

ADMISSION TO PARTNERSHIP AND PARTNERSHIP AMENDMENT AGREEMENT

MEMORANDUM OF AGREEMENT OF ADMISSION TO PARTNERSHIP AND PARTNERSHIP AMENDMENT AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

[ORIGINAL PARTNER 1]
a body corporate incorporated under the laws of [jurisdiction] and
having an office in [city], Alberta
(the "1st Partner")

OF THE FIRST PART

- and -

[ORIGINAL PARTNER 2]
a body corporate incorporated under the laws of [jurisdiction] and
having an office in [city], Alberta
(the "2nd Partner")

OF THE SECOND PART

- and -

[NEW PARTNER]
a body corporate incorporated under the laws of [jurisdiction] and
having an office in [city], Alberta
(the "New Partner")

OF THE THIRD PART

WHEREAS:

- (a) 1st Partner and 2nd Partner are parties to a partnership agreement dated the ____ day of _____, _____ (the "Partnership Agreement"), which Partnership Agreement created the partnership known as the [Partnership name] (the "Partnership").
- (b) 1st Partner and 2nd Partner wish to admit New Partner to the Partnership as a partner, effective the ____ day of _____, _____, on the terms and conditions herein set forth, and New Partner wishes to be so admitted to the Partnership.
- (c) The parties hereto wish to amend the terms of the Partnership Agreement in accordance with the amendments set out herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS

Where used in this Agreement, including the Schedules hereto, the following words and phrases shall have the meanings attributed to them below:

- (a) "Alternate Representative" has the meaning ascribed to it in Article 16 hereof;

- (b) "Architect" means [architects] or any successor thereto engaged with respect to the Project, who shall be a member in good standing of the Alberta Association of Architects and engaged in the practice of Architecture;
- (c) "Architect's Contract" means an agreement between the Partnership and the Architect dated the ____ day of _____, _____;
- (d) "Capital" means, at any time (whether at a fiscal year end of the Partnership or at any time other than a fiscal year end of the Partnership), the amount obtained by adding to the amount of such Capital at the end of the previous fiscal year of the Partnership (which amount shall be zero in the case of the first fiscal year of the Partnership), (i) the aggregate of any amounts contributed by the Partners to the Partnership to such time during the then current fiscal year of the Partnership, and (ii) the net income (if any) of the Partnership earned to such time in the then current fiscal year; and by deducting therefrom (iii) the net loss (if any) of the Partnership incurred to such time in the then current fiscal year of the Partnership, and (iv) the aggregate of the amounts of any Cash Distribution to the Partners to such time during the then current fiscal year of the Partnership;
- (e) "Capital Account" of a Partner means, at any time (whether at a fiscal year end of the Partnership or at any time other than a fiscal year end of the Partnership), the amount obtained by adding to the amount of such Capital Account of a Partner at the end of the previous fiscal year of the Partnership (which amount shall be zero in the case of the first fiscal year of the Partnership), (i) the aggregate of any amounts contributed by such Partner to the Partnership to such time during the then current fiscal year of the Partnership, and (ii) such Partner's share of the net income (if any) of the Partnership earned to such time during the then current fiscal year; and by deducting therefrom (iii) such Partner's share of the net loss (if any) of the Partnership incurred to such time during the then current fiscal year, and (iv) the aggregate of the amounts of any Cash Distribution to such Partner to such time during the then current fiscal year;
- (f) "Cash Distribution" means, when the context in which this term is used relates to the Capital of the Partnership, the aggregate amount of any payments to the Partners reducing the Capital; or when the context in which this term is used relates to the Capital Account of a Partner, the amount of any payment to such Partner reducing the Capital Account of such Partner;
- (g) "Closing" means the execution and delivery of this Agreement, and the other agreements to be executed and delivered in accordance with this Agreement, and the taking of the other actions to be taken contemporaneously therewith pursuant hereto;
- (h) "Closing Agenda" means a document entitled Closing Agenda, setting forth the documents to be delivered by each of the parties hereto on New Partner's entry to the Partnership;
- (i) "Closing Date" means the [closing date];
- (j) "Completion Date" means that date when:
 - (i) the Architect for the Project has certified that work on the Project is substantially complete, and
 - (ii) the City of [city] has issued a building occupancy permit certifying the Project as being available for occupancy for the commencement of construction of tenants' leasehold improvements;
- (k) "Development Agreement" means a development agreement dated the ____ day of _____, _____ between the Partnership and the City of [city];
- (l) "Development Budget" has the meaning ascribed to it in Clause _____ of the Partnership Agreement;

