

THIS OWNERS' AGREEMENT dated for reference the 1<sup>st</sup> day of May, 2012.

**BETWEEN:**

OWNERS, HOTEL RESIDENTIAL SECTION OF STRATA PLAN VR 953, being a separate section within Strata Plan VR 953, formed pursuant to Section 51 of the Condominium Act, R.S.B.C. 1979 C.61  
(hereinafter referred to individually as an "Owner" and collectively as the "Owners")

**OF THE FIRST PART**

**AND:**

WVI ENTERPRISES LTD., a company duly incorporated under the laws of the Province of British Columbia, having its registered offices at, 1000 – 840 Howe Street in the City of Vancouver, V6Z 2M1 Province of British Columbia.  
(hereinafter referred to as the "Company")

**OF THE SECOND PART**

**WHEREAS:**

- A. The Owners are the registered owners of certain strata lots and wish to carry on the business of a hotel known as the Whistler Village Inn + Suites in the Resort Municipality of Whistler in the Province of British Columbia;
- B. The Company is a body corporate whose sole beneficial shareholder is the Owners, jointly, who desire the Company to carry on for the benefit of the Owners the business of management, administration and operation of the Hotel Residential Section of Strata Plan VR 953 referred to as the Whistler Village Inn + Suites;
- C. There is registered against each strata lot in Strata Plan VR 953 a covenant pursuant to Section 215 of the Land Title Act being registered under No. H75547 on the 29th of September, 1980 which provides that all residential strata lots in Strata Plan VR 953, shall be placed in or listed with a rental pool and that all such strata lots will at certain times be made available for rental to the public. Hotel Residential Strata Lot 38 has been excepted from this covenant pursuant to a Resort Municipality of Whistler modification to the strata lot's covenant registered on title on October 13, 2011 that enables the strata lot to be used as a commercial office to support the Keg Restaurant.
- D. The Owners wish to enter into an agreement to set out their relationship in regard to the use of their strata lots and rental pooling; and
- E. The parties wish to enter into this agreement to set out their respective rights regarding the operation of the company.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the promises and covenants herein contained, the parties hereto agree as follows:

**1. DEFINITIONS**

1.1 "Agreement Year" is a twelve (12) month period commencing on the 1<sup>st</sup> of May and ending on the 30th of April;

1.2 "Board" means the Board of Directors of the Company.

1.3 "Bylaws" means the bylaws of the Strata Corporation VR 953 as filed at the Land Title Office from time to time and "Bylaw" means anyone of them. Bylaw Sections noted are from Strata Bylaws 2002.

1.4 "Common Property" means the common property of the Strata Corporation as referred to in the Bylaws of Strata VR 953.

1.5 "Condominium Act" means the Condominium Act. RSBC 1979 C.61 and amendments thereto. This Act was replaced by the Strata Property Act S.B.C 1998.

1.6 "Executive" means the executive elected by the Owners in regard to the Hotel Residential Section of Strata Plan VR 953 pursuant to Section 196 of the Strata Property Act and the Bylaws.

1.7 "Gross Revenue" means all revenue from Hotel operations including rental of Units and from Limited Common Property (including forfeited deposits) but excludes Strata Revenues included in the Strata Annual Budget.

1.8 "Hotel" and "Hotel Property" means the lands and premises comprising Strata Lots 1 to 68, inclusive, District Lot 1902 and 4610, Strata Plan VR 953, including Limited Common Property of the Owners who entered into the Agreement herein, Strata or Section Common Property leased to the Company, but excluding Strata Lot 38 (the Keg Office) and Strata Lot 32, (the Keg Restaurant), and the Limited Common Property of Strata Lots 32 and 38, and is in the Resort Municipality of Whistler, British Columbia, all of which are used for the purpose of carrying on a hotel business at the Whistler Village Inn + Suites.

1.9 "Hotel Expenses" means expenses incurred to carry out the operation of the Hotel but excludes expenses which are included in the Strata Annual Budget

1.10 "Hotel Residential Section" means those Strata Lots defined in Bylaw 1.03 as Strata Lots 1 to 31 and 33 to 68 inclusive. These may be referred to as the Hotel Section, Residential Section or Hotel Residential Section.

1.11 "Limited Common Property" means Common Property designated under Section 53(1) and (2) of the Condominium Act (prior to the date hereof) and, subsequently, under Sections 73 and 74 of the Strata Property Act for the use of one or more strata lot owners.

1.12 "Net Hotel Revenue" means net revenue from operation of the Hotel determined in accordance with generally accepted accounting principles, and defined as Gross Revenue, less Hotel Expenses, depreciation, Whistler Resort Association fees, and Room Furnishings Fund Reserve contributions.

1.13 "Owners" means the Hotel Residential Strata Lot Owners of Strata Lots 1 to 31 (Powder Lodge Building), inclusive, of Strata Plan VR 953 and 33 to 68 (Keg Lodge Building), inclusive,

of Strata Plan VR 953 being a separate residential section formed pursuant to Section 51 of the Condominium Act, who execute or become bound by this Agreement.

