

LEASE – WHISTLER MUSEUM AND ARCHIVES

THIS AGREEMENT dated for reference is effective on the date written below is

BETWEEN:

RESORT MUNICIPALITY OF WHISTER

4325 Blackcomb Way, Whistler, B.C. V8E 0X5

(the "Landlord")

AND:

WHISTLER MUSEUM AND ARCHIVES SOCIETY (Inc. No. S0022112)

4333 Main Street, Whistler, B.C. V8E 1B3

(the "Tenant")

GIVEN THAT:

- A. The Landlord is the registered owner in fee simple of the lands located at civic address 4333 Main Street, Whistler, British Columbia, legally described as:

PID: 017-371-180
Lot 20 District Lots 3483 and 5275 Plan LMP219

("Lot 20");
- B. The Landlord is the owner of the park dedicated by plan LMP219 that is adjacent to Lot 20 (the "Park");
- C. The Landlord is the owner of the existing building located on Lot 20 (the "Building");
- D. The Tenant is a not-for-profit society that currently occupies the Building in which it operates the Whistler Museum;
- E. The Tenant wishes to lease from the Landlord those portions of Lot 20 and the Park shown on the sketch attached to this Lease as Schedule A (the "Premises") for the purpose of constructing and operating a new museum building and the Landlord wishes to grant to the Tenant a lease of the Premises on the terms and conditions set out in this Lease; and
- F. In accordance with sections 24 and 26 of the *Community Charter*, the Landlord has published notice in a newspaper of its intention to lease the Premises to the Tenant for less than market value.

THIS LEASE is evidence that in consideration of the mutual promises contained in this Lease and the payment of one dollar (\$1.00) by the Tenant to the Landlord (the receipt and sufficiency of which the Landlord acknowledges), the parties covenant and agree as follows:

1. **Demise** – The Landlord leases the Premises to the Tenant for the Term, on the terms and conditions of this Lease.
2. **Replacement Lease** – The parties agree that this Lease replaces all previous leases, licences and other agreements that grant rights of occupation made between the parties with respect to the Premises or any part of the Premises, and any such agreements are hereby terminated.
3. **Term** – The term of this Lease is sixty (60) years, commencing on January 1, 2023 and expiring on December 31, 2082, subject to earlier termination pursuant to the terms of this Lease (the “Term”).
4. **Renewal** – The Tenant may renew the Term one time, for a further fifteen (15) years, by providing notice to the Landlord no earlier than January 1, 2072 and no later than December 31, 2072.
5. **Rent** – The Tenant shall pay to the Landlord:
 - (a) annual rent of \$1 payable on the first day of the Term and each anniversary thereafter (the “Base Rent”); and
 - (b) all sums of money to be paid by the Tenant to the Landlord under this Lease (the “Additional Rent”)(collectively, the “Rent”). The Tenant shall pay Additional Rent monthly, within thirty (30) days of the Tenant’s receipt of an invoice from the Landlord.
6. **Purpose** – The Tenant may use and occupy the Premises only for the purpose(s) of a museum and archives open to the public and for other purposes necessarily incidental thereto.
7. **Tenant's Covenants** – The Tenant covenants and agrees with the Landlord:
 - (a) to promptly pay the Rent when due;
 - (b) to pay all charges, costs, duties, expenses, fees, levies, rates, sums, assessments, taxes (including property taxes), and telephone, electrical, gas, water, sewage and garbage disposal and other utility charges and payments for work and materials in any way relating to the Premises and that to the extent any such

amounts remain unpaid after they come due, such amounts shall be deemed as Additional Rent and may be collected by the Landlord as Rent;

