

Government of Alberta ■
Sustainable Resource Development

Miscellaneous Lease

Miscellaneous Lease No. MLL100011

AMENDED, RESTATED MISCELLANEOUS LEASE

THIS INDENTURE made in duplicate on July 30, 2010.

BETWEEN:

HER MAJESTY THE QUEEN, in the right of the Province of Alberta,
represented herein by the
Minister of Sustainable Resource Development
(the "Lessor")

AND

FORTRESS MOUNTAIN HOLDINGS LTD.
(the "Lessee")

RECITALS:

A. The Lessee has received an assignment of dispositions under the *Public Lands Act* identified as follows:

MLL 2777,
MLL 790139,
MLL 790140,

as amended.

B. The Parties wish to consolidate, amend, and replace the dispositions with this Agreement.

THEREFORE the Lessor and Lessee agree as follows:

1. DEFINITIONS

1.1 In this Lease Agreement:

- a. "**Agreement**" when capitalized shall be interpreted as being synonymous with the term "Lease" as defined in this Agreement.
- b. "**Crown**" means Her Majesty the Queen in right of Alberta as represented by the Minister of Sustainable Resource Development and includes any

duly appointed delegates and a representative appointed in writing from time to time by the Minister.

- c. **"Fee"** means the annual rental fee prescribed pursuant to **Article 7** of this Lease.
- d. **"Former Dispositions"** when stated in the plural herein means MLL 2777, MLL 790139, and MLL 790140, collectively and as amended.
- e. **"Hazardous Conditions"** includes fire, flood, wind events, "burning hazards" as defined in the *Forest and Prairie Protection Act* (R.S.A. 2000, c. F-19), "disaster" as defined in the *Emergency Management Act* (R.S.A. 2000, c. E-6.8, "emergency" as defined in the *Emergency Management Act*, or other similar conditions howsoever caused that in the opinion of the Crown may threaten safety of the public, wildlife or the environment.
- f. **"Lands"** means those lands as shown in Appendix A attached to this Lease, but shall exclude all prior grants and Crown reservations respecting the Lands, including without limitation all mines and minerals, transmission line rights of way, pipelines, temporary field authorizations, and subsisting dispositions issued prior to the commencement of this Agreement.
- g. **"Lease"** means this Agreement, any schedules to this Agreement, and any amendments to the Agreement or schedules as such amendments may be agreed in writing by the Lessor from time to time.
- h. **"Lessee"** means the party referred to at the head of this Agreement as the Lessee, their successors and permitted assigns.
- i. **"Occupancy of the work camps"** means the taking up of routine residency in the work camps by the construction employees.
- j. **"Parties"** means the Crown and the Lessee.
- k. **"Premises"** means collectively the buildings, structures, fixtures and facilities located upon, or that may be from time to time constructed upon, the Lands and owned by the Lessee.
- l. **"Regulatory Agencies"** includes but is not limited to Alberta Environment, Alberta Tourism, Parks, and Recreation, Alberta Sustainable Resource Development, Alberta Health Services, the federal Department of Fisheries and Oceans, and the Kananaskis Improvement District.

- m. "Ski Hill" means the business and undertaking of the Lessee on the Lands, and includes the purposes of this Lease as more particularly described in **Section 4.1**.
- n. "Term" means the effective term of this Lease under **Article 6**, as may be extended or renewed by the Lessor from time to time.

2. CONSOLIDATION, AMENDMENT AND RESTATEMENT OF FORMER DISPOSITIONS

- 2.1 The Former Dispositions are collectively hereby amended to delete the text and numbers of the Former Dispositions in their entirety and replace the text with this Agreement.
- 2.2. The Parties acknowledge and agree that the Former Dispositions are, amended, restated and superceded by this Agreement and Schedules hereto, and that this Agreement and the Schedules represent the whole of the agreement among the Parties with respect to the subject matter hereof, unless otherwise agreed in writing.
- 2.3 This Agreement is subject to the provisions of the *Public Lands Act* and regulations thereunder, and, in the event of any conflict between the terms of this Agreement and the provisions of the Act or regulations, the Act or regulations as the case may be shall prevail.

3. GRANT OF LEASE AND AUTHORITY TO OCCUPY

- 3.1 In consideration of the mutual covenants contained in this Agreement and the Fee, the Crown hereby leases the Lands to the Lessee for the Term upon the terms and conditions contained in this Agreement.

4. USE AND PURPOSE

- 4.1 The Lessee shall use the Lands solely for the purposes of **construction, reconstruction, maintenance, repair and operation of a winter alpine and ski resort facility and incidental winter sports facilities for the enjoyment of all Albertans and visitors to this Province, and facilities and improvements incidental thereto, limited to: a restaurant, lounge, ticketing area, temporary accommodations for staff and customers, administrative offices, equipment rental and sales facilities, retailers approved by the Lessor, maintenance garages, safety systems, snowmaking facilities, winter sports education and training facilities, non-profit alpine community support facilities for winter operation, emergency medical facilities, parking lot and related access road including river crossing and will not use, permit or suffer the use of the Lands or any part thereof, for any other business, undertaking or purpose without prior written approval by the Crown.**

4.2 The Lessee shall show demonstrative progress towards the rehabilitation and resurrection of the winter alpine and ski resort facility. To this end the Lessee shall present a progress report to the Crown on a semi-annual basis. The progress reports shall be presented to the Crown no later than the 1st of June and the 1st of December of each year. The first progress report will be presented by December 1st, 2010.