1.14 "Owner Occupancy" means the occupancy of a Unit by an Owner or family member such as spouse, common-law partner, parent, children, grandchildren and step-children.

1.15 "Owner's Representative" is an owner elected by majority vote of the Strata to receive a monthly stipend as approved by the Board from time to time to work on Strata matters such as legal counsel, insurance, relationship with the Strata Manager, Hotel Management Company and the Commercial and Residential Sections.

1.16 "Revenue Sharing Ratio" (prior agreements referred to this as the "Owner's Portion") means for any Owner the percentage of Net Hotel Revenue as specified in Appendix "A" hereof for the particular Owner.

1.17 "Restrictive Covenant" means the covenant referred to in Recital C.

1.18 "Room Furnishings Reserve Fund" is maintained by participating Owners in this agreement, and is funded based on Owners Revenue Sharing Ratio as required from time to time to furnish and maintain the hotel section strata lots participating in this agreement. The fund is defined in Bylaw 3.03.

1.19 "Strata Annual Budget" is the annual budget for Strata Corporation VR953 approved under Bylaw 14.05, which will include Residential Section Budget and Strata wide Budget.

1.20 "Strata Corporation" means The Owners, Strata Plan VR953.

1.21 "Strata Manager" means the firm that manages the Strata Corporation matters, including holding in trust, the Contingency Reserve Funds required under the Strata Property Act.

1.22 "Strata Property Act" means the Strata Property Act, SBC 1998 C. 43 and as amended from time to time.

1.23 "Unit" (except where used in the phrase "unit entitlement") refers to a strata lot in the Hotel and refers to it in its entirety and a separately rentable section of a strata lot being unit subsections listed as such in Appendix "A" hereof.

1.24 "Unit Entitlement (Ratio)" as referred to in Bylaw 14.02, means an Owner's percentage for sharing its proportion of the Strata Annual Budget as specified in Appendix "B" hereof for the particular Owner.

1.25 "Working Capital Reserve Fund" means the monies retained from distributions to Owners from Net Hotel Revenue as authorized by Owners by a majority vote to meet the current working capital financial obligations of the hotel business. This reserve is funded by the participating Owners based on their Revenue Sharing Ratio.

## **PART I      OPERATION OF THE COMPANY**

### **2.            SHAREHOLDERS AND BOARD**

2.1            The authorized capital of the Company is ten thousand (10,000) shares without par value of which there is one issued and outstanding fully paid and non-assessable share (hereinafter referred to as the "Share") which will be issued to the then current Chairman of the strata council of the Hotel Residential Section of Strata Plan VR 953 (hereinafter referred to as the "Trustee") who will hold the Share in trust for the Owners in accordance to each Revenue Sharing Ratio.

2.2            No shares shall be allotted and issued other than to the Trustee in trust for the Owners, who shall hold such share(s) or portions of such share(s) in trust for each of such Owners in the proportion as nearly as circumstances permit to the Revenue Sharing Ratio.

2.3            The Owners authorize and direct the Trustee to vote the Share so that the Board shall be comprised of six directors elected solely from the Executive. In the event that a position on the Board shall be open for any reason whatsoever, the directors will be entitled to appoint a new director as long as such director is a member of the Residential Section of Strata Corporation VR 953.

2.4            Unless otherwise provided herein the conduct of the business of the Company shall be governed according to the articles of the Company.

2.5            The quorum required for the transaction of business at a meeting of the Board shall be four directors.

2.6            Any contract between the Company and any of the Owners shall be undertaken only with the approval of at least seventy-five (75%) percent of the directors present at any meeting of the Board.

2.7            The following matters shall be undertaken only with the approval of a simple majority of Owners present at a duly held General Meeting of the Company:

- (a) any increase or reduction of the capital of the Company;
- (b) the consolidation, merger or amalgamation of the Company with any other company, association, partnership or legal entity;
- (c) any borrowing of the Company which would result in aggregated indebtedness of the Company in excess of Seventy-Five Thousand (\$75,000.00) Dollars at any one time unless reasonably described in a budget approved by the Owners; and
- (d) any transaction out of the ordinary course of business.

2.8            The Company shall keep a register of Owners either at its records office or any office in the Province of British Columbia.

### **3.            FISCAL YEAR, BOOKS AND RECORDS, AND FINANCIAL STATEMENTS**

3.1            It is agreed that the Company shall have a fiscal year end of December 31.

3.2            There shall be kept at the principal office of the Company (or such other office as the directors shall determine) books of account in which shall be entered fully and accurately each and every transaction of the Company. The Owners, through their Board, shall have

access thereto at all reasonable times. The parties shall have the right to a private audit of the books and records of the Company provided such audit is made at the expense of the party desiring it and the Board is given thirty (30) days advance written notice by such party.

3.3 The unaudited financial statement of the Company, referred to as Whistler Village Inn + Suites, shall be provided to Owners within ninety (90) days of the end of each fiscal year.