- (c) to provide all equipment, furnishings and supplies that may be required to use the Building for the purposes of this Lease;
- (d) not to do, suffer or permit anything that may be or become a nuisance or annoyance in, on or from the Building or on or from the Premises to the owners, occupiers or users of other parts of the Premises, adjoining lands or to the public, including the accumulation of rubbish or unused personal property of any kind;
- (e) not to commit, suffer or permit any waste or any act or neglect that may in any manner directly or indirectly cause injury to the Building or the Premises or to any fixtures or appurtenances thereon;
- (f) not to use the Premises or permit them to be used for any purpose or in any manner that would render any insurance which the Landlord may carry with respect to the Premises void or voidable or which could cause the premiums for such insurance to increase;
- (g) to pay to the Landlord all goods and services taxes which may be payable in respect of this Lease;
- (h) not to permit the Premises to become untidy, unsightly or hazardous;
- (i) to take all reasonable precautions to ensure the safety of all persons using the Premises;
- (j) to keep the areas immediately adjacent to the Premises free of any rubbish and debris originating from the Premises;
- (k) to carry on and conduct its activities on the Premises in compliance with any and all laws, statutes, enactments, bylaws, regulations and orders from time to time in force, to comply with the terms of any charges and encumbrances registered against title to Lot 20 that apply to the Premises, and to obtain all required approvals and permits thereunder and not to do or omit to do anything in, on or from the Premises in contravention thereof;
- (l) not to erect any sign on the Premises or the Building without the prior written consent of the Landlord;

- (m) to keep the public sidewalks adjacent to the Premises reasonably clean from ice and snow during the times and to the extent required of an owner under the bylaws or other regulation of the Resort Municipality of Whistler in effect from time to time; and
- (n) to promptly discharge any builders' lien which may be filed against the title to Lot 20 relating to any improvements, work or construction that the Tenant undertakes on the Premises and to comply at all times with the *Builders Lien Act* (British Columbia) in respect of any improvements, work or construction undertaken on the Premises.

8. Tenant to Construct Building –

- (a) As soon as is reasonably practical after the date the Term commences the Tenant will apply to the Resort Municipality of Whistler for a Development Permit and any other permits necessary to construct a new museum building (which, after the Building is demolished, shall constitute the “Building”), and at the same time deliver to the Landlord drawings, elevations (where applicable), specifications (including the materials to be used), locations (where applicable), and exterior decoration and design of the proposed Building for the Landlord’s approval, which approval the Landlord agrees not to unreasonably withhold or delay. Upon receipt of the Landlord’s approval and a building permit, the Tenant will construct the Building, together with other facilities ancillary to and connected with the Building on the Premises, expeditiously and in a good and workmanlike manner and in substantial accordance with the drawings, elevations, specifications (including materials to be used), location on the Premises, and exterior decoration and design all upon which the issuance of the building permits by the Resort Municipality of Whistler are based.
- (b) Any changes to the drawings, specifications, location, exterior decoration, design, or exterior appearance of the Building or the appearance of the Premises will first be approved by the Landlord.

9. Fire and Liability Insurance During Construction –

- (a) The Tenant will effect or will cause its contractor or contractors to effect prior to the commencement of construction of the Building insurance protecting both the Tenant and the Landlord and the Landlord’s employees and agents from loss or damage (without any rights of cross-claim or subrogation against the Landlord) to the Building and all fixtures, equipment, improvements, and building materials on the Premises from time to time both during and after

construction (but which may be by policies effected from time to time covering the risk during different phases of construction of the Building) against fire, earthquake, and all other perils from time to time customarily included in the usual all-risks builders' risk form of policy applicable to similar properties during construction and effected in the Province of British Columbia by prudent owners, and such other perils as the Landlord may reasonably require to be insured against to the full insurable value thereof at all times and in any event in the amount sufficient to prevent the Landlord or the Tenant being deemed co-insurer.

(b) The proceeds of insurance that may become payable under a policy of insurance effected pursuant to this Section shall be used to finance repair and reconstruction of the Building.