4.3 The "Gantt Chart" as displayed in **Appendix "9"** of the plan attached hereto as **Schedule "D"**, shall be the foundation for the progress timeline. Without limiting the generality of the foregoing, the Lessee shall accomplish the following:

- a. By December 1st, 2011, have elements of the Development Permit process in action;
- b. By March 31st, 2012, have the Development Permit acquired;
- c. By August 31st, 2012, have the old assets that are planned for demolition and removal, demolished and removed;
- d. By August 31st, 2012, have infrastructure elements of the project installed;
- e. By August 31st, 2013, have the major elements of the alpine resort installed; and
- f. Target toward opening the resort by December 31st, 2013.

4.4 The Lessee shall within 4 years from the effective date of this Agreement, complete the **construction, reconstruction, maintenance, repair** referred to in **Section 4.1** in accordance with the plan attached hereto as **Schedule "D"**, and in accordance with any plans approved pursuant to **Article 18** of this Agreement, and in accordance with any other development conditions imposed by the Kananaskis Improvement District, Alberta Environment, the federal Department of Fisheries and Oceans, and any other applicable public body.

4.5 Any activities and uses taking place or proposed to take place outside the Lands require separate authorizations from the Crown.

5. ACCEPTANCE OF THE LANDS

5.1 The Lessee acknowledges and agrees that it has inspected the Lands and

is aware of the condition of the Lands and has satisfied itself of the fitness of the Lands for its purposes.

- 5.2 The Lessee acknowledges and agrees that the Crown makes no representations or warranties whatsoever as to the state and nature of the Lands or the fitness of the Lands for the Lessee's purposes.
- 5.3 The Lessee acknowledges and agrees that the Crown is not legally responsible for any defects in the Lands (whether latent or patent or otherwise), and that the Lessee accepts the Lands in an "as is, where is" condition.
- 5.4 The Lessee acknowledges and agrees that the Crown does not own the Premises and that the Crown is not responsible for the Premises or occurrences respecting the Premises whatsoever. The Lessee assumes the Premises at its own risk.

6. TERM

- 6.1 The Term of this Agreement shall commence effective July 30, 2010, and end on June 30, 2031, and includes any renewals or extensions under the terms of this Agreement.

7. FEE

- 7.1 The Lessee shall pay to the Crown during the Term, an annual rental of \$5,128.50, plus GST, payable yearly.
- 7.2 The annual Fee shall be paid to the Crown on or before March 31st, each year.
- 7.3 The Crown may, in its sole and unfettered discretion, review and amend the annual rental Fee at any time.

8. SECURITY

- 8.1 The Lessee acknowledges and agrees that any security held by the Crown under the Master Agreement shall be continued under this Agreement, and that the Crown shall hold such security to secure the performance of the Lessee's obligations under this Agreement.
- 8.2 The Parties agree that the form and amount of the security held under this Agreement may be reviewed at any time upon request by either party, and as a result of such review additional or less security may be required or refunded, as the case may be, by the Crown.

9. CROWN'S REPRESENTATIVE

- 9.1 The Crown hereby designates and appoints the **Lands and Range Program Manager, Southern Rockies Region**, as the Crown's representative for the purposes of administering this Miscellaneous Lease. The Crown shall notify the Lessee in writing of any change with respect to the aforesaid designation.

10. OVERHOLDING

- 10.1 If the Lessee remains in possession of the Lands after the end of the Term then the Lessee shall be considered an overholding tenant of the Crown. The Crown may terminate the overholding upon 30 days prior written notice to the Lessee or by the Lessee upon surrender of the Lands in a condition satisfactory to the Crown.
- 10.2 If the Lessee overholds the Lands, the rentals payable for the duration of the overholding possession by the Lessee shall be a monthly payment equal to 1/12 of the Fee, as may be amended from time to time, payable in advance on the first day of each month during the overholding, with no pro-rating for early surrender of the Lands upon termination of the overholding.

11. LESSEE'S OBLIGATIONS AND DUTIES

- 11.1 The Lessee shall, at its own expense and risk, provide all labour, equipment, materials and supplies for the Ski Hill in accordance with this Agreement with any written directives, orders, or instructions of the Crown made from time to time in writing.
- 11.2 The Lessee shall:
- 11.2.1 Not undertake, not permit and not suffer the installation or placement of any structures, fixtures or other improvements on the Lands or Premises without the express prior written consent of the Crown, which may be arbitrarily withheld;
 - 11.2.2 Cause a legal survey of the Lands by an Alberta Land Surveyor, which survey shall be provided to the Crown within 2 years of the commencement date of this Agreement, and failing which the Crown may cause the Lands to be surveyed at the Lessee's sole risk and expense;
 - 11.2.3 Pay when due all charges for utilities, rates, duties, assessments, levies, taxes, and fees that may be assessed upon the Lessee in respect of the Lands and Premises;