#### **4. TRUST**

4.1 It is understood and agreed that the Share is held in Trust for the Owners and that no Owner shall be entitled to sell, transfer or otherwise dispose of, or offer to sell, any of his interest in the Share save and except that his interest therein will convey, transfer and assign automatically to any purchaser of his Unit upon conveyance thereof and upon the new owner executing this agreement.

### **PART II OPERATION OF THE HOTEL**

#### **5. APPOINTMENT**

5.1 The Company agrees to provide, for and on behalf of the Owners, personnel, supplies and hotel management services upon the terms and conditions herein contained.

#### **6. INSURANCE**

6.1 The Company will participate along with the Strata Corporation and other related parties to insure or cause to be insured, on behalf of the Owners, the Hotel, from all perils and without limiting the generality of the foregoing, fire, business interruption, boiler, public liability and fidelity insurance, which insurance shall include the Owners as one of the insured. The Company will provide each Owner with proof of such insurance annually.

#### **7. OBLIGATIONS OF COMPANY**

7.1 The Company will administer and manage, in and at the sole expense of, and as agent for, the Owners, all aspects of the Hotel and certain cash and accounting functions of the Strata Corporation VR953, and without limiting the generality of the foregoing, will:

- (a) appoint, employ and supervise, on behalf of the Owners, all Hotel staff; (including all part-time help), and independent contractors which may be required to operate the Hotel;
- (b) supervise and provide all accounting and record-keeping services of the Owners in regard to the Hotel;
- (c) institute any action or proceeding as may be necessary for the collection of accounts receivable relating to the operation of the Hotel or any part thereof;
- (d) take such action and do such things as may be necessary to comply with the laws, statutes and regulations which affect the business of the Hotel;
- (e) maintain bank accounts for all Hotel and Strata revenue received and Hotel and Strata Expenses payable under the terms of this agreement. All accounts shall be at the bank selected by the Board and shall be called "Whistler Village Inn +

- Suites" operating account and shall be subject to review by the Owners' accountants;
- (f) ensure that the Hotel has adequate working capital to conduct its business;
  - (g) supervise the purchase and supply of all necessary Hotel goods, supplies and equipment on behalf of the Owners as Hotel Expenses to include:
    - (i) towels, bed linens, kitchen wares and utensils, pillows, paper products, supplies, soap, garbage bags and light bulbs in the Units;
    - (ii) bags, brooms, dust cloths, carts and pails;
    - (iii) keys and key tags;
    - (iv) office equipment and furniture;
    - (v) other miscellaneous items in or about the Units; and any similar items, which shall be deemed necessary for the operation of the Hotel or as may be specified from time to time by written agreement between the Company and the Owners;
  - (h) maintain, replace, sell, dispose, trade, or acquire the following items to the extent reasonably necessary for the operation of the hotel to be funded by the Room Furnishings Reserve Fund:
    - (i) furniture and appliances for the Units;
    - (ii) unit modifications and upgrades to flooring, lighting, heating and cooling equipment, wall coverings and
    - (iii) other miscellaneous items and furnishings in or about the Units; and any similar items, which shall be and be deemed to be property of the Hotel Residential Section, or as may be specified from time to time by written agreement between the Company and the Owners;
  - (i) prepare annually, for presentation at the annual general meeting of the Owners, a budget of projected Hotel gross revenue and expenses and, on behalf of the Strata, the projected Strata Annual Budget for each upcoming fiscal year ended December 31;
  - (j) arrange for all banking for the Hotel and attend to all relevant banking on behalf of the Owners;
  - (k) provide statements to the Owners within thirty (30) days after the end of each month which shall set out the Hotel's Gross Revenue, Hotel occupancy and average daily rate statistics and each owner's portion of Gross Revenue, Hotel Expenses, and Strata Annual Budget;
  - (l) ensure all necessary steps are taken for the proper payment of wages, salaries and benefits to employees and ensure that all necessary deductions whether under federal, provincial and municipal laws or otherwise are made and forwarded to the appropriate government authority;
  - (m) pay all applicable federal, provincial, municipal taxes and Whistler Resort Association fees, save and except any personal taxes of the Owners including, without limiting the generality of the foregoing, such personal taxes as income tax and property tax;
  - (n) comply with all federal, provincial and municipal bylaws and regulations;
  - (o) keep separate accounting records in regard to the Strata Annual Budget;
  - (p) carry out advertising and marketing programs to promote the Hotel;
  - (q) establish rates/charges/prices for the operations of the Hotel;
  - (r) maintain the Hotel in good operating condition and repair;
  - (s) supervise inventory control;
  - (t) maintain and operate an adequate reservation system;
  - (u) commence and settle lawsuits as appropriate;
  - (v) enforce policies of the Hotel;

- (w) maintain and make available for the inspection and review, a written document of Company policies;
- (x) receive and forward as required, the monies held back from the Owners Net Hotel Revenue, to be held by the Strata Manager, relating to the Strata Plan VR 953 Contingency Reserve Funds, and
- (y) contract and manage any of the above activities with third parties including a hotel management company, accountants, lawyers, building contractors, the Owner's Representative and/or volunteer activities of Board members and other Owners.

