



This is the 2nd Affidavit
of Tian Kusumoto in this case
and was made on June 20, 2024

No. S-243389
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE RECEIVERSHIP OF
ECOASIS DEVELOPMENTS LLP AND OTHERS**

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR
MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT
AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD.,
0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS
LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM
CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE
LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF
COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

AFFIDAVIT

I, Tian Kusumoto, of 228 West 5th Avenue, Vancouver, British Columbia, Businessperson,
AFFIRM THAT:

1. I am a director of the Petitioner, Sanovest Holdings Ltd. ("**Sanovest**") and a director of the Respondents that are corporations, as set out in my first Affidavit, made May 22, 2024 (my "**First Affidavit**"). Accordingly, I have personal knowledge of the facts deposed to in this affidavit except where stated to be on information and belief, in which case I believe both the statements and information to be true.

2. I make this affidavit in response to the Affidavit of Daniel Matthews made on June 13, 2024 (the “**Matthews Affidavit**”). Capitalized terms used in this Affidavit and not otherwise defined have the meaning set out in my First Affidavit and/or in the Matthews Affidavit.
3. To the extent that I do not identify and contest any particular statement in the Matthews 2nd Affidavit or the Application, that does not mean that I agree with it.
4. At paragraphs 38-42 of the Matthews Affidavit, he puts forward a two phase plan (the “**Plan**”) to transition various golf club amenities from the Hotel facilities to new facilities at BMAC. This plan is problematic and unrealistic for several reasons.
5. First, the BMAC purchase and sale agreement dated September 9, 2020 (the “**PSA**”) includes a covenant limiting the operation of BMAC to ‘Recreation Use’ that are made available to the public (the “**Covenant**”). Attached and marked as **Exhibit “A”** is a true copy of the PSA.
6. Regardless, the Plan is not realistic. Members of our private golf & tennis club (the “**Club Members**”) expect private, high quality facilities. The proposed plan does not deliver that, and instead represents a significant downgrade on the current facilities. For example:
 - (a) There will be no private lounge for Club Members.
 - (b) Club Members will have to share locker, changeroom and shower facilities with a public recreation center. These facilities are smaller than the existing ones.
 - (c) The pro-shop will be part of the BMAC lobby. The retail space less than a quarter of the existing size, and Club Members will have to check-in alongside members of the public who are attending BMAC’s recreation facilities.
 - (d) Food and beverage services will be limited to those publicly available at BMAC.
 - (e) Golf club storage will be limited.
7. At paragraph 46 of the Matthews Affidavit, Matthews suggests that Sanovest refusing conditions necessary for a replacement lender was inconsistent with a prior practice of 599

and Sanovest guaranteeing construction loans. It isn't. The construction loans 599 and Sanovest have previously guaranteed were very different in nature. They were short-term, backed by security, for a limited and defined purpose, and had a clear 'exit strategy' in terms of end date. Such loans provided significantly less risk to Sanovest. I also made clear to Matthews that we should not obtain further debt for additional projects before determining the financial state of the Partnership. Attached and marked as **Exhibit "B"** to this affidavit is true copy of an email I sent Matthews on August 18, 2021 explaining my position.

8. At paragraphs 51 and 56 of the Matthews Affidavit, Matthews disputes my claim that I don't have access to financial records. To clarify my previous statement, I now have access to some, but not all, financial records. The financial records I do have access to are messy, inaccurate and incomplete. I also have no access to the underlying sources to confirm their contents, except occasionally as relayed to me by Ryan Mogensen. To my knowledge, there has been no controller since April, 2024, which I believe is compounding the problem.
9. In response to paragraph 57 of the Matthews Affidavit, I wish to clarify that I never represented that I learned of the management fees in 2021. Rather, I learned there was no written agreement for Matthew's management fees and there was no basis to assess whether he was performing the services required for those fees. In particular, I wanted a written agreement to add clarity and certainty as to what Matthews would be doing in his management role, including deliverables such as financial statements and written updates to the board.
10. In response to paragraph 68 of the Matthews Affidavit, the documents I have been provided in connection with corporate filings are shareholder resolutions which include a waiver of the appointment of an auditor for financial statements. I have repeatedly advised Mr. Matthews that I will not agree to waive audited financial statements for any of the Partnerships' companies. Attached and marked as **Exhibit "C"** to this affidavit is true copy of an example resolution for one of the companies. It is substantially the same for each.

11. At paragraphs 73-76 of the Matthews Affidavit, he suggests that financial issues have been avoided due to 'stronger than expected revenues' year to date. While revenues may have increased (which I am unable to confirm), I note that golf club revenues are cyclical and always higher in the spring and summer (when people golf) than in the fall and winter. This seasonal uptick is not a solution to the cash flow issues faced by the Partnership and does not provide enough revenue to meet the Partnership's immediate obligations. Vendors will continue to go unpaid and the Partnership will not have the funds to pay its imminent taxes.

12. Attached hereto as **Exhibit "D"** is a true copy of the Assignment of Participation Agreement between Bear Mountain Land Holdings Ltd. and HSBC Bank Canada, dated November 1, 2013.

AFFIRMED BEFORE ME at Vancouver,)
British Columbia, on June 20, 2024)



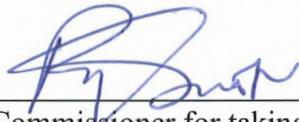
_____)
A Commissioner for taking Affidavits for)
British Columbia)

550 Burrard Street
Suite 2900
Vancouver, BC
604 631 4971.



_____)
TIAN KUSUMOTO

This is **Exhibit "A"** referred to in the affidavit of Tian Kusumoto made before me on this 20th day of June, 2024.



A Commissioner for taking Affidavits in
British Columbia

PURCHASE AND SALE AGREEMENT

SEPTEMBER 9th 2020

THIS AGREEMENT is dated for reference August , 2020. 

BETWEEN:

CITY OF LANGFORD

2nd Floor, 877 Goldstream Avenue, Langford, British Columbia, V9B 2X8

(the "City")

AND:

BEAR MOUNTAIN ADVENTURES LTD.

1900 - 885 West Georgia Street, Vancouver, British Columbia, V6C 3H4

(the "Buyer")

WHEREAS:

- A. The City is the registered owner in fee simple of those lands and premises located at civic address 1997 Country Club Way in Langford, British Columbia, and legally described as:

PID: 025-838-903

Lot 6 Section 82 Highland District Plan VIP76365,

together with all buildings, improvements, structures, fixtures, appurtenances and attachments thereto, whether or not attached thereto and forming part thereof (collectively, the "Lands"); and

- B. Located on the Lands is a recreation centre, including an outdoor pool, hot tub and fitness centre and other facilities and services (collectively, the "Recreation Centre"), generally for public use; and
- C. The Buyer wishes to purchase the Lands from the City, and the City wishes to sell the Lands to the Buyer, upon the terms and conditions herein set forth.

THIS AGREEMENT IS EVIDENCE THAT in consideration of the promises exchanged below and other good and valuable consideration (the receipt and sufficiency of which each party acknowledges), the City and the Buyer agree with each other as follows:

ARTICLE 1 - DEFINITIONS

1.1 **Definitions** – In this Agreement, in addition to the words defined in the recitals to it:

- (a) **"Business Day"** means a day other than a Saturday, Sunday, or statutory holiday in B.C.
- (b) **"Buyer's Solicitors"** means Koffman Kalef LLP.
- (c) **"Chattels"** means the machinery, equipment, furnishings, and fixtures used in connection with the Recreation Centre and the Lands which are owned by the City and are presently located on the Lands, including, without limitation, those items listed in Schedule B;
- (d) **"City's Solicitors"** means Young, Anderson.
- (e) **"Completion Date"** has the meaning given to it in Section 3.8.
- (f) **"Contaminants"** means:
 - (i) as defined in the *Environmental Management Act*, any biomedical waste, contamination, contaminant, effluent, pollution, recyclable material, refuse, hazardous waste or waste;
 - (ii) matter of any kind which is or may be harmful to human safety or health or to the environment; or
 - (iii) matter of any kind the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, release, remediation, mitigation or removal of which is now or is at any time required, prohibited, controlled, regulated or licensed under any Environmental Laws.
- (g) **"Covenant"** means a covenant under Section 219 of the *Land Title Act* in the form attached as Schedule D providing, among other things, that the Lands shall not be used for any purpose except to operate the Recreation Use, as that term is defined in the Covenant.
- (h) **"Deposit"** means a deposit in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00).
- (i) **"Environmental Law"** means any past, present or future common law or principle, enactment, statute, regulation, order, bylaw or permit, and any requirement, standard or guideline of any federal, provincial or local government authority or agency having jurisdiction, relating to the

environment, environmental protection, pollution or public or occupational safety or health.

- (j) "GST" means any tax levied under Part IX of the *Excise Tax Act (Canada)* as the same may be amended or replaced from time to time, including for certainty, goods and services tax.
- (k) "LTO" means the Victoria Land Title Office.
- (l) "Option to Purchase" means an option to purchase granted to the City in the form attached as Schedule E providing that if the Lands are not used as a recreation centre (or such other use as may evolve in the recreation and leisure business as contemplated therein) ready for opening to the public as contemplated by the Covenant, then the City may re-purchase the Lands from the Buyer upon the terms and conditions therein provided.
- (m) "Permitted Encumbrances" means the legal notations and charges on the title search for the Lands attached to this Agreement as Schedule A.
- (n) "Purchase Price" means Three Million Five Hundred Seventy-Five Thousand Dollars (\$3,575,000.00).
- (o) "Transfer" means a transfer in registerable form transferring the estate in fee simple of the Lands to the Buyer.

ARTICLE 2 - PURCHASE AND SALE

2.1 Purchase and Sale – The Buyer will purchase from the City, and the City will sell to the Buyer:

- (a) good and marketable title to the Lands; and
- (b) good and marketable title to the Chattels

free and clear of all registered liens, charges and encumbrances, except for the Permitted Encumbrances, for the Purchase Price, on the terms and conditions of this Agreement.

2.2 Payment of Purchase Price – The Buyer will pay the Purchase Price as follows:

- (a) by payment of the Deposit to the City's Solicitors, in trust, by WIRE TRANSFER within five (5) Business Days of this Agreement being fully executed to be held by the City's Solicitors in a non-interest bearing trust account with a bank, credit union, or other similar financial institution, and the City and the Buyer agreeing that:

- (i) upon completion, the Deposit will be credited on account of the Purchase Price;
 - (ii) the Deposit shall be returned to the Buyer if any one or more of the conditions precedent under Article 5 of this Agreement is not fulfilled or waived within the times provided;
 - (iii) the Deposit shall be retained by the City if the Buyer defaults in its obligation to purchase the Lands under this Agreement and that default is not waived in writing by the City, as a genuine pre-estimate of liquidated damages and the City shall have no further rights or remedies at law or in equity; and
 - (iv) the Deposit shall be returned to the Buyer if the City defaults in its obligation to sell the Lands under this Agreement and that default is not waived in writing by the Buyer, without prejudice to any other remedies the Buyer may have; provided, however, that such remedies against the City shall be limited to a maximum recovery of proven damages not exceeding the amount of the Deposit, exclusive of all interest and costs. In the alternative, the City agrees that the Buyer, at its discretion, will be entitled as a matter of right to apply to a court of competent jurisdiction for relief by way of specific performance or other equitable remedies, as may be appropriate, to ensure the City's compliance with its obligations under this Agreement including its obligation to convey the Lands to the Buyer pursuant to the terms and conditions hereof; and
- (b) by payment to the City on the Completion Date of the balance of the Purchase Price adjusted in accordance with this Agreement.

ARTICLE 3 - TRANSFER

3.1 Title and Possession – On the Completion Date, the City will:

- (a) convey the estate in fee simple of the Lands to the Buyer free and clear of all liens, charges and encumbrances except for the Permitted Encumbrances; and
- (b) give vacant possession of the Lands to the Buyer, subject only to the Permitted Encumbrances.

3.2 Covenant and Option to Purchase – On the Completion Date, the Buyer will grant to the City the Covenant and the Option to Purchase and will cause the Covenant and the Option to Purchase to be registered against title to the Lands with priority over all financial charges and encumbrances, provided that the City covenants and agrees to enter into one tri-party agreement with the Buyer (or any subsequent owner of the

Lands) and a mortgagee of the Lands containing the key terms set out in Schedule G of this Agreement and other terms satisfactory to the City's solicitors, acting reasonably (the "Tri-Party Agreement"). For clarity, nothing in this Section 3.2 obligates the City to be a party to more than one Tri-Party Agreement at any one time.

3.3 Adjustments – All adjustments to the Purchase Price in respect of the Lands, both incoming and outgoing, usually the subject of adjustments between a vendor and a purchaser in connection with the purchase and sale of land, including adjustments of utilities and property taxes, will be made up to and including the Completion Date.

3.4 Closing Documents –

(a) No later than five (5) days before the Completion Date, the Buyer will cause the Buyer's Solicitors to deliver to the City's Solicitors, duly executed by the Buyer and in a form registrable in the LTO, as applicable:

- (i) the Transfer, to be approved and executed by the City;
- (ii) a bill of sale with respect to the Chattels;
- (iii) the Covenant, to be executed by the City;
- (iv) the Option to Purchase, to be executed by the City;
- (v) a vendor's statement of adjustments, to be approved and executed by the City;
- (vi) the declaration in the form attached as Schedule C to this Agreement with respect to the payment of GST;
- (vii) assignment of rights with respect to any liquor and food licences applicable to the Recreation Centre; and
- (viii) such further deeds, acts, things, certificates and assurances as may be requisite in the reasonable opinion of the Buyer's Solicitors for more perfectly and absolutely assigning, transferring, conveying and assuring to and vesting in the Buyer, title to the Lands free and clear of any tenancy, judgement, lien, claim, charge, encumbrance or legal notation other than the Permitted Encumbrances as contemplated herein.

(b) Before the Completion Date, the City will cause the City's Solicitors to deliver to the Buyer's Solicitors the Transfer, the Covenant, the Option to Purchase, the vendor's statement of adjustments, the bill of sale and the assignment of rights with respect to any liquor and food licences applicable to the Recreation Centre together with any other deeds, acts, things, certificates and assurances

as may be requisite in the reasonable opinion of the Buyer's Solicitors as contemplated in Section 3.4(a)(viii) above, each executed on behalf of the City, on undertakings satisfactory to the City's Solicitors and the Buyer's Solicitors, both acting reasonably.

3.5 Completion –

- (a) On or before the Completion Date the Buyer will pay to the Buyer's Solicitors, in trust, the amount payable under Section 2.2(b), adjusted in accordance with this Agreement, and One Hundred Thirty Thousand Dollars (\$130,000.00) on account of reconciliation under the lease agreement for the North Langford Recreation Centre dated for reference April 17, 2015, between the City and Ecoasis Resort and Golf LLP, a company related to the Buyer.
- (b) On the Completion Date, forthwith after the payment of the amount under Section 3.5(a) and after receipt from the City's Solicitors of the documents under Section 3.4(b), the Buyer will cause the Buyer's Solicitors to file in the LTO the following documents in the following order as an "all or nothing" package for registration:
 - (i) the Transfer and associated Property Transfer Tax Return;
 - (ii) the Covenant; and
 - (iii) the Option to Purchase.
- (c) Upon the Buyer's Solicitors obtaining a post-application for registration search of title to Lands that shows that in the normal course of land title office routine the Buyer will be the registered owner in fee simple of the Lands subject only to the Permitted Encumbrances, the Covenant and the Option to Purchase, the Buyer shall cause the Buyer's Solicitors to send to the City's Solicitors by WIRE TRANSFER the amount under Section 3.5(a).
- (d) The requirements of this Section 3.5 are concurrent requirements and this transaction will not be considered to be complete until everything required to be done by this Section 3.5 is done.

3.6 Buyer Financing – Notwithstanding Section 3.5, if the Buyer is relying on a new mortgage (the "Mortgage") to finance the Purchase Price, the Buyer, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price until after the Transfer and Mortgage documents have been lodged for registration in the LTO, but only if, before such lodging, the Buyer has:

- (a) made available for tender to the City's Solicitors that portion of the Purchase Price not secured by the Mortgage;

- (b) fulfilled all of the Mortgage conditions for funding except lodging the Mortgage for registration; and
 - (c) made available to the City's Solicitors an undertaking from the Buyer's Solicitors to pay the Purchase Price to the City's Solicitors upon the lodging of the Transfer and Mortgage documents and the advance by the mortgagee of the Mortgage proceeds in accordance with the Canadian Bar Association (BC Branch – Real Property Section) standard undertakings.
- 3.7 **Risk** – The Lands is at the City's risk until 12:01 a.m. on the Completion Date and at the Buyer's risk thereafter.
- 3.8 **Completion Date** - The completion date shall be November 30, 2020. Notwithstanding the foregoing, it is acknowledged and agreed that the Buyer, at its discretion, may elect to complete the closing of the purchase of the Lands by giving the City not less than ten (10) days' notice thereof, and; in such case, the Completion Date will be that date which is thirty (30) days after the giving of such notice to the City.

ARTICLE 4 - REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS

- 4.1 **Buyer's Representations, Warranties and Covenants** – The Buyer hereby represents and warrants to the City that the following are true, and covenants with the City that the following will be true on the Completion Date:
- (a) the Buyer has taken all necessary or desirable actions, steps and other proceedings to approve or authorize, validly and effectively, the entering into, and the execution, delivery and performance of this Agreement;
 - (b) the Buyer will be registered under the *Excise Tax Act* (Canada) for the purposes of GST prior to the Closing Date;
 - (c) the Buyer is duly incorporated and validly existing under its jurisdiction of incorporation, is in good standing under the legislation governing it, and has made all filings required under such legislation; and
 - (d) the Buyer has the power and capacity to enter into and carry out the transaction provided for in this Agreement.
- 4.2 **Acknowledgments and Agreements of the Buyer** – The Buyer acknowledges and agrees that:
- (a) the City sells and the Buyer purchases the Lands and the Chattels on an "as is" basis and condition;

- (b) the City has not made any representations, warranties, or agreements as to the condition or quality of the Lands, including as to:
- (i) the subsurface nature or condition of the Lands (including soil type, hydrology and geotechnical quality or stability);
 - (ii) the environmental condition of the Lands (including regarding Contaminants in, on, under or migrating to or from the Lands) or regarding the compliance of the Lands, or past or present activities on it, with any Environment Laws; or
 - (iii) the suitability of the Lands for any particular use or development;
- (c) it is the sole responsibility of the Buyer to satisfy itself with respect to the matters referred to in Section 4.2(b) including by conducting any reports, tests, investigations, studies, audits and other enquiries that the Buyer, in its sole discretion, considers prudent;
- (d) the Buyer has not relied, and will not rely, upon any documentation or information regarding the Lands that may have been provided by or on behalf of the City to the Buyer prior to the Buyer's execution of this Agreement or that may be provided following such execution and the Buyer hereby releases the City from any and all liability associated with its use or reliance upon any documentation or information provided at any time to the Buyer by the City or any of its elected and appointed officials, employees, contractors or agents;
- (e) effective from and after the Completion Date, the Buyer assumes and is solely responsible for, and releases the City (and its elected and appointed officials, employees, contractors and agents) from and against, any and all actions, causes of action, liabilities, demands, claims, losses, damages, costs (including remediation costs (as defined in the *Environmental Management Act* (British Columbia)), the costs of complying with any Environmental Laws and any consultant and legal fees, costs and disbursements), expenses, fines and penalties whether occurring, incurred, accrued or caused before, on or after the Completion Date, which the Buyer or any other person has or may have arising out of or in any way related to or in connection with the Lands, including the presence of Contaminants in, on, under or migrating to or from the Lands, and any mandatory or voluntary remediation, mitigation or removal of any Contaminants;
- (f) without limiting the rest of this Section 4.2, for the purpose of allocation of remediation costs pursuant to the *Environmental Management Act* (British Columbia), including and after the Completion Date, the Buyer will be, as between the City and the Buyer, solely responsible for the costs of any mandatory or voluntary remediation of the Lands under that Act and this binds

the Buyer with respect to any allocation of remediation costs, as defined by that Act, by any procedure under that Act; and

- (g) the City has not made any representations, warranties, or agreements with the Buyer as to whether or not any GST is payable by the Buyer in respect of the sale of the Lands to the Buyer.

4.3 Site Profile – The Buyer hereby waives delivery by the City of a site profile under the *Environmental Management Act* (British Columbia).

4.4 City's Representations, Warranties and Covenants –

- (a) The City hereby represents and warrants to the Buyer that, to the best of the City's knowledge, the following are true, and covenants with the Buyer that from the date of this Agreement that the following will be true on the Completion Date:
 - (i) on the Completion Date, the City will not have any indebtedness to any person, business, company, or governmental authority which by operation of law or otherwise then constitutes a lien, charge or encumbrance on the Lands or the Chattels or which could affect the right of the Buyer to own, occupy, and obtain revenue from the Lands and/or the Recreation Centre, except for the Permitted Encumbrances;
 - (ii) there is no claim or litigation pending or, to the actual knowledge of the City (without any investigation), threatened with respect to the City, the Lands, the Recreation Centre, and/or the occupancy or use thereof which could affect the right of the Buyer to own, occupy, and obtain revenue therefrom and/or the ability of the City to perform its obligations under this Agreement;
 - (iii) there are no employees hired or engaged by the City in connection with the Lands and/or the Recreation Centre and there are no collective agreements or proceedings under the British Columbia Labour Relations Code binding the City or its employees which would become an obligation of or be binding upon the Buyer;
 - (iv) all Chattels are fully owned by the City and the City is able to convey free and marketable title thereto to the Buyer on the Completion Date without any encumbrances, liens or other charges relating thereto;
 - (v) there are no contingent liabilities relating to the Lands, the Recreation Centre and/or the business operated therefrom for which the Buyer would be responsible or liable following the Completion Date; and

- (vi) any building on the Lands does not encroach onto any adjoining lands other than Academy Way, and if and when Academy Way is dedicated as public road, the existing Recreation Centre will not encroach into Academy Way or any set back requirements (which shall be a zero setback) that might be required with respect to such dedication.
- (b) The City covenants with the Buyer as follows:
- (i) to terminate (with a termination date effective prior to the Completion Date), at the City's cost, all service contracts which are not assignable to and assumable by the Buyer or that the Buyer does not elect to assume by written notice given to the City prior to the Buyer's Subject Removal Date;
 - (ii) as and from the date hereof, the City or any associated parties to the City will not enter into any offers to lease, leases, licenses or other agreements granting any third party any rights of use and/or occupancy in respect of the Lands and/or the Recreation Centre or any part thereof that will be in effect on and after the Completion Date or bind the Buyer, without the prior written consent of the Buyer, which consent the Buyer may arbitrarily withhold; and
 - (iii) prior to the Completion Date, to proceed with and carry out any variance order necessary to cause the parking facility and parking count for the Recreation Centre to comply with applicable laws and not be a non-confirming use.

4.5 Encroaching Parking Areas and Easements --

- (a) The Buyer acknowledges that certain parking area improvements, including parking stalls, sidewalks, pedestrian pathways, fences and the like, encroach from the Lands and into portions of the adjacent common property of strata corporation VIS6037 and limited common property of Strata Lot 1, Strata Plan VIS6037 and/or are situated on the Lands but require access over and through the said adjacent common strata properties in order to gain access and egress thereto, as such parking areas and improvements are shown within Area A and Area B on the plans attached hereto as Schedule F (collectively, the "**Subject Parking Areas**"), and that such Subject Parking Areas and the use thereof are integral for access to and egress from the Recreation Centre by all persons and vehicles attending or using the Recreation Centre.
- (b) On or before the Completion Date, the City covenants and agrees to use its best efforts to validly and legally register, at the City's cost, easements in the LTO (such easements to be in a form and content satisfactory to the Buyer, acting reasonably) against the adjacent common and limited common strata

properties of the strata corporation for purposes of allowing unrestricted access over and use of the said properties and all improvements therein so as to allow unrestricted use of, access to and egress from the Subject Parking Areas for all persons and vehicles attending or using the Recreation Centre (the "Easements").