- 11.2.4 If the Lands or any portion thereof are not assessed or are otherwise exempt from municipal property taxes, then the equivalent of such notional property taxes on the Lands shall be payable by the Lessee to the Crown on demand in an amount determined by the Crown to be the amount that would have been paid to a municipality had the Lands been assessed or had the Lands been not exempt from municipal taxation, as the case may be;
- 11.2.5 In any event, if the Crown pays any grant in lieu of taxes with respect to the Lands or any portion thereof the Lessee shall, upon demand, pay to the Crown the amount of such grant;
- 11.2.6 Not bring, keep, sell, store, offer for sale, give away, or otherwise use, handle or dispose of any merchandise, goods, materials, effects, or things onto the Lands which may for any reason be deemed objectionable by the Crown;
- 11.2.7 Not create, permit, or suffer any act or thing upon the Lands which is a nuisance, or which may be deemed a nuisance by the Crown;
- 11.2.8 Ensure that all equipment and procedures comply with all applicable provincial, federal, and municipal regulatory standards respecting the environment, water, health, workplace health and safety and any other thing, and submit proof of such compliance to the Crown upon request;
- 11.2.9 In addition to any other legal requirements, the Lessee shall give written notice to the Crown for the purposes of this Miscellaneous Lease forthwith upon the occurrence of any event on the Lands or adjacent land, air or water that has caused or may cause an adverse effect on the environment, or forthwith upon a breach of any applicable legislation respecting the Lands or surrounding land; notice under this **Section 11.2.9** is not to be considered notice for the purposes of any legislation, and the Lessee shall be solely responsible for notifying all applicable departments and agencies as may be required by law;
- 11.2.10 If requested by the Crown, the Lessee shall at its expense obtain a certificate from an independent consultant appointed or approved by the Crown, certifying compliance with any applicable law or reporting the extent and nature of any occurrence or event as described in **Section 11.2.9**, or reporting on any remedy or damage, or both, on the Lands;

- 11.2.11 In addition to any other legal requirements, if anyone or anything on the Lands causes or suffers the happening of any event resulting in an adverse effect to the environment or the Lands, the Lessee shall, at its own expense and risk restore and reclaim the Lands and adjacent land, air or water damaged by the event to a standard and within time limits set by the Crown, failing which the Crown may enter upon Lands and perform such restoration and reclamation work at the expense of the Lessee, and such expense shall become a debt of the Lessee due and owing to the Crown payable on demand;
- 11.2.12 Not bring, allow to be brought on, store, use or allow to be used on the Lands, any substance which has or might have an adverse effect on the environment as defined in the *Environmental Protection and Enhancement Act*, except with the prior written consent of the Crown, and in any event do so in compliance with all applicable laws;
- 11.2.13 The Lessee shall be strictly and solely liable and responsible for any and all damage of any kind caused by such substances;
- 11.2.14 Comply with all provisions of:
- i. All applicable laws of the Province of Alberta, including but not limited to the *Environmental Protection and Enhancement Act*, the *Water Act*, the *Public Lands Act*, the *Wildlife Act*, the *Forests Act*, the *Forest and Prairie Protection Act*, the *Emergency Management Act*, the *Workers Compensation Act*, the *Public Health Act* and the *Occupational Health and Safety Act*;
 - ii. All applicable laws of Canada in force in the Province of Alberta from time to time; and
 - iii. All by-laws, orders and resolutions of the Kananaskis Improvement District that expressly or by implication apply to the Lessee and to this Agreement;
- 11.2.15 Acknowledge that the *Freedom of Information and Protection of Privacy Act* applies to all information and records provided by the Lessee to the Crown and to any information and records that are in the custody or control of the Crown, and that by submitting any information and records to the Crown, the Lessee thereby waives any confidentiality or privilege respecting such information or records

unless the Lessee requests, and the Crown agrees, that confidentiality or privilege be noted on a specific document and sets out reasonable and rational grounds for doing so;

- 11.2.16 Mark all off-highway vehicles used by the Lessee so they may be easily identifiable by the public as being used for the operation of the Ski Hill;
- 11.2.17 Only permit qualified staff and emergency response volunteers to operate off-highway vehicles and machines, and ensure that all such operators and machines used on the Lands are licensed and insured;
- 11.2.18 In addition to any other legal requirements, forthwith report to the Crown any problem wildlife, wildfires, and any other incidents that reasonably relate to the environment, plants or wildlife on the Lands;
- 11.2.19 Provide the Crown on a monthly basis with the name and business contact number of a site supervisor, the names and terms of residence of any employee residing on the Lands, and notify the Crown of any changes in this information;
- 11.2.20 Ensure that no person other than persons employed in the supervision, operation or maintenance of the Lands shall be permitted to reside on the Lands, and in any event only during the winter ski season;
- 11.2.21 Notwithstanding section 11.2.20, the Lessee is permitted to place one employee, contractor, or agent, who may reside on the Lands on a year round basis, along with permanent members of his or her household, for the purposes of providing security and maintenance services on the Ski Hill. The Custodian's Residence shall be located on the Lands as shown in Appendix A attached to this Lease.
- 11.2.22 Notwithstanding section 11.2.24, the Lessee is permitted to temporarily place on the Lands a trailer, mobile home other similar unit for use as the Custodian's Residence until such time as a permanent Custodian's Residence can be constructed.
- 11.2.23 The Lessee shall be permitted to rent casual overnight accommodation to Ski Hill customers. Such accommodation shall be provided to Ski Hill customers in a permanent, fixed roof structure.

