the *First Nation’s* consent.

4.3.6 After the *First Nation* reviews the *site plan*, the *First Nation* must notify the *tenant* (with a copy to the *landlord*) of any changes that the *First Nation* requires to the *site plan*. The *tenant* must then change the *site plan* and re-submit it to the *First Nation* (with a copy to the *landlord*) for further review under this article. This process may continue until the *First Nation* consents.

4.4 Construction to Comply With Approvals and Consent

4.4.1 Upon receipt of the required approvals, the *landlord’s* consent to the *development plan* and the *First Nation’s* consent to the *site plan*, the *tenant* must promptly construct the *works* in a proper and workmanlike manner in accordance with the *development plan*, the *site plan* and the applicable approvals.

4.5 Construction Insurance

4.5.1 From the *start date* to *substantial completion* of the *works* (and any other time *works* are being constructed) for a *stage*, the *tenant* must obtain and maintain (or cause to be obtained and maintained) the following insurance:

- (a)** “Wrap-up” commercial general liability insurance against claims for bodily injury (including death), personal injury, or property damage arising in connection with the use and occupation of the *property*. The liability limit must be at least \$5,000,000 per occurrence (or any other higher amount that the *landlord* or the *First Nation* reasonably requires before construction begins).
- (b)** Builders risk property insurance to cover “all risks” (including the perils of earthquake, flood, lightning, explosion, wind, hail, civil disobedience, smoke, and sewer backup) of physical damage to, or loss of, the property on the project being constructed (including goods and materials to be incorporated in the project while in storage at the site or in transit to it) in an amount at least equal to its full replacement value plus recurring “soft costs” (meaning those “soft costs” which were incurred at the time of the original construction of *works* and which must be incurred again in order to repair or rebuild the *works*).

4.6 Occupation of the Works

4.6.1 *Works* constructed on the *land* which are capable of occupancy must not be occupied until:

- (a) they have achieved *substantial completion*;
- (b) any permit required for their occupancy has been issued; and
- (c) the *civil works* required to service the *stage* to which such *works* belong have achieved *substantial completion*.

4.7 As-Built Plans and Real Property Reports

4.7.1 On request from the *landlord* or the *First Nation*, the *tenant* must promptly give the requesting party:

- (a) reproducible as-built plans for any completed *civil works*, certified correct by an *engineer*; and
- (b) a real property report, certified correct by a *surveyor*, for any completed *villa* or other building, indicating the boundaries of the lot within which the *villa* or building is situated, the location of the *villa* or building within the lot, together with a notation indicating the number of storeys that such *villa* or building has.

4.8 Alterations and Further Construction

4.8.1 Any changes to, or repair or replacement of, any *works* and any further construction of *works* must comply with this article.

4.8.2 Any *works* changed, repaired, or replaced during the *term* must be to a standard at least substantially equal in quality of material and workmanship to the original materials and work.

4.9 Maintenance

4.9.1 The *tenant* must maintain the *property* in the condition that a prudent owner in occupation would maintain it.

4.10 Ownership of the Works During the Term

4.10.1 Despite any rule of law about the immediate vesting of fixtures to the *landlord*, title to any *works* constructed during the *term* vests with the *tenant*. Despite the *tenant's* title to the *works* during the *term*, *works* must not be removed from the *property*, except for repair, maintenance or replacement purposes, without first getting the written consent of each of the *landlord* and the *First Nation*, which consents may be withheld in their respective discretions.

4.11 Ownership of Personal Goods

4.11.1 The *tenant* may give subtenants or occupants of the *property* the right of property in, or the right to remove, *personal goods*. The *tenant* must fix any damage to the *works* caused by any removal of *personal goods*. If any *personal goods* are not removed when this lease ends, then the *landlord* or the *First Nation* may remove them, the *landlord's* expenses for which are *additional rent* and the *First Nation's* expenses for which are *additional fees*.

4.12 Damage to, or Destruction of, the Works

4.12.1 If any *works* are damaged or destroyed, then –

- (a) the *tenant* must promptly notify the *landlord* and the *First Nation*;
- (b) this lease will not be deemed to have ended;
- (c) the *tenant* is not allowed to surrender possession;
- (d) there will be no reduction or postponement of *rent*; and
- (e) if such *works* are located on a portion of the *land* not subject to a sublease registered in the *registry*, then the *tenant* must repair or replace the *works* within a reasonable time and, to the extent possible, to a standard at least substantially equal in quality of material and workmanship to the original material and work. To the extent that it is not possible to do so, the repair or replacement of the *works* must be with *works* that are reasonably expected to create an overall development of equivalent economic value.

4.13 Security for Construction

4.13.1 Before constructing the *civil works* for any *stage*, the *tenant* will deliver to the *landlord* a performance bond or a letter of credit (or other similar security acceptable

to the *landlord* in writing) in an amount at least equal to 50% of the estimated costs, including all labour and material costs, of the *civil works*.

The security provided under this section will be in forms satisfactory to the *landlord* with sureties, if required, approved by the *landlord*.

5. INSURANCE

5.1 Workers' Compensation Insurance

5.1.1 If the Workers Compensation Act, R.S.B.C. 1996, c. 492, applies to the *tenant*, then the *tenant* must be registered and in good standing with the Board, as that term is used in that Act. The *tenant* must require all of its contractors and subcontractors that are subject to that Act to be registered and in good standing with the Board.

5.1.2 On request from the *landlord* or the *First Nation*, the *tenant* must promptly provide reasonably satisfactory evidence of compliance with this section.

5.2 Commercial General Liability Insurance

5.2.1 At all times during the *term*, the *tenant* must obtain and maintain (or cause to be obtained and maintained) commercial general liability insurance against claims for bodily injury (including death), personal injury, or property damage arising in connection with the use and occupation of the *property*. The liability limit must be at least \$5,000,000 per occurrence (or any other higher amount that the *landlord* or the *First Nation* reasonably requires.)

5.3 Commercial Building Form Property Insurance

5.3.1 From *substantial completion* of the *works* to the end of the *term*, the *tenant* must obtain and maintain (or cause to be obtained and maintained) commercial building form property insurance to cover "all risks" (including the perils of earthquake, flood, lightning, explosion, wind, hail, civil disobedience, smoke, and sewer backup) of physical damage to, or loss of, the *works*, excluding those *works* situated on *land* demised to *subtenants*, in an amount at least equal to their full replacement value.

5.4 Boiler and Machinery Insurance

5.4.1 At all times during the *term*, the *tenant* must obtain and maintain (or cause to be obtained and maintained) insurance to cover loss or damage arising in connection with any boilers, pressure vessels, or other similar machinery on the *property*. The

insurance must be in an amount at least equal to the full replacement value of the *works*.

5.5 Other Insurance

5.5.1 The *tenant* must obtain and maintain (or cause to be obtained and maintained) any other insurance that the *landlord* or the *First Nation* reasonably requires.

5.5.2 Without limiting the generality of subsection 5.5.1, the *tenant* will obtain and maintain (or cause each *subtenant* to obtain and maintain at the expense of the *subtenant*, during the term of the *subtenant*'s sublease), "all risks" (including the perils of earthquake and sewer backup) property insurance upon all *works* located on the *land* demised to the *subtenant* under its sublease, to their full insurable value, calculated on a replacement cost basis against loss or damage. Each such insurance policy will name the *landlord*, the *First Nation*, the *tenant*, the holder of a *mortgage* and the *subtenant*'s mortgagee as loss payees as to their respective interests. The *tenant* will apply, or require the *subtenant* to apply all proceeds of such insurance it is entitled to receive to the replacement or repair of the destroyed or damaged *works*.

5.6 Insurance Provisions

5.6.1 The *tenant* must not use, or allow the use of, the *property* in any way that will cause any required insurance to be cancelled or any insurers generally to refuse to provide any required insurance.

5.6.2 All insurance required under this lease must include the features customarily included in that type of insurance on similar developments in British Columbia by prudent owners and any features that the *landlord* or the *First Nation* reasonably requires. The insurance must not include any non-standard, special, or unusual exclusions or restrictive endorsements without first getting the written consent of each of the *landlord* and the *First Nation*.

5.6.3 Any of the insurance referred to in paragraph 4.5.1(b) and sections 5.3 and 5.4 may allow a deductible amount. The *tenant* is a co-insurer to the extent of that amount and must pay it to the *lender* or the trust company referred to in subsection 5.7.3, as the case may be, as part of the available insurance proceeds referred to in section 5.7.

5.6.4 The insurance required under subsection 4.5.1 and sections 5.2 – 5.5.1 must comply with the following:

- (a)** In the case of property insurance or boiler and machinery insurance, the *landlord* and the *First Nation* must be listed as named insureds.