- (c) If the City is unable to obtain such Easements on or before the Completion Date, then the City covenants and agrees that within twelve (12) months of the Completion Date it shall, at its sole cost, either (1) validly and legally register the Easements in the LTO; or (2) rebuild and renovate the parking area on the Lands so that it is a single unified parking area without requirement to have use of or access over the adjacent common and limited common strata properties for purposes of access to and egress from the Recreation Centre by all persons and vehicles attending or using the Recreation Centre, and, in particular, the City covenants and agrees at its sole cost to rebuild the parking area on the Lands such that the number of parking stalls within Area A of the Subject Parking Areas as shown on Schedule F attached hereto are entirely located on the Lands, and shall make reasonable efforts to ensure the parking stalls are of the same width and length as currently lined.

4.6 Pre-Closing General Maintenance and Non-Structural Improvements –

- (a) Notwithstanding and in addition to the Buyer's rights under Section 6.4, the City grants to the Buyer, its agents, contractors and employees an unrestricted licence to enter upon the Lands (including the Recreation Centre) from time to time prior to the Completion Date for the purpose of:
- (i) carrying out normal and general maintenance of the Lands including the Recreation Centre and the Chattels such as, by way of example only, lawn maintenance and janitorial services; and
 - (ii) carrying out non-structural alterations and improvements in respect of the Lands including the Recreation Centre and the Chattels such as, by way of example only, painting; and
- in all other respects the City is responsible for all repairs and replacements to the Recreation Centre and any damage or loss caused thereto, save and except if caused by the gross negligence of the Buyer.
- (b) All costs and expenses incurred by or on behalf of the Buyer in connection with such general maintenance services referred to in Section 4.6(a)(i) that fall within a budget pre-approved by the City and which do not exceed Twenty Thousand Dollars (\$20,000.00) in total will be paid for by the City within thirty (30) days of receipt of an invoice therefor.

- (c) All costs and expenses incurred by or on behalf of the Buyer in connection with necessary repair, maintenance and replacement of components of the Recreation Centre that are not under warranty or covered by insurance which do not exceed Thirty Thousand Dollars (\$30,000.00) in total will be paid for by the City, at the City's sole discretion, within thirty (30) days of receipt of an invoice therefor.
- (d) All costs and expenses referred to in Section 4.6(a)(ii) shall be paid for by the Buyer.
- (e) The Buyer agrees to release and indemnify, and hold harmless, the City from and against any and all actions, causes of actions, liability, demands, losses, costs and expenses (including legal fees and disbursements) which the City or any third party may suffer, incur, be subject to or liable for, arising out of or in any way related to or in connection with the exercise by the Buyer of its rights under this Section 4.6, except to the extent, if any, to which such actions, causes of actions, liability, demands, losses, costs and expenses (including legal fees and disbursements) arise from the acts and/or omissions of the City or those for whom the City is responsible at law.
- (f) For the duration of the licence granted under subsection (a) of this Section 4.6, the Buyer shall obtain and maintain a policy of commercial general liability insurance providing coverage for death, bodily injury, property loss and damage and other losses arising out of or in connection with the occupation of the Lands by the Buyer, its agents, contractors and employees in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy of insurance required under this Section shall:
- (i) name the City as an additional insured;
 - (ii) include that the City is protected notwithstanding any act, neglect or misrepresentation by the Buyer which might otherwise result in the avoidance of a claim and that such policies are not affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the insureds;
 - (iii) not be cancelled or materially altered without the insurer providing the City with thirty (30) days' written notice stating when such cancellation or change is to be effective;
 - (iv) be primary and non-contributing with respect to any policies carried by the City and shall provide that any coverage carried by the City is excess coverage;
 - (v) include a cross-liability clause; and

- (vi) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia.

ARTICLE 5 - CONDITIONS PRECEDENT

5.1 Conditions Precedent –

- (a) The completion of the transaction contemplated by this Agreement is subject to fulfilment of the following condition precedent on or before the date that is forty-five (45) days following the date on which this Agreement is fully executed (the "Subject Removal Date"):
 - (i) the Buyer shall be satisfied with the results of the Buyer's due diligence investigations of the Lands.
- (b) This condition precedent is for the benefit of the Buyer and may be waived by the Buyer in its sole discretion. If this condition precedent is not fulfilled or waived within the times provided, this Agreement is at an end and each of the parties shall have no further obligations to nor rights against the other in respect of this Agreement or the transaction contemplated herein.
- (c) In consideration of Ten Dollars (\$10.00) non-refundable paid by the Buyer to the City and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the City, the City agrees not to revoke its acceptance of this Agreement while it remains subject to this condition precedent.

ARTICLE 6 - MISCELLANEOUS

6.1 Fees and Taxes – The Buyer will pay, as and when due and payable:

- (a) any property transfer tax payable under the *Property Transfer Tax Act* (British Columbia) in connection with the sale of the Lands to the Buyer;
- (b) LTO registration fees in connection with the registration of the Transfer, Covenant, Option to Purchase and Mortgage (if applicable);
- (c) its own legal fees and disbursements; and
- (d) any GST payable under the *Excise Tax Act* (Canada) in respect of the sale of the Lands to the Buyer and any other amount payable by the Buyer under this Agreement, with the Buyer and the City agreeing that the Purchase Price does not include GST.

6.2 Preparation of Conveyancing Documents – The Buyer will, at its expense, prepare all necessary conveyancing documentation, including the Transfer.

- 6.3 No Real Estate Agent** – The Buyer represents and warrants to the City that no real estate, or other agent, has assisted the Buyer and that no real estate agent or other agent is entitled to any commission in connection with the purchase and sale of the Lands.
- 6.4 Access** – In addition to the licence described in Section 4.6, the Buyer, its agents and employees have a licence to enter upon the Lands (including the Recreation Centre) from time to time prior to the Completion Date, at the Buyer's sole risk and expense, for the purpose of making inspections, surveys, tests and studies of the Lands including the Recreation Centre and the Chattels. The Buyer agrees to:
- (a) release and indemnify, and hold harmless, the City from and against any and all actions, causes of actions, liability, demands, losses, costs and expenses (including legal fees and disbursements) which the City or any third party may suffer, incur, be subject to or liable for, arising out of or in any way related to or in connection with the exercise by the Buyer of its rights under this Section 6.4; and
 - (b) with respect to carrying out the described purpose, leave the Lands in the same condition as that in which the Buyer found the Lands, including by removing any equipment, refuse or other matter brought onto the Lands by the Buyer or its agents or contractors.
- 6.5 Further Assurances** – The parties will execute and deliver all such further documents, deeds and instruments, and do and perform such other acts, as may be reasonably necessary to give full effect to the intent and meaning of this Agreement.
- 6.6 Notice** – Any notice, direction, demand, approval, certificate or waiver (any of which constitutes a "Notice" under this Section 6.6) which may be or is required to be given under this Agreement will be in writing and be delivered to the applicable address set out above, or sent by email to the City, Attention: Braden Hutchins, Corporate Officer, at 2nd Floor, 877 Goldstream Avenue, Langford, British Columbia, V9B 2X8 (email: bhutchins@landford.ca); and to the Buyer, Attention: Dan Matthews, President and CEO, 2050 Country Club Way, Victoria, British Columbia, V9B 6R3, by registered mail, and a copy to the Buyer's solicitors, Koffman Kalef LLP, Attention: Patrick J. Julian (email: pjj@kkbl.com), or to such other address or email address of which notice has been given as provided in this Section 6.6. Any Notice that is delivered is to be considered given on the day it is delivered, and any Notice sent by email is to be considered given on the day it is sent, except that if, in either case, that day is not a Business Day, the Notice is to be considered given on the next Business Day after it is sent.

- 6.7 No Effect on Powers** – This Agreement does not, and nothing herein will:
- (a) affect or limit the common law or any statute, bylaw or other enactment applying to the Buyer or the Lands; or
 - (b) relieve the Buyer from complying with any common law or any statute, regulation, bylaw or other enactment.
- 6.8 Time of Essence** – Time is of essence in this Agreement.
- 6.9 Interpretation** – In this Agreement:
- (a) all dollar amounts referred to in this Agreement are Canadian dollars;
 - (b) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (c) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (d) the term “**enactment**” has the meaning given to it under the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
 - (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced from time to time, unless otherwise expressly provided;
 - (f) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement and any Schedules to this Agreement form part of this Agreement; and
 - (g) where the word “**including**” is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word “**including**”.
- 6.10 Tender** – Any tender of documents or money to be made upon a party may be made at that party’s address set out in this Agreement or upon their solicitor.
- 6.11 No Other Agreements** – This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other representations, warranties, promises and agreements regarding its subject except as otherwise contemplated herein.
- 6.12 Assignment** – The City and the Buyer agree that the Buyer shall not assign this Agreement to any person without the prior written consent of the City which may be

withheld arbitrarily and without reason, provided that the Buyer may assign its interest in this Agreement without the consent of the City, to Westwood 360 Partners Inc. (or a substituted entity), or to such corporation or limited partnership or other entity as the Buyer shall select, provided that such corporation or the general partner of such limited partnership or other entity so selected by the Buyer shall be controlled by one of more directors or officers of the Buyer or have an ownership interest in the Buyer. Notwithstanding the foregoing, no assignment of this Agreement by the Buyer shall take effect until the condition precedent under Section 5.1 of this Agreement is fulfilled or waived and no assignment of this Agreement shall release the Buyer from its obligations hereunder.

6.13 Schedules – The following are Schedules to this Agreement and form an integral part of this Agreement:

- Schedule A - Permitted Encumbrances
- Schedule B - Chattels
- Schedule C - Buyer's GST Declaration
- Schedule D - Covenant
- Schedule E - Option to Purchase
- Schedule F - Sketch of Subject Parking Areas
- Schedule G - Tri-Party Agreement Key Terms

6.14 Modification – This Agreement may not be modified except by an instrument signed in writing by the parties, except that the Completion Date may be changed by their agreement through their respective solicitors upon instructions to their solicitors as evidenced promptly thereafter in writing by their solicitors.

6.15 Governing Law – This Agreement will be governed by and construed in accordance with the laws of British Columbia and the federal laws of Canada applicable therein.

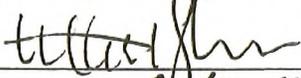
6.16 Non-Merger – None of the provisions of this Agreement will merge in the transfer of the Lands or any other documents delivered on the Completion Date and the provisions of this Agreement will survive the completion of the purchase and sale transaction under this Agreement.

6.17 Counterparts – This Agreement may be executed in multiple counterparts, each of which is deemed to be an original and all of which together constitute one and the same agreement.

As evidence of their agreement to be bound by the above terms and conditions, the parties have executed this Agreement below on the dates set out below.

CITY OF LANGFORD

by its authorized signatories:



Mayor: *Acting Mayor*



Corporate Officer:

*Braden Hutchins, Corporate Officer
A Commissioner for taking Affidavits
within British Columbia
2nd Floor, 877 Goldstream Ave.
Langford BC, V9B 2X8*

Date: SEPT. 9th, 2020

BEAR MOUNTAIN ADVENTURES LTD.

by its authorized signatories:



Name:

DAN MATTHEWS
Name:

Date: SEPT. 9th, 2020

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SCHEDULE A
PERMITTED ENCUMBRANCES

TITLE SEARCH PRINT

File Reference: 149-858
Declared Value \$2100000

2020-03-05, 15:15:03
Requestor: Patti Lockhart

CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN

Land Title District Land Title Office	VICTORIA VICTORIA
Title Number From Title Number	CA4214499 FB389435
Application Received	2015-02-02
Application Entered	2015-02-10
Registered Owner In Fee Simple Registered Owner/Mailing Address:	CITY OF LANGFORD 2ND FLOOR - 877 GOLDSTREAM AVENUE LANGFORD, BC V9B 2X8
Taxation Authority	Langford, City of
Description of Land Parcel Identifier: Legal Description:	025-838-903 LOT 6 SECTION 82 HIGHLAND DISTRICT PLAN VIP76365

Legal Notations

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE ET137876

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE ET38059

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE ET91149

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE ET96734

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE EV48928

TITLE SEARCH PRINT

File Reference: 149-858

Declared Value \$2100000

2020-03-05, 15:15:03

Requestor: Patti Lockhart

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL
GOVERNMENT ACT, SEE EX15196

HERETO IS ANNEXED EASEMENT FA72385 OVER LOT 5 PLAN VIP76365 AS SHOWN
ON PLAN VIP81185

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL
GOVERNMENT ACT, SEE FB183776

Charges, Liens and Interests

Nature:	STATUTORY RIGHT OF WAY
Registration Number:	EV78530
Registration Date and Time:	2003-07-17 14:43
Registered Owner:	DISTRICT OF LANGFORD
Remarks:	INTER ALIA
Nature:	COVENANT
Registration Number:	EW5436
Registration Date and Time:	2004-01-16 09:14
Registered Owner:	CITY OF LANGFORD
Remarks:	INTER ALIA
Nature:	COVENANT
Registration Number:	EW5451
Registration Date and Time:	2004-01-16 09:16
Registered Owner:	CITY OF LANGFORD
Remarks:	INTER ALIA
Nature:	EASEMENT
Registration Number:	FA72456
Registration Date and Time:	2006-06-15 14:31
Remarks:	PART IN PLAN VIP81186; APPURTENANT TO THE COMMON PROPERTY OF STRATA PLAN VIS6037

Duplicate Indefeasible Title NONE OUTSTANDING

Transfers NONE

Pending Applications NONE

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SCHEDULE B

CHATELS

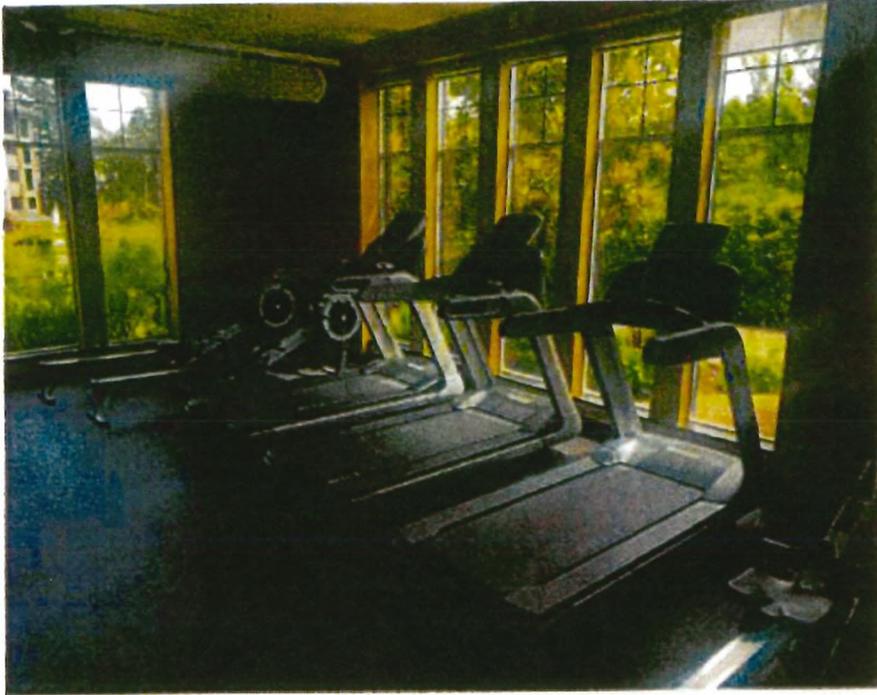
Bottom Floor Fitness Room			
Category	Items	Quantity	Serial Number
On The Walls			
	Posters/ Frames	8	
	Paintings	4	
	Hook Rows	3	
	Clock	1	
	Television	2	
	Large Mirrors	8	
	Door Signs	8	
	TV Holder	1	
Fixed Weight Dumbbell			
	2 lbs weights	2	
	3 lbs weights	4	
	5 lbs weights	8	
	8 lbs weights	12	
	10 lbs weights	10	
	12 lbs weights	7	
	15 lbs weights	8	
	20 lbs weights	3	
	25 lbs weights	2	
	30 lbs weights	2	
	35 lbs weights	4	
	45 lbs weights	2	
	50 lbs weights	1	
	55 lbs weights	2	
	Black Small Weight Rack	1	
	Silver Large Weight Rack	2	
Kettlebell Weight			

14 lbs weights	1
18 lbs weights	1
12 kg weights	1
16 kg weights	2
20 kg weights	2
24 kg weights	2
Standard Plate Weights	
2.5 lbs weights	6
5 lbs weights	8
10 lbs weights	5
25 lbs weights	6
35 lbs weights	6
45 lbs weights	6
5 kg weights	6
10 kg weights	6
16 kg weights	4
25 kg weights	4
Silver Plate Rack	2
Medicine Ball Weights and Fitness Balls	
Soft 18 lbs Medicine Balls	11
Pink Small Yoga Balls	2
Yoga Half Dome Balance Trainer	1
Medicine Ball Stand	2
Medicine Balls	10
Bars and Ropes	
Silver Squat Bar	1
Straight Silver Olympic Bar	4
Olympic Bar Holder	1
Suspension Trainer	1
Gymnastic Rings	2

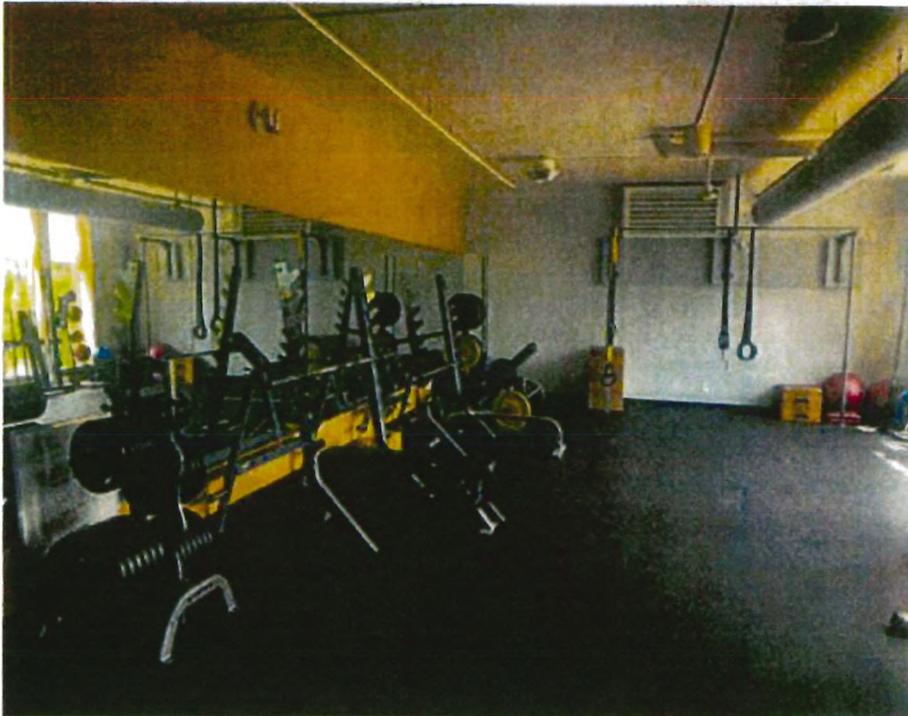
Lightweight Bar Holder	1	
Plastic Silver Tubes	5	
Large Black Plastic Tubes	1	
9 lbs Black Bars	7	
10 lbs Black Bars	2	
Barbell Curve Bending Bar	1	
Large Machines		
Body Solid Adjustable Bench	1	# 008388-01-04-100A-041B
Paramount Fitness Adjustable Bench	1	#PPW-82 0503050
Built-in TRX Machine		
T Bar Row Landmine Olympic Barbell		
Stable Power Squat Stand	2	#2009081601120 #2009081601125
Seat Leg Press	1	#XL03 0506020
Precor Back Extension Bench	1	#BB07F03180006
Paramount Functional PFT-200 Trainer	1	#PFT-22 0503018
Kaiser Spin Bikes	2	#190424-09780 #190424-09778
Aloyd Concept 2 Rower	3	
Precor Treadmill	3	#AE28A2919D093 #AAPCK0718D009 #AGNBB08180048
Adjustable Abs Bench	1	#2015122010177
Medium Equipment		
Plyo Boxes	5	
Black Oval Balancing Board		
Yoga Foam Mats	6	
Step Platforms	2	
Square Pink Platform Holders	22	
Climbing Rope	1	
Small Rectangular White Board	1	

Small Equipment	
Resistance Bands	12
Hook	3
Foam Roller	1
Abs Wheel Roller	1
Jump Ropes	5
Yoga Mats	4
Plastic Box full of clips and straps	1
Plastic Box full of Bands for RFT-200 Trainer	1
Other Equipment	
Garbage Cans	1
Plastic Box	1
Paper Towel Dispenser	1
Table Stand	1
Stereo System	1

Bottom Floor Fitness Center



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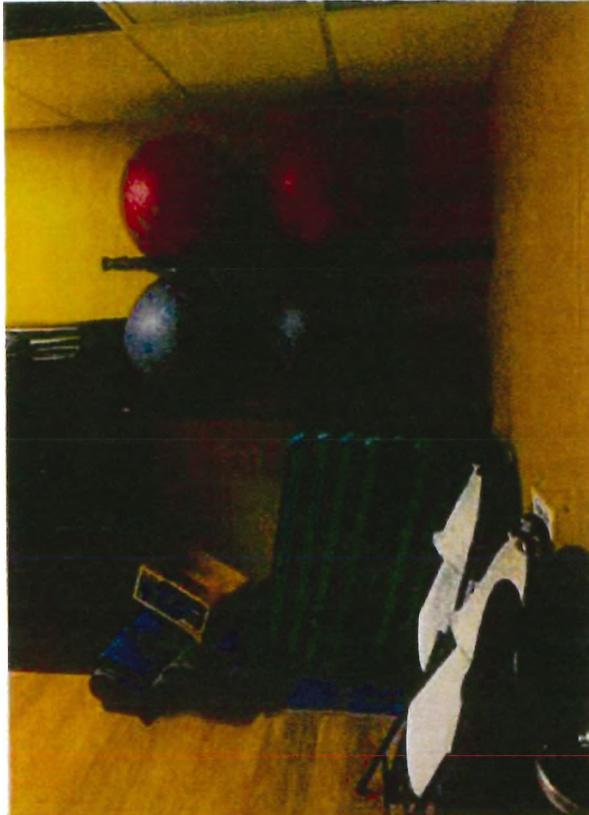
Studio/Dance Fitness Room			
Category	Items	Quantity	Serial Number
On The Walls			
	Small White Board	1	
	Large Mirrors	11	
	Clock	1	
	Speakers	2	
	Door Signs	1	
Other Equipment			
	Side Table	2	
	Trash Can	2	
	Stereo System	1	
	Water Fountain	2	
Fitness Equipment			
	Jumping Rope	1	
	Yoga Foam Mats	2	
	Foam Roller	1	
	Yoga Mat	1	
	Mini Foam Mats	15	