- 11.2.24 The Lessee shall not permit motor homes, recreational vehicles, trailers or any other similar unit that is designed to be mobile and to be used as permanent or temporary residence on the Lands at any time.
- 11.2.25 The Lessee shall not permit timeshares or any functionally similar programs wherein rights vest in one or more owners to use accommodations located on the Lands for a specified period of time each year, or any programs which in the opinion of the director pursuant to s.44 of the *Public Lands Act* are functionally similar to a timeshare program.
- 11.2.26 Notwithstanding section 11.2.20, temporary work camps providing overnight accommodation, meals and services for a maximum of 200 construction employees shall be permitted on the Lands.
- 11.2.27 Work camps shall be of generally accepted industry standards and design, and must be approved by the appropriate Regulatory Agencies which exercise jurisdiction over work camps in the Province of Alberta prior to the construction employees commencing occupancy of the work camps.
- 11.2.28 Written evidence of the Regulatory Agencies' approval of the work camps must be provided to the Licensor at least 10 days prior to the construction workers commencing occupancy of the work camps.
- 11.2.29 In particular and without limiting the generality of the foregoing, the Lessee shall ensure that the work camps comply with the requirements of the *Public Health Act, R.S.A. 2000, c. P-37*, as may be amended from time to time and the *Work Camps Regulation, Alta. Reg. 218/2002*, as may be amended from time to time.
- 11.2.30 Once the construction, reconstruction, maintenance and repair work contemplated by **Section 4.1** has been completed, the Lessee shall ensure that the work camps are vacated, disassembled and removed. The Lessee shall, at its own expense and risk, restore and reclaim the Lands upon which the work camps were located to a condition satisfactory to the Crown.
- 11.2.31 At its own cost and expense, indemnify and save harmless the Crown with respect to potential or extant environmental damage on the Lands occurring during the Term for which the Lessee is legally responsible; the obligations and liabilities of the Lessee relating to this **Section 11.2.31** shall survive the expiry or termination of this Lease;
- 11.2.32 Not cut standing trees, disturb the surface of the land, use

any herbicide or pesticide, or make any improvements to the Lands without the prior written consent of the Crown, which consent may be arbitrarily withheld, and in any event do so in compliance with applicable laws;

11.2.33 Not allow any open fires on the Lands;

11.2.34 Ensure that its employees, contractors, agents and invitees are aware of any hazards or dangers on, in or around the Lands and of all permitted and prohibited conduct in respect of the Lands;

11.3 The Lessee shall at its sole risk and expense be responsible for the conduct of its employees, contractors, agents and invitees in respect of the Lands.

11.4 Any violation of this Agreement or any law by the Lessee's employees, contractors, or agents is deemed to be a violation by the Lessee for the purposes of this Agreement.

12. RIGHTS OF THE CROWN

12.1 The Crown reserves the right, without notice, of unrestricted access to the lands unto itself, its employees, contractors and agents, and unto any provincial or municipal inspectors for the purpose of inspecting of the lands, ensuring compliance with the terms and conditions of this Agreement, investigating an accident or occurrence, or any other purpose that the Crown in its absolute, unfettered discretion deems necessary.

12.2 The Crown hereby reserves the right to issue dispositions in respect of the lands without the consent of the Lessee, including without limitation easements, rights-of-way, licences of occupation, and any other overlapping disposition as may be deemed appropriate by the Crown in its sole discretion, provided that the Crown shall provide reasonable notice of any proposed overlapping disposition to the Lessee and that the issuance of such disposition shall not unreasonably interfere with access to or the operation of the Ski Hill.

13. REVIEW & INSPECTIONS

13.1 The Crown and the Lessee may meet annually, at one or the other's request, during the Term to review the performance under this Agreement.

13.2 At any reasonable time the Crown may, together with any other government agency, inspect the lands and review the Lessee's operations; the Crown, in consultation with other agencies as needed, will determine if the Lessee is in compliance with this Agreement and is likely to continue to be so until the next review period; if the Lessee fails an inspection, or is likely to be in non-

compliance before the next review period, the lands may be re-inspected at any time at the Lessee's expense.

14. TERMINATION

14.1 The Parties by mutual agreement in writing may terminate this Lease any time upon such terms as may be acceptable to the Crown.

14.2 If

- a) the Lessee fails to perform, observe or keep any of the covenants contained in this Agreement;
- b) any Fee, debt or portion thereof due and owing to the Province by the Lessee is unpaid for more than sixty (60) days, whether formally demanded or not; or
- c) the Lessee violates any law, including but not limited to the provisions of the *Public Lands Act* or the Regulations made under that act;

the Crown may require the Lessee to remedy any such default forthwith or within such time as the Crown may deem in its sole discretion just and meet in the circumstances.

14.3 If the Lessee fails or refuses to remedy such default within the time required by the Crown, the Crown may without further notice terminate this Lease and may recover from the Lessee any Fee or portion thereof then accrued or accruing, and any right by the Crown respecting any antecedent breach of the Agreement by the Lessee shall not be prejudiced, and the Lessee shall have no claim of any kind against the Crown for such termination.

14.4 Notwithstanding anything contained in this Agreement, if the Lessee does at any time during the Term

- a) file a petition in bankruptcy or make an assignment for the benefit of creditors;
- b) be adjudged bankrupt or insolvent;
- c) file any petition or institute any proceedings under any bankruptcy or insolvency legislation of Canada or Alberta or any other Province, State or Country;
- d) have its chattels, equipment and supplies seized in enforcement of

a judgment for debt or unpaid damages;

e) be subject to the appointment of a receiver or trustee in bankruptcy;

the Crown may without notice terminate this Lease; and the Crown will be entitled to recover from the Lessee any Fee, debt or portion thereof then accrued or accruing, and any right of the Crown respecting any antecedent breach of the Agreement by the Lessee shall not be prejudiced, and the Lessee shall have no claim of any kind against the Crown for such termination.

14.5 Upon expiration of the Term or upon termination of this Agreement, and unless the Crown otherwise directs, the Lessee shall remove from the Lands all of its chattels and restore the Lands to a condition satisfactory to the Crown before,

a) in the case of expiry or termination in the months of January through June, September 1 of the current calendar year, or,

b) in the case of expiry or termination in the months of July through December, September 1 of the next calendar year

from the date of expiry or termination, as the case may be.