- (b) In the case of liability insurance, the *landlord* and the *First Nation* must be listed as additional insureds.
- (c) The insurance must be primary, non-contributing with, and not in excess of, any other insurance available to each of the *landlord* and the *First Nation*.
- (d) If the insurance includes a co-insurance provision, then the insurance must be in an amount that prevents the parties from being co-insurers and permits full recovery from the insurer.
- (e) The insurance must include a cross-liability provision and a waiver of subrogation provision in favour of each of the *landlord* and the *First Nation*. If the *tenant* fails to obtain the waiver, then the *tenant* must pay the *landlord* (as *additional rent*) or the *First Nation* (as *additional fees*), as the case may be, all money to which any insurer becomes entitled and any expenses for a legal defence of the subrogation.
- (f) The insurance must include a provision that any release from liability entered into by the *tenant* before any loss will not affect the right of the *landlord* and the *First Nation* to recover.
- (g) The insurance must include a provision (or bear an endorsement) that the insurer will not cancel, refuse to renew, or change the policy to restrict coverage without first giving each of the *landlord* and the *First Nation* 30 days' written notice of its intention.
- (h) The insurance must be in a form and with insurers that are licensed in British Columbia and have a rating by A.M. Best (or its successor or other similar entity) of at least A-,VII (or its equivalent.)

5.7 Proceeds of Property Insurance

5.7.1 The insurance proceeds from the insurance required under paragraph 4.5.1(b) and sections 5.3 and 5.4, must, despite any terms of the policy, be paid to the order of the *lender* first in priority that has entered into the agreement in Schedule B. Subject to section 4.12 [*Damage to, or Destruction of, the Works*], the *lender* must use the insurance proceeds for the repair or replacement of the *works* damaged or destroyed against certificates of the *architect* or *engineer* in charge of the repair or replacement.

5.7.2 If the *works* are not repaired or replaced within a reasonable time after their damage or destruction, then the *landlord* or the *First Nation* may have them repaired or replaced and the *lender* must pay the *landlord* or the *First Nation* (as the case may be)

the insurance proceeds in the same manner as it would have had the *tenant* repaired or replaced the *works*.

- 5.7.3** If there are no *mortgages*, then the *landlord* may appoint a trust company authorized to carry on business in British Columbia to fulfil the *lender's* obligations under this section.

5.8 Cancellation of Insurance

- 5.8.1** The *tenant* must promptly notify each of the *landlord* and the *First Nation* if any insurance is cancelled or is threatened to be cancelled. The *tenant* must promptly fix anything that resulted in the cancellation or threat of cancellation and promptly provide reasonably satisfactory evidence to each of the *landlord* and the *First Nation* that the insurance will not be cancelled or has been renewed.

5.9 Certificates and Policies

- 5.9.1** After an insurance policy required by this lease is issued, the *tenant* must promptly give each of the *landlord* and the *First Nation* certificates showing evidence of the policy. No later than 15 days before the expiry of that policy, the *tenant* must give each of the *landlord* and the *First Nation* certificates showing that the policy has been renewed or replaced.

- 5.9.2** If requested by the *landlord* or the *First Nation*, the *tenant* must promptly give the requesting party a certified copy of any insurance policy required by this lease.

- 5.9.3** If requested by the *landlord* or the *First Nation*, the *tenant* must promptly give the requesting party reasonably satisfactory written evidence from a qualified professional that the insurance then in place meets the requirements of this lease.

5.10 Release from, and Indemnity for, Insured Liabilities

- 5.10.1** The *tenant* hereby releases each of the *landlord* and the *First Nation*, and their respective employees, agents, contractors, and subcontractors, from all liability for any injury, death, loss, or expense in any way because of any of the perils or injury against which insurance is to be obtained and maintained under this lease.

- 5.10.2** To the extent that any required insurance is not obtained or maintained, then, without limiting article 13 [*Indemnity*], the *tenant* hereby indemnifies each of the *landlord*, the *First Nation*, and *Council*, and their respective employees, agents, contractors, and subcontractors, from all liability for any injury, death, loss, or expense in any way because of any of the perils or injury against which the required insurance was to be obtained and maintained.

5.11 Payment of Insurance Premiums

- 5.11.1** If the *tenant* does not pay (or cause to be paid) any insurance premiums when they become due, then –
- (a) the *landlord* may pay them (or get any insurance that the *landlord* wants, in the *landlord's* discretion) and the *landlord's* expenses for this are *additional rent*; or
 - (b) the *First Nation* may pay them (or get any insurance that the *First Nation* wants, in the *First Nation's* discretion) and the *First Nation's* expenses for this are *additional fees*.

6. LAWS

6.1 Compliance, Notification, and Receipts

- 6.1.1** The *tenant* must comply with all *laws* that apply to this lease, the *property*, or any activity on the *property*. The *tenant* must require that any other *person* on the *property* because of the *tenant's* rights under this lease does the same.
- 6.1.2** The *tenant* must promptly give each of the *landlord* and the *First Nation* copies of any notice from an *authority* requiring something to be done, or stop being done, on the *property*. Once it has been resolved to the *authority's* satisfaction, the *tenant* must promptly give each of the *landlord* and the *First Nation* reasonably satisfactory evidence of the resolution.
- 6.1.3** Without limiting subsection 6.1.1, the *tenant* must pay, or cause to be paid, when due (subject to any appeals allowed by the *authority* or by law) all taxes that apply to this lease or the *property*. The *tenant* must promptly give each of the *landlord* and the *First Nation* copies of official receipts (or other reasonably satisfactory evidence) showing payment of these taxes.
- 6.1.4** The *tenant* must pay, or cause to be paid, when due (subject to any appeals allowed by the utility provider or by law) all providers of utilities (including gas, electricity, water, sanitation, cable, and telephone) to the *property*.

6.2 Authorization to Receive Information

- 6.2.1** On a written request from the *landlord* or the *First Nation*, the *tenant* must promptly give the requesting party written authorization to receive information from an *authority* about the *tenant's* compliance with applicable *laws* (including the payment

of applicable taxes). The *tenant* must require that, on written request from the *landlord* or the *First Nation*, any other *person* on the *property* because of the *tenant's* rights under this lease must promptly give the requesting party written authorization to receive information from an *authority* about that *person's* compliance with applicable *laws* (including the payment of applicable taxes).

7. ENVIRONMENT

7.1 Use of Contaminants on the Property

7.1.1 If the *property* is exposed to a *contaminant*, then, upon becoming aware of the exposure, the *tenant* must do the following:

- (a) The *tenant* must promptly give each of the *landlord* and the *First Nation* the same information about the exposure that would be required under the Spill Reporting Regulation, B.C. Reg 263/90, for any similar exposure off-*reserve* or for any exposure to a *contaminant* that is not covered by that Regulation and is –
 - (i) a “dangerous good” under the Transportation of Dangerous Goods Act, 1992, S.C. 1992, c. 34;
 - (ii) a “deleterious substance” under the Fisheries Act, R.S.C. 1985, c. F-14, if the affected area is subject to the authority of that Act; or
 - (iii) a “toxic substance” under the Canadian Environmental Protection Act, 1999, S.C. 1999, c. 33.
- (b) If the exposure originated on the *property* during the *term*, then the *tenant* must promptly –
 - (i) stop, contain, and minimize the effects of the *contaminant*;
 - (ii) remove the *contaminant* from the *property* and anywhere else on the *reserve*, but if the *tenant* reasonably determines that removal of all of the *contaminant* is not reasonably possible, reduce the amount of the *contaminant* on the *property* or anywhere else on the *reserve* to a level that is at or below the more stringent of the *environmental benchmarks*; and
 - (iii) reduce the amount of the *contaminant* outside the *reserve* to a level that is required by the applicable *laws* of that area.

- (c) The *tenant* must promptly give each of the *landlord* and the *First Nation* an independently-prepared report (which must be reasonably satisfactory to each of the *landlord* and the *First Nation*) of the activities under paragraph (b) and the condition of the affected areas after those activities compared with, to the extent reasonably possible, the condition of those areas before exposure to the *contaminant*.

7.1.2 When this lease ends, unless otherwise determined by the *landlord*, the *tenant* must promptly remove all *contaminants* from the *property*, but if the *tenant* reasonably determines that removal of all of a *contaminant* is not reasonably possible, then the *tenant* must promptly reduce the amount of the *contaminant* to a level that is at or below the more stringent of the *environmental benchmarks*. This obligation does not apply to the extent that a *contaminant* is proven to have been on the *property* at the *start date* (though it is the *tenant's* obligation to prove its existence to be able to rely on this exemption).

7.1.3 Despite anything else in this lease or any rule of law to the contrary, any *contaminant* coming on the *property* during the *term* does not, no matter its degree of affixation, become the property of the *landlord* or the *First Nation*.

7.2 Environmental Site Assessment at the End of the Lease

7.2.1 At least 90 days (but no more than 180 days) before the *term* ends, or no later than 60 days after this lease ends early, the *tenant* must –

- (a) ensure that an environmental site assessment is conducted (to the reasonable satisfaction of each of the *landlord* and the *First Nation*) by a *person* approved of in advance by each of the *landlord* and the *First Nation* acting reasonably;
- (b) ensure that a report is prepared assessing the environmental condition of the *property* at that time; and
- (c) give each of the *landlord* and the *First Nation* a copy of the report (the form and content of which must be reasonably acceptable to each of the *landlord* and the *First Nation*).