- (m) "Development Permit" means the application for a development permit for the Project approved by the [city] Planning Commission as number [permit number] and the development permit arising out of such application for development permit;
- (n) "Developer" means, initially, New Partner and includes any successor thereto appointed by the Partnership as developer of the Project from time to time;
- (o) "Effective Date" means the effective date of New Partner's admission to the Partnership, being the [effective date];
- (p) "Financial Statements" means the financial statements of the Partnership as of the ____ day of _____, _____ attached and marked as Schedule _____ hereto;
- (q) "Ground Lease" means a certain lease agreement in writing dated [lease date] between 1st Partner as Lessor and the Partnership as Lessee, whereby the Partnership leased the Lands from 1st Partner;
- (r) "Income Tax Act" means The Income Tax Act (Canada) 1970-71-72 c. 63 as amended or replaced from time to time;
- (s) "Lands" means the following lands: [legal description of lands]
- (t) "Leasehold Interest" means the interest arising under and held by the Partnership pursuant to the Ground Lease;
- (u) "Manager" means, initially, New Partner and includes any successor thereto appointed property manager by the Partnership from time to time;
- (v) "Management Agreement" means the form of agreement attached and marked as Schedule hereto;
- (w) "Management Committee" means the committee comprised of representatives of the Partners, with power and authority to conduct the business of the Partnership, as provided for in Article 16 hereof;
- (x) "Operating Budget" has the meaning ascribed to it in Clause _____ of the Partnership Agreement;
- (y) "Partner" means one of the partners in the Partnership from time to time and "Partners" has a corresponding meaning;
- (z) "Partnership" means the partnership formed pursuant to the Partnership Agreement as from time to time subsisting;
- (aa) "Partnership Act" or the "Act" means The Partnership Act of the Province of Alberta, as amended from time to time;
- (bb) "Partnership Agreement" means the Partnership Agreement between 1st Partner and 2nd Partner dated the ____ day of _____, _____, as amended from time to time;
- (cc) "Partnership Amendment Agreement" means the document dated as of the ____ day of _____, _____, entitled Admission to Partnership and Partnership Amendment Agreement, executed and delivered by 2nd Partner, New Partner and 1st Partner, which document sets out the terms of New Partner's admission to the Partnership, and amends the Partnership Agreement;

- (dd) "Partnership Interest" means, at any time, and from time to time, the interest of a Partner in the Partnership and the Partnership Property at such time or times and "Partnership Interests" has a corresponding meaning;
- (ee) "Partnership Property" means all property, assets, rights and interests in property originally brought into or contributed to the Partnership or acquired by the Partnership, whether by purchase or otherwise, on account of the Partnership or for the purposes of and in the course of the Partnership business and includes, without restricting the generality of the foregoing, the Ground Lease, as amended from time to time, the Architect's Contract, the Development Permit, the Development Agreement, the Temporary Shoring Indemnity Agreement and all existing plans, permits, drawings, licences, certificates, reports, tests, appraisals and proposals relating to the Project;
- (ff) "Prime Rate" means that nominal annual rate, as varied from time to time, published and charged by the [bank], [city] as its most favorable rate to its largest and most credit-worthy customers on large Canadian dollar commercial loans, commonly known as its Prime Rate;
- (gg) "Principal Business Corporation" means a corporation whose principal business is and has been throughout its entire current fiscal year and throughout the entire current fiscal year of the Partnership the leasing, rental, development or sale, or any combination thereof, of real property owned by it;
- (hh) "Pro Forma Statement" has the meaning ascribed to such term in Clause 16.11 hereof;
- (ii) "Project" means the first class commercial building to be developed, constructed, leased and operated on the Lands by the Partnership pursuant to the provisions of the Partnership Agreement;
- (jj) "Project Development Agreement" means the agreement attached and marked as Schedule hereto;
- (kk) "Representative" has the meaning ascribed to it in Article 16 hereof;
- (ll) "Temporary Shoring Indemnity Agreement" means a temporary shoring indemnity agreement dated the ____ day of _____, _____ between the Partnership and the City of [city];
- (mm) "1st Partner" means [1st Partner];
- (nn) "2nd Partner" means [2nd Partner];
- (oo) "New Partner" means [New Partner].