10. **Net Lease** – Without limiting any other provisions in this Lease, the Tenant agrees that this Lease is absolutely net to the Landlord and unless expressly provided otherwise in this Lease, the Tenant shall pay when due on its own account without any variation, set-off, or deduction all costs arising from its use and occupation of the Premises.
11. **Lease Not In Registrable Form** – The Tenant acknowledges and agrees that the Landlord is under no obligation to at any time deliver this Lease or any instrument creating this Lease to the Tenant in a form registrable under the *Land Title Act* (British Columbia).
12. **Tenant's Representations and Warranties** – The Tenant represents that the following are true and warrants that they shall remain true during the Term:
 - (a) the Tenant is a not for profit society validly incorporated and in good standing under the laws of British Columbia and does not conduct its activities with a view to obtaining, and does not distribute, profit or financial gain for its members;
 - (b) the Tenant has the power and capacity to enter into and carry out the obligations under this Lease; and
 - (c) the Tenant has completed all necessary resolutions and other preconditions to the validity of this Lease.
13. **Acknowledgment and Agreements of the Tenant** – The Tenant acknowledges and agrees that:
 - (a) the Landlord has given no representations or warranties with respect to the Premises including, without limitation, with respect to the suitability of the Premises for the Tenant's intended use for the Premises;

- (b) the Tenant leases the Premises on an as is basis and the Landlord has not made any representations, warranties or agreements as to the environmental condition of the Premises; and
 - (c) it is the sole responsibility of the Tenant to satisfy itself with respect to the environmental condition of the Building and the Premises, including, without limitation, by conducting any reports, tests, investigations, studies, audits and other inquiries as the Tenant, in its sole discretion, considers necessary in order to satisfy itself as to the environmental condition of the Building and the Premises.
14. **Utilities and Services** – The Tenant shall be responsible for the connection, extension and commissioning of all utilities provided to the Premises and shall have all utilities invoiced directly to the Tenant by the supplier.
15. **Repair by Tenant** – The Tenant will during the Term, at its cost, by itself or by the use of agents, put and keep in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Building or the foundation or structure of the Building) the Premises and the Building, and the appurtenances and equipment of them, both inside and outside, including but not limited to fixtures, walls, foundations, roofs, vaults, elevators (if any) and similar devices, heating, cooling, and air-conditioning equipment, sidewalks, landscaping, yards and other like areas, water and sewer mains and connections, water, steam, gas, and electric pipes and conduits, and all other fixtures on the Premises and the Building and machinery and equipment used or required in the operation of them, whether or not enumerated in this Lease, and will, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacements, alterations, additions, changes, substitutions, and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Building and aforesaid fixtures, appurtenances, and equipment fully usable for all of the purposes for which the Building were erected and constructed and the specified fixtures, appurtenances, and equipment were supplied and installed. Such repairs and replacements will be in all respects to the standard at least substantially equal in quality of material and workmanship to the original work and material in the Building and aforesaid fixtures, appurtenances, and equipment.
16. **Landlord Not Obligated to Repair** – The Landlord will not be obliged to furnish any services or facilities or to make repairs, alterations, or replacements in or to the Premises or the Building, the Tenant hereby assuming the full and sole responsibility for

the condition, operation, repair, replacement, maintenance, and management of the Premises and the Building.