7.3 Environmental Representation

7.3.1 The *tenant* represents that the *tenant*, all *affiliates*, and their respective directors or senior officers have never been prosecuted for any offences, or received any administrative penalties or orders, under any *laws* that in any way regulate *contaminants* or protect the *environment*.

7.4 Environmental Indemnity

7.4.1 Without limiting subsection 13.1.1 [*the landlord's general indemnity*], on written notice being given by the *landlord*, the *tenant* must promptly pay the *landlord* for any losses or expenses (including legal fees on a solicitor-client basis) of the *landlord* and its employees, agents, contractors, and subcontractors arising in any way because of –

- (a) the exposure of the *property* to *contaminants* during the *term*, except for those *contaminants* on the *property* from the activities or omissions outside the *property* of a *person* other than the *tenant*; or
- (b) the exposure of any other areas to *contaminants* migrating from the *property* in any way because of the activities or omissions during the *term* of the *tenant* or any other *person* on the *property* because of the *tenant's* rights under this lease.

7.4.2 Without limiting subsection 13.1.2 [*the First Nation's general indemnity*], on written notice being given by the *First Nation*, the *tenant* must promptly pay the *First Nation* for any losses or expenses (including legal fees on a solicitor-client basis) of the *First Nation* and its employees, agents, contractors, and subcontractors arising in any way because of –

- (a) the exposure of the *property* to *contaminants* during the *term*, except for those *contaminants* on the *property* from the activities or omissions outside the *property* of a *person* other than the *tenant*; or
- (b) the exposure of any other areas to *contaminants* migrating from the *property* in any way because of the activities or omissions during the *term* of the *tenant* or any other *person* on the *property* because of the *tenant's* rights under this lease.

7.5 General

7.5.1 To the extent that the Environmental Management Act, S.B.C. 2003, c.53, applies to this lease, this article is a private agreement about remediation between the parties.

7.5.2 This article survives the ending of this lease.

8. INSPECTION & ADVERTISING

8.1 Access to Inspect

8.1.1 The *tenant* must provide each of the *landlord* and the *First Nation* with reasonable access to inspect the *property*. This right of access requires reasonable notice to the *tenant*, except in the case of emergency when no notice is required.

8.1.2 If the inspection is in response to a default of this lease, or, in the process of inspecting the *property*, the *landlord* or the *First Nation* discovers or confirms that there is a default of this lease, then –

- (a) the *landlord's* reasonable expenses under this section are *additional rent*; and
- (b) the *First Nation's* reasonable expenses under this section are *additional fees*.

8.2 Access to Advertise

8.2.1 During the last 12 months of the *term* and as long as the *tenant's* use and enjoyment of the *property* is not unreasonably interfered with, the *landlord* or the *First Nation* may –

- (a) display the usual signs on the *property* advertising it for lease; and
- (b) on reasonable notice being given to the *tenant*, allow prospective lessees and their advisors access to the *property* so that they may inspect it and perform any reasonable assessments of it.

9. ASSIGNMENTS, SUBLEASES AND OTHER SUB INTERESTS AND RIGHTS

9.1 General

9.1.1 The *tenant* must not assign, sublease, mortgage, or otherwise dispose of its interest in this lease (or any part of it), except as explicitly permitted in this lease.

9.1.2 If the *tenant* defaults on any of its obligations in a sublease or *mortgage*, then the *landlord* or the *First Nation* may, without obligation, fix the default (or attempt to fix the default). Any of the *landlord's* expenses for this are *additional rent*. Any of the *First Nation's* expenses for this are *additional fees*.

9.2 Assignments

- 9.2.1** Except for an assignment to the *owners association* provided for in subsections 9.2.6 and 9.4.3 of this lease to which the *landlord* and the *First Nation* hereby consent, the *tenant* must not assign this lease without first getting the written consent for the assignment from each of the *landlord* and the *First Nation*.
- 9.2.2** An assignment (other than a *mortgage* by way of assignment, in which case article 10 applies) is invalid unless the proposed assignee enters into a written agreement with the *landlord* and the *First Nation* to be responsible for the *tenant's* obligations under this lease.
- 9.2.3** On an assignment of the lease, the *tenant* (assignor) is not relieved from any of its obligations under this lease unless
- (a) the assignment is to the *owners association* pursuant to subsection 9.2.6, in which case, the *tenant* (assignor) will be relieved of all obligations under this lease from and after the effective date of the assignment, or
 - (b) each of the *landlord* and the *First Nation* agree (in writing) that the *tenant* (assignor) will be relieved from any or all of its obligations owed to the *landlord* and/or the *First Nation*.
- 9.2.4** The *tenant* must ensure that each assignment is submitted to the *registry* in a form that is acceptable to the *registry*.
- 9.2.5** Any reference to an assignment includes –
- (a) if the *tenant* is a corporation, an amalgamation of the *tenant* with another corporation;
 - (b) if the *tenant* is a private corporation, the controlling interest of the corporation changing ownership from the *start date* without the prior written consent of each of the *landlord* and the *First Nation*; and
 - (c) an assignment by operation of law.
- 9.2.6** On or before the seventh anniversary of the *start date*, the *tenant* will assign the lease to the *owners association* and the *owners association* will accept the assignment of the lease from the *tenant* provided that, at the time of the assignment,
- (a) the *tenant* is not then in default of any obligation owing under the lease, whether or not a default notice has been delivered by the *landlord* or the *First*

Nation under article 12;

- (b) there is a minimum of 60 *villas* constructed and ready to be occupied on the *land*; and
- (c) *base rent* is fully paid.

If the aforesaid assignment of the lease has not occurred on or before the seventh anniversary of the *start date* because the *tenant* has not satisfied all of the stipulated conditions in paragraphs 9.2.6(a), (b) and (c), then as soon as reasonably practicable after all conditions are met, the *tenant* will assign the lease to the *owners association* and the *owners association* will accept the assignment of the lease from the *tenant*.

9.2.7 On an assignment pursuant to subsection 9.2.6, the *tenant* will execute, as assignor, the instrument of assignment and deliver the instrument of assignment to the *owners association* for execution. The *owners association* will execute the instrument of assignment and submit it for registration in the *registry*.

9.2.8 If either the *tenant* or the *owners association* refuses, neglects or fails to abide by its obligations pursuant to subsection 9.2.6 and subsection 9.2.7, the *tenant* or the *owners association*, as the case may be, irrevocably appoints any director or officer of the other, or such other substituted party whom such director or officer may appoint, with further power of substitution, as its true and lawful authorized signatory, attorney and agent, with full power and authority in its name, place and stead, to execute, deliver and register the instrument of assignment and to do anything as may be necessary to give effect to the provisions of subsection 9.2.6 and subsection 9.2.7.

9.3 Subleases

9.3.1 The *tenant* may sublet the *property* without the consent of the *landlord* or the *First Nation*.

9.3.2 Each sublease (other than a *mortgage* by way of sublease, in which case article 10 applies) must contain the following provisions:

- (a) An acknowledgement by the subtenant for the benefit of the *landlord* that the subtenant is not relying on the *landlord's* judgment or expertise in the *landlord's* review of the *development plan* and a release by the subtenant of the *landlord* from any liability for that review, which clause must survive when the sublease ends;
- (b) A requirement to put a similar provision as set out in paragraph 9.3.2(a) in any sublease that the subtenant grants; and

- (c) A requirement that the *subtenant* repairs or replaces all damaged or destroyed *works* that are situated on the portion of the *land* demised under the sublease within a reasonable time and, to the extent possible, to a standard at least substantially equal in quality of material and workmanship to the original material and work. To the extent that it is not possible to do so, each sublease will require that the repair or replacement of the *works* by the *subtenant* must be with *works* that are reasonably expected to create an overall development of equivalent economic value.

9.3.3 So long as there is any *base rent* due and owing under this lease:

- (a) the *tenant* must not execute and deliver to a prospective subtenant a sublease of a *villa* unless the *villa* demised under the sublease is expected to achieve *substantial completion* in the normal course within 90 days of the date of execution and delivery thereof; and
- (b) the *tenant* must give notice to the landlord, in accordance with article 15 of this lease, as and when the first sublease of a *villa* has been executed and delivered by the *tenant* to a prospective subtenant.

9.3.4 The *tenant* will require each prospective subtenant to cause the submission of its sublease, in a form acceptable to the *registry*, for registration. The *landlord* is not deemed to have knowledge of any of the terms of any sublease by its submission to the *registry*.

9.4 Protection of *Subtenants* When *Landlord* Entitled to End Lease Early

9.4.1 The provisions of subsections 9.4.2 to 9.4.6 apply if the *tenant* has not assigned the lease to the *owners association* and the *landlord* is entitled to end this lease early under subsection 12.2.1.