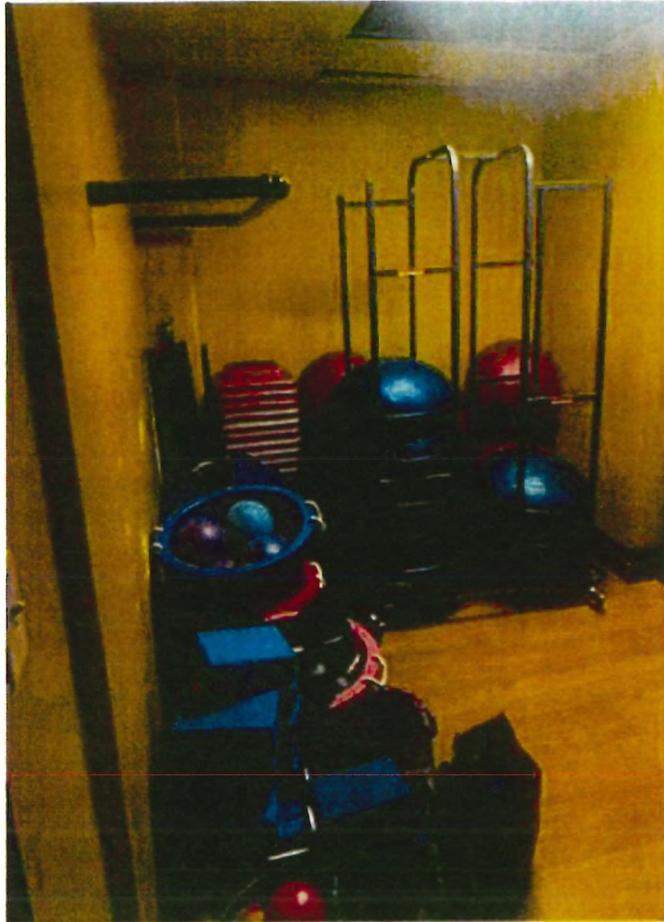
Studio/Dance Fitness Room



Extra Equipment Room			
Category	Items	Quantity	Serial Number
Office Equipment			
	Fold-Up Chairs	8	
	Cardboard Box filled with Miscellaneous Items	2	
	Wall Shelf Organizer	3	
	Drawer Cabinet filled with shirts, boxes and papers	2	
	Plug In Fan	1	
	Athletic Equipment Cleaner Pack	3	
	Blue Sac with CPR Doll	1	
	Door Sign	1	
Gym Equipment			
	Yoga Balls	11	
	Yoga Mats	8	
	Foam Yoga Mats	2	
	Step Platforms	8	
	Square Pink Platform Holders	21	
	Plastic Box of weights	1	
	Plastic Box of Jump Ropes and Balls	1	
	Plastic Box of Blue Foam Blocks	1	
	Blue Foam Blocks	1	
	Black Bag full of Blue/ White Ropes	1	
	Purple pull-up Sacs	1	
	Red Bin full of Boxing Gloves and equipment	1	
	Red Bin	2	
	Blue Bin full of Rubber Balls	1	
	Blue Sac full of Boxing gloves and equipment	1	
	Lightweight Bars	6	
	Yoga Half Dome Balance Trainer	10	
	Yoga Ball Stand Holder	1	

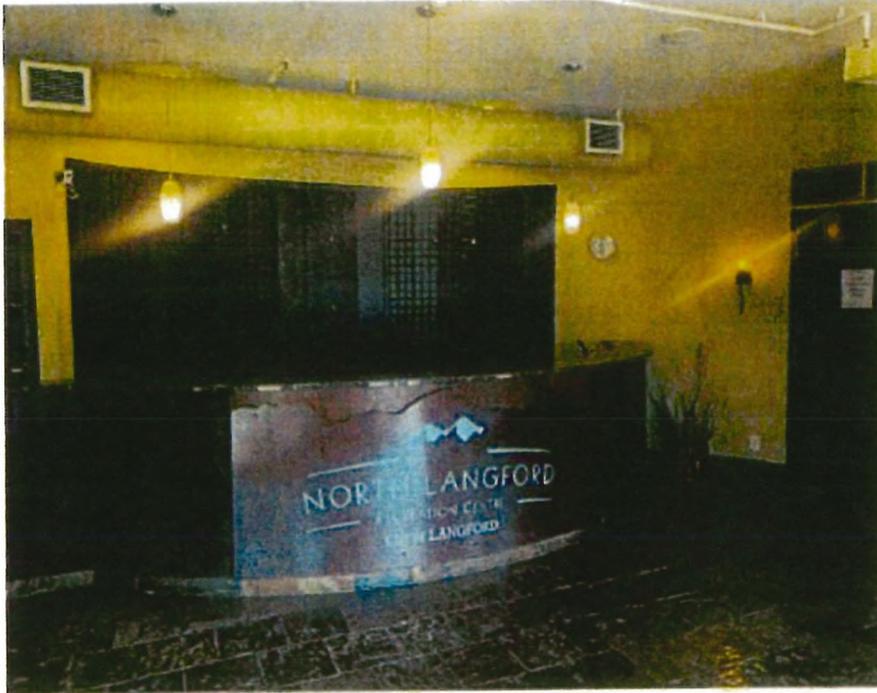
Extra Equipment Room





Front Entrance			
Category	Items	Quantity	Serial Number
On The Walls			
	Clock	1	
	Curains	4	
	Curtain Holder	1	
	Door Signs	5	
	Bulletin Board	1	
	Wall Letters	16	
	Wall Key Holder Shelf	1	
Decor			
	Plant Pots	7	
	Basket	1	
Furniture			
	Seating Chairs	4	
	Office Chairs	2	
	Table	2	
	Wall Cabinet	2	
	Wood Storage Cabinets	2	
Other			
	Floor Mats	2	
	Garbage Cans	2	
	PA System	1	

Front Entrance

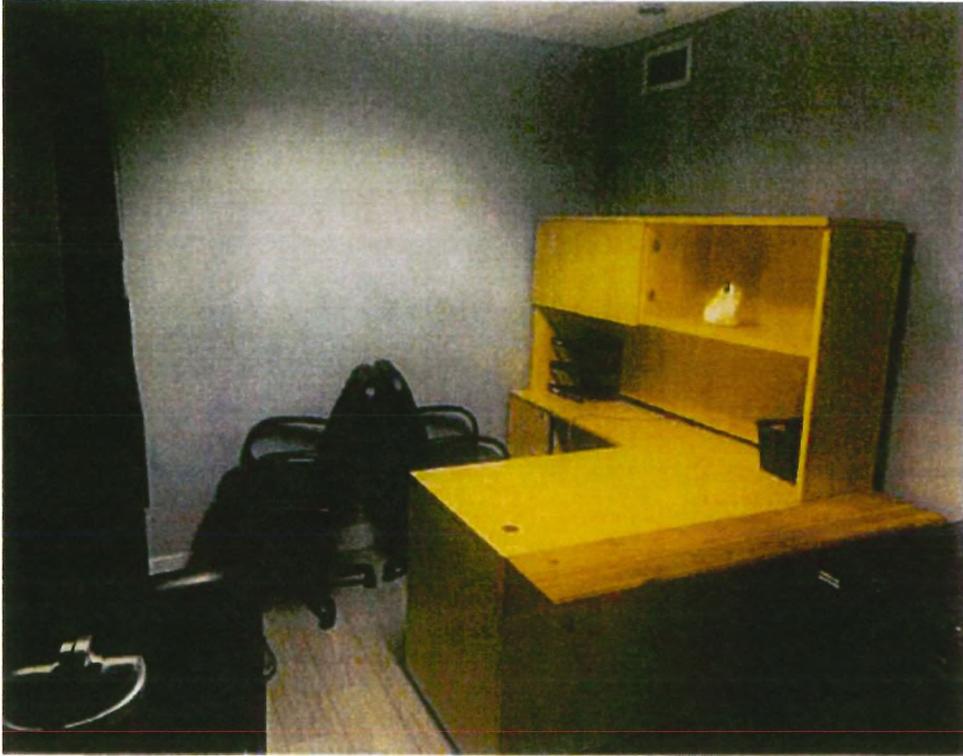


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Administration Office			
Category	Items	Quantity	Serial Number
Furniture	Black Cabinet	1	
	Black Filing Cabinet	1	
	Built-in Wood Desk	1	
	Desk Organizers	2	
	Office Chairs	3	
	Garbage	1	

Administration Office



Stairway and Upstairs Hallway

Category	Items	Quantity	Serial Number
On The Wall	Paintings	7	
	Wall Tiles	28	
	Elevator Exit Frame	1	
	Bulletin Board	1	
	Signs	8	
	Decorative Wall Art	1	
Furniture/Other	Side Table	1	
	Plant/Pots	5	
	Weight / Height Scale	1	
	Calculator	1	

Stairway and Upstairs Hallway



Upstairs Cross Fit Gym				
Category	Items	Quantity	Serial Number	
On The Walls	Signs	2		
	Paper Towel Dispenser	1		
	Mirror	2		
	Fire Extinguisher	1		
	Clock	1		
	Hook Racks	1		
Large Machines	Precor Treadmill	1	#AAPCC2519D065	
	EPX Precor Elliptical Machine	2	#ANGFK0718D009 #ANGFK0718D007	
	Precor Climber Machine	2	#A595J2918Q016 #A595J2918Q013	
	Kaiser Cycling Bike	1	#190424-08788	
	Precor Recumbent Sitting Bike	2	#A596K0818Q024 #A596K1718Q013	
	Paramount Abdominal Machine	1	#XL14 0508008	
	Paramount Seated Row Machine	1	#XL12 0505027	
	Paramount Biceps Curl Machine	1	#XL06 0508012	
	Paramount Shoulder Press Machine	1	#XL07 0508004	
	Paramount Triceps Pushdown Machine	1	#XL15 0505010	
	Paramount Inner/Outer Thighs Machine	1	#XL04 0507016	
	Paramount Lat Pulldown Machine	1	#XL11 0507013	
	Paramount Seated Leg Curl	1	#XL02 0506008	
	Paramount Leg Extension Machine	1	#XL01 0508011	
	Paramount Seated Chest Press Machine	1	#XL09 0507002	

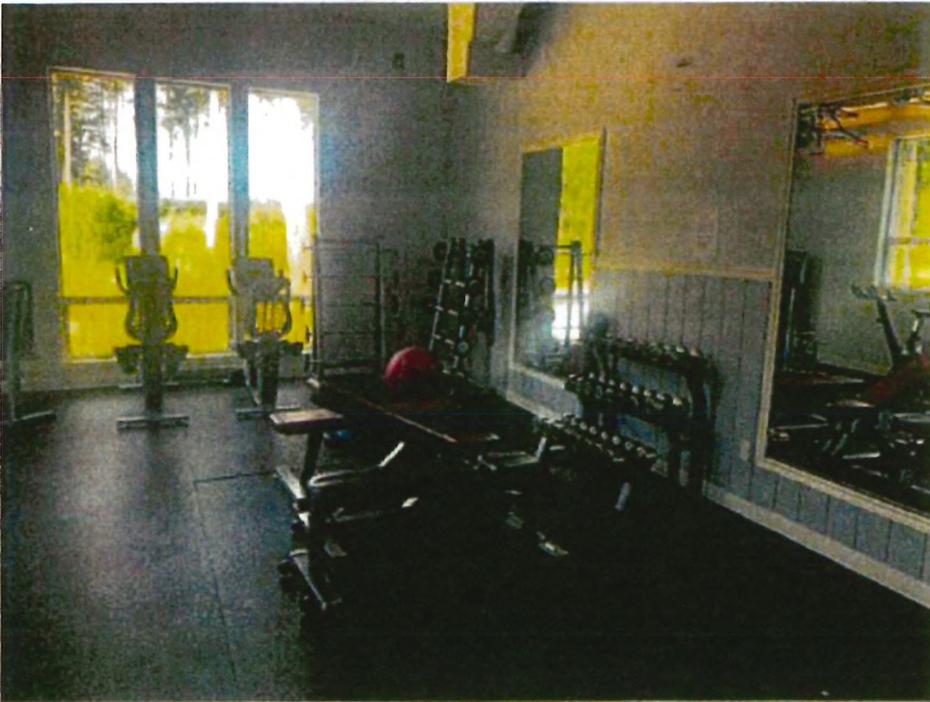
Paramount Pec Fly Rear	1, #XL10 0807002
Medicine Ball Weights and Fitness Balls	
Yoga Half Dome Balance Trainer	1
Pink Small Yoga Ball	1
Bars and Ropes	
16 lbs Dumbbell Bar	1
20 lbs Dumbbell Bar	1
25 lbs Dumbbell Bar	1
30 lbs Dumbbell Bar	1
36 lbs Dumbbell Bar	1
40 lbs Dumbbell Bar	1
45 lbs Dumbbell Bar	1
50 lbs Dumbbell Bar	1
55 lbs Dumbbell Bar	1
60 lbs Dumbbell Bar	1
Silver Dumbbell Bar Stand	2
Medium Equipment	
Apex Flat Bench	1
Apex Adjustable Bench	1
Lamar Fitness Adjustable Bench	1
Foam Yoga Mats	4
Small Equipment	
Resistance Bands	5
Foam Roller	2
Fixed Weight Dumbbell	
2.5 lbs weights	2
5 lbs weights	2
7.5 lbs weights	2
10 lbs weights	2
12.5 lbs weights	2

15 lbs weights	2
17.5 lbs weights	2
20 lbs weights	2
22.5 lbs weights	2
25 lbs weights	2
27.5 lbs weights	2
30 lbs weights	2
Silver Weight Rack	1
Other	
Fan	1
Trash Can	1

Upstairs Cross Fit Gym



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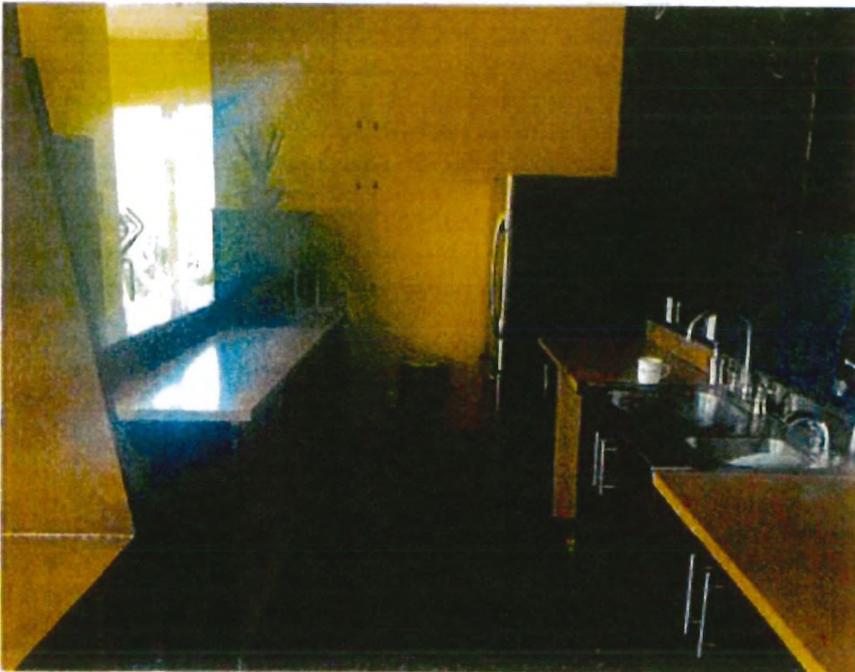


Juice Bar			
Category	Items	Quantity	Serial Number
Kitchen Supplies			
	Glasses	7	
	Mugs	52	
	Soap Dispenser	2	
	Plates	40	
	Bowls	17	
	Bowl Stand Holder	1	
	Knives	32	
	Cutting Board	1	
	Blender	2	
	Spatula's	3	
	Measuring Cups	1	
	Thermo Temperature reader	1	
	Can Opener	1	
Appliances			
	Microwave	1	
	Fridge	1	
	Stereo and TV systems	1	
	Organizer Rack	2	
	Drawer Organizer	3	
Decor			
	Plant/Pot	1	
	Vases	3	
Other			
	Paper Towel	1	
	Trash Can	1	
	Paper Towel Dispenser	1	
	Box	1	

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Extension Cords	3
Cleaning Supplies	1 Set
Zip Ties	10
Receipt Paper Rolls	1
Black Plastic Holders	3

Juice Bar



Upstairs Fitness Room				
Category	Items	Quantity	Serial Number	
On The Wall	Hook rows	2		
	Signs	8		
	Clock	1		
	Water Fountain	2		
	Paper Towel Dispenser	1		
	Garbage Can	1		
	Television	2		
	Mirrors	14		
	Large Machines	Paramount Rotary Chest	1	#AP-12A 0507004
Paramount Biceps Curl		1	#AP-23A 0503010	
Paramount Rotary Lat Pulldown		1	#AP-15A 0507009	
Paramount Leg Extension		1	#AP-20A 0503001	
Paramount Leg Curl		1	#FS811701001	
Precor Recumbent Sitting Bike			3	#AKCEJ16180003
				#AKCEJ16180004
				#AKCEJ16180011
Kaiser Spin Cycle Bike		1	#190424-09778	
Octane Fitness Max Trainer		1	#B1809RAC2980-01	
Apex Abs Machine		1	#RBI 2205	
Plated Workbench Leg Press		1		
Paramount Total Shoulder Press		1	#FWB2 0502008	
Precor FTS Glide		1	#ANCDJ30160004	
Precor Elliptical			2	#AJYWE22170011
				#AJYWJ09170020
Precor Recumbent Sitting Bike		1	#AXHGJ05170005	
Paramount Abdominal	1	#AP-32 0412 009		

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Paramount Rotary Upper Back	1	#AP-43A 0507005
Precor Pulldown 304	1	#BWEDH06180001
Paramount Pao Fly/ Rear Delt	1	#AP-34 0412 008
Precor Olympic Flat Bench	1	#BB08H01180004
Apex Red Adjustable Bench	2	
Adjustable Arm Curl Bench	1	
Flat Black Bench	1	
Adjustable Black Bench	2	
Precor Treadmill	4	#AXLAH01170014
		#AXLAE08170009
		#AXLAJ05170094
		#AXLAH01170013
Adjustable Weighted Pull Up Bar Machine	1	#AP-40 0806004
Olympic Power Rack	1	#BB13F1919003
Apex Power Squat Rack	1	
Small Equipment		
Fitness Equipment Stand	1	
Assortment of Cable Fitness Attachments	1	
Resistance Bands	3	
Abs Rollers	2	
Small Red Mat	1	
Abs Hand Roller	2	
Red Balancing Board	1	
Silver Clips to Hold Plates	6	
Plastic Box filled with foam, bands, and clips	1	
Medium Equipment		
Foam Yoga Mats	3	
Step Platforms	1	
Square Pink Platform Holders	9	
Standard Plate Weights		
2.5 lbs weights	2	

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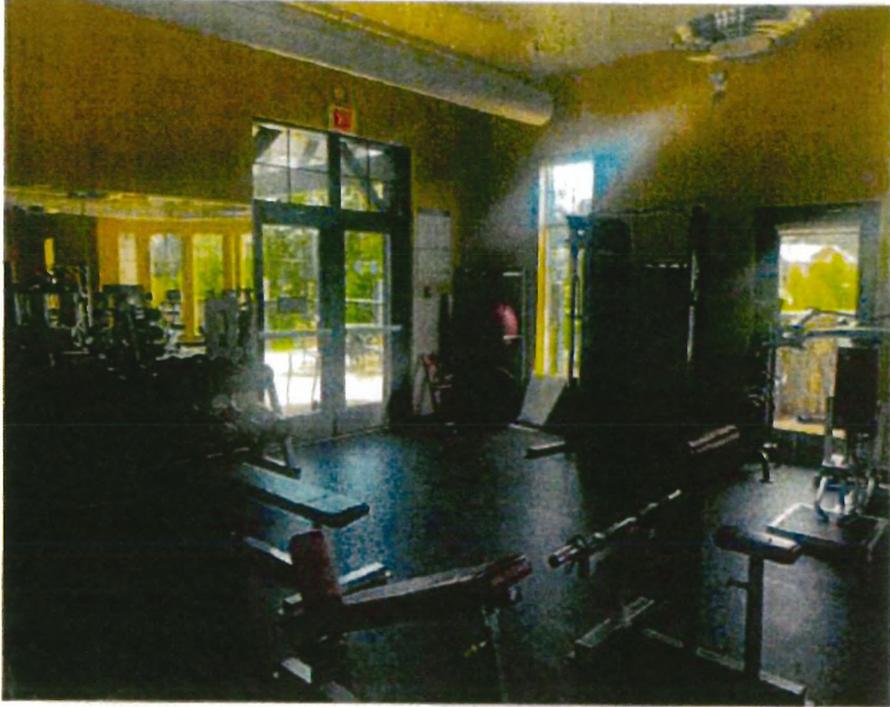
5 lbs weights	8
10 lbs weights	12
35 lbs weights	6
25 lbs weights	12
35 lbs weights	5
45 lbs weights	17
Silver Plate Stand	1
Fixed Weight Dumbbell	
10 lbs weights	4
12 lbs weights	2
15 lbs weights	2
20 lbs weights	2
25 lbs weights	2
30 lbs weights	2
35 lbs weights	2
40 lbs weights	2
45 lbs weights	2
50 lbs weights	2
55 lbs weights	2
60 lbs weights	2
65 lbs weights	2
70 lbs weights	2
75 lbs weights	2
80 lbs weights	2
85 lbs weights	2
90 lbs weights	2
100 lbs weights	2
110 lbs weights	2
115 lbs weights	2
Apex Large Weight Rack	2

Bars and Ropes	
20 lbs dumbbell bar	1
30 lbs dumbbell bar	1
40 lbs dumbbell bar	1
50 lbs dumbbell bar	1
60 lbs dumbbell bar	1
70 lbs dumbbell bar	1
80 lbs dumbbell bar	1
90 lbs dumbbell bar	1
100 lbs dumbbell bar	1
110 lbs Dumbbell Bar	1
Silver dumbbell bar stand	1
9 lbs bars	3
Grey pipe	1
Silver Olympic Bar	3
Curved Silver Olympic Bar	1
Triceps Bar	1
Medicine Ball Weights and Fitness Balls	
Medicine Balls	5
Medicine Ball Stand	1
Yoga Half Dome Balance Trainer	1
Pink Small Yoga Balls	2
Silver Yoga Ball Stand	1

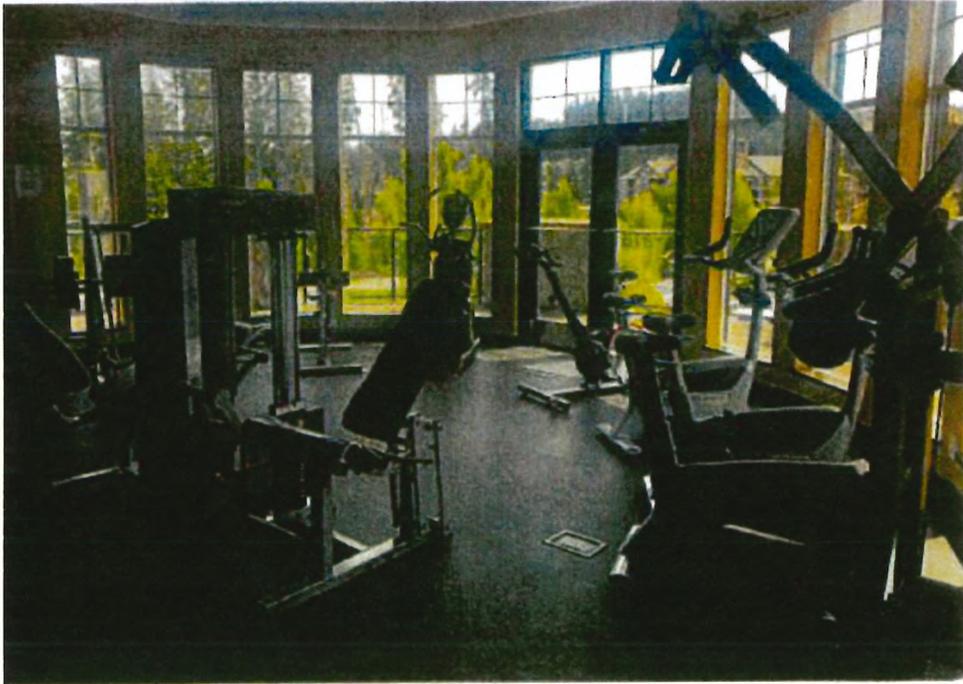
Upstairs Fitness Room



51



52



53

Women's Restroom			
Category	Items	Quantity	Serial Number
On The Wall			
	Mirror	8	
	Signs	5	
	Pictures/Paintings	4	
	Garbage Can	3	
	Paper Towel Dispensers	2	
	Soap Dispensers	5	
	Curtains	3	
Furniture			
	Wood Benches	3	
	Wood Stool	1	
	Shower Bench	1	
	Baby Bench	1	
Products			
	Hair Dryers	1	