ARTICLE II: ADMISSION OF NEW PARTNER TO PARTNERSHIP

2.01 1st Partner and 2nd Partner agree to and do hereby admit New Partner as a Partner in the Partnership on and subject to the following terms and conditions, and New Partner agrees to and does hereby join the Partnership on the said terms and conditions:

- (a) From and after the Effective Date, New Partner's Partnership Interest, and interest in the Partnership Property, unless and until changed in accordance with the provisions of the Partnership Agreement shall be ____ percent, 2nd Partner's Partnership Interest and interest in the Partnership Property shall be ____ percent and 1st Partner's Partnership Interest and interest in the Partnership Property shall be ____ percent;
- (b) On the Closing Date, New Partner will make a contribution to the Capital in the amount of _____ (\$_____) Dollars;

- (c) Subject to having complied with all of the requirements of this Agreement, 1st Partner and 2nd Partner shall be entitled on the Closing Date to receive a Cash Distribution in the aggregate sum of _____ (\$_____) Dollars in cash from the Partnership, with their Capital Accounts being thereby debited, each as to _____ (\$_____) Dollars;
- (d) The Partnership Agreement, as heretofore constituted, shall be amended in accordance with the amendments set out in this Agreement;
- (e) A separate leasehold title shall have been issued by the Land Titles Office of the [South/North] Alberta Land Registration District pursuant to the Ground Lease in the name of the Partners;
- (f) The loan or loans heretofore made to the Partnership by New Partner shall be repaid by the Partnership to New Partner with interest accrued thereon to the Effective Date, such loan or loans and interest thereon totaling, in the aggregate, the amount of _____ (\$_____) Dollars.

The parties hereto acknowledge and agree that the admission of New Partner to the Partnership does not dissolve the Partnership but rather that the Partnership continues to exist as and from the [effective date], with New Partner becoming a Partner in the Partnership effective on the Effective Date.

ARTICLE III: CLOSING

3.01 The admission of New Partner to the Partnership shall be effective as of the Effective Date.

3.02 1st Partner and 2nd Partner jointly and severally represent, warrant, covenant and agree with and to New Partner that on Closing:

- (a) the Partnership Property shall include, free and clear of any liens, charges or encumbrances:
 - (i) the Leasehold Interest and the Ground Lease, which Ground Lease is in full force and effect and unamended;
 - (ii) the Development Permit;
 - (iii) the Architect's Contract, which Architect's Contract is in full force and effect;
 - (iv) all existing plans, permits, drawings, licences, certificates, reports, tests, appraisals and proposals relating to the Project;
 - (v) the Development Agreement;
 - (vi) the Temporary shoring Indemnity Agreement;
- (b) the Financial Statements present fairly and accurately the assets and liabilities (whether accrued, absolute, contingent or otherwise) of the Partnership as of the ____ day of _____, _____;
- (c) the only liabilities (whether accrued, absolute, contingent or otherwise) of the Partnership shall be those disclosed on the Financial Statements together with those additional liabilities, if any, set out on Schedule _____ attached hereto;
- (d) the Partnership will have no liabilities whatever, accrued, absolute, contingent or otherwise except as disclosed pursuant to Sub-clauses 3.02(b) and 3.02(c) aforesaid;
- (e) each of 1st Partner and 2nd Partner has been throughout its entire current fiscal year and throughout the entire current fiscal year of the Partnership, a Principal Business Corporation;

- (f) the fee simple title to the Lands shall be free and clear of any liens, charges or encumbrances, other than: [list]
- (g) the Partnership has vacant possession of the Lands, and that no person or entity has any claim to possession of the Lands or any part thereof other than: [list]

3.03 New Partner represents, warrants, covenants and agrees with and to 1st Partner and 2nd Partner jointly that New Partner has been throughout its entire current fiscal year and throughout the entire current fiscal year of the Partnership a Principal Business Corporation.

3.04 1st Partner and 2nd Partner acknowledge and agree that the representations, warranties, covenants and agreements set forth in Clause 3.02 are inserted herein for the sole and exclusive benefit of New Partner and New Partner reserves unto itself the sole and absolute right (and 1st Partner and 2nd Partner hereby grant New Partner such right) at any time to waive the fulfillment of such representations, warranties, covenants or agreements, or any of them, for the purpose of Closing but without prejudice to New Partner's right to recover any loss or damage that may be suffered by New Partner in the event of and as the consequence of the breach by 1st Partner or 2nd Partner of any representation, warranty, covenant or agreement, including any representation, warranty, covenant or agreement waived for the purpose of Closing. New Partner acknowledges and agrees that the representations, warranties, covenants and agreements set forth in Clause 3.03 are inserted herein for the sole and exclusive benefit of 1st Partner and 2nd Partner and 1st Partner and 2nd Partner reserve unto themselves the sole and absolute right (and New Partner hereby grants 1st Partner and 2nd Partner jointly such right) at any time to waive the fulfillment of such representations, warranties, covenants or agreements or any of them for the purpose of Closing but without prejudice to the right of 1st Partner or 2nd Partner jointly to recover any loss or damage that may be suffered by 1st Partner or 2nd Partner jointly in the event of and as a consequence of the breach by New Partner of any representation, warranty, covenant or agreement, including any representation, warranty, covenant or agreement waived for the purposes of Closing.