9.4.2 If the *landlord* is entitled to end this lease early, the *landlord* will not end this lease early if the following conditions are met:

- (a) one or more subleases of the *property* are registered in the *registry*;
- (b) one owner of each sublease of the *property* is a member of the *owners association*; and
- (c) the *owners association* exists and is in good standing with respect to the filings required by its incorporating statute,

and instead the *landlord* will send a notice to the *tenant* and the *owners association*,

with a copy of the *First Nation*, stating that the provisions of subsections 9.4.3 to 9.4.6 apply.

9.4.3 If the *landlord* sends a notice under subsection 9.4.2, then the *tenant* will, within 30 days of receipt of the notice, assign this lease to the *owners association* effective as of the said 30th day, by executing and delivering an instrument of assignment in registrable form to the *owners association*, and the *owners association* will accept such assignment, by executing the instrument of assignment as the assignee and submitting it to the *registry* for registration.

9.4.4 If the *tenant* refuses, neglects or fails to execute in registrable form and deliver to the *owners association* the instrument of assignment as provided for in subsection 9.4.3, the *tenant* irrevocably appoints any director or officer of the *owners association*, or such other substituted party whom such director or officer may appoint, with further power of substitution, as its true and lawful authorized signatory, attorney and agent, with full power and authority in its name, place and stead, to execute and deliver the instrument of assignment to the *owners association* and to do anything as may be necessary to give effect to the provisions of subsection 9.4.3.

9.4.5 If the *landlord* sends a notice under subsection 9.4.2, the *landlord* will not end the lease but will give to the *owners association* 180 days from the effective date of the assignment under subsection 9.4.3, or such longer period as may be reasonably required by the *owners association* and approved by the *landlord*, to cure all existing defaults under the lease or to satisfy the requirements in paragraphs 9.4.6 (a), (b), (c) and (d).

9.4.6 If within 180 days of the effective date of the assignment of the lease under subsection 9.4.3, or such longer period as may be agreed to by the *landlord*, the *owners association* has:

- (a) given a notice to the *landlord* advising that the *owners association* desires that this lease be amended to apply only to the *cured land*;
- (b) caused a survey of the *cured land* to be registered;
- (c) cured all defaults, if any, in respect of the *cured land*; and
- (d) paid to the *landlord* the *cured land value*;

then the *landlord* and the *owners association* agree :

- (e) that they will modify the lease to reflect the legal description of the *cured land*, as surveyed pursuant to paragraph 9.4.6(b), as the new definition of

land; and

- (f) that the *owners association* will not be responsible for defaults under the lease that predate the assignment under subsection 9.4.3, except defaults in respect of the *cured land*.

9.5 Grants of Sub-Interests and Rights for Access, Servicing and Utilities Purposes

- 9.5.1 The *tenant* may, during the *term*, grant sub-interests and/or rights of the *tenant's* leasehold interest in the *property* required in connection with the installation and maintenance of any service, utility or facility necessary for the *tenant* to service the *property* or in connection with access required by the operator of the golf course adjacent to the *property*, on terms and conditions acceptable to the *tenant* provided that the term of any such sub-interest or right will end prior to the expiration of this lease.

10. MORTGAGES

10.1 Mortgage Consent Requirements

- 10.1.1 Before any *works* are *substantially complete*, the *tenant* may *mortgage* its interest in this lease –

- (a) without the consent of the *landlord* or the *First Nation* if the *mortgage* is –
 - (i) solely to finance or refinance the *tenant's* acquisition of its interest in this lease and the construction of those *works* and any *trade fixtures*; and
 - (ii) with a bank, trust company, or credit union; or
- (b) with the written consent of each of the *landlord* and the *First Nation* if the *mortgage* is for any other purpose or with any other *person*.

- 10.1.2 After the *works* are *substantially complete*, the *tenant* may give a *mortgage* without the consent of the *landlord* or the *First Nation*.

- 10.1.3 Except as provided in a Lender Agreement (substantially in the form in Schedule B) between the *landlord*, *tenant*, *First Nation*, *owners association* and a *lender*, that

lender's mortgage is subject to the rights of the *landlord*, *the owners association* and the *First Nation* under this lease.

10.1.4 A *lender* may enforce its *mortgage* and acquire the *tenant's* interest in the leasehold estate in any lawful way. If the *lender*, by its representative or by a *receiver*, takes possession of the *property*, then the *lender* is responsible for the *tenant's* obligations under this lease until the foreclosure of its *mortgage* is complete and the *lender* assigns this lease to another *person* in accordance with section 9.2 [Assignments]. Notwithstanding the foregoing, a *lender* will not be deemed to have taken possession of the *property* by its entry on the *property* for the primary purpose of curing a default of the *tenant*.

10.1.5 For greater certainty, a subtenant may mortgage its interest in a sublease without the consent of the *landlord*, *the owners association* or the *First Nation*.

10.2 Mortgage Registration

10.2.1 Every *mortgage* must be submitted to the *registry* in a form that is acceptable to the *registry*.

10.3 Rights of a Lender

10.3.1 A *lender* will only obtain rights under this section by entering into an agreement substantially in the form attached as Schedule B.

10.3.2 Any re-entry, termination, acceptance of surrender, disclaimer, or forfeiture of this lease by the *landlord* or any *receiver* is not valid against a *lender* unless the *landlord* has first given the *lender* notice (if the *lender* has provided the *landlord* with an address for notice) of the relevant default. If the *lender* –

- (a) cures the default within 60 days from the date the default notice is delivered;
or
- (b) promptly begins to cure the default and diligently proceeds to cure it if the default is other than a failure to pay *rent* and cannot reasonably be cured within 60 days,

then the *lender* is entitled to become the tenant of the *property* for the balance of the *term* if the *lender* attorns as tenant to the *landlord* and agrees (or has agreed) in writing with the *landlord*, *the owners association* and the *First Nation* to comply with all of the *tenant's* obligations under this lease until it assigns its interest in this lease. If there is more than one *lender*, then the rights under this subsection belong to the *lender* ranking higher in priority who cures the default. If any *lender* has commenced

foreclosure proceedings, then this subsection does not apply and subsection 10.3.3 applies instead.

- 10.3.3** If a *lender* begins foreclosure proceedings against the *tenant*, then the *landlord* must not re-enter the *property* or cancel or forfeit this lease because of a default if the *lender* –
- (a) first gives notice to each of the *landlord*, the *owners association* and the *First Nation* of the foreclosure proceedings;
 - (b) diligently prosecutes the foreclosure proceedings to conclusion without undue delay;
 - (c) cures the default within 60 days from the date the default notice is delivered or, if the default cannot reasonably be cured within 60 days, promptly begins to cure the default and diligently cures it; and
 - (d) complies with all of the *tenant's* obligations under this lease.
- 10.3.4** If a *lender* forecloses the *tenant's* interest in this lease, then the *lender* will have the rights of the *tenant* under this lease as long as it attorns to the *landlord* as tenant and agrees (or has agreed) in writing with the *landlord*, the *owners association* and the *First Nation* to comply with all of the *tenant's* obligations under this lease until it assigns its interest in this lease.
- 10.3.5** If the *landlord* intends to cancel this lease or re-enter the *property* under article 11 [*Bankruptcy and Insolvency*], then the *landlord* must give the *lender* notice and require the *lender* to cure any other defaults of this lease. These other defaults will be considered to be cured if the *lender* –
- (a) begins foreclosure proceedings against the *tenant*, as more particularly set out in subsection 10.3.3;
 - (b) by its representative or a *receiver*, takes possession of the *property*;
 - (c) cures the default within 60 days from the date the default notice is delivered or, if the default cannot reasonably be cured within 60 days, promptly begins to cure the default and continues to diligently do so until it is cured; and
 - (d) attorns to the *landlord* as tenant and agrees (or has agreed) in writing with the *landlord*, the *owners association* and the *First Nation* to comply with all of the *tenant's* obligations under this lease until it assigns its interest in this lease.

- 10.3.6** Any re-entry, cancellation, or forfeiture of this lease as against the *tenant* is valid against the *tenant* even though it is made subject to the rights of the *lender* under this section.
- 10.3.7** Each *lender* is granted access to the *property* for the purpose of curing defaults of this lease under this section. The *tenant* is not relieved from any of its obligations under this lease because of entry on the *property* by a *lender* under this section
- 10.3.8** If there is more than one *lender*, then the *lender's* rights under this section are given to the *lender* ranking higher in priority who wishes to exercise the rights.

11. BANKRUPTCY AND INSOLVENCY

11.1 Events of Bankruptcy or Insolvency

11.1.1 The following are considered to be events of bankruptcy or insolvency:

- (a)** When the *tenant* makes an assignment for the benefit of creditors or otherwise starts proceedings under any bankruptcy or insolvency *laws*.
- (b)** When a *receiver* is appointed, other than by a *lender*.
- (c)** When a court with jurisdiction declares the *tenant* bankrupt or insolvent.
- (d)** If the *tenant* is a company, when proceedings are started to dissolve, liquidate, or wind it up.