7.2 It is understood and agreed that the Company may not encumber or sell any or all of the Hotel Property or assign in any way or transfer title to any Hotel Property, make an assignment for the benefit of creditors or cause the Owners or the Hotel to become sureties or guarantors save as specifically provided herein and other than the sale or other disposition of the Hotel or personal property as reasonably necessary to carry out the business of the Hotel, including without limitation, the replacement of appliances, televisions, beds, drapes, telephone or reservation systems.

## **8. EXPENSES**

8.1 Any payment made by the Company under this Agreement shall be paid out of such funds as the Company may from time to time hold for the account of the Owners or as may be provided by the Owners and the Company shall not be obliged to make any advance or to pay any sum except out of funds held or provided herein, nor shall the Company be obliged to incur any liability for the Hotel unless the Owners shall first furnish the Company with the funds required for the reimbursement or payment thereof.

## **9. OWNER OBLIGATIONS**

9.1 The Owners shall not interfere with or give instructions to the Hotel staff or request any operational information from the Hotel staff. However an Owner, when a registered guest in the Hotel, may request such information or provide such instructions as are usual from guests. Any reasonable requests for information shall be made to the Company which shall promptly respond.

9.2 The Owners shall maintain sufficient funds in the Whistler Village Inn + Suites bank accounts or arrange credit obligations to enable payment of all Hotel accounts on a thirty (30) day basis without the right of setoff. It is understood and agreed that each Owner's liability and obligation shall be limited to the extent of the Revenue Sharing Ratio thereof.

9.3 Notwithstanding the generality of the foregoing the Owners agree that in accordance with the Owner's Revenue Sharing Ratio or Unit Entitlement Ratio as the case may be, it is their responsibility to supply and to pay as the case may be:

- (a) Hotel Expenses and
- (b) All Strata Expenses as set out in the Strata Annual Budget.

9.4 Owners hereby agree to make available and contribute on a twenty-four (24) hour basis, 365 days of the year, every Unit, for the purpose of carrying on the business of the Hotel and each and every Unit shall only be used in the operation of the Hotel as determined by the Board, and all Units shall be available to the Company so that the Units will at all times be available for rental to the public or to the Owner as provided herein, except as permitted by the Restrictive Covenant referred to in Recital C in this Agreement.

### **PART III ALTERATIONS, SALE, OCCUPANCY AND RENTAL POOLING OF UNIT**

#### **10. ALTERATIONS TO UNIT**

10.1 An Owner shall not have the right to alter the Unit or to sell, dispose, mortgage, assign, convey, remove, replace or add any appliances, furniture, furnishings, or other articles within the Unit without the consent of the Company. Owners storing personal items in storage lockers, if any, located on the premises of their Units, do so at their own risk, and neither the Company nor the Owners shall be liable for any loss and/or damage to such items or losses or damage to the strata lot or common property from the movement or storage of such items.

#### **11. SALE OF UNIT**

11.1 The following provisions apply upon an Owner selling a Unit:

- (a) the Owner shall advise the Company in writing when a Unit is placed on the market for sale and when the Unit has been sold;
- (b) the Company must receive twenty-four (24) hours notice from the Owner or the Owner's agent for viewing by prospective purchasers. No viewing will be permitted if the Unit is occupied by guests;
- (c) the Owner will make best efforts that a condition of sale be that the subsequent purchaser of the Unit shall agree to be bound by this Agreement as a condition of the sale and shall sign a copy of this Agreement and any other agreement or document reasonably required in the opinion of the solicitor for the Company to carry out the intent of this agreement;
- (d) the Owner shall have no claim against the Room Furnishings Reserve Fund, the Working Capital Reserve Fund, or any other reserves that may be established by the Owners in regard to the operation of the Hotel and such reserves shall be assigned to the purchaser upon their execution of this agreement. Any communication regarding these reserves shall be directly between the seller and purchaser of a strata lot. Failure of the new owner (purchaser) to execute this agreement will result in the strata lot's above reserves accruing to the benefit of the remaining owners who have executed this agreement; and
- (e) the Owner will make best efforts to communicate to a subsequent purchaser of the Unit by way of the Owner's most recent monthly statement from the Hotel of any amounts accrued to the Unit from Net Revenue or owing from the Unit to the Hotel Pool as a result of Hotel Net Revenue not being sufficient to meet all Hotel and Strata Expenses for the period reported. The settlement of any amounts owing to or from the Owner and the Hotel Pool will be the responsibility of the Owner and Purchaser.



**12. JOINING THE AGREEMENT DURING THE TERM**

12.1 Should a strata lot of the Residential Section of Strata Plan VR 593 which is not a participant in this Agreement wish to join this Agreement during the term of the Agreement, or wish to join a subsequent Agreement upon the expiry of the current Agreement, the Board shall consider and determine if appropriate the timing, any monies required from the Strata Lot Owner towards the Working Capital Reserve Fund, the Room Furnishings Reserve Fund, the upgrade process and related costs for bringing the Unit up to current standards for participation in the Hotel rental pool, and other related matters to this clause, including the execution of any related documents.