17. **Landlord's Right to Effect Repairs** – If the Tenant neglects or refuses to repair as required by this Lease, the Landlord may make such repairs without liability to the Tenant, including the Landlord and its contractors and agents' negligence, for any loss or damage that may occur, and upon completion of the repairs the Tenant shall, within 15 days' receipt of an invoice from the Landlord, pay the Landlord's actual costs of doing so plus a 15% administration fee.
18. **Tenant Alterations** – The Tenant shall not make any improvements, alternations, additions or renovations to the Premises, or alter the existing state of the Building in any way, without the prior written consent of the Landlord. If the Landlord gives such consent, the Tenant shall obtain all necessary permits, shall obtain the Landlord's prior approval of drawings and specifications for such work, shall do such work strictly in accordance with the approved drawings and specifications and shall comply with any conditions the Landlord imposes with respect to such approval.
19. **Minimum Work Standards** – The Tenant shall ensure that any repairs or work with respect to the Building done by or on behalf of the Tenant pursuant to Sections 15 and 18:
 - (a) do not affect any structural or foundation elements of the Building;
 - (b) meet or exceed the standards of materials and construction employed in the original construction of the Building; and
 - (c) comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from time to time in force, including the British Columbia Building Code and bylaws of the Resort Municipality of Whistler.
20. **Tenant's Obligations When the Building is Damaged or Partially Destroyed** – The Tenant covenants and agrees with the Landlord that in the event of damage to or partial destruction of the Building, the Tenant, subject to the regulations and requirements of the Resort Municipality of Whistler and any other government authority having jurisdiction, will repair, replace, or restore any part of the Building so destroyed.
21. **Tenant's Obligations When the Building is Completely or Substantially Destroyed** – The Tenant covenants and agrees with the Landlord that in the event of complete or substantially complete destruction of the Building, the Tenant, subject to the regulations and requirements of the Resort Municipality of Whistler and any other

government authority having jurisdiction, will reconstruct or replace the Building with a structure comparable to that being replaced.

22. **Replacement, Repair, or Reconstruction Under Sections 20 and 21 to Be Carried Out in Compliance with Section 19** – Any replacement, repair, or reconstruction of the Building or any part of the Building pursuant to the provisions of Sections 20 and 21 will be made or done in compliance with the provisions of Section 19.
23. **Insurance Requirements** – The Tenant shall, at its sole expense, obtain and maintain during the Term:
 - (a) commercial general liability insurance providing coverage for death, bodily injury, property loss and damage, and all other losses, arising out of or in connection with the operations, use and occupation of the Premises in an amount of not less than five million dollars (\$5,000,000.00) per occurrence;
 - (b) “all risks” insurance, for replacement cost, on all improvements from time to time making up part of the Premises and all of the Tenant’s fixtures and personal property in the Building;
 - (c) in its own name or through its contractor, during the course of construction of any improvement to the Building:
 - (i) insurance protecting both the Tenant and the Landlord against claims for personal injury, death or property damage arising from any accident or occurrence upon, in or about the Premises and from any causes, including the risks associated with the construction of the improvement, and to the amount reasonably satisfactory to the Landlord;
 - (ii) “all risks” insurance protecting the Tenant and the Landlord from loss or damage to the Building or the Premises and any building materials on the Premises from time to time during construction in respect of fire, earthquake and all other perils customarily included in the usual all risks builders’ risk form of policy applicable to similar properties during construction and effected in British Columbia by prudent owners, to the full insurable value thereof at all times and in any event in an amount sufficient to prevent the Landlord and the Tenant from being deemed co-insurer; and

- (d) any other form or forms of insurance that the Landlord may reasonably require from time to time in amounts and for perils against which a prudent tenant acting reasonably would protect itself in similar circumstances.

24. **Insurance Policies** – All policies of insurance required to be taken out by the Tenant shall be with companies satisfactory to the Landlord and shall:

- (a) name the Landlord as an additional insured;
- (b) include that the Landlord is protected notwithstanding any act, neglect or misrepresentation by the Tenant 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;
- (c) contain a waiver of subrogation rights against the Landlord;
- (d) be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia;
- (e) be primary and non-contributing with respect to any policies carried by the Landlord and that any coverage carried by the Landlord is excess coverage;
- (f) not be cancelled or materially altered without the insurer providing the Landlord with 30 days written notice;
- (g) include a deductible per occurrence which amount will be determined by the Landlord in consultation with its insurer to an amount appropriate taking into account the Premises and this Lease and may be adjusted from time to time; and
- (h) be on other terms acceptable to the Landlord, acting reasonably.

25. **Insurance Certificates** –The Tenant shall obtain all required insurance at its sole expense and shall, at least fourteen (14) days before the commencement of the Term and promptly upon request by the Landlord from time to time provide the Landlord with certificates of insurance confirming the placement and maintenance of the insurance.