11.2 Rights in a Bankruptcy or Insolvency Situation

11.2.1 If an event of bankruptcy or insolvency occurs, then a *receiver* (other than one acting for a *lender*) may –

- (a)** disclaim this lease if there are no subleases; or
- (b)** on the terms of this lease (including the continued payment of *rent*), hold the *property* for no more than six months from the effective date of appointment or until the end of the *term*, whichever comes first.

11.2.2 If the *receiver* holds the *property* under paragraph 11.2.1(b), then it may –

- (a)** if there are no subleases, surrender possession during the period referred to in paragraph 11.2.1(b), at which time this lease will end;

- (b) assign the *tenant's* interest in this lease for the rest of the *term*, as long as the assignment complies with section 9.2 [*Assignments*] and is approved by a court with jurisdiction; or
 - (c) remain as the *tenant* under this lease, cure any defaults, and continue to comply with all of the *tenant's* obligations under this lease.
- 11.2.3** If the *receiver* disclaims this lease under paragraph 11.2.1(a) or surrenders possession of the *property* under paragraph 11.2.2(a), then –
- (a) it is only liable for the period in which it is in possession of the *property*;
 - (b) it must execute a document to that effect in a form that is acceptable to the *registry*; and
 - (c) the *landlord* may re-enter the *property* and cancel this lease or, if this lease has previously been assigned, the *landlord* may either –
 - (i) re-enter the *property* and cancel this lease; or
 - (ii) call on any assignor to reoccupy the *property* for the balance of the *term*, unless there is written agreement between that assignor and the *landlord* to the contrary.
- 11.2.4** For greater certainty, the *receiver's* possession of the *property* so that it may perform its official duties is not considered to be evidence of an intention to retain the *property* or affect the *receiver's* right to disclaim or surrender this lease under this article.

12. DEFAULTS & THE END OF THIS LEASE

12.1 Defaults Affecting the Landlord

- 12.1.1** If the *tenant* defaults on any obligation owed to the *landlord* under this lease, then the *landlord* may give the *tenant* a written default notice and the *tenant* must promptly cure the default.

12.2 Cancellation

- 12.2.1** Subject to sections 9.4, 10.3 and 12.9, by a written cancellation notice given to the *tenant*, the *landlord* may end this lease early if the *tenant* defaults in any obligation and the default –

- (a) is in respect of the payment of *rent* or can reasonably be cured within 60 days after the default notice is given but is not cured within that time; or
- (b) is not in respect of the payment of *rent* and reasonably needs more than 60 days after the default notice is given to be cured but the *tenant* does not begin to cure the default within the 60-day period or the default is not diligently cured.

12.3 Defaults Affecting the First Nation

12.3.1 If the *tenant* defaults on any obligation owed to the *First Nation* under this lease, then the *First Nation* may give the *tenant* a written default notice and the *tenant* must promptly cure the default. If the *tenant* does not promptly cure the default, then it is a dispute that may be resolved under section 14.2 [*Disputes Not Involving Canada*]. For greater certainty, the obligations between the *tenant* and the *First Nation* are personal, contractual rights only and do not run with the land or give either party the right to cancel this lease for breach of any of those obligations, but, if the *First Nation* becomes the lessor under this lease because of the operation of the First Nations Land Management Act, S.C. 1999, c. 24, or any other law, then the *First Nation* has all of the rights of the *landlord*, including the rights of cancellation under section 12.2.

12.4 Curing of Defaults by the Landlord or First Nation

12.4.1 If a default under section 12.1 is not cured within the time allowed by this article, then the *landlord* may cure the default (with unrestricted access to the *property* to do so) and any of the *landlord's* expenses to do so are *additional rent*. If the *landlord* begins to cure the default, then the *landlord* has no obligation to continue to completion. The *landlord* is not liable for any of the *tenant's* losses or expenses (or those of any subtenant or other *person* having rights on the *land* through the *tenant*) because of the *landlord's* curing of (or attempt to cure) the default.

12.4.2 If a default under section 12.3 is not cured within the time allowed by this article, then the *First Nation* may cure the default (with unrestricted access to the *property* to do so) and any of the *First Nation's* expenses to do so are *additional fees*. If the *First Nation* begins to cure the default, then the *First Nation* has no obligation to continue to completion. The *First Nation* is not liable for any of the *tenant's* losses or expenses (or those of any subtenant or other *person* having rights on the *land* through the *tenant*) because of the *First Nation's* curing of (or attempt to cure) the default.

12.5 Property Issues at the End of this Lease

12.5.1 If this lease ends early, then the *tenant's* interest in the *land* ends and the *landlord* will be considered to have re-entered the *land* without any requirement for the

landlord to physically re-enter the *property*, start any legal proceeding, or do anything else.

12.5.2 Whenever this lease ends, title to the *works* vests with the *landlord* for the use and benefit of the *First Nation*, free of all encumbrances, and the *tenant* must promptly surrender the *property* to the *landlord* in the condition it was required to be kept under this lease without any compensation for doing so.

12.6 Amounts Owing at the End of this Lease

12.6.1 Despite this lease ending early, the *tenant* must pay the following:

- (a)** The *tenant* must pay the *landlord* –
 - (i)** all outstanding *rent* to the end of the *term*;
 - (ii)** all of the *landlord's* prospective losses and expenses, including those arising from the *tenant's* failure to carry on business; and
 - (iii)** any other amounts allowed by law.
- (b)** The *tenant* must pay the *First Nation* –
 - (i)** all outstanding *additional fees*;
 - (ii)** all of the *First Nation's* prospective losses and expenses, including those arising from the *tenant's* failure to carry on business; and
 - (iii)** any other amounts allowed by law.

12.7 Survival of Obligations and Access to the Property

12.7.1 The *tenant* is entitled to access the *property* after this lease ends only at the reasonable times and on the reasonable conditions set by either the *landlord* or the *First Nation* and only to be able to perform any of the *tenant's* obligations that survive after this lease ends. The *tenant* is not in possession of the *property* because of any activities for this purpose.

12.7.2 This section survives after this lease ends.

12.8 Remedies are Cumulative

12.8.1 All remedies under this lease or at law may be exercised at the same time and the exercise of one remedy does not preclude the exercise of any other remedy.

12.9 Notice to Owners Association

12.9.1 No notice to the *tenant* provided pursuant to this article 12 [*Defaults and the End of this Lease*] will be valid unless a copy of such notice is provided concurrently to the *owners association*.

12.10 Opportunity for Interested Persons to Cure

12.10.1 Subject to the rights granted to each *lender* to cure defaults pursuant to subsection 10.3.7, the *owners association*, each *subtenant* and *subtenant's lender* is also granted access to the *property* for the purpose of curing defaults of the *tenant* under this lease, provided there are no disputes among those persons as to the actions to be taken by each. The *tenant* is not relieved from any of its obligations under this lease because of entry on the *property* by any such person under this section.

12.10.2 A cure by any persons referred to in subsection 12.10.1 will be deemed to be a cure by the *tenant*.

13. INDEMNITY

13.1 Obligation to Cover Some Losses and Expenses

13.1.1 The *tenant* must promptly pay the *landlord* (on written notice) for any losses or expenses (including legal fees on a solicitor-client basis) of the *landlord* and its employees, agents, contractors, and subcontractors arising in any way because of –

- (a)** the injury, death, loss, or expense of any *person* in any way because of the use of the *property* (however, the *landlord* is not indemnified for the gross negligence or wilful misconduct of the *landlord* or its employees, agents, contractors, and subcontractors, unless it involves a peril against which the *tenant* is obligated to obtain and maintain insurance, in which case the release set out in section 5.10 [*Release from, and Indemnity for, Insured Liabilities*] absolves the *landlord* of all liability for that negligence or misconduct); or
- (b)** the *landlord's* curing of (or attempt to cure) a default of this lease under subsection 12.4.1.

13.1.2 The *tenant* must promptly pay the *First Nation* (on written notice) for any losses or expenses (including legal fees on a solicitor-client basis) of the *First Nation* and its *Council*, members, employees, agents, contractors, and subcontractors arising in any way because of –

- (a) the injury, death, loss, or expense of any *person* in any way because of the use of the *property* (however, the *First Nation* is not indemnified for the gross negligence or wilful misconduct of the *First Nation* or its *Council*, members, employees, agents, contractors, and subcontractors, unless it involves a peril against which the *tenant* is obligated to obtain and maintain insurance, in which case the release set out in section 5.10 [*Release from, and Indemnity for, Insured Liabilities*] absolves the *First Nation* of all liability for that negligence or misconduct); or
- (b) the *First Nation's* curing of (or attempt to cure) a default of this lease under subsection 12.4.2.

13.1.3 This article survives after this lease ends.

14. DISPUTE RESOLUTION

14.1 Disputes Involving Canada

14.1.1 Any dispute under this lease that involves Her Majesty in Right of Canada as *landlord* and is not resolved by negotiation must be resolved by referral, in the first instance, to the Federal Court of Canada (or any replacement or successor court having jurisdiction). Any decision of the court is final and binding on the parties. If the court refuses jurisdiction or does not determine the dispute, then a party may refer the dispute to any other court that has jurisdiction and the parties may exercise any other right or remedy they have under this lease or otherwise.