Women's Restrooms



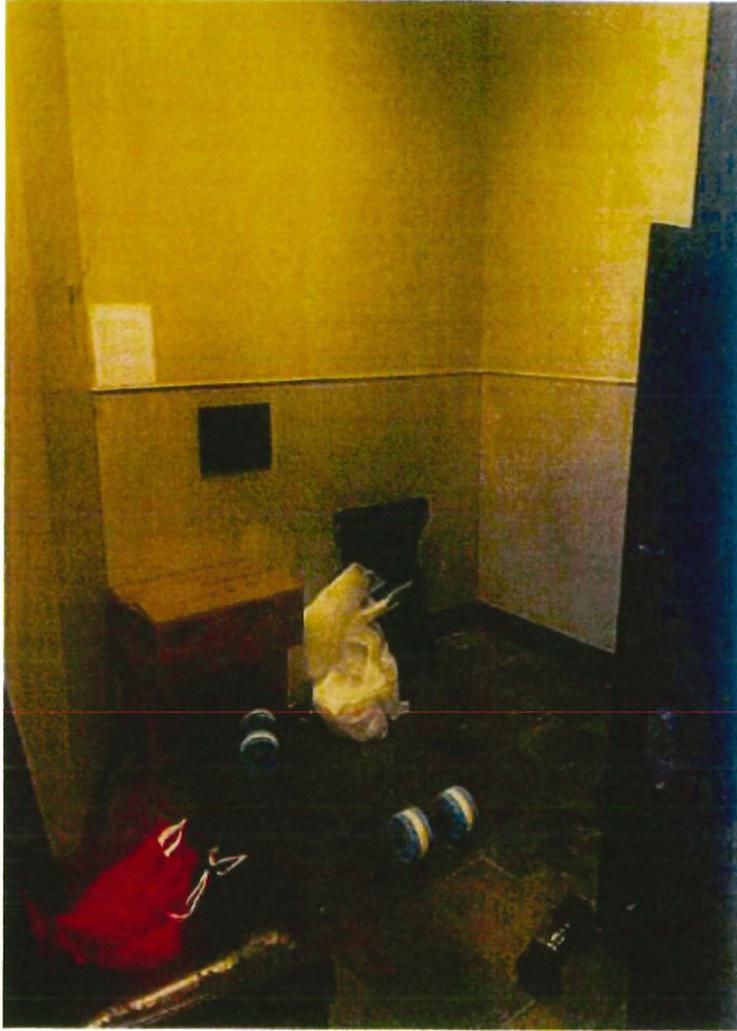
55



Extra Storage Room Upstairs

Category	Items	Quantity	Serial Number
Other	Black High Chair	1	
	Red Drawstring Bag	1	
	Water Weights	1	
	Batteries	4	
	Plastic Sheet	1	
	Black Flat Board	1	
	Signs	3	
	Kettlebell	1	
	15 lbs Dumbbell	2	
	10 lbs Dumbbell	1	
	Cardboard Boxes filled with miscellaneous supplies	5	
	Cleaning Supply	1	

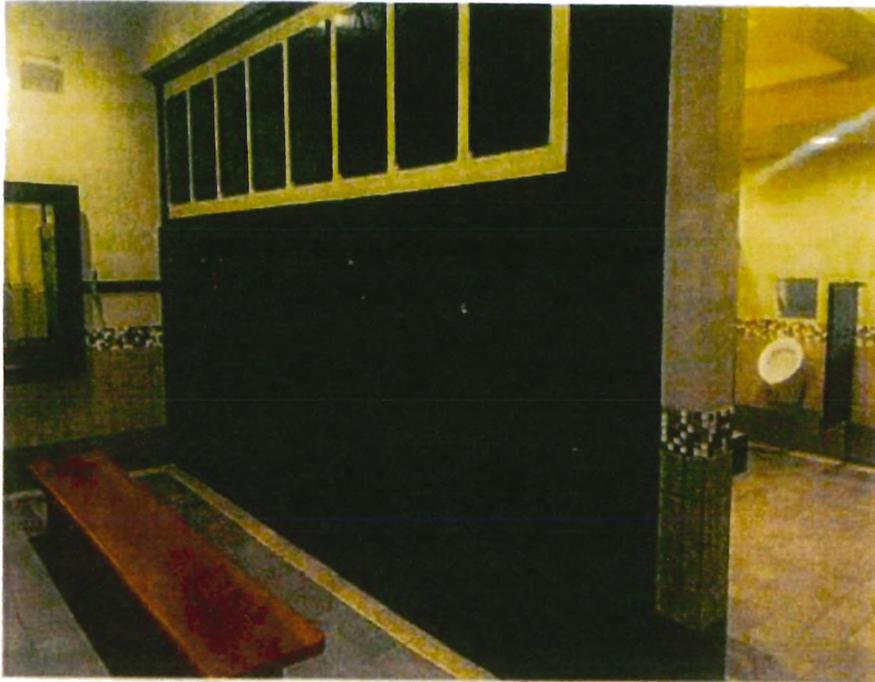
Extra Storage Room Upstairs



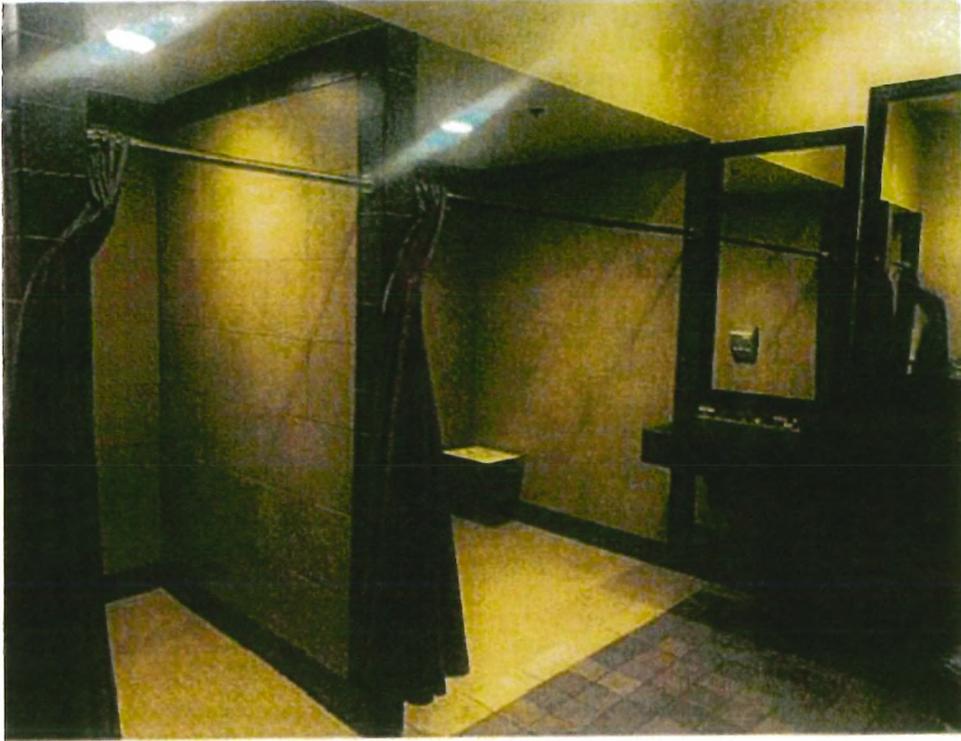
58

Men's Restrooms			
Category	Items	Quantity	Serial Number
On The Wall			
	Mirror	7	
	Signs	6	
	Row Hooks	1	
	Paintings/Pictures	3	
	Soap Dispenser	6	
	Paper Towel Dispenser	2	
Furniture			
	Wood Bench	2	
	Garbage Can	2	
	Curtains	3	
	Shower Bench	1	
	Brown Woyer Chair	1	
Products			
	Hair Dryer	1	

Men's Restrooms



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Pool Deck Area			
Category	Items	Quantity	Serial Number
On The Walls			
	Signs	12	
	Water Fountain	1	
	Speakers	4	
	Clock	1	
	Phone	1	
	Life Raft	2	
	Pool Safety Equipment	1	
	Pool Cleaning Equipment	1	
Decor			
	Plant Pots	12	
Furniture			
	Wood Bench	2	
	Black Woven Plastic Chair	4	
	Black Woven Plastic Couch	1	
	Wood Side Table	25	
	Black Cabinet	1	
	Plastic Shed	1	
	Woven Plastic Sitting Chair	31	
	Wood High Chair	2	
	Glass Table	7	
	Wood Lounge Chair	21	
	Black Woven Lounge Chair	71	
	Brown Woven Lounge Chair	18	
	Black Cabinet Chest	8	
	Lawn Chairs	8	
Equipment			

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Ladder	1
Receipt Tape	10
Office Supplies	1
Ice Machine	1
Broom	5
Garbage Can	3
Towel Holder	1
Umbrella	1
Umbrella Holder	2

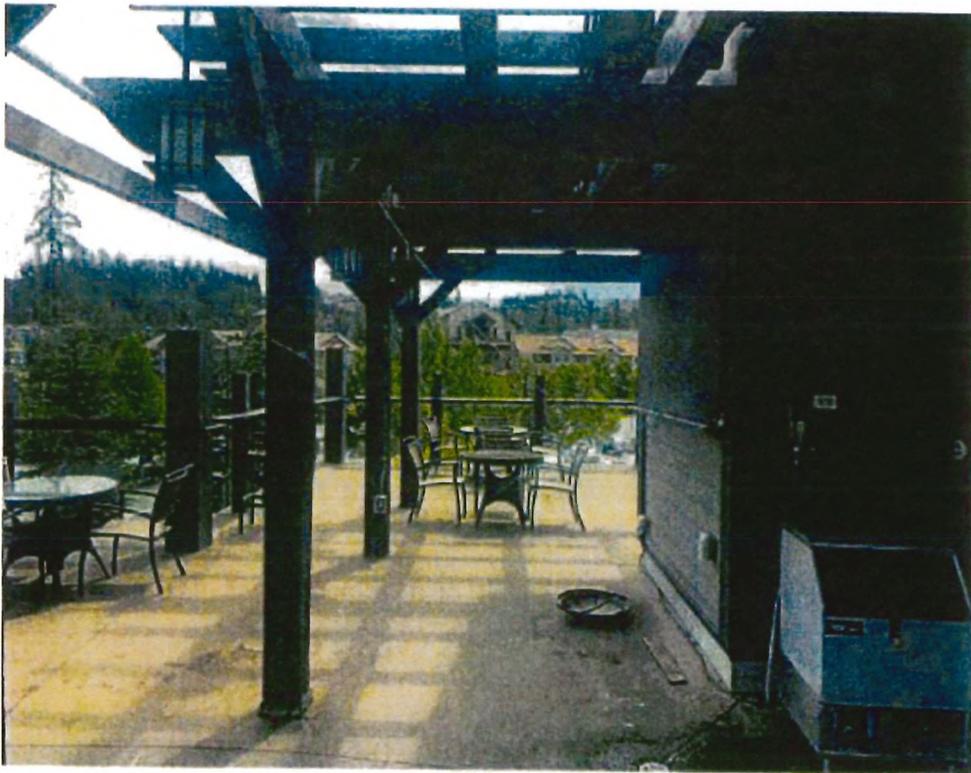
Pool Deck Area



64



65



SCHEDULE C

GST DECLARATION

To: CITY OF LANGFORD (the "City")

Re: Purchase and Sale Agreement dated for reference _____, 2020 (the "Agreement") between the City and BEAR MOUNTAIN ADVENTURES LTD. (the "Buyer") in respect of the sale and purchase of the Lands, as defined in the Agreement (the "Property")

The Buyer hereby agrees with the City that:

1. The Buyer is registered under Subdivision d of Division V of Part IX of the *Excise Tax Act* (Canada) ("ETA") for the collection and remittance of goods and services tax ("GST") and its registration number is _____.
2. The Buyer will remit directly to the Receiver General of Canada any GST payable, and file the prescribed Form 60 pursuant to subsection 228(4) of the *ETA*, in connection with the sale and conveyance of the Property.
3. The Buyer hereby indemnifies and saves harmless the City from any GST, penalty, interest or other amounts which may be payable by or assessed against the City under the *ETA* as a result of, or in connection with, the City's failure to collect and remit any GST applicable on the sale, and conveyance of the Property to the Buyer and any other amount payable by the Buyer to the City under the Agreement.
4. The Property transferred pursuant to the Agreement:
 - (a) is being purchased by the Buyer as principal for its own account and is not being purchased by the Buyer as an agent, trustee, or otherwise on behalf of or for another person; and
 - (b) does not constitute a supply of a residential complex made to an individual for the purposes of section 221(2) of the *ETA*.

Dated this _____ day of _____, 2020.

BEAR MOUNTAIN ADVENTURES LTD.
by its authorized signatory:

Name:

SCHEDULE D

TERMS OF INSTRUMENT – PART 2COVENANT (USE)

THIS AGREEMENT is dated for reference ◆ __, 2020,

BETWEEN:

CITY OF LANGFORD

2nd Floor, 877 Goldstream Avenue, Langford, British Columbia, V9B
2X8

(the "City")

AND:

BEAR MOUNTAIN ADVENTURES LTD.

1900 - 885 West Georgia Street, Vancouver, British Columbia, V6C 3H4

(the "Owner")

GIVEN THAT

- A. The Owner is the registered owner in fee simple of the lands described in Item 2 of Part 1 of the *Land Title Act* (British Columbia) Form C to which this Agreement is attached (the "Lands");
- B. Located on the Lands is a recreation centre containing an outdoor pool, hot tub and fitness centre and other facilities and services (collectively, the "Recreation Centre");
- C. The Recreation Centre is comprised of the original building (the "Original Building") and the building addition (the "Addition") as shown on the sketch plan attached hereto as Appendix A;
- D. The City transferred the Lands to the Owner pursuant to a purchase and sale agreement dated for reference August __, 2020 (the "Purchase and Sale Agreement"), between the City and the Owner, with the parties agreeing that the Owner would enter into this Agreement providing that for twenty-five (25) years it would operate, or cause to be operated, the Recreation Centre for the purpose of a recreation and leisure centre open to the public in accordance with applicable laws as

such use may evolve from time to time consistent with other similar recreation and leisure centres (with ancillary food and beverage services) in the Province of British Columbia, or as such use may otherwise evolve in the recreation and leisure business generally from time to time (collectively, the "Recreation Use"), and that the Owner would construct, or cause to be constructed; an expansion to the Recreation Centre within twenty-four (24) months of the completion of the closing of the purchase and sale of the Lands pursuant to the Purchase and Sale Agreement; and

- E. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City, in respect of the use of land or buildings, the building on land, or the subdivision of land.

This Agreement is evidence that in consideration of the payment by the City to the Owner of One Dollar (\$1.00) and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the Owner), the Owner covenants and agrees with the City, in accordance with Section 219 of the *Land Title Act*, as follows:

1. **Covenant**

The Owner covenants and agrees that for a period of twenty-five (25) years, commencing on the date that this Agreement is registered in the Land Title Office:

- (a) With respect to the Original Building the following provisions apply:
- (i) the Original Building shall only be used for the Recreation Use; it being understood and agreed that the Recreation Use shall include, without limitation, such other uses as may evolve in the recreation and leisure business generally from time to time and, in particular, due to restrictions or limitations, which affect businesses generally and/or specifically in respect of recreation and leisure facilities, arising from the global pandemic relating to COVID-19 and such other uses as approved by the City, from time to time, which in the City's opinion are compatible with the use of the Original Building as a recreation centre open to the public;
 - (ii) The interior portion of the Original Building used for retail purposes as of the date this Agreement is registered in the Land Title Office, including but not limited to food and beverage services, shall not be increased during the twenty-five-year period, except that the Owner may increase the interior portion of the Original Building used for retail purposes by 12.5% of the total interior area of the Original Building as of the date this Agreement is registered in the Land Title Office provided that at the time the retail space expansion is complete the Owner shall pay to the City the increase, if any, in the value of the Original Building arising from the expansion of the retail space as

determined by an appraisal, prepared by an appraiser satisfactory to the parties, acting reasonably, ordered by the Owner, at the Owner's cost; and

- (iii) Any further modifications, expansions, alterations and reconstructions to the Original Building shall not result in a loss of greater than 12.5% of the interior portion of the Original Building ordinarily accessible to the public for active recreation and leisure activities, including but not limited to a gym, a studio area for classes and change room facilities, as of the date this Agreement is registered in the Land Title Office;
- (b) the Recreation Centre shall be open to the public a minimum of eighty (80) hours per week, between the hours of 6:00 AM to 10:00 PM daily, subject to applicable laws, closings on Good Friday, Christmas Day and New Year's Day and/or restrictions or limitations arising from a Force Majeure Event, provided that the Recreation Centre may be closed for modifications, expansions, alterations and reconstructions for a cumulative term of up to 24 months in any twelve and a half (12.5) year period during the term of this Agreement, and if for such purposes the Recreation Centre is closed for any cumulative term exceeding 24 months in any twelve and a half (12.5) year period then the term of this Agreement and the term of the Option to Purchase registered against title of the Lands in favour of the City shall be automatically extended by the duration of such closure;
- (c) residents of the City of Langford shall be entitled to a ten percent (10%) discount on drop-in rates and monthly passes;
- (d) the Owner shall provide a variety of drop in ticket purchase options to all persons for entry to the Recreation Centre, of which one of the options must be the ability to purchase individual prepaid entry vouchers or gift cards (the "Vouchers") at a cost not to exceed that of a one time drop in entry fee to the Recreation Centre charged to a member of the public using other forms of payment including cash, debit or credit cards; and
- (e) other than the Recreation Use and uses that are accessory thereto, including offices, personal services and recreation-related retail, the Addition may only be used for the operation of a real estate sales office for the purpose of

marketing and selling lands within the boundaries of the City of Langford owned by the Owner or affiliated companies; and

- (f) despite Section 1(b) of this Agreement, any retail operations within the Recreation Centre will not be subject to the hours of operation but will be at the discretion of the Owner.

(collectively, the "Use Restriction").

2. Construction of Expansion and Tot Aqua Zone

- (a) Subject to Section 3 below, the Owner shall construct, within twenty-four (24) months of the date this Agreement is registered in the Land Title Office, an expansion to the Recreation Centre consisting of (i) a second swimming pool of an area at least 210 square metres at the surface and (ii) a seating expansion. Any required parking will be provided by the City, at its sole cost, either onsite, offsite and/or by easement or order of variance (the "Expansion").
- (b) Subject to Section 4 below, It is understood and agreed that the Owner will construct a tot aqua zone consisting of a water activity area measuring an area at least 50 square metres at the surface similar to the Uptown Shopping Centre as of June 26, 2020, containing sixteen (16) spray jets, including benches, landscaping and similar appurtenances (the "Tot Aqua Zone") within Lands or within the core area of Bear Mountain village area within fifty-five (55) months as of the date of this Agreement is registered in the Land Title Office, but such construction will not be deemed to be part of the Expansion.

3. Failure to Construct Expansion

- (a) Subject to Section 2 above and subject at all times to delays arising from or due to a Force Majeure Event (as defined in Section 11 below) and/or from delays in connection with the issuance of requisite approvals, permits or licences required for the construction and operation of the Expansion, in the event that the Owner:
- (i) completes the Expansion within the period twenty-five (25) months to thirty-six (36) months after the date on which this Agreement is registered in the Land Title Office, the Owner shall pay the City One Hundred Six Thousand Two Hundred Fifty Dollars (\$106,250.00);
- (ii) completes the Expansion within the period thirty-seven (37) months to fifty-four (54) months after the date on which this Agreement is

registered in the Land Title Office, the Owner shall pay the City Two Hundred Twelve Thousand Five Hundred Dollars (\$212,500.00); or

- (iii) does not complete the Expansion within fifty-five (55) months of the date on which this Agreement is registered in the Land Title Office, the Owner shall pay the City Three Hundred Eighteen Thousand Seven Hundred Fifty Dollars (\$318,750.00);

as liquidated damages and as a genuine pre-estimate, and not a penalty, of the City's damages arising from the Owner's failure to construct the Expansion in accordance with Section 2 hereof, with the parties agreeing that the construction of the Expansion and the liquidated damages set out in this Section 3(a) are fundamental aspects of the parties' bargain that were taken into account in fixing the purchase price of the Lands paid by the Owner. It is further understood and agreed that the payment of the liquidated damages set out in this Section 3(a) by the Owner to the City shall represent the City's only recourse against the Owner, and shall be full and final settlement of any and all claims, losses and damages which the City may have or claim against the Owner, arising from the Owner's failure to construct the Expansion in accordance with Section 2 hereof.

- (b) The Owner shall make the payment under Sections 3(a)(i) or 3(a)(ii), above, within two (2) weeks of the Expansion being complete, or in the case of Section 3(a)(iii), above, within two (2) weeks of the date that is fifty-five (55) months after the date on which this Agreement is registered in the Land Title Office.
- (c) For the purposes of this Section 3, the Expansion will be considered complete when the work necessary to complete the Expansion is substantially complete such that the Expansion is ready for opening to the public for use (regardless of whether such opening has occurred, or whether such opening has been delayed due to restrictions or limitations arising from a Force Majeure Event including the global pandemic relating to COVID-19), as certified to the City by the Owner's architect.

4. Failure to Construct Tot Aqua Zone

- (a) Subject to Section 2 above and subject to delays arising from or due to a Force Majeure Event (as defined in Section 1.1 below) and/or from delays in connection with the issuance of requisite approvals, permits or licences required for the construction and operation of the Tot Aqua Zone, in the event that the Owner does not complete the Tot Aqua Zone within fifty-five (55) months of the date on which this Agreement is registered in the Land Title Office, the Owner shall pay the City One Hundred and Six Thousand Two

Hundred and Fifty Dollars (\$106,250.00) as liquidated damages and as a genuine pre-estimate, and not a penalty, of the City's damages arising from the Owner's failure to construct the Tot Aqua Zone in accordance with Section 2 hereof, with the parties agreeing that the construction of the Tot Aqua Zone and the liquidated damages set out in this Section 4(a) are fundamental aspects of the parties' bargain that were taken into account in fixing the purchase price of the Lands paid by the Owner. It is further understood and agreed that the payment of the liquidated damages set out in this Section 4(a) by the Owner to the City shall represent the City's only recourse against the Owner, and shall be full and final settlement of any and all claims, losses and damages which the City may have or claim against the Owner, arising from the Owner's failure to construct the Tot Aqua Zone in accordance with Section 2 hereof.