26. **Landlord May Insure** – If the Tenant fails to insure as required, the Landlord may, after 30 days' notice to the Tenant, effect the insurance in the name and at the expense of the Tenant and the Tenant shall repay the Landlord all costs reasonably incurred by the Landlord within twenty-one (21) days of receipt of an invoice. For clarity, the Landlord has no obligation to insure the Premises during the Term.

27. **Workers' Compensation Coverage** –

- (a) At all times during the Term, the Tenant will at its own expense procure and carry, or cause to be procured and carried and paid for, full workers' compensation coverage in respect of all workers, employees, and others engaged in or upon any work, non-payment of which would create a lien on the Premises or the Building.
 - (b) The Tenant will immediately notify the Landlord of any dispute involving third parties that may arise in connection with obtaining and maintaining the workers' compensation coverage required under this Lease if such dispute results in the requisite coverage not being in place, and the Tenant will take all reasonable steps to ensure the resolution of such dispute promptly. At all times the Tenant will indemnify and save harmless the Landlord, and its elected officials, officers, employees, agents, representatives, contractors, successors, and assigns from and against all damages, costs, claims, suits, judgments, and demands that the Landlord may incur as a result of any default by the Tenant of its obligation under this Section to ensure that the full workers' compensation coverage is maintained. The Tenant will further ensure that no amount of the workers' compensation coverage is left unpaid so as to create a lien on the Premises or the Building. If the workers' compensation coverage required by this Section is not in place within 30 days of the date of the notice to the Landlord mentioned above, the Landlord will be entitled to have recourse to the remedies of the Landlord specified in this Lease or at law or equity.
28. **Quiet Possession** – The Landlord covenants and agrees with the Tenant to permit the Tenant, so long as the Tenant is not in default of the Tenant's obligations under this Lease, to peaceably possess and enjoy the Premises for the Term, without interference or disturbance from the Landlord or those claiming by, from or under the Landlord except for the Landlord's express rights under this Lease to enter upon the Premises.
29. **Indemnity** – The Tenant shall indemnify, defend and save harmless the Landlord and its elected officials, officers, employees, agents, representatives, contractors, successors and assigns, from any and all liabilities, actions, damages, claims, losses, costs and expenses whatsoever (including without limitation, legal fees on a solicitor and client basis) in any way directly or indirectly arising from the occupation, activities or actions of the Tenant on or from the Premises or in, on or from the Building or any act or omission of the Tenant.

30. **Survival of Indemnities** – The obligations of the Tenant under Section 29 survive the expiry or earlier termination of this Lease.
31. **Permission to Enter** – The Landlord or its authorized representative may enter the Premises and the Building at all reasonable times for the purposes of inspecting same.
32. **No Assignment or Sublease** – Without the prior written consent of the Landlord, the Tenant shall not assign the Tenant's interest in this Lease, sublet the Premises or any part of the Premises, nor charge, mortgage or encumber or purport to charge, mortgage or encumber the Tenant's interest in the Premises or this Lease. The Landlord may withhold such consents for any reason or no reason. If the Landlord consents to an assignment of this Lease or a sublease of the Premises or any part of the Premises, the Landlord may grant such approval on terms and in a form satisfactory to the Landlord.
33. **Termination for Default** – If and whenever:
 - (a) the Tenant is in default in the payment of Rent or any other amount payable under this Lease and the default continues for fifteen (15) days after written notice by the Landlord to the Tenant;
 - (b) the Tenant does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Lease to be observed, performed and kept by the Tenant, and persists in such default for thirty (30) days after written notice by the Landlord;
 - (c) the Building, or any part of it, is destroyed or damaged by any cause so that in the sole opinion of the Landlord the Building is no longer reasonably fit for use by the Tenant for the purposes set out in this Lease for any period of time in excess of thirty (30) days and the Tenant acknowledges the Rent shall not abate during any such period whether or not the Landlord exercises its right to terminate under this Section; or
 - (d) the Tenant vacates or abandons the Building and such default persists for five (5) days after written notice by the Landlord

then the Landlord may, at its option, terminate this Lease and the Term then becomes immediately forfeited and void and the Tenant shall immediately cease all use and occupation of the Building and shall peaceably vacate and deliver up possession of the Building and the Landlord may without notice or any form of legal process and without any adherence to public law duties or procedural fairness or the principles of natural justice, forthwith re-enter the Building and repossess and enjoy the same.