14.2 Disputes Not Involving Canada

14.2.1 Any dispute under this lease that does not involve Her Majesty in Right of Canada as *landlord* must be resolved as follows:

- (a) Negotiation: The party who wishes a dispute to be resolved must give a dispute notice to the other party. Each party will promptly designate a senior representative who will attempt in good faith to resolve the dispute by negotiation.
- (b) Mediation: If negotiation does not resolve the dispute within 15 business days of delivery of the dispute notice, then either party may give a mediation notice

to the other party. The parties must then promptly appoint a qualified, impartial, and experienced mediator, the cost of which will be paid equally by both parties. If the parties cannot agree on a mediator within 15 business days of delivery of the mediation notice, then the mediator will be appointed by the British Columbia International Commercial Arbitration Centre (or its successor, or a similar body if neither is available). Within 10 business days of appointment of a mediator, each party must provide the mediator and each other with a written statement of its position about the dispute and summary of the arguments supporting its position. The mediator will meet with the parties in his or her sole discretion in an attempt to resolve the dispute. The parties must provide any additional information requested by the mediator. The mediator may hire experts, the cost of which must be paid equally by both parties unless the mediator orders a different division.

- (c) Arbitration: If the dispute is not resolved within 30 business days of the appointment of a mediator, then, on application by any party, the dispute may be referred to a single arbitrator under the Commercial Arbitration Act, R.S.B.C. 1996, c.55. The decision of the arbitrator is final and binding on the parties. The cost of the arbitrator must be paid equally by both parties unless the arbitrator orders a different division.

15. GENERAL PROVISIONS

15.1 Delivery

- 15.1.1 Any notice or other thing to be given from one party to another must be delivered in writing in accordance with this section to the following addresses:

To the *landlord*:

Director, Lands and Economic
Development
Indian and Northern Affairs Canada
600 – 1138 Melville Street
Vancouver, BC V6E 4S3
Fax: (604) 775-7149

To the *First Nation*:

Attention: Chief and Council
Osoyoos Indian Band
RR #3, S-25, C-1
Oliver, BC. V0H 1T0
Fax: (250) 498-4809

To the *tenant*:

CDR GP Inc.
c/o Bellstar Developments Inc.

To the *owners association*:

Canyon Desert Villas Owners Association
c/o Bellstar Developments Inc.

#401, 8989 Macleod Trail SW
Calgary, Alberta
T2S 2Z9
Fax: (403) 255-1181

#401, 8989 Macleod Trail SW
Calgary, Alberta
T2S 2Z9
Fax: (403) 255-1181

- 15.1.2** If there is a postal interruption, or threat of interruption, then deliveries must be given by means other than mail.
- 15.1.3** Any change in contact information will take effect 10 days after the notice is delivered.
- 15.1.4** If the delivery date is disputed, then it is considered to be given as follows:
- (a) If sent by fax, e-mail, or other electronic means before 3:00 p.m. Pacific time on a business day, it is considered to be delivered on the day of transmission.
 - (b) If sent by fax, e-mail, or other electronic means after 3:00 p.m. Pacific time on a business day, or on a day that is not a business day, it is considered to be delivered on the next business day.
 - (c) If sent by regular mail, it is considered to be delivered on the third business day after it is postmarked.

15.2 This Lease is the Entire Agreement Between the Parties

15.2.1 This lease is the entire agreement between the parties about the subject matter of this lease. It supersedes and revokes all previous negotiations, arrangements, letters of intent, and offers to lease.

15.2.2 Any modifications of this lease must be in writing.

15.3 Tenant's Obligations and Representations

15.3.1 This is a triple-net lease.

15.3.2 All of the *tenant's* obligations are conditions as well as covenants.

15.3.3 All of the *tenant's* representations survive after this lease ends.

15.4 Governing Law

15.4.1 This lease is governed by, and is to be interpreted in accordance with, the applicable laws of Canada and British Columbia.

15.5 Time is of the Essence

15.5.1 Time is of the essence.

15.6 Ambiguity & Invalidity

15.6.1 This is not a standard form document. If any part of this lease is ambiguous, then it is not to be presumed to be interpreted in favour of any party.

15.6.2 If any part of this lease is invalid, then the rest of this lease will continue in effect and be interpreted as if this lease had been made without the invalid part.

15.7 This Lease Benefits and Binds Successors

15.7.1 This lease benefits and binds each party's heirs, executors, administrators, successors, assigns, and other legal representatives.

15.8 Waivers

15.8.1 Any waiver of an obligation must be in writing. No waiver is to be inferred from anything done or omitted to be done.

15.9 Not a Joint Venture

15.9.1 The *landlord* and *tenant* have an arms-length relationship of lessor and lessee and do not have any relationship of agency, partnership, joint venture, or other similar association.

15.10 First Nation Authority

15.10.1 The *Council*, on behalf of the *First Nation*, at a duly convened meeting and by a duly executed resolution (a copy of which is in Schedule C) –

(a) consented to the lease terms; and

(b) authorized its signatory to execute this lease on its behalf.

15.11 Tenant Authority

15.11.1 The *tenant* represents the following:

- (a)** The *tenant* is established under the laws of British Columbia with the general partner of the *tenant* incorporated under the laws of British Columbia.
- (b)** The general partner of the *tenant* is in good standing with the British Columbia corporate registry.
- (c)** The *tenant* has the authority under its constating documents to enter into this lease and perform all of its obligations under this lease.
- (d)** The *person* signing this lease on the *tenant's* behalf has the authority to bind the *tenant* to this lease.

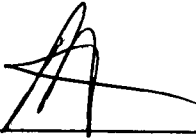
15.12 Owners Association Authority

15.12.1 The *owners association* represents the following:

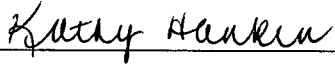
- (a)** The *owners association* is a society established under the laws of British Columbia.
- (b)** The *owners association* is in good standing with the British Columbia corporate registry.
- (c)** The *owners association* has the authority under its constating documents to enter into this lease and perform all of its obligations under this lease.
- (d)** The *person* signing this lease on the *owners association's* behalf has the authority to bind the *owners association* to this lease.

The parties are signing this lease as of the reference date at the top of page one.

HER MAJESTY IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development

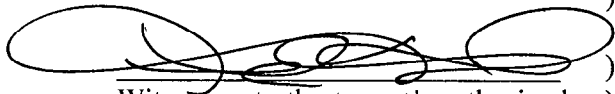


Witness: Patrick Crowther



Name:
Manager, Lands and Economic Development
BC Region

CDR LIMITED PARTNERSHIP as represented by its general partner, **CDR GP INC.**



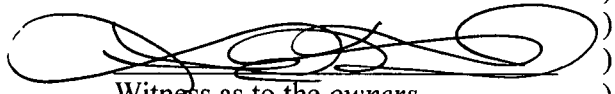
Witness as to the *tenant's* authorized signatory
LINDA FESKO



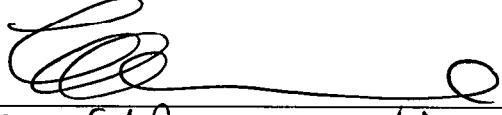
Name: Ed Romanowski
Title: Director

I have the authority to bind the corporation.

CANYON DESERT VILLAS OWNERS ASSOCIATION



Witness as to the *owners association's* authorized signatory
LINDA FESKO

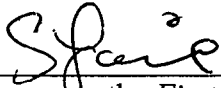


Name: Ed Romanowski
Title: Director

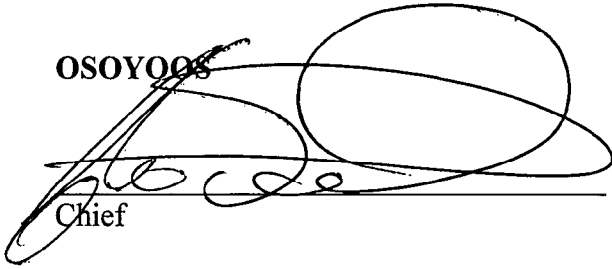
I have the authority to bind the society

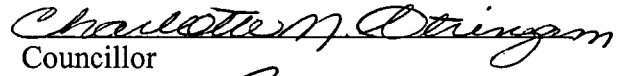
[Signature page to a lease dated April 1, 2012]

EXECUTED on behalf of the *First Nation* pursuant to the consent of a majority of councillors of the *First Nation* at a duly convened meeting of *council*, in the presence of:




Witness as to the *First Nation's* authorized signatories

) **OSOYOOS**
)
)
)
) 
) Chief

) 
) Councillor

) 
) Councillor

Councillor

Councillor

[Signature page to a lease dated April 1, 2012]

SCHEDULE A – DEFINITIONS

“**additional fees**” means any of the *First Nation’s* expenses (and those of the *First Nation’s* agents, contractors, and subcontractors), together with an administration fee of 10% of the expenses, referred to as additional fees under this lease.