- (b) The Owner shall make the payment under Section 4(a) within two (2) weeks of fifty-five (55) months after the date on which this Agreement is registered in the Land Title Office.
- (c) For the purposes of this Section 4, the Tot Aqua Zone will be considered complete when the work necessary to complete the Tot Aqua Zone is substantially complete such that the Tot Aqua Zone is ready for opening to the public for use (regardless of whether such opening has occurred, or whether such opening has been delayed due to restrictions or limitations arising from a Force Majeure Event including the global pandemic relating to COVID-19), as certified to the City by the Owner's architect.

5. **Inspection**

The City through its officers and employees may inspect the Lands for the purpose of ascertaining the Owner's compliance with this Agreement.

6. **Amendment**

This Agreement may be altered or amended only by an agreement in writing signed by the parties.

7. **No Public Law Duty**

Whenever in this Agreement the City is required or entitled to exercise any discretion in the granting of consent or approval, or is entitled to make any determination, take any action or exercise any contractual right or remedy, the City may do so in accordance with the contractual provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice or otherwise, shall have any application.

8. **No Effect on Laws or Powers**

This Agreement does not:

- (a) affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) affect or limit any law or enactment relating to the use or subdivision of the Lands; or
- (c) relieve the Owner from complying with any law or enactment, including in relation to the use or subdivision of the Lands.

9. **City's Right to Specific Relief**

The Owner agrees that the City is entitled to obtain an order for specific performance or a prohibitory or mandatory injunction for any breach by the Owner of this Agreement, subject to the terms and conditions hereof; provided, however, that such rights shall not apply in respect of a Required Act during the period of any delay arising from or due to a Force Majeure Event (as defined in Section 11 below).

10. **Indemnity**

The Owner covenants and agrees with the City that the Owner shall release, indemnify, defend and save harmless the City and its elected and appointed officials, employees and agents, from and against any and all actions, causes of action, liabilities, demands, losses (but excluding economic loss), damages, costs, expenses (including actual fees and disbursements of professional advisors), fines and penalties, suffered or incurred that arise out of or are in any way connected with or relating to the performance or non-performance by the Owner of this Agreement.

11. **Force Majeure**

Notwithstanding anything herein to the contrary, in the event that either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Agreement to be performed by such party (a "Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as, without limitation, riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, labour shortages or other unforeseen events due to an epidemic, a pandemic, or any other casualty or acts of God (each a "Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay arising from or due to the Force Majeure Event and such reasonable period of time thereafter as may be reasonable under the

circumstances, and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay and such reasonable period of time thereafter as may be reasonable under the circumstances.

12. Agreement Runs With Land

This Agreement shall run with and bind the successors in title to the Lands and each and every part into which the Lands may be subdivided by any means.

13. Registration in Priority

The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.

14. Waiver

An alleged waiver by the City of any breach of this Agreement by the Owner is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver by the City of a breach by the Owner of this Agreement does not operate as a waiver of any other breach of this Agreement.

15. Statute References

Any reference in this Agreement to any statute or any section of it shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

16. Headings

The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

17. Severance

If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

18. **Entire Agreement**

This Agreement is the entire agreement between the parties regarding its subject-matter and it supersedes all prior proposals, writings, statements (oral or otherwise), agreements and understandings between the parties with respect to its subject-matter, and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained or referred to in this Agreement.

19. **Enurement**

This Agreement binds the parties to it and their respective corporate successors, heirs, executors, administrators and personal representatives.

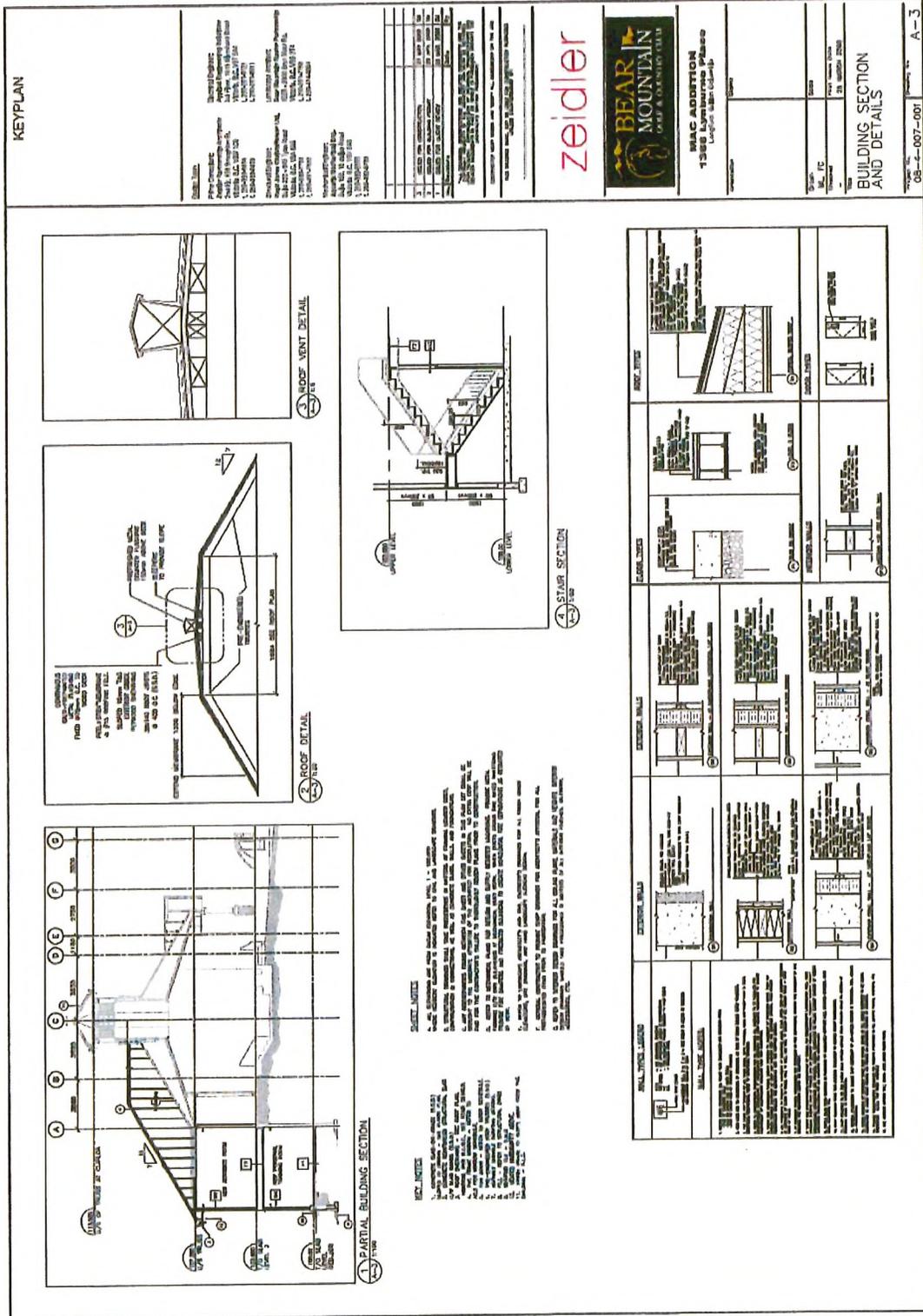
20. **Further Acts**

The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

21. **Contract and Deed**

By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the *Land Title Act* Form C which is attached hereto and forms part of this Agreement.



SCHEDULE E

TERMS OF INSTRUMENT – PART 2OPTION TO PURCHASE

THIS AGREEMENT dated for reference ◆ _____, 2020 is

BETWEEN:

CITY OF LANGFORD

2nd Floor, 877 Goldstream Avenue, Langford, British Columbia, V9B 2X8

(the "City")

AND:

BEAR MOUNTAIN ADVENTURES LTD.

1900 - 885 West Georgia Street, Vancouver, British Columbia, V6C 3H4

(the "Owner")

WHEREAS:

- A. The Owner is the registered owner in fee simple of the lands described in Item 2 of Part 1 of the Land Title Act Form C to which this Agreement is attached (the "Lands"); and
- B. Located on the Lands is a recreation centre containing an outdoor pool, hot tub and fitness centre and other facilities and services (collectively, the "Recreation Centre");
- C. The City transferred the Lands, the Recreation Centre and the Chattels to the Owner pursuant to a purchase and sale agreement dated for reference ◆ _____, 2020 (the "Purchase and Sale Agreement"), between the City and the Owner, which required the Owner to grant the City the Covenant pursuant to which the Owner agreed: (i) to operate, or cause to be operated, the Recreation Centre; and (ii) that the Owner would construct, or cause to be constructed, an expansion to the Recreation Centre within twenty-four (24) months of the completion of the closing of the purchase and sale of the Lands pursuant to the Purchase and Sale Agreement, subject to a Force Majeure Event (as defined in the Covenant), falling which the Owner would pay an amount on account of liquidated damages to the City, and that if in default pursuant to the terms of this Agreement the Owner would transfer the Lands back to the City.

THIS AGREEMENT IS EVIDENCE that in consideration of the promises exchanged below and other good and valuable consideration (the receipt and sufficiency of which the Owner acknowledges), the Owner and the City covenant and agree with each other as follows:

1. **Definitions** – In this Agreement, addition to the words defined in the recitals:
 - (a) **“Business Day”** means a day other than a Saturday, Sunday, or statutory holiday in B.C.;
 - (b) **“Chattels”** means the machinery, equipment, furnishings, and fixtures used in connection with the Lands which were acquired by the Owner from the City pursuant to the Purchase and Sale Agreement and are presently located on the Lands and used for the operation of the Recreation Centre as of the date of the exercise of the Option, but expressly excludes any machinery, equipment, furnishings and fixtures acquired by the Owner after the Completion Date (as defined in the Purchase and Sale Agreement) and not purchased from the City pursuant to the Purchase and Sale Agreement;
 - (c) **“City’s Solicitors”** means Young Anderson;
 - (d) **“Completion Date”** means the date set out in Section 7;
 - (e) **“Contaminants”** means:
 - (i) as defined in the *Environmental Management Act* (British Columbia), any biomedical waste, contamination, contaminant, effluent, pollution, recyclable material, refuse, hazardous waste or waste;
 - (ii) matter of any kind which is or may be harmful to human safety or health or to the environment; or
 - (iii) matter of any kind the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, release, remediation, mitigation or removal of which is now or is at any time required, prohibited, controlled, regulated or licensed under any Environmental Laws;
 - (f) **“Covenant”** means the *Land Title Act* section 219 covenant between the Owner and the City registered on title to Lands bearing registration number one less than this instrument;

- (g) **"Environmental Law"** means any past, present or future common law or principle, enactment, statute, regulation, order, bylaw or permit, and any requirement, standard or guideline of any federal, provincial or local government authority or agency having jurisdiction, relating to the environment, environmental protection, pollution or public or occupational safety or health;
- (h) **"Expansion"** means the Expansion as defined in the Covenant;
- (i) **"Force Majeure Event"** has the meaning given thereto under the Covenant;
- (j) **"Governmental Charges"** includes all taxes, customs, duties, rates, levies, assessments, re-assessments and other charges, together with all penalties, interests and fines with respect thereto, payable to any federal, provincial, local or other government or governmental agency, authority, board, bureau or commission, domestic or foreign;
- (k) **"Lands"** means the lands in Langford, British Columbia legally described in item 2 of the Land Title Act Form C to which this Agreement is attached;
- (l) **"LTO"** means the Victoria Land Title Office;
- (m) **"Option"** means the option to purchase the Lands granted by the Owner to the City under Section 2;
- (n) **"Option Price"** means the option price in the amount of One Dollar (\$1.00);
- (o) **"Owner's Solicitors"** means Koffman Kalef LLP;
- (p) **"Permitted Encumbrances"** means the easement registered in the Land Title Office under number FA72456 and all other required charges now or hereafter registered in favour of the City of Langford or service and utility providers whether in connection with the Expansion or otherwise;
- (q) **"Purchase Price"** means:
 - (i) if the Option is exercised by notice from the City within five (5) years of the date this Agreement is registered in the Land Title Office, Two Million Six Hundred Eighty-One Thousand Two Hundred Fifty Dollars (\$2,681,250.00) plus seventy-five percent (75%) of the then fair market value of any additional lands added to the Lands by way of consolidation and all buildings and improvements erected after the date of this Agreement and completed at the time the City exercises the Option; or

- (ii) If the Option is exercised by notice from the City at any time after five (5) years after the date this Agreement is registered in the Land Title Office, seventy-five percent (75%) of the then fair market value of the Lands; any additional lands added to the Lands by way of consolidation and all buildings and improvements erected after the date of this Agreement and completed at the time the City exercises the Option;
 - (r) **"Transfer"** means a transfer in registrable form transferring the estate in fee simple of the Lands to the City; and
 - (s) **"Use Restriction"** means the use restriction as defined in Section 1 of the Covenant.
2. **Grant of Option** – In consideration of the payment of the Option Price by the City to the Owner, the Owner hereby grants to the City the sole and exclusive option, irrevocable within the time for exercise by the City under this Agreement, to purchase the Lands and the Chattels free and clear of all liens, charges, and encumbrances, except for the Permitted Encumbrances. The City will pay the Option Price to the Owner upon full and final registration of this Agreement in the LTO.
3. **Exercise of Option** – Subject to delays arising from or due to a Force Majeure Event:
- (a) if the Owner is in default of Sections 1(a), 1(c), 1(d) or 1(e) of the Use Restriction and such default is not cured within thirty (30) days after written notice of such default is delivered in writing by the City to the Owner; or
 - (b) if the Owner is in default of Section 1(b) of the Use Restriction and such default is not cured within fifteen (15) days after written notice of such default is delivered in writing by the City to the Owner; or
 - (c) if the Owner has been in default of the Use Restriction more than two (2) times in the previous consecutive six (6) month period; or
 - (d) the City does not receive full payment from any person from whom it is entitled to receive a payment under Sections 3 and 4 of the Covenant and such non-payment is not cured within sixty (60) days after written notice of such default is delivered in writing by the City to the Owner;

then the City may, by providing written notice to the Owner, exercise the Option at any time within the twelve (12) month period following the occurrence of any of the above-mentioned triggering events (the **"Option Exercise Period"**).

Notwithstanding anything to the contrary herein or otherwise, if the City elects to exercise the Option by reason of the triggering event referred to in Section 3(d) above, then the City acknowledges and agrees with the Owner that it shall not pursue or enforce, and expressly waives, any of the rights or remedies that the City may have against the Owner whether pursuant contract, law or equity arising from the Owner's failure to pay the liquidated damages set out in this Section 3 and/or Section 4 of the Covenant; it being understood and agreed that the exercise of the Option by the City shall be in full and final settlement of any claims, losses or damages that the City may have against the Owner in such regard.

4. **Non-Exercise of Option** – If the Option is not exercised within twenty-five (25) years of the date of registration of the Covenant in the Land Title Office, the Option and everything contained in this Agreement will be null and void and no longer binding on the Owner and the City will, on request by the Owner, execute a release of this Agreement so as to discharge this Agreement from title to the Lands, which release shall be prepared and registered by and at the expense of the Owner. Notwithstanding the foregoing, the twenty five (25) year period in this Section shall automatically be extended in accordance with Section 1(b) of the Covenant.
5. **No Further Encumbrances** – The Owner must not grant any mortgage, easement, covenant, or other financial or restrictive charge on or in the Lands in priority to this Agreement, provided that the City covenants and agrees to enter into one Tri-Party agreement, as that term is defined in the Purchase and Sale Agreement. For clarity, nothing in this Section 5 obligates the City to enter into a Tri-Party Agreement in addition to the Tri-Party Agreement contemplated in the Purchase and Sale Agreement. The Owner must cause any lien, judgment, caveat, certificate of pending litigation, or similar charge to be discharged on or before the Completion Date such that the Lands and Chattels are transferred to the City free and clear of all liens, charges, and encumbrances, except for the Permitted Encumbrances.
6. **Binding Agreement** – If the City exercises the Option under Section 3, this Agreement will become a binding contract for the purchase and sale of the Lands and the Chattels on the terms and conditions of this Agreement and the Owner covenants and agrees to transfer and convey the estate in fee simple of the Lands and good and marketable title to the Chattels to the City in accordance with the terms and conditions of this Agreement.
7. **Completion Date** – If the City exercises the Option under Section 3, the “**Completion Date**” will be the date that is thirty (30) days after the date on which the City exercises the Option, except if that date is not a Business Day the Completion Date will be the next Business Day.
8. **Adjustments** – All adjustments to the Purchase Price in respect of the Lands, both incoming and outgoing, usually the subject of adjustments between a vendor and a

purchaser in connection with the purchase and sale of land, including adjustments of property taxes, utilities, and rents, must be made up to and including the Completion Date.

- 9. Title and Possession** – On the Completion Date, the Owner will:
- (a) transfer and convey the estate in fee simple of the Lands to the City free and clear of all liens, claims, charges, encumbrances and legal notations except for the Permitted Encumbrances;
 - (b) transfer and convey good and marketable title to the Chattels to the City free and clear of all liens, claims, charges and encumbrances; and
 - (c) give vacant possession of the Lands to the City, subject only to the Permitted Encumbrances.
- 10. Closing Documents** – On or before the Completion Date, the Owner must deliver to the City the Transfer, an assignment of rights with respect to any liquor and food licences applicable to the Recreation Centre the Owner's statement of adjustments, and such further deeds, acts, things, certificates and assurances as may be requisite in the reasonable opinion of the City for more perfectly and absolutely assigning, transferring, conveying and assuring to and vesting in the City, title to the Lands and the Chattels free and clear of all liens, claims, charges, encumbrances and legal notations other than the Permitted Encumbrances, as contemplated under this Agreement, and all duly executed and in registrable form, as applicable, on behalf of the Owner.
- 11. Transfer** –
- (a) On the Completion Date, after receipt by the City's Solicitors of the documents and items referred in Section 10, the City will pay the Purchase Price, adjusted in accordance with Section 8, to the City's Solicitors, in trust.
 - (b) The City shall cause the City's Solicitors to file the Transfer in the LTO after receipt of the amount in Section 11(a) above and after receipt of the documents from the Owner as provided in Section 10.
 - (c) On the City's Solicitors being satisfied after deposit of the Transfer for registration with the LTO that a search of the property index maintained by the LTO discloses that there are no transfers, liens, charges, encumbrances or legal notations, other than the Transfer and the Permitted Encumbrances, registered or pending registration against title to the Lands, the City shall cause the City's Solicitors to deliver to the Owner's Solicitors a solicitor's trust

cheque in the amount of the Purchase Price, adjusted in accordance with Section 8, made payable to the Owner's Solicitors, in trust.

12. **Risk** – The Lands are at the Owner's risk until the estate in fee simple to the Lands is transferred and conveyed to the City in accordance with this Agreement and at the City's risk after such transfer and conveyance.
13. **Access** – The City, and its contractors, agents, advisors and employees, have a licence, exercisable on forty-eight (48) hours' prior written notice to the Owner, to enter on the Lands from time to time prior to the Completion Date, at the City's sole risk and expense, for the purpose of making such inspections, surveys, tests, studies and investigations on the Lands as the City may reasonably require and in so doing the City will indemnify and hold harmless the Owner of all costs, charges, expenses, liens, losses or demands suffered as a result of the City's exercise of its rights under this Section 13.
14. **Owner's Representations, Warranties, and Covenants** – The Owner represents and warrants to the City that, to the best of the Owner's knowledge, the following are true and covenants with the City that the following will be true on the Completion Date:
 - (a) the Owner has the legal capacity, power and authority to perform all of the Owner's obligations under this Agreement;
 - (b) the Owner has good and marketable legal and beneficial title to the Lands, free and clear of all liens, claims, charges, encumbrances and legal notations, statutory or otherwise, except for the Permitted Encumbrances;
 - (c) the Owner has good and marketable title to the Chattels, free and clear of all liens, claims, charges and encumbrances;
 - (d) the Owner is a resident of Canada within the meaning of the *Income Tax Act* (Canada);
 - (e) the Owner has taken all necessary or desirable actions, steps and other proceedings to approve or authorize, validly and effectively, the entering into, and the execution, delivery and performance of this Agreement and the sale and transfer of the Lands by the Owner to the City;
 - (f) except as otherwise disclosed to the City, there is no action, suit, claim, litigation or proceeding pending or to the Owner's knowledge threatened against the Owner or in respect of the Lands or the use or occupancy of the Lands before any court, arbitrator, arbitration panel or administrative tribunal or agency that, if decided adversely to the Owner, might materially affect the Owner's ability to perform any of the Owner's obligations under this

Agreement and no state of facts exist that could constitute the basis of any such action, suit, claim, litigation or proceeding;

- (g) neither the Owner entering into this Agreement nor the performance by the Owner of the terms hereof will result in the breach of or constitute a default under any term or provision of any instrument, mortgage, deed of trust, lease, document or agreement to which the Owner is bound or subject;
- (h) there is no present or future obligation to construct or provide, or to pay any amount to any person in connection with, off-site services, utilities or similar services in connection with the Lands;
- (i) the Owner has complied with all Environmental Laws in its use of the Lands and, during the period that the Owner has owned the Lands, the Owner has not caused or permitted any Contaminants to be introduced other than in accordance with applicable laws;
- (j) there is no liability, contingent or otherwise, for Governmental Charges in respect of the Lands;
- (k) if the Owner is a corporation, the Owner is a body corporate duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and, if applicable, the *Business Corporations Act* (British Columbia), has made all necessary filings required by such laws and, if applicable, the *Business Corporations Act* (British Columbia), and has never been struck from the Registrar of Companies maintained by the office of Registrar of Companies for such jurisdiction or, if applicable, British Columbia;
- (l) if the Owner is a corporation, the Owner has the corporate power, capacity and authority to own both the legal and beneficial interest in the Lands; and
- (m) there are no debts due or owing for any work, labour, service or materials provided to or performed on the Lands under which a lien or charge has arisen or could arise under the *Builders Lien Act* (British Columbia).

15. Fees and Taxes – The City shall pay, as and when due and payable:

- (a) any property transfer tax payable under the *Property Transfer Tax Act* (British Columbia);
- (b) LTO registration fees in connection with the registration of this Agreement and the Transfer; and

- (c) its own legal fees and disbursements, with the Owner being responsible for its own legal fees and disbursements.
16. **GST Certificate** – The City will give the Owner a certificate, in the form attached as Appendix A, confirming that the City is registered for GST purposes under the *Excise Tax Act* (Canada) and confirming that the City will remit directly all GST payable in respect of the transfer and conveyance of the Lands to the City.
 17. **Currency and Payment Obligations** – All dollar amounts referred to in this Agreement are Canadian dollars.
 18. **Preparation of Documents and Clearing Title** – At its expense, the City shall prepare all necessary conveyancing documentation. At its expense, the Owner shall clear title to the Lands and the Chattels, subject only to the Permitted Encumbrances.
 19. **No Real Estate Agent** – The Owner represents and warrants to the City that no real estate agent, or other agent, has assisted the Owner, or in any way directly or indirectly participated in the making of this Agreement and that no real estate agent or other agent is entitled to any commission or other remuneration in any way in connection with this Agreement or the transfer and conveyance of the Lands between the Owner and the City and the Owner jointly and severally agrees to indemnify and hold the City harmless from and against any such commission or remuneration, in any action, cause of action or liability relating thereto.
 20. **Joint and Several Liability** – If at any time more than one person (as defined in the *Interpretation Act* (British Columbia)) owns the Lands, each of those persons will be jointly and severally liable for all of the obligations of the Owner under this Agreement.
 21. **Further Assurances** – Each of the parties must at all times execute and deliver at the request of the other all such further documents, deeds and instruments, and do and perform such other acts as may be reasonably necessary to give full effect to the intent and meaning of this Agreement, including to register this Agreement with the LTO in priority to all liens, claims, charges and encumbrances, except for the Permitted Encumbrances, promptly after execution by the parties.
 22. **Equitable Remedies** – The Owner acknowledges that a breach of its obligation to convey and transfer the Lands to the City subject only to the Permitted Encumbrances will result in loss to the City and that the City may not be adequately compensated for such loss by monetary award. Accordingly, in the event of any such breach, in addition to all of the remedies available to the City, at law or in equity, the Owner agrees that the City will be entitled as a matter of right to apply to a court of competent jurisdiction for such relief by way of specific performance or other equitable remedies, as may be appropriate to ensure compliance with the provisions of this Agreement.