14.6 If the Lessee

a) fails to remove its chattels from the Lands following termination; or

b) fails to leave the Lands in a condition satisfactory to the Crown;

the chattels may be deemed to be abandoned by notice in writing to the Lessee from the Crown, and the Crown may remove and dispose of the property and restore the Lands to a condition satisfactory to the Crown, and charge the costs thereof to the Lessee, including legal costs on a solicitor-and-own-client basis. Any such costs shall constitute a debt due and owing to the Crown.

15. RENEWAL

15.1 If the Lessee wants to renew this Lease, the Lessee shall submit a written application not less than 12 months before the end of the Term.

15.2 The Crown, in its sole discretion, may agree to renew this Lease for an additional period, subject to any additional terms and conditions of the Crown.

15.3 The Crown is not obliged to renew or extend this Lease.

16. INSURANCE AND HOLD HARMLESS

16.1 The Lessee agrees that it shall, at its own expense and without limiting its liabilities under this Agreement, provide and maintain the following insurance coverages in compliance with the *Insurance Act*, with carriers, on forms, and with coverage and endorsements satisfactory to the Crown in its sole discretion:

- a) General Liability in an amount not less than \$5,000,000.00 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss of use thereof. Such insurance shall include non-owned auto liability.
- b) The insurance shown in **Section 16.1 (a)** shall be endorsed to provide the Crown with 30 days advance written notice of cancellation or material change restricting coverage;
- c) Automobile Liability on all vehicles owned, operated or licensed in the name of the Lessee in an amount not less than \$2,000,000.00; and
- d) Such additional insurance policies and coverage as the Crown reasonably requests from time to time.

16.2 The Lessee represents and warrants that it will determine for itself and satisfy itself that it has appropriate and sufficient coverage to satisfy its own risk and insurance requirements, and to cover its obligations under this Agreement.

16.3 The Lessee represents and warrants that it has the required insurance in full force and effect prior to execution of this Agreement.

16.4 The Lessee will provide evidence satisfactory to the Crown of all required insurance in whatever form or certificate requested by the Crown, including certified true copies of such policies.

16.5 The Lessee agrees to indemnify and hold harmless the Crown, its employees, contractors and agents from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-and-own-client basis) for which the Lessee is legally responsible, including those arising out of negligence or wilful acts by the Lessee or the Lessee's employees or agents. This indemnity and hold harmless provision shall survive the Term of this Agreement and any renewals or extensions thereof.

17. CLOSURE AND EVACUATION OF THE LANDS

- 17.1 In addition to any other legal requirements and rights of the Crown with respect to the Lands, in the event of Hazardous Conditions, the Crown may order the closure and evacuation of the Lands and the Lessee shall immediately comply with all such orders.
- 17.2 The Crown, its employees and agents shall not be liable in any way whatsoever for any costs or losses that may be incurred directly or indirectly by the Lessee, or anyone, because of closure or evacuation of the Lands.

18. DEVELOPMENT, REDEVELOPMENT, RENOVATION AND REPAIR OF THE LANDS AND PREMISES

- 18.1 The Lessee shall provide detailed, written plans, development proposals, environmental assessments and reclamation plans to the Crown for approval prior to any construction, upgrading or rehabilitation of improvements located on the Lands.
- 18.2 The Lessee shall be responsible for planning, management and completion of all approved renovations, additions to, redevelopment of or maintenance and repair of the Lands and Premises, including all costs associated therewith.
- 18.3 Excepting routine maintenance, repairs and upkeep, the Lessee shall not make any improvements to the Lands and Premises without prior, written approval of the Crown, which may be arbitrarily withheld.

19. GENERAL PROVISIONS

- 19.1 The Lessee is not an employee, partner or agent of the Crown, and nothing in this Agreement is intended to create an employment, partnership or agency relationship.
- 19.2 The Lessee shall not suffer or permit any builders' liens or other liens for work, labour, services or material relating to work contracted for by or on behalf of the Lessee or any agent or employee of the Lessee to be or to remain filed against the Lands, as the case may be.
- 19.3 The Lessee shall not file, register, permit or suffer registrations of any kind by way of caveat or encumbrance as defined in the *Land Titles Act* against the title to the Lands, unless the Crown otherwise agrees in writing.
- 19.4 The Crown in its sole discretion may, as agent for the Lessee or in its own right, take whatever steps it deems necessary to remove any liens or registrations filed against the Lands by the Lessee, persons making claims against the Lessee, or persons claiming through the Lessee. This **Section 19.4** shall survive expiry or termination of this Agreement.

- 19.5 The Lessee shall indemnify and hold the Crown harmless against the cost of removing any such liens or registrations and against all liability for any debts, damages, interest, penalties and expenses (including legal costs on a solicitor-and-own-client basis) resulting from or incurred in connection with such liens or registrations as described in this Article. This **Section 19.5** shall survive expiry or termination of this Agreement.
- 19.6 The Crown may demand in writing payment by the Lessee of any such amounts calculated pursuant to **Section 19.5**, and the amount payable pursuant to the demand shall be a debt due and owing to the Crown which the Lessee must pay forthwith. This **Section 19.6** shall survive expiry or termination of this Agreement.
- 19.7 All payments of monies by the Lessee to the Crown under this Agreement, including the Fee are due and owing on the dates or within the periods provided under this Agreement.
- 19.8 Interest is payable on any amounts not paid on or before the dates provided under in this Agreement, calculated from the due date until the date of payment at the rate of twelve (12%) percent per annum. This **Section 19.8** shall survive expiry or termination of this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on _____, 2010.