34. **Automatic Termination** – If and whenever:

- (a) the Term or any of the goods or chattels in the Building are at any time seized or taken in execution or attachment by any creditor of the Tenant or under bill of sale or chattel mortgage;
- (b) a writ of execution issues against the goods and chattels of the Tenant;
- (c) the Tenant makes any assignment for the benefit of creditors or becomes insolvent or bankrupt; or
- (d) proceedings are begun to wind up the Tenant

this Lease shall automatically terminate and the Term then becomes immediately forfeited and void and the Tenant shall immediately cease all use and occupation of the Building and shall vacate and deliver up possession of the Building and the Landlord may without notice or any form of legal process and without any adherence to public law duties or procedural fairness or the principles of natural justice, forthwith re-enter the Building and repossess and enjoy the same.

35. **Termination Due to Lack of Funding** – The Landlord may terminate this Lease if, by the date that is six (6) years after the date this Lease is entered into, the Tenant has not provided evidence satisfactory to the Landlord that eighty percent (80%) of the estimated costs of constructing a new building on the Premises have been raised by the Tenant.

36. **Ownership of Building** – The Landlord and the Tenant agree that title to and ownership of the Building and all alterations, additions, changes, substitutions, or improvements to it will at all times during the Term be vested in the Tenant, notwithstanding any rule or law as to the immediate vesting of the title to and ownership of the Building in the Landlord as owner of the freehold. The title to and ownership of the Building will not pass to or become vested in the Landlord until the expiration of the Term either by forfeiture, default, or lapse of time under the terms of this Lease, in which event the Building will become the absolute property of the Landlord free of all encumbrances. For clarity, the Landlord owns the Building occupying the Premises on the date that this Lease was entered into and the provisions of this Section shall apply only to the Building to be constructed by the Tenant in accordance with the terms of this Lease.

37. **State of Building at Termination** – At the expiration or other termination of this Lease, the Tenant will, except as may be otherwise expressly provided in this Lease, surrender and deliver up the Premises and the Building and the fixtures, appurtenances, and

equipment attached thereto, including all replacements and substitutions, in good order and condition, reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Building or the foundation or structure of the Building.

If the Tenant fails to leave the Building in the condition required by this Lease at the expiration or earlier termination of this Lease, the Landlord may make such repairs and do other things on behalf of the Tenant and the Tenant shall, on demand, compensate the Landlord for all costs incurred by the Landlord.

38. **Holding Over** – If the Tenant continues to occupy the Building with the written consent of the Landlord after the expiration of the Term or earlier termination of this Lease, then, without any further written agreement, the Tenant shall be a monthly lessee paying monthly rent in an amount determined by the Landlord and subject always to the other provisions in this Lease insofar as the same are applicable to a month to month tenancy and a tenancy from year to year shall not be created by implication of law, and nothing shall preclude the Landlord from taking action for recovery of possession of the Building.
39. **Distress** – If and whenever the Tenant is in default of the payment of any money, including Rent, whether expressly reserved by this Lease or deemed as Rent, the Landlord may without notice or any form of legal process whatsoever, enter the Building and seize, remove and sell the Tenant's goods, chattels and equipment and seize, remove, and sell any goods, chattels and equipment at any place to which the Tenant or any other person may have removed them in the same manner as if they had remained and been distrained in the Building, notwithstanding any rule of law or equity to the contrary, and the Tenant hereby waives and renounces the benefit of any present or future statute or law limiting or eliminating the Landlord's right of distress.
40. **Remedies Cumulative** – No reference to or exercise of any specific right or remedy by the Landlord prejudices or precludes the Landlord from any other remedy, whether allowed at law or in equity or expressly provided for in this Lease.
41. **No Joint Venture** – Nothing contained in this Lease creates the relationship of principal and agent or of partnership, joint venture or business enterprise or entity between the parties or gives the Tenant any power or authority to bind the Landlord in any way.
42. **Interpretation** – In this Lease:
 - (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;

