



# PARK USE PERMIT

## COMMERCIAL RECREATION

Park Use Permit No.: **102529**

This PERMIT is dated for reference November 1, 2011 and is made under the *Park Act*.

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**, represented by the minister responsible for the *Park Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

**Whistler Heli Skiing Ltd.**  
**4545 Blackcomb Way**  
**Whistler BC V0N 1B4**

(the "Permittee")

The parties agree as follows:

### ARTICLE 1 - INTERPRETATION

1.1 In this Permit,

**"Client"** means a person from whom you accept a fee to undertake a recreational activity set out in the Management Plan;

**"Client Day"** (or user day) means each calendar day, or portion of a calendar day, that a Client is on the Permit Area;

**"Client Rate"** means \$4.00 for each Client Day in each year of the Term;

**"Commencement Date"** means **November 1, 2011**;

**"Diligent Use"** means the responsible use of the Permit Area for guided adventure tourism activities carried out by the Permittee that meet the requirements identified in the approved Management Plan.

**“Disposition”** means a park use permit or resource use permit issued under the *Park Act* or other authorization made or acquired by which an interest in the Permit Area is disposed of or effected including subsisting grants to or rights of any person made or acquired under the *Petroleum and Natural Gas Act, Range Act, Wildlife Act, Water Act*; or other applicable legislation;

**“Expiration Date”** means **October 31, 2016**;

**“Improvements”** includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Permit Area, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunneling, filling, grading or ditching of, in, on or under the Permit Area;

**“Management Plan”** means the most recent management plan prepared by you in a form acceptable to us, signed and dated by the parties, and held on file by us;

**“Management Schedule”** means the plan contained in the schedule attached to this Permit entitled “Management Plan Schedule”;

**“Permit”** means this Park Use Permit;

**“Permit Area”** means that part or those parts of the following described land shown outlined by bold line on the Legal Description Schedule, attached hereto and marked as Schedule “A”;

**“Permit Fee”** means the fees set out in Article 3;

**“Realty Taxes”** means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Permit Area, the Improvements or both of them and which you are liable to pay under applicable laws;

**“Regulations”** means the regulations under the *Park Act*, which may be amended from time to time;

**“Security”** means the Security referred to in section 7.1 or 7.2, as replaced or supplemented in accordance with section 7.5;

**“Term”** means the period of time set out in section 2.2;

**“we”, “us” or “our”** refers to the Province alone and never refers to the combination of the Province and the Permittee: that combination is referred to as **“the parties”**; and

**“you” or “your”** refers to the Permittee.

- 1.2 In this Permit, “person” includes a corporation, firm or association and wherever the singular or masculine form is used in this Permit it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 1.3 The captions and headings contained in this Permit are for convenience only and do not define or in any way limit the scope or intent of this Permit.
- 1.4 This Permit will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Permit, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Permit are enactments of the Province of British Columbia.

- 1.6 If any section of this Permit, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Permit will not be affected and this Permit will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Permit is an integral part of this Permit as if set out at length in the body of this Permit.
- 1.8 This Permit constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Permit except as expressly set out in this Permit and this Permit may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Permit.
- 1.10 All provisions of this Permit in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Permit.
- 1.11 Time is of the essence of this Permit.
- 1.12 Wherever this Permit provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Permit states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.
- 1.13 If all or part of the Permit Area is in a recreation area established or continued under the *Park Act*, this Permit is deemed to be a resource use permit as that term is defined in the *Park Act*.

## **ARTICLE 2 - GRANT AND TERM**

- 2.1 On the terms and conditions set out in this Permit, we grant to you a Permit for **Mechanized Heli-Skiing** as set out in the Management Plan and you acknowledge that this Permit does not grant you exclusive use and occupancy of the Permit Area.
- 2.2 The term of this Permit commences on the Commencement Date and terminates on **October 31, 2016** or such earlier date provided for in this Permit.
- 2.3 After the **third** anniversary of the Commencement Date, you can, by notice in writing delivered to the Province, apply to us for a renewal of this Permit and, if we consider it appropriate, subject to the *Park Act* and provided that you are not in default under this Permit, we may in our sole discretion, renew this permit on terms and conditions considered appropriate by us.
- 2.4 Notwithstanding section 2.3 above, the Province will be under no obligation to renew, extend or renegotiate the terms of this Permit following its termination or expiration.

## **ARTICLE 3 - FEES**

- 3.1 For each year of the Term, you will pay to us the fees prescribed by the Regulations in the manner and under the terms as set out in this article.

- 3.2 The Permittee must pay to the Province a minimum fee (the "Permit Fee") of **\$1,000.00 (plus applicable taxes)** prior to the Commencement Date and on each anniversary of the Commencement Date during the term of this Permit.
- 3.3 We have the right, in our sole discretion, during any year of the Term, to change the Permit Fee for the next year of the Term.
- 3.4 If we wish to change the Permit Fee for any year of the Term, we shall do so in accordance with the Regulations and our policies at the time applicable to your use of the Permit Area or Improvements under this Permit, and we shall use our best efforts to give you at least 18 months notification of any changes.
- 3.5 If we do not change the Permit Fee for any year of the Term, then the Permit Fee for that year will be the same as it was for the preceding year.
- 3.6 You must keep accurate written books and records in connection with this Permit including written records of Client Days.
- 3.7 In the event that an audit of your books and records taken under Article 5 reveals that you have not paid to us all fees owed to us under this Permit, you will immediately pay to us the cost of the audit together with all outstanding fees.
- 3.8 You are required to confirm your Client Days by submitting with your payment of fees a statutory declaration in a format provided to you by us.
- 3.9 You must pay interest to us on money payable by you and owing to us under this Permit, at the rate of interest prescribed by *the Financial Administration Act* in respect of money owing to us, which interest will be calculated from the date that the money becomes payable to us.
- 3.10 You must pay, and ensure that your Clients pay, all other applicable fees for the use of facilities and services in the Park as required under the *Park Act* and the Regulations.

#### **ARTICLE 4 - MANAGEMENT PLAN**

- 4.1 Despite any other provision of this Permit, we may revise the Management Plan and/or Management Schedule at any time, and from time to time, during the Term for any reason whatsoever provided we comply with the requirements of this Article 4. We may determine, in our sole discretion, whether there is reason to revise the Management Plan and/or the Management Schedule and the type and scope of the required revision. For the purpose of this Article 4, a revision to a Management Plan and/or Management Schedule may include any amendment, deletion, substitution or any other change whatsoever to the whole or any part of the Management Plan and/or Management Schedule and may include the specifications of any area that will no longer constitute a part of the Permit Area.
- 4.2 Subject to sections 4.3 and 4.4, the revision of a Management Plan and/or Management Schedule must be made in accordance with the following procedure:
  - (a) we must give you written notice (an "Initial Notice") of the proposed revision which notice must set out in reasonable detail:
    - (i) the reason for the revision;
    - (ii) the particulars of the revision;
    - (iii) the effective date of the revision; andwe must also specify in the Initial Notice a reasonable time period during which you may inform us of any comments or concerns that you have regarding the proposed revision;