FORTRESS MOUNTAIN HOLDINGS LTD.

Per:  (c/s)
Title: _____

HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF ALBERTA, as
represented by THE MINISTER OF
SUSTAINABLE RESOURCE
DEVELOPMENT

Per: 
Assistant Deputy Minister

APPENDIX A
LEGAL DESCRIPTION
FOR
MLL 100011

EP PLAN NO: 126193 MS
PURPOSE: SKI DEVELOPMENT

AFFECTED LANDS(MERIDIAN-RANGE-TOWNSHIP-SECTION-1/4SECTION-LEGAL SUBDIVISION
-QUADRANT-QUARTER QUADRANT)
-HECTARES-- --ACRES--DETAILS.....
5-09-021-28-NW
33-SW

AREA SUMMARY

THE TOTAL LANDS HEREIN DESCRIBED CONTAIN 6.370 HA (15.74 ACRES)
MORE OR LESS

SUBJECT TO:

THE AUTHORIZATIONS AND DISPOSITIONS LISTED ON THE ATTACHED "SCHEDULE B", IF ANY, HAVE BEEN ISSUED ON THE QUARTER SECTIONS OF LAND ON WHICH YOUR DISPOSITION HAS BEEN ISSUED AND MAY BE PRIOR AND SUBSISTING AUTHORIZATIONS AND DISPOSITIONS TO YOUR DISPOSITION AND MAY RELATE TO AND AFFECT YOUR DISPOSITION AND THE LANDS ON WHICH YOUR DISPOSITION HAS BEEN ISSUED.

SUPPLEMENTARY INFORMATION

(LTO) - LAND TITLES OFFICE
(AE) - ALBERTA ENVIRONMENT/LAND ADMINISTRATION DIVISION
(ATS) - ALBERTA TOWNSHIP SURVEY
(HA) - HECTARES
1 HECTARE = 2.471054 ACRES

2010/07/15
13:31:27
SUBMITTED BY LSLBI43

Schedule B
LAND STATUS AUTOMATED SYSTEM

ENR-LSAS
REPORT DATE: 2010-07-15 TIME: 13:31:21

LAND STANDING REPORT

LSRC1130
REQUESTED BY: LSLBI43 PAGE 1

----- SELECTION CRITERIA -----

REQUESTED LAND LIST: INCLUDE
TITLE INFORMATION : INCLUDE
REQUEST LAND STATUS: EXCLUDE

SELECT GEO-ADMINISTRATIVE AREA: ALL

SELECT ACTIVITIES:

INCL/EXCL	ACTIVITIES	MAX STATUS	ALL/NONE/SOME	IF SOME, SPECIFY TYPE
I	SURFACE DISP	6	ALL	
I	RESERVATIONS	6	ALL	
I	ENCUMBRANCES	6	ALL	
I	LAND POSTINGS	6	ALL	
I	INTERIM RECORDS	6	ALL	
I	SUBDIVISIONS	5	ALL	

----- REQUESTED ACTIVITY -----

REQUESTED ACTIVITY: MLL- 100011

----- REQUESTED LAND -----

REQUESTED LAND	OWNERSHIP	TITLE	ADMINISTERED	SURVEY	-- AREA IN HECTARES --		--- AREA IN ACRES ---	
	STATUS	STATUS	BY	STATUS	LAND	TITLE	LAND	TITLE
5-09-021-28-NW	CROWN	TITLED	TPR	UNSURVEYED	64.750		160.00	
5-09-021-33-SW	CROWN	TITLED	FLW-TPR	UNSURVEYED	64.750		160.00	
		REMARKS: FLW						
			TPR					
TOTAL	CROWN	TITLED		UNSURVEYED	129.500		320.00	

----- TITLE INFORMATION -----

LAND IDENTIFIER	TITLE	EFFECTIVE DATE	TITLE HOLDER / REMARKS	HECTARES	ACRES
5-09-021-28-NW	PSEUDO REVESTMENT	1979-NOV-30	FORESTRY, LANDS & WILDLIFE E&NR 24055		
5-09-021-33-SW	PSEUDO REVESTMENT	1979-NOV-30	FORESTRY, LANDS & WILDLIFE E&NR 24055		

----- GEO-ADMINISTRATIVE AREAS -----

COAL DEVELOPMENT REGION

EASTERN SLOPES

CODE: CDR-3

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----- GEO-ADMINISTRATIVE AREAS -----