**13. OWNER OCCUPANCY**

13.1 The Owners understand and agree that they are bound by the Restrictive Covenant referred to in Recital C and that their use and occupancy of the Unit, Hotel and this Agreement is subject to the Restrictive Covenant.

13.2 The Owners may occupy or use their Unit, to the greatest extent possible, subject to its availability, paying the appropriate room rate if applicable, and subject to the terms and conditions in the Restrictive Covenant. If their Unit is occupied, they may use another similar Unit in place of their Unit and according to the same conditions.

13.3 The Owners understand that the Restrictive Covenant has the flexibility to permit the Owner to use more than 56 days in a year if the Unit, or a similar Unit, is available, such availability to be confirmed by the Company and its agents, representatives or nominees.

13.4 During Owner Occupancy, the Owners shall be governed by and must abide by the rules and regulations of the Hotel as set by the Company and its agents, representatives or nominees.

13.5 Owners may make their Unit(s) available as "Owner Occupancy", (i.e. "out of pool"), for friends, co-workers or other related parties as approved by the Board from time to time but, under no circumstances will any owner charge, directly or indirectly, rent or other non-monetary consideration for the use of the Owner's Unit.

13.6 The rates Owners shall pay for use of Units and their portion of Net Hotel Revenue or liability for Hotel Expenses shall be determined by the Owners by majority resolution from time to time and may vary depending whether they have elected to be part of the Rental Pool or not for the period of time of their occupancy.

13.7 Pursuant to the conditions in this Section 13, Owners may be restricted from occupying their units out of pool if there are amounts owing to the Rental Pool or the Strata Corporation beyond a time period that may be set by the Board from time to time.

**14. NET REVENUE AND DISTRIBUTION TO THE OWNERS**

14.1 The Company shall distribute to the Owners annually, or at such other more frequent times as the Company may fix, Net Hotel Revenue in accordance with the Revenue Sharing Ratio less any set-offs or deductions, as provided herein, and less the Strata Annual Budget in accordance with the Unit Entitlement Ratio.

14.2 Each Owner is entitled to the Revenue Sharing Ratio of the Net Hotel Revenue (and shall be liable for any deficiency thereof) in accordance with the Revenue Sharing Ratio as set out in Appendix "A" hereof. Any subsequent Owner of a strata lot shall be entitled to the same Revenue Sharing Ratio of Net Hotel Revenue and any reserves and shall be liable for the same share of any deficiency therein as his predecessor. It is understood and agreed that all Gross Revenue and Hotel Expenses shall be pooled and no single Owner has a specific claim or liability for revenue or expenses in regard to his particular Unit.

14.3 On behalf of the Residential Section of Strata Plan VR953 the Company shall allocate to the Owners annually, or at such other more frequent time as the Owners by resolution may fix, the difference between Residential Section Strata Revenue received and Residential Section Strata Expenses paid by the Company on behalf of the Strata Corporation in accordance with the Owner's Unit Entitlement Ratio, less any set offs or deductions, as provided herein.

14.4 Owners whose debit balances, i.e. amount owing to the Hotel Pool in excess of amounts owing to the owner from Net Revenue, as a result of Owner Occupancy out of the rental pool, shall be paid to the Hotel on a schedule and conditions which may be set forth by the Board from time to time. Any amounts owing to the pool, shall first be considered as owing to the Strata Annual Budget and secondly to Hotel Expenses.

#### **PART IV TERM OF AGREEMENT**

##### **15. TERM AND RENEWAL**

15.1 Subject to Section 17, the term of this Agreement shall be sixty (60) months, commencing on the 1<sup>st</sup> day of May, 2012 and terminating on the 30th day of April, 2017.

15.2 Upon mutual agreement of the parties hereto, eighteen (18) months (or such other time period as the parties may mutually agree upon) before the termination date of the Agreement or any renewal thereof the Agreement herein may be extended for an additional term of five (5) years from such termination date.

##### **16. AMENDMENT**

16.1 This Agreement cannot be exchanged, modified or amended except by a written instrument signed by all parties or by resolution approved by seventy-five (75%) percent of the Owners present in person or by proxy at a meeting of the Owners. An amendment to this Agreement approved by resolution of the Owners at a meeting of the Owners duly called shall be binding on each Owner whether such Owner voted for or against the resolution or abstained from voting.

##### **17. TERMINATION**

17.1 This Agreement may, by resolution passed by seventy-five (75%) percent of the Owners present in person or by proxy at a meeting of Owners, be terminated by reason of the following events or for any other reason, immediately after which time it shall be null and void:

- (a) an order is made, or any resolution passed or petition filed for liquidation or winding-up of the Company;

- (b) if the Company makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency or if the Company shall be subject to any other provision of the Bankruptcy Act or any other Act for the benefit of creditors and the same shall not in good faith be disputed;
- (c) a receiver or receiver manager of the Company is appointed; and
- (d) execution, sequestration, extent or any other process of any court becomes enforceable against the Company unless the process is in good faith disputed by the Company and the Company gives adequate security to pay in full the amount claimed.