“**additional rent**” means any of the *landlord’s* expenses (and those of the *landlord’s* agents, contractors, and subcontractors), together with an administration fee of 10% of the expenses, referred to as additional rent under this lease.

“**affiliate**” has the meaning given to it in the Business Corporations Act, S.B.C. 2002, c.57.

“**architect**” means an individual who is registered or licensed as an architect in British Columbia.

“**authority**” means any government (including any governmental or quasi-governmental authority, commission, or board) having jurisdiction.

“**base rent**” means the aggregate sum provided for in subsection 3.2.1.

“**civil works**” means the *works* for storm, water, sewer or road purposes, as provided for in a *development plan*, required to service the *villas* and other buildings planned for a *stage*.

“**contaminant**” includes –

- (a) a substance regulated under any federal, provincial, or *First Nation laws* that, in whole or in part, regulate waste, pollution, or contaminants, protect the *environment*, or relate to the health or safety of humans; and
- (b) any biological organism (including fungi, mould, and spores) or other irritant in sufficient concentration to negatively affect human health.

“**Council**” means the *First Nation’s* “council of the band”, as that term is defined in the *Indian Act*, or any successor.

“**cured land**” means the following portions of the *property*:

- (a) those portions of the *property* demised under subleases of the *property* registered in the *registry*;

- (b) those portions of the *property* reasonably required for access and utility purposes for the subleased property described in (a) above; and
- (c) those portions of the *property* occupied by amenities which the *owners association* designates for inclusion.

“*cured land value*” means an amount equal to A minus B where:

A = \$428,265 multiplied by the area of the *cured land* expressed in hectares; and

B= the amount of *rent* that has been paid on account of the *base rent*,

provided that if the above calculation results in a negative number, the *cured land value* will be 0.

“*development plan*” includes the complete and detailed conceptual plans, development plans, design briefs, construction specifications, and cost estimates of any *works*, all as prepared by an *architect* or *engineer*, and any other documents that the *landlord* reasonably requires.

“*engineer*” means an individual who is registered or licensed as an engineer in British Columbia.

“*environment*” has the meaning given to it in the Canadian Environmental Protection Act, 1999, S.C. 1999, c.33.

“*environmental benchmarks*” means –

- (a) the level set out in the Canadian Environmental Quality Guidelines (or any replacement guidelines) established by the Canadian Council of Ministers of the Environment, or any successor or replacement body or federal standard, for the more stringent of residential or agricultural uses;
- (b) the level set out in the Contaminated Sites Regulation, B.C. Reg. 375/96 for the more stringent of residential or agricultural uses;
- (c) the level set out in any *laws* of the *First Nation* for the more stringent of residential or agricultural uses; or
- (d) if no level is set out in any of them, a level that is consistent with the ambient level of the *contaminant* in the nearby area.

“First Nation” means the party identified as the “First Nation” on page one of this lease, acting by that party’s authorized representatives.

“HST” means any tax that applies to the payment of any *rent* or the payment of any *additional fees*.

“Indian Act” means the Indian Act, R.S.C. 1985, c. I-5.

“landlord” means the party identified as the “landlord” on page one of this lease, acting by that party’s authorized representatives.

“land” means the lands described as:

Lot 239-1, Plan 100139 CLSR, containing about 4.67 hectares

subject to all pre-existing encumbrances.

“laws” includes –

- (a) legislation, rules, codes, guidelines, and standards; and
- (b) specifications, mitigative measures, and environmental protection measures set out or referred to in any environmental assessment, or any written decision by the *landlord*, about a “project”, as that term is used in the Canadian Environmental Assessment Act, S.C. 1992, c. 37, on the *property*.

“lender” means a lender or mortgagee under a *mortgage*.

“mortgage” means a mortgage (including a debenture, deed of trust, bond, assignment of rents, or any other instrument) of and charging the *tenant’s* leasehold interest in the *property* as security for a debt.

“permitted uses” means the uses set out in subsection 2.1.3.

“person” includes an individual, corporation, partnership, *authority*, and any heirs, executors, administrators, successors, or other legal representatives of any of them.

“personal goods” means goods and chattels of the *tenant*, subtenant or other occupier of any part of the *property* that are not fixtures as determined at common law and, for greater certainty, includes the personal chattels installed during the *term* by or on behalf of the *tenant* or any

subtenant or other occupier of any part of the *property* in, on, or which serve the *property* but do not include *improvements* or any inventory of the *tenant*.

“per villa amount” means \$24,700.

“property” means any or all of the *land* and *works*, excluding *trade fixtures*.

“receiver” means any receiver, interim receiver, receiver-manager, trustee, liquidator, or other custodian of any of the *tenant’s* interest in the *property*.

“registry” means the Surrendered and Designated Lands Register, established under the *Indian Act*, or any successor or replacement registry with registration jurisdiction over the *land*.

“rent” means *base rent* and *additional rent*.

“reserve” means Osoyoos Indian Reserve No. 1.

“site plan” means a detailed site and building plan identifying locations of access, landscaping, paved areas, and buildings and other structures, use(s) of structures, building dimensions (height and width), architectural treatments (entrances, windows, eaves, etc.) with identified colours and building materials to be used.

“stage” means any particular stage of construction on the *land* as is described in an approved *development plan*.

“start date” means the first day of the *term*.

“substantial completion” means the date on which the *landlord* and the *First Nation* are provided with a written opinion by an *architect*, *engineer*, or other qualified professional as may be deemed acceptable by the *landlord*, certifying to them that –

- (a) the *works* for which the certificate is given are ready for occupation for the *permitted uses* in all material respects in accordance with this lease; and
- (b) any work left to be done is capable of being done at a cost of not more than 3% of the first \$500,000, 2% of the next \$500,000, and 1% of the balance of the value of the *works* at the time this cost is calculated.

“subtenant” means the holder of a sublease, registered in the *registry*, of any part of the *land*.

“subtenant’s lender” means a lender or mortgagee under a *subtenant’s mortgage*.

“subtenant’s mortgage” means a mortgage (including a debenture, deed of trust, bond, assignment of rents, or any other instrument) of and charging a *subtenant’s* leasehold interest in the *land* as security for a debt.

“surveyor” means a person registered or licenced as a land surveyor by both the Association of Canada Lands Surveyors and the Association of British Columbia Land Surveyors or their respective successors or replacements.

“tenant” means the party identified as the “tenant” on page one of this lease, acting by that party’s authorized representatives.

“term” means the period of 99 years commencing from April 1, 2012 to and including March 31, 2111.

“villa” means a detached or semi-detached building intended for occupation as a place of residence.

“works” means buildings, structures, and improvements (including hard landscaping, fixtures, and ancillary facilities) and includes *civil works*.

SCHEDULE B – LENDER AGREEMENT

This agreement is made on <Month Day, Year> between –

Her Majesty in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development
(referred to as the *landlord*)

and:

Osoyoos, as represented by the *Council*
(referred to as the *First Nation*)

and:

CDR Limited Partnership, as represented by its general partner, **CDR GP Inc.**
(referred to as the *tenant*)

and:

Canyon Desert Villas Owners Association, a society incorporated under the laws of British Columbia
(referred to as the *owners association*)

and:

<Lender>, a bank under the *Bank Act*, S.C. 1991, c. 46
(referred to as the *lender*).

The *tenant* is in possession of the *land* by a lease dated <Month Day, Year> and registered in the *registry* under No. <#> (the “*lease*”).

The *tenant* mortgaged the *lease* to the *lender* by way of a *mortgage* dated <Month Day, Year> to secure one or more loans and credit facilities up to the aggregate principal amount of \$<#> (the “*mortgage*”).

In consideration of \$1 paid by each party to the others, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Any italicized term used in this agreement but not defined in it is to have the meaning given it in the *lease* as of the date of this agreement.

2. Except as provided in this agreement, the *mortgage* is subject to the rights of the *landlord*, the *owners association* and *First Nation* under the *lease*.
3. The *landlord*, *owners association* and the *First Nation* each hereby consent to the *mortgage*.
4. Without first getting the written consent of the *lender*, which consent must not be unreasonably withheld –
 - (a) except as set out in the *lease*, the *tenant* must not surrender, and the *landlord* must not accept a surrender of, all or any part of the *lease*; and
 - (b) the *landlord*, *owners association*, *First Nation*, and *tenant* must not agree to any modification of the *lease* that materially adversely affects the *lender's* security.

If the *lender* does not provide consent, or notify the *landlord*, *owners association* and the *First Nation* that it will not provide its consent, within 30 days of notification of a proposed surrender or modification, then the *lender* will be deemed to have given consent.