COAL DEVELOPMENT REGION	(CONTINUED)		
5-09-021			
ENVIRONMENT CORPORATE REGION	SOUTHERN		CODE: ENV-1
5-09-021			
ENVIRONMENT CONS. & RECL. DISTRICT	NO. 19		CODE: ERD-019
5-09-021			
EASTERN SLOPE ZONE			CODE: ESZ-
5-09-021			
FOREST MANAGEMENT UNIT	SOUTHWEST	B11 SOUTHERN ROCKIES	CODE: FMU-B -11
5-09-021-2B			
5-09-021-33			
FOREST RESERVE	ROCKY MOUNTAINS		CODE: FR -001
5-09-021			
FISH & WILDLIFE ADMIN REGION	EASTERN SLOPES REGION	KANANASKIS	CODE: FWA-3 -01
5-09-021			
FISH AND WILDLIFE DISTRICT	EASTERN SLOPES REGION	KANANASKIS	CODE: FWD-3 -08
5-09-021			
GENERAL LANDS CLASSIFICATION	GREEN		CODE: GLC-G
5-09-021			
GRAZING ZONE	A2		CODE: GRZ-A2
5-09-021			
IMPROVEMENT DISTRICT	KANANASKIS IMPROVEMENT DISTRICT		CODE: ID -005
5-09-021			
INTEGRATED RESOURCE PLAN	KANANASKIS COUNTRY		CODE: IRP-K1
5-09-021			
LAND USE AREA	SOUTHWEST 1	CALGARY	CODE: LUA-SW1 -1
5-09-021			
PROVINCIAL PARK REGION	KANANASKIS COUNTRY		CODE: PPR-KC
5-09-021			
PROVINCIAL PARK	SPRAY VALLEY		CODE: PRP-S7
5-09-021-28-NW		EXCL. LOC 2433, LOC 2562 & HLL 790139	
5-09-021-33-SW		EXCL. HLL 2777, HLL 790140 & LOC 2433	
RANGELAND DISTRICT	SOUTHWEST	ROCKY MOUNTAIN FOREST RESERVE CENTRAL CODE: RLD-SW	-3
5-09-021			

----- ACTIVITIES -----

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	TOTAL AREA	
					ACRES	HECTARES
CSL-910047	REGISTERED	ON 1991-NOV-14			0.00	0.000
	5-09-021-33-04					
	5-09-021-33-05					

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----- ACTIVITIES -----

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS	----- TOTAL AREA -----	
					ACRES	HECTARES
CSL-910048	REGISTERED 5-09-021-28-NW 5-09-021-33-SW	ON 1991-NOV-14		PT PT	0.00	0.000
CSL-910049	REGISTERED 5-09-021-28-NW 5-09-021-33-SW	ON 1991-NOV-14			0.00	0.000
CSL-910050	REGISTERED 5-09-021-28-NW 5-09-021-33-SW	ON 1991-NOV-14			0.00	0.000
CSL-910051	REGISTERED 5-09-021-33-SW	ON 1991-NOV-14	0.032 0.08		0.00	0.000
EZE- 2653	ACTIVE/DISPOSED 5-09-021-28-NW 5-09-021-33-SW	ON 1967-OCT-15	9999-999-99	FORTISALBERTA INC.	20.91	8.462
LOC- 2433	CANC - OUTSTANDIN 5-09-021-28-NW 5-09-021-33-SW	ON 2031-AUG-11	2031-AUG-11	THE BANFF RAIL CO. INC.	0.00	0.000
LOC- 2562	CANC - OUTSTANDIN 5-09-021-28-NW 5-09-021-33-SW	ON 2031-AUG-11	2031-AUG-11 66.368 164.00 59.958 148.16	THE BANFF RAIL CO. INC. WHICH INCLUDES THE UNSURVEYED ROAD ALLOWANCE LYING TO THE WEST OF AND ADJACENT TO THE NW OF SECTION 28. WHICH INCLUDES THE UNSURVEYED ROAD ALLOWANCE LYING TO THE WEST OF AND ADJACENT TO THE SW OF SECTION 33 AND THE SAVING AND EXCEPTING THEREOUT OF MLL 2777 , MLL 790139 & MLL 790140	3,320.36	1,343.702 (MORE)
LOC- 100233	APPLICATION 5-09-021-28-NW 5-09-021-33-SW	ON 2010-MAR-05		FORTRESS MOUNTAIN HOLDINGS LTD.	3,111.06	1,259.000
LOC- 100234	APPLICATION 5-09-021-28-NW 5-09-021-33-SW	ON 2010-MAR-05		FORTRESS MOUNTAIN HOLDINGS LTD.	71.66	29.000
MLL- 2777	CANC - OUTSTANDIN 5-09-021-33-04	ON 2031-AUG-11	2031-AUG-11	THE BANFF RAIL CO. INC.	4.94	1.998

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..... ACTIVITIES

ACTIVITY	STATUS/TYPE LAND ID	DATE HECTARES	EXPIRY ACRES	CLIENT/INTERIM REMARKS METES AND BOUNDS REMARKS TOTAL AREA	
					ACRES	HECTARES
MLL- 2777	(CONTINUED) 5-09-021-33-05					
MLL- 100011	APPLICATION 5-09-021-28-NW 5-09-021-33-SW	ON 2010-MAR-05		FORTRESS MOUNTAIN HOLDINGS LTD.	15.74	6.370
MLL- 790139	CANC - OUTSTANDIN 5-09-021-28-NW 5-09-021-33-SW	ON 2031-AUG-11	2031-AUG-11	THE BANFF RAIL CO. INC.	10.82	4.379
MLL- 790140	CANC - OUTSTANDIN 5-09-021-33-SW	ON 2031-AUG-11	2031-AUG-11 0.032 0.08	THE BANFF RAIL CO. INC. (LOT 3)	0.08	0.032
TFA- 102496	ACTIVE/DISPOSED 5-09-021-28-NW 5-09-021-33-SW	ON 2010-APR-30	2010-OCT-31	FORTRESS MOUNTAIN HOLDINGS LTD.	0.00	0.000
TFA- 102499	ACTIVE/DISPOSED 5-09-021-28-NW 5-09-021-33-SW	ON 2010-APR-30	2010-OCT-31	THE BELL TELEPHONE COMPANY OF	0.00	0.000
TPA- 192	ACTIVE/DISPOSED 5-09-021-28 5-09-021-33	ON 1988-SEP-01		EDMONTON OFFICE - FISH AND	0.00	0.000