23. **Notice** – Any notice, direction, demand, approval, certificate or waiver (any of which constitutes a "Notice" under this Section 23) which may be or is required to be given under this Agreement will be in writing and be delivered to the applicable address set out above, or sent by email, if to the City: Attention: Braden Hutchins, Corporation Officer, at 2nd Floor, 877 Goldstream Avenue, Langford, British Columbia, V9B 2X8 (email: bhutchins@landford.ca); if to the Owner: Attention: Dan Matthews, President and CEO, 2050 Country Club Way, Victoria, British Columbia, V9B 6R3, by registered mail, with a copy to the Owner's solicitors, Koffman Kalef LLP, Attention: Patrick J. Julian (email: pjj@kkbl.com); or to such other address or email address of which notice has been given as provided in this Section 23. Any Notice that is delivered is to be considered given on the day it is delivered, and any Notice sent by email is to be considered given on the day it is sent, except that if, in either case, that day is not a Business Day, the Notice is to be considered given on the next Business Day after it is sent.
24. **Time of Essence** – Time is of essence of this Agreement and the conveyance and transfer for which it provides.
25. **Tender** – Any tender of documents or money may be made upon the parties at their respective addresses set out in this Agreement or upon their respective solicitors.
26. **Change of Solicitors** – If a party wishes to change its solicitors it must give notice to the other party of such change.
27. **Survival** – There are no representations, warranties, guarantees, promises or agreements other than those expressly contained in this Agreement, and they all survive completion of the Transfer and do not merge with any deeds or agreements delivered in connection with the transfer and conveyance of the Lands and do not merge with the Transfer or its registration for a period of one (1) year.
28. **No Other Agreements** – This Agreement is the entire Agreement between the parties regarding its subject and it terminates and supersedes all representations, warranties, promises and agreements regarding its subject except as otherwise contemplated herein.
29. **Benefit** – This Agreement enures to the benefit of and is binding upon the parties and their respective heirs, executors, administrators, successors and assigns.
30. **Counterparts** – This Agreement may be executed in multiple counterparts, each of which is to be deemed to be an original and all of which together constitute one and the same Agreement.

31. **Appendices** – The Appendices to this Agreement form an integral part of this Agreement.
32. **Severability** – If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
33. **Modification** – This Agreement may not be changed except by an instrument in writing signed by the parties or by their successors or assigns, but the parties agree that the Completion Date may be changed by their agreement through their respective solicitors upon instructions to their solicitors as evidenced promptly thereafter in writing by their solicitors.
34. **Priority** – The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered, or the registration of which is pending, at the time of application for registration of this Agreement.
35. **Interpretation** – Wherever the singular or neuter is used in this Agreement, it includes the plural, the feminine, the masculine or body corporate where the context or the parties so required.
36. **Governing Law** – This Agreement will be governed by and construed in accordance with the laws of British Columbia.

As evidence of their agreement to be bound by the terms of this Agreement, the parties hereto have executed the Land Title Office Form C which is attached to and forms part of this Agreement.

APPENDIX A

GST DECLARATION

To: [NAME] (the "Owner")

Re: An agreement between the Owner and the City of Langford (the "Buyer") being an Option to Purchase dated for reference _____, 2020 (the "Agreement") in respect of the sale and purchase of the Lands, as defined in the Agreement (the "Property")

The Buyer hereby agrees with the Owner that:

1. The Buyer is registered under Subdivision d of Division V of Part IX of the *Excise Tax Act* (Canada) ("ETA") for the collection and remittance of goods and services tax ("GST") and its registration number is _____.
2. The Buyer will remit directly to the Receiver General of Canada any GST payable, and file the prescribed Form 60 pursuant to subsection 228(4) of the ETA, in connection with the sale and conveyance of the Property.
3. The Buyer hereby indemnifies and saves harmless the Owner from any GST, penalty, interest or other amounts which may be payable by or assessed against the Owner under the ETA as a result of, or in connection with, the Owner's failure to collect and remit any GST applicable on the sale, and conveyance of the Property to the Buyer.
4. The Property transferred pursuant to the Agreement:
 - (a) is being purchased by the Buyer as principal for its own account and is not being purchased by the Buyer as an agent, trustee, or otherwise on behalf of or for another person; and
 - (b) does not constitute a supply of a residential complex made to an individual for the purposes of section 221(2) of the ETA.

Dated this _____ day of _____, 2020.

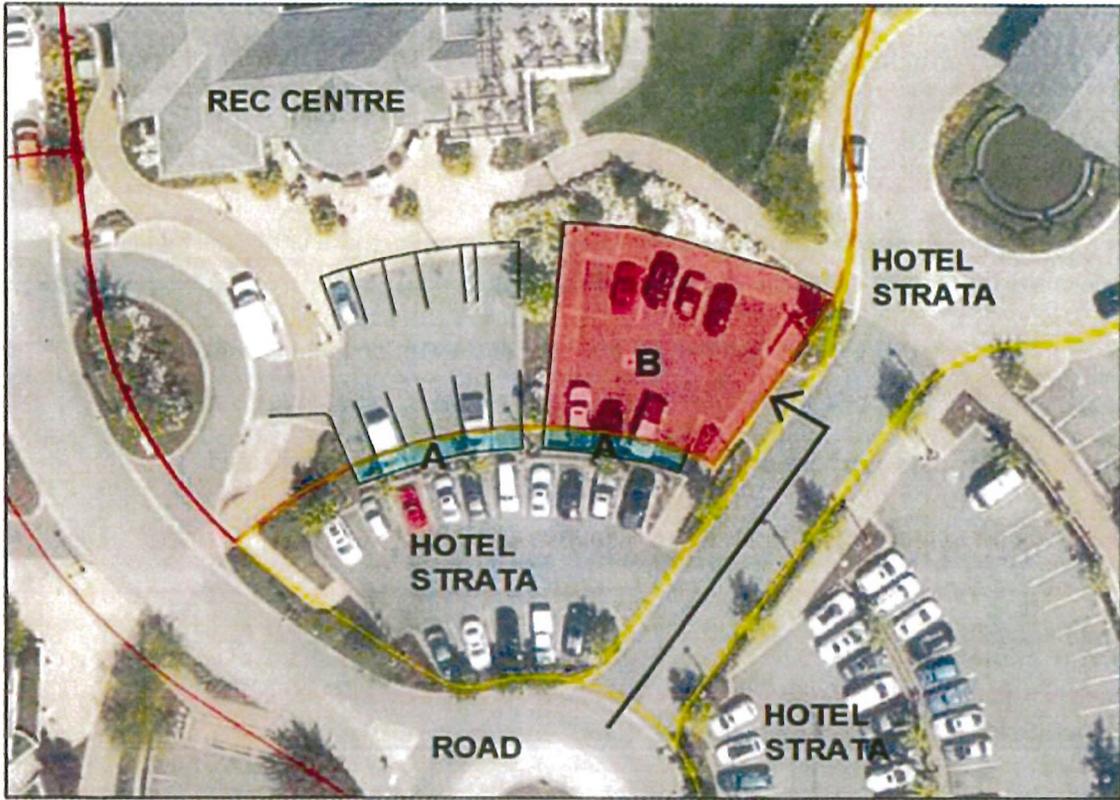
CITY OF LANGFORD

by its authorized signatory:

Name:

SCHEDULE F

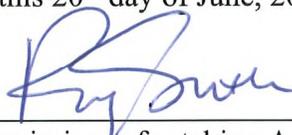
SUBJECT PARKING AREAS



SCHEDULE G**TRI-PARTY AGREEMENT KEY TERMS**

- Registration of Mortgage against Lands in an amount of not more than Two Million Six Hundred Eighty-One Thousand Two Hundred Fifty Dollars (\$2,681,250.00).
- No subsequent advances under Mortgage.
- Mortgage not discharged by City's exercise of Option to Purchase until total owing under Mortgage is satisfied
- City may pay that part of the Purchase Price under the Option to Purchase directly to lender sufficient to satisfy Mortgage
- When City pays purchase price as directed by lender, Mortgage discharged.
- Assignee of Mortgage to enter into assumption agreement

This is **Exhibit "B"** referred to in the affidavit of Tian Kusumoto made before me on this 20th day of June, 2024.



A Commissioner for taking Affidavits in
British Columbia

Raylene Smith

From: TRK <TRK@SANOVEST.COM>
Sent: August-18-21 4:19 PM
To: 'Dan Matthews'
Cc: 'Lord, Richard'; 'Schmidt, Mark'; 'Greg Hollingsworth'
Subject: RE: Board meeting Notice for Aug 17 2021, 10:30 am pst

Hi Dan,

I am surprised and disappointed by your mischaracterization of my comments during our many telephone conferences. It appears that you are trying to paint me up as the bad guy by purposely deflecting the primary issue of you owing Ecoasis more than \$14 million. If you simply repaid all the money you owed to Ecoasis there would be no liquidity issue.

For clarification, you have misconstrued my communication to you which I will correct as follows:

- You will block any financing from other sources in favor of Sanovest

- 1) Absolutely incorrect, I said that I am cautious about getting external financing beyond construction loans as I have seen many real estate companies go into receivership including Bear Mountain.
- 2) I recently learned of a \$5.5 million BMO loan which I did not know existed and have been asking you for a copy of the banking agreement which you refuse to provide. This BMO loan remains outstanding.
- 3) Ecoasis had a bank loan called in March 2021 from Legacy Homes LLP and a former director had to pay it off personally as he guaranteed the loan. Given that you are not in a position to be able to backstop a third party loan, the financial risks appear to fall solely on me.
- 4) I am supportive of external financing if the terms and conditions fits within the parameters of the Ecoasis business plan and budget.
- 5) I am not supportive of external financing which is not supported by a proper financial model but is pursued recklessly due to liquidity concerns caused by you, the CEO and for personal reasons.
- 6) We will impair Ecoasis ability to seek external financing in the future if we prematurely approach lenders while our financials are in disarray and without a business plan to show how the debt will be serviced or repaid.

- If Ecoasis agrees to your financing proposal you can compel Sanovest to subordinate to construction financing for projects like Shadow Creek

- 1) The last subdivision of Pinehurst started servicing without meeting the construction loan conditions causing significant reputational damage and the incurrence of unnecessary financial costs/expenses. If you recall, you had to abruptly stop construction and later restart it incurring additional costs and delays.
- 2) You decided to start Shadow Creek last month without construction financing in place and had to stop the construction similar to Pinehurst causing further reputational damage to Ecoasis not to mention incurring additional costs.
- 3) I believe that it would be prudent to determine the financial state of Ecoasis before incurring more debt and advancing new projects. I reiterate that Ecoasis had a bank construction loan called in March 2021 from Legacy Homes LLP and a former director had to pay it off personally as he guaranteed the loan. Ecoasis now owes \$4 million to this former director.
- 4) If the working capital and balance sheet can be understood and repaired, the board of Sanovest may consider approving a new loan which would allow for a much larger subordination of Sanovest debt that is contemplated in the Coast Capital loan. This would result in significant cost savings in

the servicing / construction of Victoria Peak. At present, Ecoasis does not even have reliable management prepared financial statements for the first half of 2021 or annual financial statements for 2019 or 2020 or a budget for 2021 or 2022.

- 5) As part of many brain storming exercises, many proposals (some good and some bad) were tabled for discussion and consideration purposes only. I am trying to come up with solutions as Sanovest is the only party which has invested more than \$75 million into Ecoasis and has the most to lose.
- 6) The proposed solutions to refinance and strengthen the balance sheet and enhance working capital were intended to facilitate and support the development of Shadow Creek once a business / development plan was approved.

- You do not believe selling real estate is the appropriate way to pay down debt or generate returns and will not advance any land dispositions and will block all transactions.

- 1) I said we should not be liquidating properties on a fire sale basis just to service Sanovest debt and the personal financial needs of you. Sanovest has time and time again demonstrated that it is friendly debt and has cooperated in subordinating its debt, deferring interest payments owed and supporting the business endeavors of Ecoasis. In fact, Sanovest did not call its loan despite you owing Ecoasis more than \$14 million. Clearly, Sanovest could be characterized as friendly and patient lenders. This reaffirms why external financing may not meet the objectives of Ecoasis when significant shareholder loans remain outstanding and the financial affairs of Ecoasis remain in flux.
- 2) I agree and stated that we should maximize the value of every property for the best interest of all Ecoasis stakeholders, whether that be through site sales, site servicing or vertical construction. We should analyze and understand all the alternatives and follow a current master development plan / business plan before starting new projects. The real estate market has changed significantly in the last few years and densification of areas has been a focus of many municipalities.
- 3) I am not supportive of selling Ecoasis real estate at a time when absorption rates do not appear to be favorable just to provide cash to you so that he could service his personal debts, loans and taxes.

Tian Kusumoto
 Sanovest Holding Ltd.
 PH: 604.685.9161
 CL: 778.321.9161
 EM: trk@sanovest.com

From: Dan Matthews [mailto:dmatthews@ecoasis.ca]

Sent: Tuesday, August 17, 2021 9:38 AM

To: Tian Kusumoto <trk@sanovest.com>

Cc: Lord, Richard <richard.lord@dlapiper.com>; Schmidt, Mark <mark.schmidt@dlapiper.com>; Greg Hollingsworth <ghollingsworth@lawsonlundell.com>

Subject: Board meeting Notice for Aug 17 2021, 10:30 am pst

Hi Tian

This will be the 3rd delay by you of this board meeting that relates to issues that are vital to the health of Ecoasis and its brand. You must know by now you will not have any issue with me considering something that is in the long term interests of the shareholders and the community.

However I fail to see how a **new** master development plan and business plan which could take a year or more and that differs from the one I pursued with Tom for over 7 years will help with any of the pressing issues raised in the board meeting proposed

for today. Especially in light of some of the comments you made in our call with Kevin Isomura on August 9th in regards to your proposal of a Sanovest financing and I confirm:

- You will block any financing from other sources in favour of Sanovest

- If Ecoasis agrees to your financing proposal you can compel Sanovest to subordinate to construction financing for projects like Shadow Creek

- You do not believe selling real estate is the appropriate way to pay down debt or generate returns and will not advance any land dispositions and will block all transactions.

- If we don't do the financing noted below you are happy to do nothing as you have all the time in the world but the company doesn't.

To reiterate the partial financing terms proposed to date by Sanovest. In essence a preferred round of equity that yields a 100% return.

- ' Ecoasis offers new 20 Class D units at a cost of \$20M
- ' Class D units will receive \$20M of distributions before other units holders and not allocated any income to this. (RoC)
- ' Class D units will receive \$20M of distributions after the \$30M waterfall and allocated \$20M of income.
- ' Class D units will receive pro rata distributions after item 3 at 20/220 pro rata.

I plan to address some of your comments above that relate to the resolutions at the board meeting, however you also sent a couple of emails proposing to buy units from 599315 BC Ltd. Please note that I am very busy constantly trying to build long term shareholder value, but more recently managing the significant fallout resulting from your actions in your role as the CFO and director of Ecoasis.

Once again you are copying Ecoasis staff on emails regarding confidential partner level business and misrepresented shareholder loan amounts. Please stop this disruptive behaviour.

I am happy to review and consider any initiative that helps shareholder value and recognizes the benefits to stakeholders of the community, but my immediate concern is the solvency of the company. In fairness to Richard and as a consideration to you please confirm immediately that you will attend the board meeting planned for today on Thursday Aug 19th at anytime that works for both Richard and yourself.

Thank you

Dan Matthews

President and CEO
 ECOASIS DEVELOPMENTS LLP
 2050 Country Club Way, Victoria BC, V9B 6R3 Canada
 T: 250-391-3795.
 C: 250-888-7386 (Melissa: EA)

www.ecoasis.com

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please consider the environment before printing this e-mail

Begin forwarded message:

From: "TRK" <TRK@SANOVEST.COM>
Subject: RE: Board meeting Notice for Aug 17 2021, 10:30 am pst
Date: August 16, 2021 at 2:59:57 PM PDT
To: "Dan Matthews" <dmatthews@ecoasis.com>
Cc: "Lord, Richard" <richard.lord@dlapiper.com>, "Schmidt, Mark" <mark.schmidt@dlapiper.com>, "Greg Hollingsworth" <ghollingsworth@lawsonlundell.com>

Hi Dan,

I kindly request that we set the meeting for the following week Tuesday at the same time. I would like to talk to Richard about preparing a resolution for the President and CFO to solicit the development of a master development plan and to create a business plan for the BoDs to approve at a future meeting. On the approval of the master development plan / business plan at that future meeting, I think I can approve the substance of most of your resolutions. It might also make the valuation resolution unnecessary unless you are referring to another appraisal of the properties. I also think it will be necessary for a new lender on the refinancing of Sanovest's debt.

Thanks

Tian Kusumoto
 Sanovest Holding Ltd.
 PH: 604.685.9161
 CL: 778.321.9161
 EM: trk@sanovest.com

From: Dan Matthews [<mailto:dmatthews@ecoasis.ca>] **On Behalf Of** Dan Matthews
Sent: Saturday, August 14, 2021 11:39 AM
To: Tian Kusumoto <trk@sanovest.com>
Cc: Lord, Richard <richard.lord@dlapiper.com>; Schmidt, Mark <mark.schmidt@dlapiper.com>; Greg Hollingsworth <ghollingsworth@lawsonlundell.com>
Subject: Board meeting Notice for Aug 17 2021, 10:30 am pst

Good morning Tian

Please see attached the notice of meeting of the Board of Directors to be held on August 17, 2021 at 10:30 am pst. To confirm, this meeting was originally scheduled for July 28th, postponed at your request to August 5th and then further postponed at your request pending a Sanovest proposal. Please advise of your availability.

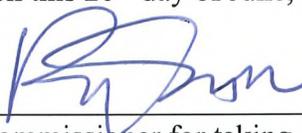
Richard has confirmed he is available to attend to take minutes and provide procedural direction with your consent. He has also confirmed this cost must be borne by Ecoasis.

Dan Matthews

President and CEO
ECOASIS DEVELOPMENTS LLP
2050 Country Club Way, Victoria BC, V9B 6R3 Canada
T: 250-391-3795.
C: 250-888-7386 (Melissa: EA)
www.ecoasis.com

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please consider the environment before printing this e-mail

This is **Exhibit "C"** referred to in the affidavit of Tian Kusumoto made before me on this 20th day of June, 2024.



A Commissioner for taking Affidavits in
British Columbia

**RESOLUTIONS CONSENTED TO IN WRITING
BY THE SOLE VOTING SHAREHOLDER OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2023

IN PLACE of holding an annual general meeting on the date stated above, the undersigned, being the sole voting shareholder of the Company entitled to attend a general meeting, as of June 30, 2023:

Financial Statements

1. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the production and publication of financial statements for the latest financial year be waived.

Waive Appointment of Auditor

2. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the appointment of an auditor for the financial year ending December 31, 2023 be waived.

Determine Number and Election of Directors

3. Resolves that the number of directors be determined at 2 and elects as directors the persons listed below, each of whom has consented in writing in advance to act as a director:

Dan Matthews
Tian Kusumoto

Annual Reference Date

4. Resolves that the Company selects June 30, 2023 as the Annual Reference Date for the Company, for the purposes of the Act.

Execution Procedure

5. These resolutions may be signed and delivered by facsimile or other electronic means and will be deemed an original bearing the date set out above.

Ecoasis Developments LLP

By: _____

**RESOLUTIONS CONSENTED TO IN WRITING
BY ALL THE DIRECTORS OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2023

RESOLVED THAT:

Appointment of Officers

1. The following persons will be officers of the Company for the ensuing year:

Name	Office Held
Dan Matthews	President
Tian Kusumoto	Secretary and Chief Financial Officer

Execution Procedure

2. These resolutions may be signed and delivered by facsimile or other electronic means, and may be signed in as many counterparts as may be necessary, each of which will be deemed to be an original, and together, will constitute one and the same instrument. Notwithstanding the date of execution, these resolutions will be deemed to bear the date set out above.

Dan Matthews

Tian Kusumoto

**RESOLUTIONS CONSENTED TO IN WRITING
BY THE SOLE VOTING SHAREHOLDER OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2022

IN PLACE of holding an annual general meeting on the date stated above, the undersigned, being the sole voting shareholder of the Company entitled to attend a general meeting, as of June 30, 2022:

Financial Statements

1. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the production and publication of financial statements for the latest financial year be waived.

Waive Appointment of Auditor

2. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the appointment of an auditor for the financial year ending December 31, 2022 be waived.

Determine Number and Election of Directors

3. Resolves that the number of directors be determined at 2 and elects as directors the persons listed below, each of whom has consented in writing in advance to act as a director:

Dan Matthews
Tian Kusumoto

Annual Reference Date

4. Resolves that the Company selects June 30, 2022 as the Annual Reference Date for the Company, for the purposes of the Act.

Execution Procedure

5. These resolutions may be signed and delivered by facsimile or other electronic means and will be deemed an original bearing the date set out above.

Ecoasis Developments LLP

By: _____

**RESOLUTIONS CONSENTED TO IN WRITING
BY ALL THE DIRECTORS OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2022

RESOLVED THAT:

Appointment of Officers

1. The following persons will be officers of the Company for the ensuing year:

Name	Office Held
Dan Matthews	President
Tian Kusumoto	Secretary and Chief Financial Officer

Execution Procedure

2. These resolutions may be signed and delivered by facsimile or other electronic means, and may be signed in as many counterparts as may be necessary, each of which will be deemed to be an original, and together, will constitute one and the same instrument. Notwithstanding the date of execution, these resolutions will be deemed to bear the date set out above.

Dan Matthews

Tian Kusumoto



BC Registries and Online Services

ANNUAL REPORT

FORM 6 – BC COMPANY

Section 51 *Business Corporations Act*

Telephone: 1 877 526-1526
www.bcregistryservices.gov.bc.ca

DO NOT MAIL THIS FORM to BC Registry Services unless you are instructed to do so by registry staff. The Regulation under the Business Corporations Act requires the electronic version of this form to be filed on the Internet at www.corporateonline.gov.bc.ca

Filing Fee for paper filing: \$43.39

If you are instructed by registry staff to mail this form to the Corporate Registry, submit this form with a cheque or money order made payable to the Minister of Finance, or provide the registry with authorization to debit the fee from your BC OnLine Deposit Account.

Please pay in Canadian dollars or in the equivalent amount of US funds.

Freedom of Information and Protection of Privacy Act (FOIPPA): Personal information provided on this form is collected, used and disclosed under the authority of the *FOIPPA and the Business Corporations Act* for the purposes of assessment. Questions regarding the collection, use and disclosure of personal information can be directed to the Manager of Registries Operations at 1 877 526-1526.
 PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3

A INCORPORATION NUMBER OF COMPANY

BC0891423

B NAME OF COMPANY

BM 81/82 Lands Ltd.