17.2 This Agreement may be terminated by the Owners upon twenty-one (21) days notice to the defaulting party after which time this Agreement shall be null and void if the Company defaults in the observance or performance of any fundamental provisions of the Agreement or otherwise breaches any of the provisions of the Agreement and such default or breach is not remedied within fourteen (14) days after written notice of such default is given by the Owners.

17.3 The Owners may waive any default by the Company provided that no failure or delay of the Owners to exercise any right shall operate as a waiver. Nor shall any single or partial exercise of any right by the Owners prevent any other further exercise of any right by the Owners.

17.4 If the Hotel shall be destroyed or damaged by fire, lightning or tempest or any of the perils insured against as required under the provisions of this Agreement and in any such event if the damage or destruction of the Hotel renders it wholly unfit for occupancy or it is impossible or unsafe to use and occupy and if in either event the damage, in the reasonable opinion of the Owners, cannot be repaired with reasonable diligence within 180 days of the happening of such damage or destruction, the Owners may give ten (10) days notice to terminate this Agreement in which event this Agreement and the terms hereby stated shall end as of the date of such destruction or damage and all payments for which the Owners are liable under the terms of this Agreement shall be paid in full to the date of destruction or damage.

## **18. ASSIGNMENT**

18.1 The Company shall not assign its interest herein without the written consent of the Owners and the Owners shall not unreasonably withhold their consent to such assignment. However, it is understood and agreed the Company may retain such necessary contractors, agents, managers and third parties to carry out its obligations herein.

## **PART V GENERAL**

### **19. ARBITRATION**

19.1 All matters in dispute in relation to this Agreement shall be referred to the arbitration of a single arbitrator agreed to by the parties to the dispute and if the parties are unable to agree on such arbitrator, a single arbitrator shall be appointed by a Judge of the Supreme Court of British Columbia. Such arbitration shall, save as modified herein, be in accordance with the Commercial Arbitration Act, R.S.B.C. 1996 C.55 and amendments thereto.

19.2 The award and determination of such arbitrator shall be binding upon the parties to the dispute and their respective successors, executors, administrators and assigns.

## **20. INTERPRETATION**

20.1 The masculine and singular shall include the feminine and body corporate and the plural where the context requires.

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

20.3 The parties hereto shall from time to time do such further acts and execute such other documents and do such other things as may be reasonably required to carry out and fully perform the terms of this Agreement.

20.4 Time shall be of the essence.

20.5 If any provision of this Agreement is unenforceable and invalid for any reason whatsoever, such unenforceability or invalidity shall not affect the enforceability or the validity of any other provision in this Agreement. Such provision shall be separable from the remainder of this Agreement.

20.6 Except as may be set forth in the Bylaws of the Strata Corporation VR953 and the Articles of the Company, the Agreement herein constitutes the entire agreement between the parties and supersedes all previous expectations, understandings, communications, representations and agreements whether verbal or written between the parties in respect of the subject matter hereof.

20.7 Headings in this Agreement form no part of the Agreement and shall be deemed to be inserted for convenience of reference only.

20.8 This Agreement shall be binding upon the parties hereto and their successors, personal representatives and assigns.

20.9 As a transitional matter, until the Owners pass a majority resolution determining the rates that Owners shall pay for use of the Units and their portion of Net Hotel Revenue and liability for Hotel Expenses pursuant to Section 13.5, the rates, portions and liabilities determined by the Board pursuant to prior owners' agreements shall apply.

20.10 Wherever in this Agreement there is a reference to a resolution passed by Owners, unless there is a reference to a specific majority, such reference shall mean a resolution passed by a majority of the Owners present in person or by proxy at a meeting of the Owners, and a resolution so passed shall be binding on each Owner whether such Owner voted for or against the resolution or abstained from voting.

**21. NOTICE**

21.1 If any notice is required to be given hereunder by any parties such notice shall be deemed to be well and sufficiently given if mailed by prepaid registered mail, telefaxed, or emailed to or delivered at the address of the other party hereinafter set forth:

if to the Company:

Attention: Lynn Ramsay

WVI Enterprises Ltd.  
1000 – 840 Howe Street,  
Vancouver, B.C. V6Z 2M1  
Telefax -(604) 642-1200

Email – [lramsay@millerthomson.com](mailto:lramsay@millerthomson.com)

if to the Owners:

Owners, Hotel Residential Section Strata Plan VR 953

Attention: Brian Slater

c/o Dodwell Strata Management Ltd.  
1701 – 1166 Alberni Street, Vancouver, B.C. V6E 3Z3  
Telefax - (604) 688-3245

Email – [brians@dodwell.ca](mailto:brians@dodwell.ca)

or such other address of the other party as may from time to time be directed in writing. Any such notice shall be deemed to have been received if mailed forty-eight (48) hours from the time of mailing and if telefaxed or emailed upon the date the telefax or email was sent. If normal mail service or telefax or email service is interrupted by strikes, slowdown, force majeure or other cause, a notice sent by the apparent means of communication will not be deemed to be received until actually received and the party sending the notice shall utilize any such other services which have not been so interrupted or shall deliver such notices in order to ensure prompt receipt thereof.