*** NOTE: THE FOLLOWING DISCLAIMER ***

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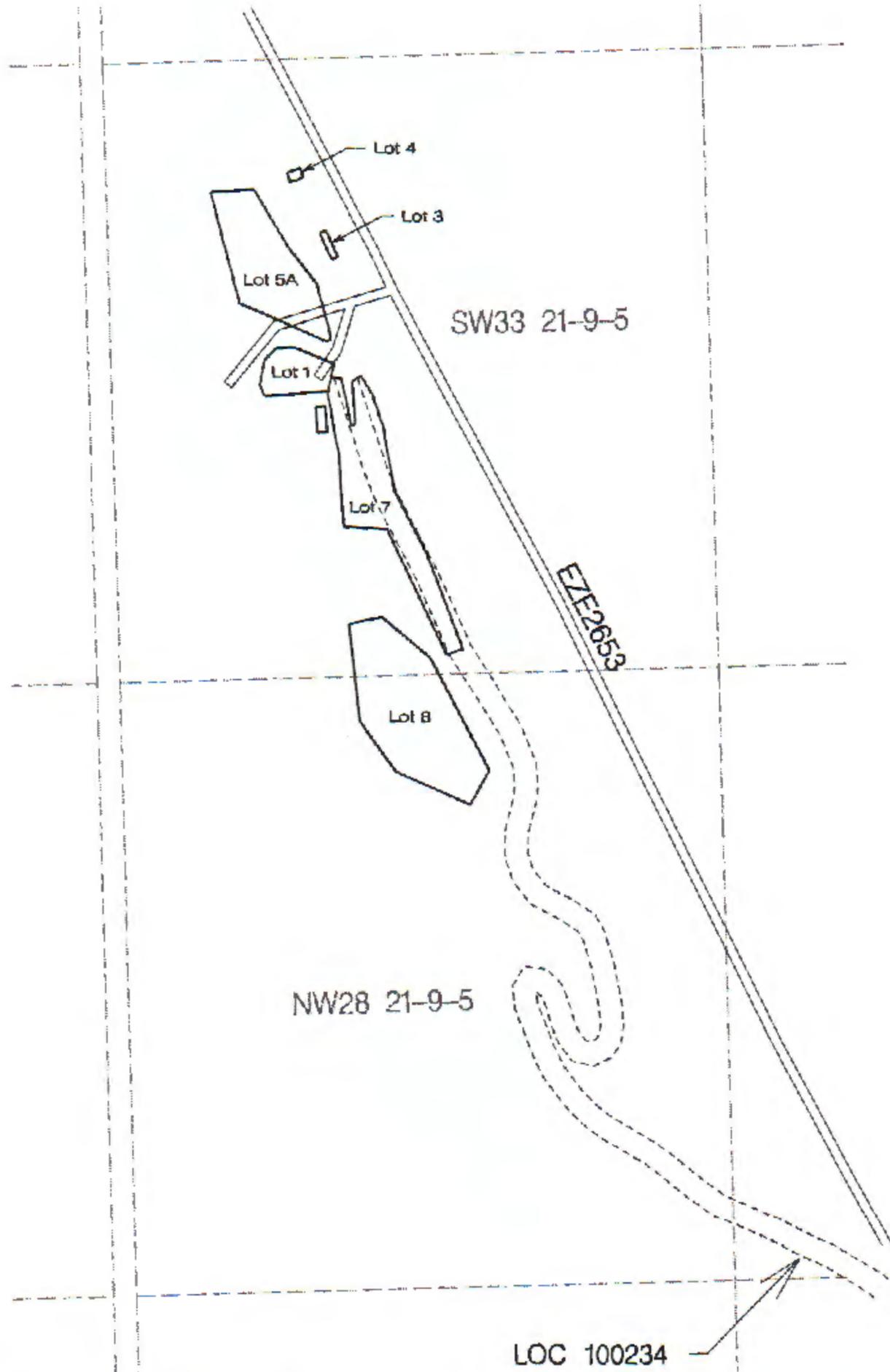
----- D I S C L A I M E R -----

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RECORDS AT LAND TITLES OFFICE TO ASCERTAIN WHETHER OTHER INSTRUMENTS
THAT MAY CONCERN THE LANDS OR INTERESTS THEREIN HAVE BEEN REGISTERED.

*** END OF REPORT ***



FORTRESS MOUNTAIN HOLDINGS LTD.

Sketch plan showing ski lodge area for Fortress Mountain ski hill
in theoretical NW 28 and SW 33 In Twp 21 Rge 9 W5th Mer.

Total area 6.370 Hectares /15.74 Acres, more or less

Area as shown on plan of survey prepared by D. Molesky, ALS Between August 29, 1978 and July 20th, 1979,
on record with the Department of Sustainable Resource Development as 3493 GEN, (Lots 1, 3, 4, 7 & 8)

Also as shown on plan of survey prepared by L.R. Olson, ALS as "Certified Correct" on the 14th day of October, 1992,
on record with the Department of Sustainable Resource Development as 3493 GEN Item "A". (Lot 5A)

Plan #: 126193 MS
Version: 2010-03-12
File: MLL 100011

TECHNICAL SERVICES	SKT	JET
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or suitable for any use the user may make of it.
Base Data provided by Spatial Data Warehouse Ltd.

Government of Alberta
Sustainable Resource Development
Lands Division
Survey and Technical Services Section

Scale 1: 10000	Date 2010 / 03 / 16
Airphoto [AS] - Shot(s)	Date: / /
Own By John Tekler	Checked by
Graphic File MLL.dgn	
Remarks Projects / Fortress Mountain/	