C DATE OF RECOGNITION

YYYY/MM/DD

2010/09/27

D DATE OF ANNUAL REPORT

YYYY/MM/DD

2022/09/27

E PERSONS WHO HAVE BEEN APPOINTED AS OFFICERS

OFFICER NAME(S) AND ADDRESS(ES) – Enter the full name, delivery address, mailing address (if different) and office held of each of the company's officers, if any. The officer may select to provide either (a) the delivery address and, if different, the mailing address for the office at which the individual can usually be served with records between 9 a.m. and 4 p.m. on business days or (b) the delivery address and, if different, the mailing address of the individual's residence. The delivery address must not be a post office box. Attach an additional sheet if more space is required.

Note: Listing officer appointments on the annual report is **optional**. If you choose to include officer information, you cannot file any change to this information until you file the annual report for next year.

FIRST NAME	MIDDLE NAME	LAST NAME			
No Officers Information Filed					
DELIVERY ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
MAILING ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
OFFICE(S) HELD (e.g. president, secretary, vice president)					

FIRST NAME	MIDDLE NAME	LAST NAME			
DELIVERY ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
MAILING ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
OFFICE(S) HELD (e.g. president, secretary, vice president)					

F COMPANY CHANGES

A company must file with the registrar a notice of any change to the information shown in the Corporate Register. Please visit our website at www.bcregistryservices.gov.bc.ca or phone 1 877 526-1526 for information on how to file these notices.

G CERTIFIED CORRECT - I have read this form and found it to be correct.

Note: It is an offence to make a false or misleading statement in respect of a material fact in a record submitted to the Corporate Registry for filing. See section 427 of the Business Corporations Act.

NAME OF APPLICANT

SIGNATURE OF APPLICANT

DATE SIGNED
 YYYY / MM / DD

X

BM 81/82 LANDS LTD.**LIST OF DIRECTORS
AS OF SEPTEMBER 27, 2022****Directors**

Name	Delivery Address	Mailing Address
Dan Matthews	2050 Country Club Way Victoria, BC V9B 6R3	2050 Country Club Way Victoria, BC V9B 6R3
Tian Kusumoto	228 West 5th Avenue, 3rd Floor Vancouver, BC V5Y 1J4	228 West 5th Avenue, 3rd Floor Vancouver, BC V5Y 1J4

**RESOLUTIONS CONSENTED TO IN WRITING
BY THE SOLE VOTING SHAREHOLDER OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2021

IN PLACE of holding an annual general meeting on the date stated above, the undersigned, being the sole voting shareholder of the Company entitled to attend a general meeting, as of June 30, 2021:

Financial Statements

1. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the production and publication of financial statements for the latest financial year be waived.

Waive Appointment of Auditor

2. Resolves, as a unanimous resolution, that, as provided in the *Business Corporations Act* (BC) (the "Act"), the appointment of an auditor for the financial year ending December 31, 2021 be waived.

Determine Number and Election of Directors

3. Resolves that the number of directors be determined at 2 and elects as directors the persons listed below, each of whom has consented in writing in advance to act as a director:

Dan Matthews
Tian Kusumoto

Annual Reference Date

4. Resolves that the Company selects June 30, 2021 as the Annual Reference Date for the Company, for the purposes of the Act.

Execution Procedure

5. These resolutions may be signed and delivered by facsimile or other electronic means and will be deemed an original bearing the date set out above.

Ecoasis Developments LLP

By: _____

**RESOLUTIONS CONSENTED TO IN WRITING
BY ALL THE DIRECTORS OF**

**BM 81/82 LANDS LTD.
("Company")**

AS OF JUNE 30, 2021

RESOLVED THAT:

Appointment of Officers

1. The following persons will be officers of the Company for the ensuing year:

Name	Office Held
Dan Matthews	President
Tian Kusumoto	Secretary and Chief Financial Officer

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Dan Matthews

Tian Kusumoto



BC Registries and Online Services

ANNUAL REPORT

FORM 6 – BC COMPANY

Section 51 Business Corporations Act

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 PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3

A INCORPORATION NUMBER OF COMPANY

BC0891423

B NAME OF COMPANY

BM 81/82 Lands Ltd.

C DATE OF RECOGNITION

YYYY/MM/DD

2010/09/27

D DATE OF ANNUAL REPORT

YYYY/MM/DD

2021/09/27

E PERSONS WHO HAVE BEEN APPOINTED AS OFFICERS

OFFICER NAME(S) AND ADDRESS(ES) – Enter the full name, delivery address, mailing address (if different) and office held of each of the company's officers, if any. The officer may select to provide either (a) the delivery address and, if different, the mailing address for the office at which the individual can usually be served with records between 9 a.m. and 4 p.m. on business days or (b) the delivery address and, if different, the mailing address of the individual's residence. The delivery address must not be a post office box. Attach an additional sheet if more space is required.

Note: Listing officer appointments on the annual report is **optional**. If you choose to include officer information, you cannot file any change to this information until you file the annual report for next year.

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MAILING ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
OFFICE(S) HELD (e.g. president, secretary, vice president)					

FIRST NAME	MIDDLE NAME	LAST NAME			
DELIVERY ADDRESS	CITY	PROV/STATE	COUNTRY	POSTAL CODE/ZIP CODE	
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NAME OF APPLICANT

SIGNATURE OF APPLICANT

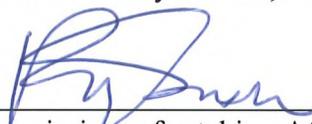
DATE SIGNED
 YYYY / MM / DD

X

BM 81/82 LANDS LTD.**LIST OF DIRECTORS
AS OF SEPTEMBER 27, 2021****Directors**

Name	Delivery Address	Mailing Address
Dan Matthews	2050 Country Club Way Victoria, BC V9B 6R3	2050 Country Club Way Victoria, BC V9B 6R3
Tian Kusumoto	228 West 5th Avenue, 3rd Floor Vancouver, BC V5Y 1J4	228 West 5th Avenue, 3rd Floor Vancouver, BC V5Y 1J4

This is **Exhibit "D"** referred to in the affidavit of Tian Kusumoto made before me on this 20th day of June, 2024.



A Commissioner for taking Affidavits in
British Columbia

ASSIGNMENT OF PARTICIPATION AGREEMENT

THIS AGREEMENT made as of November 1, 2013 between:

BEAR MOUNTAIN LAND HOLDINGS LTD.,
a company duly incorporated under the laws of British Columbia having offices at
2050 Country Club Way, Victoria, British Columbia, V9B 6R3

(the "Assignor")

- and -

HSBC BANK CANADA
a Canadian Chartered Bank having an office at Suite 600, 885 West Georgia Street,
Vancouver, British Columbia, V6C 3E9

(the "Assignee")

WHEREAS:

- A. Pursuant to a purchase and sale agreement and a supplemental agreement both made as of August 29, 2013 (collectively, the "**Purchase Agreement**") between the Assignor and Ecoasis Innovation Communities Ltd. as assigned to Ecoasis Developments LLP and Ecoasis Resort and Golf LLP (together, the "**Purchasers**"), the Assignor sold to the Purchasers the entire right, title and interest of the Assignor in the Bear Mountain Property.
- B. In accordance with the terms and conditions of the Purchase Agreement, the Assignor and Purchasers entered into the Participation Agreement made as of October 8, 2013, a copy of which is attached hereto as Schedule "A" (the "**Participation Agreement**"), to provide for the payment of the Participation Amount by the Purchasers to the Assignor.
- C. The Assignor and Assignee now wish to enter into this Agreement to complete the transfer and assignment of the Assignor's right, title and interest in the Participation Agreement to the Assignee.

NOW THEREFORE, in consideration of the premises, the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which each party hereby acknowledges, the Assignor and the Assignee hereby covenant and agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 **Defined Terms**

Terms which are defined in the Participation Agreement, which are used and capitalized in this Assignment shall have the meanings specified in the Participation Agreement unless otherwise defined herein.

- 2 -

ARTICLE 2 **ASSIGNMENT**

2.1 **Assignment**

As of the date first above written (the "**Effective Date**"), the Assignor hereby absolutely assigns, transfers and sets over unto the Assignee all of the Assignor's right, title and interest in and to:

- (a) the Participation Agreement;
- (b) the entire Participation Amount payable by the Purchasers;
- (c) the benefit of all Participation Security;
- (d) any and all advantages due or accruing due or at any time after the Effective Date of this Agreement to become due under the Participation Agreement or any extensions or renewals of the Participation Agreement; and
- (e) the benefit of all covenants, representations and warranties with respect to the Participation Agreement;

with full power and authority to demand, collect, sue for, recover, receive, and give receipts for payments and to enforce payment thereof or the performance of covenants in the name of the Assignee.

2.2 **Effect of Assignment**

The Assignor agrees that the Assignee is to have and to hold the Participation Agreement assigned to it and all of the advantages to be derived from the Participation Agreement and the right to enforce the performance of covenants under the Participation Agreement for its sole use and benefit forever.

2.3 **Performance by Assignee**

As of the Effective Date, the Assignee covenants with the Assignor that the Assignee will observe and perform the covenants, provisos and conditions contained in the Participation Agreement.

ARTICLE 3 **CONSENT**

3.1 **Consent**

To the extent that any interest in the Participation Agreement assigned, transferred or conveyed to the Assignee pursuant to this Agreement or any claim, right or benefit arising thereunder or resulting therefrom (collectively, the "**Interests**") is not capable of being assigned, transferred or conveyed without the approval, consent or waiver of a third party or the performance of a specified act of compliance (collectively the "**Acts of Compliance**") or if such assignment, transfer or conveyance would constitute a breach of an agreement with a third party or a violation of any law, decree, order, regulation or other governmental edict, this Agreement shall not constitute an assignment, transfer or conveyance thereof, or an attempted assignment, transfer or conveyance thereof and to the extent any Interests are not assigned, transferred or conveyed by this Agreement due to Acts of Compliance necessary to such assignment, transfer or conveyance not being completed, such Interests shall be held in trust by the Assignor for the Assignee and the beneficial interest in all

- 3 -

Participation Agreement and obligations derived from such Interests shall be for the account of the Assignee.

ARTICLE 4
GENERAL

4.1 Further Assurances

The Assignor will, from time to time at the request of the Assignee, execute such assignments, documents, conveyances, assurances, and authorizations as the Assignee shall reasonably require to give effect to the true intent and meaning of this Agreement and to assign any or all of the Participation Agreement to the Assignee.

4.2 Governing Law

This Assignment shall be governed by and construed in accordance with the laws of the Province of British Columbia.

4.3 Enurement

This Assignment shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

4.4 Counterparts

This Assignment may be executed in counterparts and when each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all such counterparts when taken together shall constitute one and the same agreement.

4.5 Facsimile/Electronic Mail Execution

This Assignment may be executed by the parties and transmitted by facsimile or electronic mail and if so executed and transmitted, this Assignment shall be for all purposes as effective as if the parties had delivered an executed original Assignment.

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

BEAR MOUNTAIN LAND HOLDINGS LTD.

by its authorized signatory:



Name:

HSBC BANK CANADA
by its authorized signatories:

BOB ELLIOTT
ASSISTANT VICE PRESIDENT
SPECIAL CREDIT

Name:



KERN CHIU
SENIOR MANAGER
SPECIAL CREDIT

Name:

SCHEDULE "A"

PARTICIPATION AGREEMENT

BETWEEN

BEAR MOUNTAIN LAND HOLDINGS LTD.

AND

ECOASIS DEVELOPMENTS LLP

- and -

ECOASIS RESORT AND GOLF LLP

BEAR MOUNTAIN
VICTORIA, BRITISH COLUMBIA

OCTOBER 8, 2013

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT made as of October 8, 2013 between:

BEAR MOUNTAIN LAND HOLDINGS LTD., a company duly incorporated under the laws of British Columbia having an office at Suite 600, 885 West Georgia Street, Vancouver, British Columbia V6C 3E9

("BMLH")

- and -

ECOASIS DEVELOPMENTS LLP and ECOASIS RESORT AND GOLF LLP, each limited liability partnerships duly formed under the laws of British Columbia having an office at 228 West 5th Avenue, Vancouver, British Columbia, V5Y 1J4

(collectively, "Ecoasis")

RECITALS

- A. By a Purchase and Sale Agreement made as of August 29, 2013 between BMLH and Ecoasis (the "**Purchase Agreement**") BMLH sold, transferred and conveyed the Bear Mountain Property to Ecoasis, and Ecoasis acquired the Bear Mountain Property from BMLH, on the terms and subject to the conditions set out therein.
- B. Pursuant to the provisions of the Purchase Agreement, Ecoasis agreed to pay the Participation Amount to BMLH as additional consideration for the Bear Mountain Property.
- C. It is a term of the Purchase Agreement that BMLH and Ecoasis enter into this Agreement to more fully set out their respective rights and obligations in connection with the calculation and payment of the Participation Amount.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which each party hereby acknowledges, BMLH and Ecoasis hereby covenant and agree as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

In this Agreement, including the Recitals hereto:

- (a) "**Affiliate**" means, with respect to BMLH or Ecoasis, any person that directly or indirectly Controls, is Controlled by, or is under common Control with such party;

- 2 -

- (b) “**Agreement**” means this Participation Agreement and all Schedules attached hereto, as amended and supplemented from time to time;
- (c) “**Arbitrator**” has the meaning ascribed thereto in Section 7.2(b);
- (d) “**Arm’s Length**” means the relationship between Persons who are not “related persons” as defined in the *Income Tax Act* (Canada);
- (e) “**Bear Mountain**” means the residential and resort community near Victoria, British Columbia known as “Bear Mountain”;
- (f) “**Bear Mountain Property**” means all lands, assets, buildings, structures, improvements, assets, equipment, fixtures, contracts, records and other property and rights comprising Bear Mountain which were sold, transferred and conveyed by BMLH to Ecoasis pursuant to the Purchase Agreement, including without limitation, the Development Lands, Golf Course Lands, Hotel Strata Lots and Hotel Fractional Interests;
- (g) “**Building Permit**” means any building permit authorizing the construction of any Improvements on the Development Lands or Golf Course Lands, issued to Ecoasis or any Affiliate of Ecoasis by the City of Langford, District of Highlands or other governmental authority at any time during the Term;
- (h) “**Business Day**” means Monday to Friday, all inclusive, except any such day which is a statutory holiday under the laws of British Columbia;
- (i) “**Control**” means the power to direct or cause the direction of management and policies of another Person, whether through ownership of shares, a contract, trust arrangement or any other means, either directly or indirectly, that results in control in fact regardless of whether such ownership occurs directly or indirectly and without restricting the generality of the foregoing, includes with respect to the control of or by a corporation or partnership, the ownership of shares or equity interest carrying not less than 50% of the voting rights;
- (j) “**Development Certificate**” has the meaning ascribed thereto in Section 2.5(a);
- (k) “**Development Lands**” means the parcels of land at Bear Mountain owned by Ecoasis as of the Effective Date legally described in Part 1 of Schedule “A” attached hereto, together with all structures, improvements and fixtures located thereon;
- (l) “**Effective Date**” means October 8, 2013;
- (m) “**Golf Course Lands**” means the parcels of land at Bear Mountain owned by Ecoasis as of the Effective Date legally described in Part 2 of Schedule “A” attached hereto on which the Golf Courses are located;

- 3 -

- (n) **“Golf Courses”** means the two (2) golf courses at Bear Mountain, being the nineteen (19) hole golf course known as the “Mountain Course” and the eighteen (18) hole golf course known as the “Valley Course”, together with the driving range and practice facility associated therewith;
- (o) **“Gross Sale Price”** means the aggregate consideration received by, or to be received by, Ecoasis in connection with the sale of any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interest, or of any portions or interests therein, or from the sale of any shares of a Nominee holding legal title to any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interest for the purpose of effecting a sale of any interest therein, to an Arm’s Length purchaser, without any deduction, including, without limitation, the amount of any deferred payments, vendor mortgages and the actual value of any real or personal property given as consideration in lieu of cash;
- (p) **“Hotel”** means the 156 room hotel located at Bear Mountain and operated under the name “The Westin Bear Mountain Golf Resort and Spa” as of the Effective Date;
- (q) **“Hotel Fractional Interests”** means the forty-nine (49) quarter share interests in the guest rooms at the Hotel legally described in Schedule “B” attached hereto which are owned by Ecoasis as of the Effective Date;
- (r) **“Hotel Strata Lots”** means the seven (7) strata lots legally described in Schedule “C” attached hereto which are owned by Ecoasis as of the Effective Date and which comprise the operational areas of the Hotel, including front desk, reception and common area, restaurant and lounge, meeting rooms, restrooms, golf pro shop and spa area;
- (s) **“Improvements”** means any buildings, structures or other improvements Ecoasis, or any Affiliate of Ecoasis, might determine to develop and construct on any portion of the Development Lands or Golf Course Lands during the Term;
- (t) **“Institute”** has the meaning ascribed thereto in Section 7.2(a);
- (u) **“Market Value”** means, with respect to the Development Lands or Golf Course Lands, or any portion thereof, the sale price that would be obtained therefor in an open market between informed parties acting at Arm’s Length and under no compulsion to act;
- (v) **“Nominees”** means each of the corporations identified in Schedule “D” attached hereto which are registered owners of portions of the Development Lands, Golf Course Lands, Hotel Fractional Interests and Hotel Strata Lots and which hold legal title as bare trustees and nominees for Ecoasis;
- (w) **“Participation Amount”** has the meaning ascribed thereto in Section 2.1;

- 4 -

- (x) **“Participation Security”** means the first mortgage charge in the principal amount of three million dollars (\$3,000,000) granted by Ecoasis in favour of BMLH which is to be registered against title to the Golf Course Lands and Hotel Strata Lots on the Effective Date to secure the obligation of Ecoasis to pay the Participation Amount to BMLH;
- (y) **“Person”** means an individual, company, corporation, sole proprietorship, general or limited partnership, joint venture, syndicate, trust, association or other entity or governmental entity or authority;
- (z) **“Prime Rate”** means the variable annual rate of interest charged by HSBC Bank Canada, Main Branch, Vancouver, British Columbia (or its successor), as its reference rate of interest for calculating interest on variable rate commercial loans made in Canadian dollars in Canada to its most creditworthy customers;
- (aa) **“Purchase Agreement”** has the meaning ascribed thereto in Recital A to this Agreement;
- (bb) **“Rules”** has the meaning ascribed thereto in Section 7.2(a);
- (cc) **“Sale Certificate”** has the meaning ascribed thereto in Section 2.3;
- (dd) **“Sale Offer”** has the meaning ascribed thereto in Section 6.2(a); and
- (ee) **“Term”** means the term of this Agreement which shall commence on the Effective Date and expire on the earlier of:
 - (i) October 8, 2028, being a period of fifteen years from the Effective Date;
 - (ii) the sale by Ecoasis of all of the Development Lands, Golf Course Lands, Hotel Strata Lots and Hotel Fractional Interests, and the payment by Ecoasis of the full amount of the Participation Amount payable in connection with such sales in accordance with Section 2.4; and
 - (iii) the completion of the purchase by Ecoasis of BMLH’s rights and interest herein pursuant to a Sale Offer in accordance with Section 6.2(a).

Section 1.2 Interpretation Not Affected By Headings, etc.

Grammatical variations of any terms defined in this Agreement shall have similar meanings; words importing the singular meaning shall include the plural and vice versa; words importing one gender shall include all genders. The division of this Agreement into separate articles, sections, subsections, and paragraphs, and the insertion of headings are for convenience of reference only and shall not affect the construction and interpretation of this Agreement.

- 5 -

Section 1.3 Severability

If any covenant, obligation or agreement of this Agreement, or the application thereof to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement to Persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each covenant, obligation, and agreement of this Agreement shall be separately valid and enforceable to the full extent permitted by law.

Section 1.4 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of British Columbia and of Canada applicable therein and shall be treated in all respects as a British Columbia contract.

Section 1.5 Time of Essence

Time shall be of the essence in the performance of the obligations of the parties under this Agreement.

Section 1.6 Currency

All transactions referred to in this Agreement shall be made in the lawful money of Canada.

Section 1.7 Schedules

The following schedules attached hereto are incorporated into and form a part of this Agreement:

- Schedule "A" - Development Lands and Golf Course Lands
- Schedule "B" - Hotel Fractional Interests
- Schedule "C" - Hotel Strata Lots
- Schedule "D" - Nominees

Section 1.8 References

All references in this Agreement to Schedules, Articles, Sections or other subdivisions refer to corresponding schedules, articles and other subdivisions of this Agreement and the words "herein", "hereof", "hereby", "hereunder" and words of similar import refer to this Agreement as a whole and not a particular schedule, article, section, or subdivision of this Agreement.

ARTICLE 2 PARTICIPATION AMOUNT

Section 2.1 Payment Of Participation Amount

As further and partial consideration for the purchase of the Bear Mountain Property by Ecoasis from BMLH, Ecoasis shall, throughout the Term and in accordance with the terms hereof, pay to BMLH or to the direction of BMLH, that amount which is equal to two percent (2%) of:

- 6 -

- (a) the Gross Sale Price derived from, or attributable to, the sale of any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests, or of any portions thereof;
- (b) the Gross Sale Price derived from, or attributable to, the sale of any of the shares of any Nominee holding legal title to any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests for the purpose of effecting the sale of any interest therein; and
- (c) the then Market Value of any Development Lands or Golf Course Lands, or of any portions thereof which Ecoasis, or any Affiliate of Ecoasis, determines to develop by undertaking the construction of Improvements thereon, where Building Permits authorizing the construction of Improvements are issued to Ecoasis, or any Affiliate of Ecoasis,

(the "Participation Amount").

Section 2.2 Anticipated Activity Reports

Ecoasis shall, throughout the Term, prepare and deliver to BMLH, or to its direction, regular written reports, which shall be no less frequent than annually, setting out in reasonable detail all sale and development activities associated with the Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests proposed or anticipated by Ecoasis during the twelve (12) month period subsequent to the date of delivery of the report. The first such report shall be delivered by Ecoasis to BMLH within three (3) months of the Effective Date.

Section 2.3 Sale Certificate

Within thirty (30) days of the completion of a sale of:

- (a) any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests; or
- (b) any shares in any Nominee holding legal title to any Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests for the purpose of effecting a sale of any interest therein,

Ecoasis shall deliver to BMLH, or to the direction of BMLH, a certificate in writing of an officer of Ecoasis setting out in reasonable detail:

- (c) a description of the Development Lands, Golf Course Lands, Hotel Strata Lots or Hotel Fractional Interests or, if applicable, the shares of the Nominees that were the subject of the sale;
- (d) the terms of the sale;
- (e) the Gross Sale Price derived from, or attributable to, the sale; and

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- (f) the calculation of the Participation Amount payable by Ecoasis to BMLH in respect of the sale,

(a “Sale Certificate”).

Section 2.4 Participation Amount Payable on Sale

Concurrently with the delivery of a Sale Certificate pursuant to Section 2.3, Ecoasis shall pay to BMLH, or to the direction of BMLH, the full amount of the Participation Amount payable in connection with the sale to which the Sale Certificate relates.

Section 2.5 Development Certificate

Within thirty (30) days of the issuance of a Building Permit to Ecoasis or an Affiliate of Ecoasis, authorizing the construction of any Improvements on any Development Lands or Golf Course Lands, Ecoasis shall deliver to BMLH, or to the direction of BMLH:

- (a) a certificate in writing of an officer of Ecoasis setting out in reasonable detail:
 - (i) a description of the Development Lands or Golf Course Lands to which the Building Permit relates; and
 - (ii) the nature of the Improvements to be constructed on such Development Lands or Golf Course Lands,
- (a “Development Certificate”);
- (b) a statement setting out Ecoasis’s estimated Market Value of the Development Lands or Golf Course Lands, to which the Building Permit relates, together with a description of the manner in which such estimate was obtained and reasonable evidence in support thereof; and
- (c) a statement setting out the calculation of the estimated Participation Amount payable by Ecoasis to BMLH in connection with the development to which the Development Certificate relates, which calculation shall be based on the estimate of Market Value set out in the statement delivered pursuant to Section 2.5(b).