5. Each of the *landlord*, the *owners association*, the *First Nation*, and the *tenant* represents that the *lease* has not been modified from the form that was originally executed and registered, other than by any modification agreement registered in the *registry*.
6. Each of the *landlord*, the *owners association* and the *First Nation* represents that, as of the date of this agreement and to the best of its knowledge (but without any investigation), the *tenant* is not in default under the *lease*.
7. The *lender* has all of the rights and obligations of a “lender” under the *lease* as though section 10.3 [*Rights of a Lender*] of the *lease* formed part of this agreement. Without limitation, if the *lender* (or any *receiver* appointed by it) takes possession of the *property* under its *mortgage*, then the *lender* hereby agrees to attorn as tenant under the *lease* and on the *lease* terms for as long as it remains tenant and has not assigned the balance of the *term*. Notwithstanding the foregoing, a *lender* will not be deemed to have taken possession of the *property* by its entry on the *property* for the primary purpose of curing a default of the *tenant*.
8. If a dispute under the *lease* is referred to court or arbitration under article 14 [*Dispute Resolution*] of the *lease*, then the *tenant* must give the *lender* reasonable notice of the proceedings. If the *lender* reasonably decides that the proceedings may affect its security, then the *lender* must be given a reasonable opportunity to participate in the proceedings.

OPTIONAL: If the *works* will remain at the end of the lease:

9. Any proceeds from the property or boiler and machinery insurance required under the *lease* must be used for the repair or replacement of the *property* damaged or destroyed as set out in the *lease*. Despite any terms of the respective policy, the insurance proceeds must be paid to –
 - (a) the *lender* that has entered into a Lender Agreement first in priority; or
 - (b) at the option of any party, an insurance trustee under an insurance trust agreement to be entered into by the parties and the insurance trustee about the investment and disbursement of the proceeds,and the disbursement of the proceeds are to be paid out against certificates of the *architect* or *engineer* in charge of the repair or restoration as set out in the *lease*.
10. The *lender* is hereby granted access to the *property* for the purpose of curing defaults of the *lease* under this agreement. The *tenant* is not relieved from any of its obligations under the *lease* because of entry on the *property* by a *lender* under this agreement.
11. Unless the *lender* has foreclosed the *tenant's* interest in the *lease* and elected to continue this agreement and be bound as tenant under the *lease*, this agreement ends when –
 - (a) the debt secured by the *mortgage* has been paid in full or ceased to be covered by the *mortgage* and the *lender* has filed a discharge of its *mortgage* in the *registry*; or
 - (b) the *lender* has assigned the balance of the *term* in accordance with the *lease*.
12. The *lender* must promptly file a discharge in the *registry* when the *lease* is no longer subject to the *mortgage*.
13. The *lender* acknowledges that the *landlord* does not have any relationship of agency, partnership, joint venture, or other such association with the *tenant* or the *First Nation*.
14. Deliveries to the *lender* must be to the following address or fax:

<LENDER'S NAME>
<LENDER'S ADDRESS>

Fax: (###) ###-####

- 15. Any change in address or fax will take effect 10 days after the *lender* gives the *landlord, owners association* and *First Nation* written notice of it.
- 16. This agreement benefits and binds each party's heirs, executors, administrators, successors, permitted assigns, and other legal representatives.

The parties are signing this agreement as of the reference date on the top of page one.

HER MAJESTY IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development

 <NAME>
 Manager, Lands and Economic Development
 BC Region

) **OSOYOOS**, as represented by the *Council*
)
)
)
)
)
) _____
) <NAME>
) <TITLE>
)
) I have the authority to bind the *First Nation*.
)

 Witness as to the *First Nation's*
 authorized signatories

 Witness as to the *tenant's* authorized
 signatory

) **CDR LIMITED PARTNERSHIP**, as
) represented by its general partner, **CDR GP**
) **INC.**
)
)
)
) By: _____
)
) Name:
)
) Title:

I have the authority to bind the corporation.

[Signature page to a lender agreement dated <MONTH DAY, YEAR>]

 As to the *lender's* authorized
 signatory

) **<LENDER>**
)
)
) _____
)
) Name:
)
) Title:
)
)
) I have the authority to bind the corporation

 Witness as to the *owners*
association's authorized signatory

) **CANYON DESERT VILLAS OWNERS**
) **ASSOCIATION**
)
)
) _____
) **<NAME>**
) **<TITLE>**
)
) I have the authority to bind the society

[Signature page to a lender agreement dated <MONTH DAY, YEAR>]

SCHEDULE C

**ORIGINAL COPY OF BAND COUNCIL RESOLUTION
(attached hereto)**



Osoyoos Indian Band

McKinney Rd. & 71 AVE RR3 SITE25 COMP1
OLIVER, BRITISH COLUMBIA
PHONE: 250-498-3444 FAX 250-498-6577

BAND COUNCIL RESOLUTION RÉSOLUTION DE CONSEIL DE BANDE

Chronological no. – N° consecutive 2012 - 30
File reference no. – N° de référence du dossier

NOTE: The words "from our band funds" "capital" or "revenue" whichever is the case, must appear in all resolutions requesting expenditures from band funds.
NOTA: Les mots "des fonds de notre bande" "capital" ou "revenue" selon les cas doivent paraître dans tous les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the Le conseil de	Osoyoos Indian Band	Cash free balance		
		Capital account Compte capital	\$ _____	
Date of duly convened meeting Date de l'assemblée dument convoquée	05 04 2012 DD / MM / YYYY JJ / MM / AAAA	Province B.C.	Revenue account Compte revenu	\$ _____

DO HEREBY RESOLVE:
DÉCIDE PAR LES PRESENTES:

SCHEDULE C – BAND COUNCIL RESOLUTION

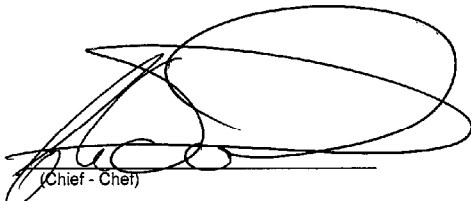
CDR Limited Partnership (the "tenant") wants to lease certain lands in Osoyoos Indian Reserve No. 1.

We have been provided with an unexecuted form of lease (the "lease") to be entered into between Canada, the First Nation, and the tenant.

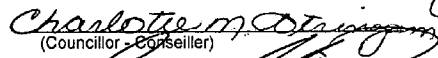
BE IT RESOLVED that the Chief and Council, on behalf of the First Nation –

- A. read and understood the lease terms;
- B. received independent legal advice about the lease and this resolution before signing this resolution;
- C. received financial advice about this lease and acknowledges that, if any portion of the land is, as a result of a default, surrendered by the tenant pursuant to subsection 9.4.6 of the lease, such surrendered portion may have little or no marketable value;
- D. consent to the execution of the lease; and
- E. authorize a quorum of Council to execute the lease on behalf of the First Nation.

Quorum: (3) THREE



(Chief - Chef)

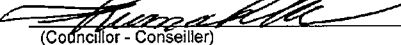


(Councillor - Conseiller)

(Councillor - Conseiller)



(Councillor - Conseiller)



(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY – RÉSERVÉ AU MINISTRE

Expenditure - Depenses	Authority (Indian Act section) – Autorité (Article sur la loi des Indiens)	Source of Funds Sources des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue - Revenue	Expenditure - Depenses	Authority (Indian Act section) – Autorité (Article sur la loi des Indiens)	Source of Funds Sources des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue - Revenue
Recommending officer – Recommandé par			Recommending officer – Recommandé par		
Signature _____		Date _____	Signature _____		Date _____
Approving Officer – Approuvé par			Approving Officer – Approuvé par		
Signature _____		Date _____	Signature _____		Date _____

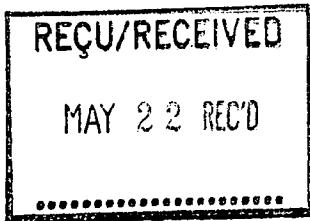
Indian Lands Registry/ Registre des terres indiennes

Registration Control Sheet / Fiche de contrôle des enregistrements

Received / Reçue

Sec 53 and/or 60 Bands

Bandes visées par l'article 53 et/ou 60 _____



Registration No./ No d'enregistrement 6065004

Date: June 7/2012

Time/ Heure: 10:27 (AM) / PM

Pending File No. /

N° du dossier en attente : 6065004

Region /

Région : B.C.

Reserve Name / Nom de la réserve :

Osoyoos 2

Instrument Type /

Type d'instrument : Lease

Purpose/

Objet : _____

Term /

Durée: _____

From /

Du : _____

To /

Au: _____

Retire PIN /
Retirer le NIP

Yes /
Oui

No /
Non

EOT Required:
PDT exigée :

Yes /
Oui

No /
Non

Cancel EOT / PDT annulée: _____

PIN(s) / NIP(s)

Legal Description/Land Affected /
Description légale/Terre affectée

Remarks/Registration Numbers Affected / Observations/Numéros d'enregistrement touchés

Examined By/ Examinée par: [Signature]

Date: June 8/12

Verified By:/ Vérifiée par : _____

Date: _____