**22. COUNTERPARTS**

22.1 This Agreement may be executed in several parts in the same form and such parts as so executed will together form one original agreement, and such parts if more than one will be read together and construed as if all the signing parties hereby had executed one copy of this Agreement.

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

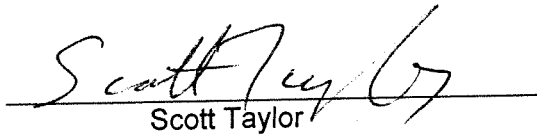
**SIGNED, SEALED AND DELIVERED**  
by , Owners of Strata Lot  # 7  in the  
presence of

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

  
\_\_\_\_\_  
Scott Taylor

**SIGNED, SEALED AND DELIVERED**  
by , Owners of Strata Lot \_\_\_\_\_ in the  
presence of

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

\_\_\_\_\_

## APPENDIX "A"

Residential Section of Strata Plan VR953

Revenue Sharing Ratio of Net Hotel Revenue

Power Lodge Building			Keg Lodge Building		
Strata Lot Number	Unit Number	Revenue Sharing Ratio	Strata Lot Number	Unit Number	Revenue Sharing Ratio
1	107-2	0.9809	33	151	1.3286
	-3	0.8395			
	-4	0.8395			
2	101-2	0.9836	34	152	1.3286
	-3	0.8100			
3	105-2	1.0196	35	153	1.3286
	-3	0.8400			
4	104-2	1.0196	36	154	1.3286
	-3	0.8400			
5	103-2	1.0564	37	155-2	1.0196
	-3	0.8700		-3	0.8400
6	102-2	0.9836	38	264	1.7936
	-3	0.8100			
7	213	1.2621	39	263	1.2621
8	212	1.6608	40	262	1.2621
9	211	1.2621	41	261	1.3950
10	210	1.2621	42	260-2	1.0564
				-3	0.8700
11	209	1.6608	43	259-2	1.0564
				-3	0.8700
12	208-2	1.0196	44	258-2	1.0564
	-3	0.8400		-3	0.8700
13	207-2	1.0196	45	257-2	1.0927
	-3	0.8400		-3	0.9000
14	206-2	1.0196	46	256	1.6842
	-3	0.8400			
15	214-2	0.9836	47	255	0.9964
	-3	0.8100			
16	215-2	0.9836	48	254-2	0.9835
	-3	0.8100		-3	0.8100
17	201	1.2621	49	253-2	0.9836
				-3	0.8100
18	202	1.6608	50	252-2	0.9836
				-3	0.8100
19	203	1.2621	51	251-2	0.9836
				-3	0.8100

**SIGNED, SEALED AND DELIVERED**  
by **HOTEL RESIDENTIAL SECTION OF**  
**STRATA PLAN VR953:**

Per: \_\_\_\_\_  
Pat Walsh

**SIGNED, SEALED AND DELIVERED**  
by **WVI ENTERPRISES LTD.:**

Per: \_\_\_\_\_  
Peter Tomlinson



## APPENDIX "B"

Residential Section and Commercial Section of Strata Plan VR 953

Unit Entitlement Ratio, i.e. Owner's Percentage of Strata Revenue and Strata Expenses

1. Residential Section Percentage; 2. Strata Wide Percentage

Power Lodge			Building		Keg Lodge Building				
Strata Lot Number	Unit Number	Actual Unit Entitlement Ratio	Unit Entitlement Ratio (Percent)		Strata Lot Number	Unit Number	Actual Unit Entitlement Ratio	Unit Entitlement Ratio (Percent)	
			(1)	(2)				(1)	(2)
1	107-2 -3 -4	578	2.8113	2.4143	32	-KEG-	3.381		14.1222
2	101-2 -3	373	1.8142	1.5580	33	151	252	1.2257	1.0526
3	105-2 -3	372	1.8093	1.5538	34	152	257	1.2500	1.0735
4	104-2 -3	374	1.8191	1.5622	35	153	261	1.2695	1.0902
5	103-2 -3	373	1.8142	1.5580	36	154	253	1.2305	1.0568
6	102-2 -3	373	1.8142	1.5580	37	155-2 -3	364	1.7704	1.5204
7	213	294	1.4300	1.2280	38	264	335	1.6294	1.3993
8	212	369	1.7947	1.5413	39	263	257	1.2500	1.0735
9	211	262	1.2743	1.0944	40	262	246	1.1965	1.0275
10	210	261	1.2695	1.0902	41	261	282	1.3716	1.1779
11	209	343	1.6683	1.4327	42	260-2 -3	257	1.7364	1.4912
12	208-2 -3	370	1.7996	1.5455	43	269-2 -3	267	1.7850	1.5329
13	207-2 -3	371	1.8045	1.5496	44	256-1 -3	368	1.7899	1.5371
14	206-2 -3	372	1.8093	1.5538	45	257-2 -3	410	1.9942	1.7125
15	214-2	373	1.8142	1.5538	46	256	399	1.9407	1.6666
16	215-2 -3	371	1.8045	1.5496	47	255	231	1.1235	0.9649
17	201	299	1.4543	1.2489	48	254-2 -3	366	1.7802	1.5288
18	202	371	1.8045	1.5496	49	253-2 -3	366	1.7802	1.5288
19	203	262	1.2743	1.0944	50	252-2 -3	366	1.7802	1.5288
20	204	262	1.2743	1.0944	51	251-2 -3	364	1.7704	1.5204