- (b) an "enactment" is a reference to an enactment as that term is defined in the *Interpretation Act (British Columbia)* of the day this Lease is made;
 - (c) any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
 - (d) section headings are inserted for ease of reference and are not to be used in interpreting this Lease;
 - (e) a party is a reference to a party to this Lease;
 - (f) time is of the essence;
 - (g) where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including"; and
 - (h) a reference to a party is deemed to include the heirs, executors, administrators, successors, assigns, servants, employees, agents, contractors, elected and appointed officials, officers, directors, licensees and invitees of such party where the context so requires and allows.
43. **Notices** – Where any notice, request, direction or other communication (any of which is a "Notice") shall be given or made by a party under the Lease, it shall be in writing and is effective if delivered in person, or sent by e-mail, provided that any Notice to the Landlord shall be to corporate@whistler.ca and any Notice given the Tenant shall be to info@whistlermuseum.org. Any Notice is deemed to have been given if delivered in person, when delivered; if by e-mail, the same business day, which shall not include Saturdays, Sundays, and statutory holidays in British Columbia. The address of a party may be changed by notice in the manner set out in this provision.
44. **No Effect on Laws or Powers** – Nothing contained or implied herein prejudices or affects the Landlord's rights and powers under any enactment all of which may be fully and effectively exercised in relation to the Premises or the Building as if this Lease had not been fully executed and delivered. Whenever in this Lease the Landlord may consider granting any consent or approval, or is entitled to exercise any option to determine any matter, or to take any action or remedy, the Landlord may do so in accordance with the contractual provisions of this Lease and no public law duty of procedural fairness or principle of natural justice shall have any application.

45. **Landlord Discretion** – Wherever in this Lease the approval or consent of the Landlord is required, some act or thing is to be done to the Landlord’s satisfaction, the Landlord is entitled to form an opinion, or the Landlord is given the sole discretion:
- (a) the relevant provision is not deemed to have been fulfilled or waived unless the approval, consent, opinion or expression of satisfaction is in writing signed by the Landlord or its authorized representative;
 - (b) the approval, consent, opinion or satisfaction is in the discretion of the Landlord, acting reasonably;
 - (c) any discretion of the Landlord is not subject to public law duties and the principles of procedural fairness and the rules of natural justice have no application; and
 - (d) the sole discretion of the Landlord is deemed to be the sole, absolute and unfettered discretion of the Landlord.
46. **Binding on Successors** – This Lease enures to the benefit of and is binding upon the parties and their respective successors and assigns, notwithstanding any rule of law or equity to the contrary.
47. **Waiver or Non-Action** – A waiver by the Landlord of any breach of any term, covenant or condition of this Lease by the Tenant shall only be effective if in writing and shall not be deemed to be a waiver of any subsequent default by the Tenant.
48. **No Modification** – This Lease may only be modified in writing signed by each party.
49. **Entire Agreement** – The provisions in this Lease constitute the whole of the agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of the Lease.

As evidence of their agreement to be bound by the above terms, the Landlord and the Tenant each have executed this Lease on the respective dates written below:

RESORT MUNICIPALITY OF WHISTLER

by its authorized signatories:

Mayor:

Corporate Officer:

Date: _____

WHISTLER MUSEUM AND ARCHIVES SOCIETY

by its authorized signatories:

Name:

Name:

Date: _____

DRAFT

SCHEDULE A

[insert sketch of Premises]

DRAFT