Section 2.6 Estimated Participation Amount Payable on Delivery of Development Certificate

Concurrently with the delivery of a Development Certificate pursuant to Section 2.5(a), Ecoasis shall pay to BMLH, or to the direction of BMLH, the full amount of the estimated Participation Amount payable in connection with the development to which the Development Certificate relates, as such estimated Participation Amount is calculated and set out in the statement delivered by Ecoasis to BMLH pursuant to Section 2.5(c).

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Section 2.7 Dispute of Estimated Market Value

In the event BMLH shall disagree with any estimate of the Market Value of any Development Lands or Golf Course Lands, or any portion thereof, made by Ecoasis and set out in a statement delivered pursuant to Section 2.5(b), BMLH may dispute such estimate of Market Value by written notice delivered to Ecoasis within sixty (60) days of receipt of such statement from Ecoasis, setting out BMLH's estimated Market Value of such Development Lands or Golf Course Lands, together with an description of the manner in which such estimate was obtained and reasonable evidence in support thereof.

Section 2.8 Agreement as to Market Value

Upon delivery of a notice of dispute of estimated Market Value by BMLH to Ecoasis pursuant to Section 2.7, BMLH and Ecoasis shall, each acting reasonably, cooperatively and diligently, endeavour to reach an agreement in writing as to the Market Value in dispute within sixty (60) days following delivery of the notice by BMLH to Ecoasis pursuant to Section 2.7.

Section 2.9 Final Determination of Market Value

- (a) Failing agreement as to Market Value pursuant to Section 2.8, BMLH and Ecoasis shall, within five (5) Business Days of the sixty (60) day period provided for therein, each appoint an appraiser who deals at Arm's Length with each of them, which appraisers shall have not less than ten (10) years' experience in the practice of valuation of lands similar to the Development Lands and Golf Course Lands. BMLH and Ecoasis shall then, within ten (10) Business Days, submit to both appraisers its written estimate of Market Value. The appraisers shall be instructed to select the estimate which, in their opinion, is closest to the Market Value (determined by the appraisers acting as experts and not as arbitrators) and to advise BMLH and Ecoasis of their selection within thirty (30) days of the later of their receipt of each such estimate. The estimate selected by the appraisers shall be deemed to be the Market Value. If the two appraisers are unable to agree upon the estimate of Market Value as aforesaid, then they shall, within ten (10) days following the expiration of such thirty (30) day period, appoint a third appraiser who deals at Arm's Length with both BMLH and Ecoasis and who shall, acting alone, within fifteen (15) days of his appointment, select from the two estimates provided, the estimate which, in his opinion, is closest to the actual Market Value.
- (b) If one party fails to appoint an appraiser in accordance with Section 2.9(a), the parties shall be deemed to have agreed that the decision of the other party's appraiser as to the closest estimate of Market Value shall be final and binding on both parties.
- (c) BMLH and Ecoasis will co-operate with the appraisers and provide any information or documents reasonably requested by the appraisers.
- (d) The costs of the appraisers shall be paid by the party whose estimate of Market Value is not selected by the appraisers.

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Section 2.10 Adjustment Payment

Within thirty (30) days of a final determination of Market Value pursuant to Section 2.8 or Section 2.9:

- (a) where the Market Value is greater than the estimate set out in the statement delivered by Ecoasis to BMLH pursuant to Section 2.5(b), Ecoasis shall pay to BMLH that amount which is equal to the actual Participation Amount calculated on the Market Value as finally determined hereunder, less the amount previously paid by Ecoasis to BMLH pursuant to Section 2.6, together with interest thereon, as provided in Section 2.11; and
- (b) where the Market Value is less than the estimate set out in the statement delivered by Ecoasis to BMLH pursuant to Section 2.5(b), BMLH shall refund and pay to Ecoasis that amount by which the amount previously paid by Ecoasis to BMLH pursuant to Section 2.6 exceeds the actual Participation Amount calculated on the Market Value as finally determined hereunder, together with interest thereon as provided in Section 2.11.

Section 2.11 Interest on Adjustment Payment

Any amount payable by one party to the other pursuant to Section 2.10 shall bear interest at the Prime Rate plus three percent (3%) from the date of delivery of the Development Certificate to which such payment relates until paid.

**ARTICLE 3
RECORDS AND AUDIT RIGHT**

Section 3.1 Sale and Development Records

Ecoasis shall throughout the Term maintain books and records of all sale and development activities relating to or associated with the Development Lands, Golf Course Lands, Hotel Strata Lots and Hotel Fractional Interests, which books and records shall be sufficiently complete and detailed so as to enable an audit pursuant to Section 3.2 to be completed.

Section 3.2 Right to Audit

During the Term and within the twelve (12) month period following the expiration of the Term, BMLH shall have the right, upon at least ten (10) Business Days' prior written notice delivered to Ecoasis, to audit Ecoasis's books and records described in Section 3.1 in relation to:

- (a) the sale and development activities involving the Development Lands, Golf Course Lands, Hotel Strata Lots and Hotel Fractional Interests undertaken or proposed by Ecoasis or any Affiliate of Ecoasis;
- (b) the Gross Sale Price received in connection with the sale by Ecoasis of any Development Lands, Golf Course Lands, Hotel Strata Lots and Hotel Fractional Interests, or any portions thereof; and

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- (c) compliance with Ecoasis's obligations under Article 2.

Section 3.3 Confidentiality

BMLH shall keep all information provided to it by Ecoasis, including all books and records maintained pursuant to Section 3.1 and all information obtained as a result of an audit hereunder, in the strictest confidence and shall not divulge such information to any Person.

Section 3.4 Notice of Discrepancies

Within sixty (60) days of the completion of an audit by BMLH, or by any firm of chartered accountants engaged by BMLH to carry out such audit, BMLH may deliver notice to Ecoasis identifying any discrepancies or inaccuracies in any Sale Certificate or Development Certificate, any non-compliance by Ecoasis of any of its covenants hereunder, or of any Participation Amount owing and remaining unpaid, all as determined by such audit. Ecoasis shall cooperate with BMLH to resolve all such discrepancies and, subject to the rights of Ecoasis to refer any dispute to arbitration pursuant to Article 7, Ecoasis shall immediately pay any Participation Amount determined to be owing.

Section 3.5 Interest on Amounts in Arrears

Any Participation Amount owing by Ecoasis to BMLH hereunder remaining unpaid shall bear interest at the Prime Rate plus three percent (3%) from the date due hereunder until paid.

Section 3.6 Cost of Audit

In the event any audit pursuant to Section 3.2 determines any Participation Amount to be owing, or if Ecoasis disputes such findings and it is thereafter confirmed by an Arbitrator, Ecoasis shall pay all costs associated with the audit. In all other cases, the costs associated with the audit shall be paid by BMLH.

**ARTICLE 4
PARTICIPATION SECURITY**

Section 4.1 Right to Discharge of Participation Security

Ecoasis shall have the right, at any time during the Term, to have the Participation Security discharged from the titles to the Golf Course Lands and Hotel Strata Lots, or any portions thereof, by providing BMLH with replacement security in the form of other lands or property or irrevocable letters of credit in form acceptable to BMLH, acting reasonably, and provided the aggregate value of all lands and property charged by the Participation Security and/or any letters of credit delivered to BMLH hereunder, is equal to or greater than the amount which is equal to three million dollars (\$3,000,000) less the aggregate Participation Amount previously paid by Ecoasis to BMLH.

Section 4.2 Partial Discharge of Participation Security

BMLH covenants and agrees that following any sale by Ecoasis of either:

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- (a) any Golf Course Lands or Hotel Strata Lots, or any portion thereof; or
- (b) any shares in any Nominee holding legal title to any Golf Course Lands or Hotel Strata Lots for the purpose of effecting a sale of any interest therein as contemplated in Section 2.3(b),

and the corresponding payment by Ecoasis of the full amount of the Participation Amount payable in connection with any such sale in accordance with Section 2.4, BMLH shall execute and deliver to Ecoasis a registrable partial discharge of the Participation Security from the titles to the Golf Course Lands, Hotel Strata Lots or applicable portion thereof to which such sale relates, within a reasonable period of time following payment of the Participation Amount payable in connection with any such sale.

Section 4.3 Discharge of Participation Security

Upon the expiration of the Term or the earlier termination of this Agreement, BMLH shall execute and deliver to Ecoasis, within a reasonable period of time following a written request of Ecoasis, a registrable discharge of the Participation Security from the titles to the Golf Course Lands and the Hotel Strata Lots.

ARTICLE 5 TERM

Section 5.1 Term

This Agreement shall be effective as of the Effective Date and shall continue in full force and effect for the entire Term unless otherwise terminated by written agreement of each of the parties hereto.

ARTICLE 6 ASSIGNMENT

Section 6.1 Assignment by BMLH

Subject only to Section 6.2, BMLH may assign this Agreement and/or any rights arising hereunder to any Person and at any time on written notice to the Purchaser.

Section 6.2 Ecoasis Right of First Offer

Notwithstanding the provisions of Section 6.1, if at any time during the Term BMLH determines to sell its rights hereunder and to assign this Agreement to a Person that is not an Affiliate of BMLH, the following shall apply:

- (a) BMLH shall deliver to Ecoasis an irrevocable offer for the sale of BMLH's interest herein for a purchase price payable only in cash (a "Sale Offer"); and

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- (b) if Ecoasis does not accept the Sale Offer within thirty (30) days of receipt, BMLH may then solicit and accept an offer from a third Person containing financial terms and conditions not more advantageous than those set out in the Sale Offer.

Section 6.3 Assignment by Ecoasis

Ecoasis shall not be permitted to assign this Agreement or any of its rights and obligations hereunder to any Person.

**ARTICLE 7
DISPUTE RESOLUTION**

Section 7.1 Dispute Resolution

Any dispute between the parties which touches upon the validity, construction, meaning, performance or effect of this Agreement, or the rights and liabilities of the parties, or any matter arising out of or connected with this Agreement, will be resolved by arbitration as provided in Section 7.2 unless otherwise agreed by the parties.

Section 7.2 Arbitration

Arbitration proceedings pursuant to Section 7.1 may be commenced by the party desiring arbitration delivering notice to the other party specifying the matter to be arbitrated and requesting an arbitration thereof. Any such arbitration will be carried out in accordance with the following:

- (a) the Arbitration Rules (the “**Rules**”) of the British Columbia Arbitration and Mediation Institute (the “**Institute**”) will apply to the arbitration except as otherwise provided herein;
- (b) the arbitration will be conducted by a single arbitrator (an “**Arbitrator**”) agreed upon by the parties, or failing agreement, within ten (10) Business Days of the delivery of the notice requesting the arbitration, an Arbitrator appointed by the Institute upon the written request of either party;
- (c) the Arbitrator will be qualified and experienced in the field which is the subject matter of the arbitration;
- (d) the Arbitrator will make his determination on the basis of written submissions and affidavits submitted by the parties, without any hearing unless requested by either party or if the Arbitrator determines that a hearing is necessary. Each party shall be entitled to a copy of the other’s submissions and affidavits;
- (e) the parties will cooperate with the Arbitrator and agree to act at all times so as to facilitate the efficient, expeditious and economical resolution of disputes;
- (f) the Arbitrator shall be directed to make all reasonable efforts to make his award within thirty (30) days of his appointment;

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- (g) the award of the Arbitrator will be rendered in writing and will contain a recital of the facts upon which the award is made and the reasons for the award;
- (h) the award of the Arbitrator shall be final and binding upon the parties, subject to Section 30 of the *Arbitration Act* (British Columbia);
- (i) the Arbitrator has jurisdiction to award the costs of the arbitration, including the fees of the arbitrator as the Arbitrator sees fit;
- (j) in all other respects, the arbitration will be carried out pursuant to the Rules and in accordance with the *Arbitration Act* (British Columbia).

ARTICLE 8 MISCELLANEOUS

Section 8.1 Notices

Any notice, demand or other communication to be given in connection with this Agreement will be in writing, will state the section of this Agreement pursuant to which it is given and will be given by delivery, facsimile or electronic transmission addressed to the recipient as follows:

- (a) to BMLH at:

Bear Mountain Land Holdings Ltd.
Suite 600, 885 West Georgia Street
Vancouver, British Columbia, V6C 3E9
Attention: Gary Cowan
Facsimile No.: _____
E-mail: gcowan@bearmountain.ca

- (b) to Ecoasis at:

Ecoasis Developments LLP and Ecoasis Golf and Resort LLP
228 West 5th Avenue
Vancouver, British Columbia, V5Y 1J4
Attention: Dan Matthews
Facsimile No.: _____
E-mail: dan@saintsbury.ca

or to such other address, facsimile number or e-mail address, or to the attention of such other individual, as may be designated by one party to the other. Any notice so given will be conclusively deemed to have been given, in the case of delivery, on the date of actual delivery thereof, and in the case of facsimile or electronic transmission, on the date transmitted if transmitted before 5 p.m. Vancouver time and otherwise on the next following Business Day.

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Section 8.2 Entire Agreement

This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and there are no representations, warranties, guarantees, promises or collateral or past agreements existing between BMLH and Ecoasis with respect to the Participation Amount which are not expressly set forth herein.

Section 8.3 Enurement

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

Section 8.4 Amendment

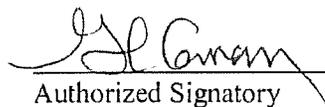
This Agreement may be amended, modified or supplemented only by an agreement in writing signed by the parties hereto.

Section 8.5 Execution in Counterpart and Delivery by Facsimile

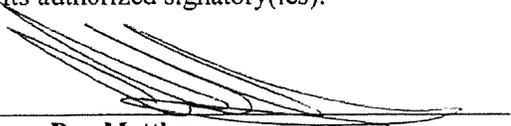
This Agreement may be executed in any number of counterparts each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original, faxed or electronic pdf form and the parties accept any signatures received by a receiving fax machine or electronic transmission as original signatures of the parties.

IN WITNESS WHEREOF BMLH and Ecoasis have executed this Agreement as of the day and year first above written.

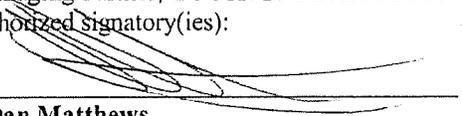
BEAR MOUNTAIN LAND HOLDINGS LTD.

Per: 
Authorized Signatory

ECOASIS DEVELOPMENTS LLP
by its Managing Partner, **ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD.**
by its authorized signatory(ies):


Name: **Dan Matthews**

ECOASIS RESORT AND GOLF LLP
by its Managing Partner, **ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD.**
by its authorized signatory(ies):


Name: **Dan Matthews**

SCHEDULE "A"
DEVELOPMENT LANDS
AND
GOLF COURSE LANDS

PART 1 DEVELOPMENT LANDS

1. Parcel Identifier: 009-853-103
Section 81 Highland District Except Parts in Plans VIP72556 and VIP75509
2. Parcel Identifier: 009-858-636
Section 82 Highland District Except Part in Plans VIP75509, VIP76197, VIP76364,
VIP76365, VIP76988, VIP77878, VIP80330, VIP81135 and VIP88981
3. Parcel Identifier: 027-590-127
Lot A Section 82 Highland District Plan VIP85331
4. Parcel Identifier: 026-867-494
Lot A Section 82 Highland District Plan VIP81958
5. Parcel Identifier: 025-838-555
Lot I Section 82 Highland District Plan VIP76365, Except Part in Plan VIP79028 and
VIP85324
6. Parcel Identifier: 009-858-652
Section 83 Highland District Except Parts in Plans VIP75509, VIP77878, VIP78873,
VIP80330, VIP80240, VIP82483, VIP82960, VIP88981 and VIP88983
7. Parcel Identifier: 009-853-081
Section 84 Highland District Except That Part in Plans VIP72556, VIP75509 and
VIP89370
8. Parcel Identifier: 026-575-680
Lot 34 Section 3 Range 4 West Highland District Plan VIP80330
9. Parcel Identifier: 027-024-644
Lot I Section 82 Highland District Plan VIP82851
10. Parcel Identifier: 027-568-849
Lot A, Section 3, Range 4 West, Highland District, Plan VIP85310

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11. Parcel Identifier: 027-568-857
Lot B, Section 3, Range 4 West, Highland District, Plan VIP85310
12. Parcel Identifier: 027-567-907
Lot A, Section 3, Range 4 West, Highland District, Plan VIP85309
13. Parcel Identifier: 027-567-915
Lot B, Section 3, Range 4 West, Highland District, Plan VIP85309
14. Parcel Identifier: 027-205-207
Lot 3, Section 3, Range 4 West, Highland District, Plan VIP83700
15. Parcel Identifier: 027-205-215
Lot 4, Section 3, Range 4 West, Highland District, Plan VIP83700
16. Parcel Identifier: 028-890-141
Lot 5, Section 82, Highland District, Plan EPP19660
17. Parcel Identifier: 028-890-159
Lot 6, Section 82, Highland District, Plan EPP19660
18. Parcel Identifier: 028-890-167
Lot 7, Section 82, Highland District, Plan EPP19660
19. Parcel Identifier: 028-890-175
Lot 8, Section 82, Highland District, Plan EPP19660
20. Parcel Identifier: 028-890-183
Lot 9, Section 82, Highland District, Plan EPP19660
21. Parcel Identifier: 028-890-191
Lot 10, Section 82, Highland District, Plan EPP19660
22. Parcel Identifier: 028-890-353
Lot 11, Section 82, Highland District, Plan EPP19660
23. Parcel Identifier: 028-890-361
Lot 12, Section 82, Highland District, Plan EPP19660
24. Parcel Identifier: 025-838-466
Air Space Lot A District Lot 82 Highland District Air Space Plan VIP76364
25. Parcel Identifier: 024-672-092
Lot A Section 4 Range 4W Highland District Plan VIP70021 (See Plan as to Limited Access) Except That Part in Plan VIP75586
26. Parcel Identifier: 005-438-187
Lot 24 Section 17 Highland District Plan 4128 Except Part in Plan 45401

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PART 2 GOLF COURSE LANDS

1. Parcel Identifier: 009-861-831
Section 12 Highland District Except Parts in Plans 10853, 11134 and 45402
2. Parcel Identifier: 009-861-866
Section 16 Highland District Except That Part in Plan VIP72555
3. Parcel Identifier: 025-088-092
Block B Section 75 Highland District
4. Parcel Identifier: 027-024-768
Lot A Section 82 Highland District Plan VIP82853
5. Parcel Identifier: 025-695-118
Lot 1 Sections 81, 82 and 84 Highland District Plan VIP75509 Except That Part in Plan
VIP76365, VIP79028, VIP82848, VIP82851, VIP85324 and EPP19660
6. Parcel Identifier: 025-695-126
Lot 2 Sections 81, 82, 83 and 84 Highland District Plan VIP75509 Except Parts in Plans
VIP76365, VIP78873, VIP81135, VIP81958, VIP82040 and VIP89370
7. Parcel Identifier: 009-861-815
Section 5 Range 4 West Highland District Except Part in Plans VIP60675, VIP67875 and
VIP75584
8. Parcel Identifier: 009-861-823
The South 60 Acres of Section 6 Range 4 West Highland District Except Part in Plan
VIP67875

SCHEDULE "B"

HOTEL FRACTIONAL INTERESTS

1.	026-706-261	Strata Lot 7, Strata Plan VIS6037	(Rotations B, C, D)
2.	026-706-318	Strata Lot 12, Strata Plan VIS6037	(Rotation C)
3.	026-706-326	Strata Lot 13, Strata Plan VIS6037	(Rotations A, C, D)
4.	026-706-342	Strata Lot 15, Strata Plan VIS6037	(Rotation D)
5.	026-706-351	Strata Lot 16, Strata Plan VIS6037	(Rotation B)
6.	026-706-369	Strata Lot 17, Strata Plan VIS6037	(Rotation D)
7.	026-706-385	Strata Lot 19, Strata Plan VIS6037	(Rotation B)
8.	026-706-474	Strata Lot 28, Strata Plan VIS6037	(Rotations A, B, C, D)
9.	026-706-482	Strata Lot 29, Strata Plan VIS6037	(Rotation C)
10.	026-706-504	Strata Lot 31, Strata Plan VIS6037	(Rotations A, B, C)
11.	026-706-512	Strata Lot 32, Strata Plan VIS6037	(Rotations A, B, C, D)
12.	026-706-521	Strata Lot 33, Strata Plan VIS6037	(Rotations A, C, D)
13.	026-706-563	Strata Lot 37, Strata Plan VIS6037	(Rotation A)
14.	026-706-601	Strata Lot 41, Strata Plan VIS6037	(Rotation A)
15.	026-706-644	Strata Lot 45, Strata Plan VIS6037	(Rotations A, B, C, D)
16.	026-706-652	Strata Lot 46, Strata Plan VIS6037	(Rotation B)
17.	026-706-679	Strata Lot 48, Strata Plan VIS6037	(Rotations C, D)
18.	026-706-687	Strata Lot 49, Strata Plan VIS6037	(Rotations C, D)
19.	026-706-695	Strata Lot 50, Strata Plan VIS6037	(Rotations A, D)
20.	026-706-709	Strata Lot 51, Strata Plan VIS6037	(Rotation D)
21.	026-706-717	Strata Lot 52, Strata Plan VIS6037	(Rotations C, D)
22.	026-706-750	Strata Lot 56, Strata Plan VIS6037	(Rotations B, C, D)
23.	026-706-768	Strata Lot 57, Strata Plan VIS6037	(Rotations A, B, C, D)

SCHEDULE "C"**HOTEL STRATA LOTS**

- | | | | |
|----|-------------|-----------------------------------|--|
| 1. | 026-140-446 | Strata Lot 1, Strata Plan VIS5687 | (Fairways Parking Level) |
| 2. | 026-140-454 | Strata Lot 2, Strata Plan VIS5687 | (Fairways Office) |
| 3. | 026-706-202 | Strata Lot 1, Strata Plan VIS6037 | (Front Desk, Offices, Pro Shop, Members Areas) |
| 4. | 026-706-211 | Strata Lot 2, Strata Plan VIS6037 | (Founders Lounge) |
| 5. | 026-706-229 | Strata Lot 3, Strata Plan VIS6037 | (Wine Cellar) |
| 6. | 026-706-237 | Strata Lot 4, Strata Plan VIS6037 | (Spa) |
| 7. | 026-706-245 | Strata Lot 5, Strata Plan VIS6037 | (Food and Beverage) |

SCHEDULE "D"**NOMINEES**

1. BM Highlands Lands Ltd.
2. BM Capella Lands Ltd.
3. BM 81/82 Lands Ltd.
4. BM Clubhouse 40 Ltd.
5. BM 83 Lands Ltd.
6. BM Highlander Development Ltd.
7. BM 84 Lands Ltd.
8. BM Highlands Golf Course Ltd.
9. BM Mountain Golf Course Ltd.
10. BM Resort Assets Ltd.
11. 0884190 B.C. Ltd.
12. 0884194 B.C. Ltd.
13. 0884185 B.C. Ltd.
14. 0884188 B.C. Ltd.

No. S-243389
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP and others

RESPONDENTS

AFFIDAVIT

FASKEN MARTINEAU DUMOULIN LLP
Barristers and Solicitors
550 Burrard Street, Suite 2900
Vancouver, BC, V6C 0A3
+1 604 631 3131

Counsel: Lisa Hierbert
Matter No: 329480.00004