Residential Section of Strata Plan VR953 (cont'd)

Revenue Sharing Ratio of Net Hotel Revenue

Power Lodge Building			Keg Lodge Building		
Strata Lot Number	Unit Number	Revenue Sharing Ratio	Strata Lot Number	Unit Number	Revenue Sharing Ratio
20	204	1.2621	52	367	1.0629
21	205	1.6608	53	366	1.4615
22	310	1.4615	54	365	1.1426
23	309	1.1426	55	364	1.4615
24	308	1.4515	56	363	1.1426
25	307	1.1426	57	362	1.4615
26	306	1.1426	58	361	1.0629
27	305	1.4615	59	360	1.3286
28	304	1.0961	60	359	1.4615
29	303	1.3950	61	358	1.0629
30	302	1.3950	62	357	1.3950
31	301	1.0961	63	356	1.0629
			64	355	1.3950
			65	354	1.0629
			66	353	1.3950
			67	352	1.0629
			68	351	1.3950
					<b>100.000</b>

NOTES:

1. The Revenue Sharing Ratio of any Residential Section Strata Lots that have not executed this Agreement will be shared amongst those Strata Lots that have executed the Agreement according to the same ratio.
2. Although the Whistler Resort Association Fees are included in Clause 1.11 in the definition of Net Hotel Revenue, the fees deducted are the actual fees charged by the Association against the individual Strata Lot.

## APPENDIX "B"

Residential Section and Commercial Section of Strata Plan VR 953

Unit Entitlement Ratio, i.e. Owner's Percentage of Strata Revenue and Strata Expenses

1. Residential Section Percentage; 2. Strata Wide Percentage

Power Lodge			Building		Keg Lodge Building				
Strata Lot Number	Unit Number	Actual Unit Entitlement Ratio	Unit Entitlement Ratio (Percent)		Strata Lot Number	Unit Number	Actual Unit Entitlement Ratio	Unit Entitlement Ratio (Percent)	
			(1)	(2)				(1)	(2)
1	107-2 -3 -4	578	2.8113	2.4143	32	-KEG-	3.381		14.1222
2	101-2 -3	373	1.8142	1.5580	33	151	252	1.2257	1.0526
3	105-2 -3	372	1.8093	1.5538	34	152	257	1.2500	1.0735
4	104-2 -3	374	1.8191	1.5622	35	153	261	1.2695	1.0902
5	103-2 -3	373	1.8142	1.5580	36	154	253	1.2305	1.0568
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10	210	261	1.2695	1.0902	41	261	282	1.3716	1.1779
11	209	343	1.6683	1.4327	42	260-2 -3	257	1.7364	1.4912
12	208-2 -3	370	1.7996	1.5455	43	269-2 -3	267	1.7850	1.5329
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14	206-2 -3	372	1.8093	1.5538	45	257-2 -3	410	1.9942	1.7125
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16	215-2 -3	371	1.8045	1.5496	47	255	231	1.1235	0.9649
17	201	299	1.4543	1.2489	48	254-2 -3	366	1.7802	1.5288
18	202	371	1.8045	1.5496	49	253-2 -3	366	1.7802	1.5288
19	203	262	1.2743	1.0944	50	252-2 -3	366	1.7802	1.5288
20	204	262	1.2743	1.0944	51	251-2 -3	364	1.7704	1.5204



## APPENDIX "A"

Residential Section of Strata Plan VR953

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	-3	0.8400			
4	104-2	1.0196	36	154	1.3286
	-3	0.8400			
5	103-2	1.0564	37	155-2	1.0196
	-3	0.8700		-3	0.8400
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				-3	0.8700
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	-3	0.8400		-3	0.8700
13	207-2	1.0196	45	257-2	1.0927
	-3	0.8400		-3	0.9000
14	206-2	1.0196	46	256	1.6842
	-3	0.8400			
15	214-2	0.9836	47	255	0.9964
	-3	0.8100			
16	215-2	0.9836	48	254-2	0.9835
	-3	0.8100		-3	0.8100
17	201	1.2621	49	253-2	0.9836
				-3	0.8100
18	202	1.6608	50	252-2	0.9836
				-3	0.8100
19	203	1.2621	51	251-2	0.9836
				-3	0.8100