3.05 The representations, warranties, covenants and agreements contained in this Agreement shall survive the Closing and the admission of New Partner to the Partnership and shall remain in full force and effect after the Closing.

3.06 The obligation of New Partner to complete the Closing herein is subject to the representations and warranties set forth in Clause 3.02 of this Agreement being true, complete and correct as of the Closing Date and 1st Partner and 2nd Partner shall each deliver an Officer's Certificate to that effect to New Partner dated as of the Closing Date. The obligation of 1st Partner and 2nd Partner to complete the Closing herein is subject to the representations and warranties set forth in Clause 3.03 of this Agreement being true, complete and correct as of the Closing Date and New Partner shall deliver an Officer's Certificate to that effect to 1st Partner and 2nd Partner jointly, dated as of the Closing Date.

3.07 It shall be a condition of New Partner's obligation to conclude and complete the transaction set forth in this Agreement that at Closing 1st Partner and 2nd Partner shall deliver to New Partner:

- (a) the Ground Lease;
- (b) a certificate of an officer of each of 1st Partner and 2nd Partner stating that each of 1st Partner and 2nd Partner, as the case may be has been throughout its entire current fiscal year and throughout the entire current fiscal year of the Partnership, a corporation whose principal business is the leasing, rental, development, sale or any combination thereof, of real property owned by it;
- (c) all relevant tax elections required to be made under *The Income Tax Act* (Canada) by the terms of this Agreement, duly completed;
- (d) an opinion from the solicitors for each of 1st Partner and 2nd Partner (which opinion shall be in a form satisfactory to the solicitors of New Partner) stating that 1st Partner and 2nd Partner each have full corporate power and authority to enter into and have taken all necessary corporate action to approve this Agreement and that this Agreement and all documents executed and

delivered and actions taken to carry out the terms of this Agreement have been validly executed, delivered and taken by each of 1st Partner and 2nd Partner;

- (e) payment to the Partnership, as a contribution to the Capital of the Partnership, of the aggregate amount of _____ (\$_____) Dollars with the Capital Account of each of 1st Partner and 2nd Partner being credited in an amount of _____ (\$_____) Dollars;
- (f) an estoppel certificate from 1st Partner as Lessor, in a form satisfactory to the solicitors for New Partner, stating that the Ground Lease is in full force and effect and unamended, that all payments which are due under the Ground Lease have been paid, that there are no outstanding defaults under the Ground Lease, and that it has received no notice of nor has it consented to or approved any disposition of the Lease by the Lessee, whether by assignment, encumbrance, mortgage or otherwise;
- (g) all documents required to be delivered by 1st Partner or 2nd Partner on Closing, pursuant to the Closing Agenda.

3.08 At Closing, New Partner shall deliver to 1st Partner and 2nd Partner:

- (a) an original of the Ground Lease, duly executed by New Partner as a Partner in the Partnership;
- (b) an opinion from the solicitors for New Partner (which opinion shall be in a form satisfactory to the solicitors for 1st Partner and 2nd Partner) stating that New Partner has full corporate power and authority to enter into and has taken all necessary corporate action to approve the entering into of this Agreement and the carrying out of the matters contemplated by this Agreement and that this Agreement and all documents executed and delivered and actions taken to carry out the terms of this Agreement have been validly executed, delivered and taken by New Partner;
- (c) all relevant tax elections required to be made under *The Income Tax Act* (Canada) by the terms of this Agreement, duly executed;
- (d) payment to the Partnership, as a contribution to the Capital of the Partnership, of the amount of _____ (\$_____) Dollars, which amount is to be credited to the Capital Account of New Partner;
- (e) a certificate from an officer of New Partner stating that New Partner has been throughout its entire current fiscal year, and throughout the entire current fiscal year of the Partnership, a corporation whose principal business is the leasing, rental, development, sale, or any combination thereof, of real property owned by it;
- (f) all documents required to be delivered by New Partner on Closing, pursuant to the Closing Agenda.

3.09 On Closing, and after all parties to this Agreement have complied with all of the requirements of this Agreement, including, without restricting the generality of the foregoing, causing a duplicate certificate of leasehold title in the Lands to be issued in the name of the Partners, which leasehold title shall be free and clear of any encumbrances whatsoever and with no encumbrances or instruments registered against the fee simple title to the Lands in priority to the Ground Lease other than such instruments as are described in Clause 3.02(f) of this Agreement, then the Partnership shall make the following payments:

- (a) the amount of _____ (\$_____) Dollars shall be paid to 1st Partner and 2nd Partner (as to _____ (\$_____) Dollars each) as a Cash Distribution. The said amount is to be paid by the Partnership to [law firm] to be held in trust for the said parties;

THIS IS A 27-PAGE DOCUMENT.