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RECEIVED  
LAND TITLE OFFICE  
NELSON

## LAND TITLE ACT

FORM C

(Section 219.81)

Province

British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

Page 1 of 10 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)  
Eloise Vierke, BC TEL, 21st Floor, 3777 Kingsway, Burnaby, B.C. V5H 3Z7  
Telephone: 432-1548.  
File: 15374-01

SUFFREDINE BURCH

10736

Eloise Vierke, Agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND\*  
(PID) (LEGAL DESCRIPTION)

010-241-493

Lot 1 DL 7913 Kootenay Dist Plan 14156

10/23/95 A6634a CHARGE 50.00

3. NATURE OF INTEREST\*  
DESCRIPTION

DOCUMENT REFERENCE  
(PAGE AND PARAGRAPH)

PERSON ENTITLED TO INTEREST

Statutory Right  
of Way

Page 3 to 10

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

- (a) Filed Standard Charge Terms ☐ D.F. No.  
(b) Express Charge Terms ☒ Annexed as Part 2  
(c) Release ☐ There is no part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. TRANSFEROR(S)\*

MOUNTAIN SHADOWS RESORT LTD. (Inc. No. 408010)  
1018B - 7th Avenue, Box 2400, Invermere, BC V0A 1K0

6. TRANSFEREE(S): \*name(s), occupation(s), postal address(es), postal code(s)

BC TEL, a company incorporated pursuant to the laws of Canada and having its head office at 3777 Kingsway, Burnaby, B.C. V5H 3Z7  
(Extra-provincial No. 1801A)

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E  
\*\* If space insufficient, continue execution on additional page(s) in Form D

## GENERAL INSTRUMENT - PART 1


7. ADDITIONAL OR MODIFIED TERMS: \*  
N/A

8. EXECUTION(S)\*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)



WILLIAM J. MacDONALD  
BARRISTER & SOLICITOR  
1018B - 7th AVE. P.O. BOX 2400  
INVERMERE, B.C. V0A 1K0  
(604)342-6921 FAX(604)342-3237

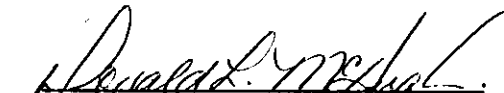
  
**MICHEL E. BELEC**  
 BARRISTER & SOLICITOR  
 21st FLR. - 3777 KINGSWAY  
 BURNABY, B.C.  
 V5H 3Z7  
 TEL: (604) 432-4989

Execution Date

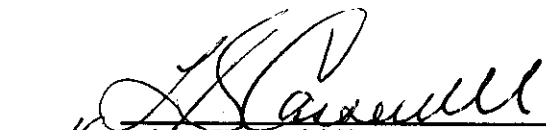
Y	M	D
95	10	03
15	5?	
95	10	17

Party(ies) Signature(s)

MOUNTAIN SHADOWS RESORT LTD.  
by its authorized  
signatory(ies)

  
 DONALD LESLIE MCHUGH

BC TEL by its authorized  
signatory

  
 Robert R. Middleton  
 Legal Staff Services  
 Manager

LARRY CARSWELL  
 HOWARD COULTER  
 REAL ESTATE, MANAGER

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c.116 to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

## TERMS OF INSTRUMENT - PART 2

## WHEREAS:

A. The Transferor is or is entitled to become the registered owner in fee-simple of the lands and premises (hereinafter called the "Lands") described in item 2, page 1 (Form C) of the attached General Instrument, Part 1;

B. The Transferor has agreed to grant to the Transferee a statutory right of way over the Lands;

C. All those portions of the Lands described in Schedule "A" attached hereto are hereinafter collectively called the "Right of Way Area";

D. The statutory right of way herein granted is necessary for the operation and maintenance of the Transferee's undertaking;

NOW THEREFORE in consideration of the sum of \$1.00 now paid by the Transferee to the Transferor (the receipt of which sum is hereby acknowledged by the Transferor), and in consideration of the grants, covenants and agreements on the part of the parties hereto respectively as herein contained, the parties hereto hereby grant, covenant and agree as follows:

1. Grant of Statutory Right of Way The Transferor hereby grants to the Transferee and its employees, agents, permittees, licensees, the full, free and uninterrupted right, liberty, privilege and easement by way of statutory right of way, on, over, under, within and through the Right of Way Area, at all times hereafter:

- (a) to construct, erect, install, place, excavate for, bury, inspect, maintain, protect, repair, remove, replace, renew, add to, enlarge, alter, improve, operate and use, on, over, under, within and through the Right of Way Area, apparatus, equipment and works (hereinafter collectively called the "Works") for the transmission of telecommunications, as may be useful, convenient or necessary for the purposes of the operations and undertaking of the Transferee or its permittees, and licensees, which Works may include without limitation those described in Schedule "B" attached hereto; and
- (b) to trim or cut and to remove, take and dispose of, and to clear and keep cleared from the Right of Way Area, all or any trees or other growth or vegetation now or hereafter on the Right of Way Area, that might interfere with or endanger or injure the Works or any part thereof, or interfere with access to or from the Works or any part thereof, or interfere with the use of the Right of Way Area for any of the uses and purposes permitted by this paragraph 1; and
- (c) for the purposes of access to and from the Works and any other uses or purposes permitted by this paragraph 1, to enter upon, pass, repass, return, labour and be on and along the Right of Way Area, on foot and by vehicle, with or without machinery

and equipment, and to dig up and excavate the soil of the Right of Way Area; and

- (d) generally to do all acts and works necessary or incidental to the foregoing or to the business of the Transferee in connection with the foregoing.

2. **Duration** To have and to hold unto the Transferee as a statutory right of way pursuant to the Land Title Act of British Columbia, as amended, from the date of this Agreement in perpetuity.

3. **Fee** The Transferee shall pay to the Transferor for the rights herein granted to the Transferee, a fee as described in Schedule "C" attached hereto.

4. **Protection of Works** The Transferor covenants with the Transferee:

- (a) not to place, make, operate, use or maintain or permit or suffer to be placed, made, operated, used or maintained, upon, over, under or within the Right of Way Area, any building, structure, improvement, equipment, excavation, growth, obstruction or other thing, and not to carry out or permit or suffer to be carried out upon, over, under or within the Right of Way Area or adjacent thereto, any blasting, pile driving, logging, excavation or drilling or any other activity, if any such things or activities might:

(i) interfere with or endanger or injure the Works or any part thereof; or

(ii) interfere with access to and from the Works or any part thereof; or

(iii) interfere with the use of the Right of Way Area for any of the uses and purposes permitted by paragraph 1 hereof, or impair the operating efficiency of the Works; or

(iv) create or increase any hazard to persons or property;

and without limiting the generality of the foregoing, not to diminish or substantially add to the ground cover of such of the Works as may from time to time exist on or below the surface of the Right of Way Area; and

- (b) otherwise not to interfere unreasonably with any rights granted by paragraph 1 or paragraph 3 hereof.

5. **Construction of Works** The Transferee agrees that any construction of Works, by the Transferee, and any other permitted activities, by the Transferee, shall be undertaken and carried out at the Transferee's cost and expense and in a proper and workmanlike manner, complying with all applicable laws and building regulations of authorities having jurisdiction. The Transferee agrees to indemnify and save harmless the Transferor from and against all claims of builders lien in connection with any construction or other permitted activities undertaken or carried out by the Transferee upon the Lands or the Right of Way Area.

6. Ownership of Works Notwithstanding any rule of law or equity to the contrary, except for abandoned Works as provided in paragraph 7 hereof and except for any specific tariff approved by the Canadian Radio-television Telecommunications Commission or any successor organization, any and all Works for the time being and from time to time shall at all times be and remain the separate property of the Transferee, notwithstanding that such Works may be annexed or affixed to or buried within the Lands or any buildings or improvements from time to time therein or thereon, and such Works shall at any time and from time to time be removable in whole or in part by the Transferee or its permittees, licensees or invitees.

7. Abandonment of Works The Transferee may at its option from time to time discontinue use of and leave in place any or all of the Works without affecting or limiting the statutory right of way or rights herein granted unless the Transferee shall discharge the statutory right of way, in which event any abandoned Works shall become the property of the Transferor.

8. Indemnity The Transferee covenants to indemnify and save harmless the Transferor from and against all losses, damages, costs and liabilities for which the Transferee shall be responsible in law and arising out of any personal injury or death or damage or loss to property resulting from the operations of the Transferee on the Lands or the Right of Way Area, except to the extent that such personal injury or death or damage or loss to property shall result from any negligence or wilful misconduct on the part of the Transferor or those for whom the Transferor is at law responsible.

9. Whole Agreement The provisions of this Agreement including the Schedules attached hereto constitute the entire agreement between the Transferor and the Transferee with respect to the subject matters hereof. There are no representations, warranties, guarantees, promises, agreements, covenants or conditions on the part of either party other than those set forth in this Agreement. This Agreement may only be altered by written agreement executed by the Transferor and the Transferee. The Schedules attached form part of this Agreement.

10. Binding Upon the Lands All the grants, covenants and agreements in this Agreement are made by the Transferor for itself and its heirs, executors, administrators, successors and assigns, and this Agreement constitutes a charge on the Lands in favour of the Transferee and shall run with and bind the Lands as provided herein and each and every part into which the same may be subdivided, whether by way of subdivision plan, strata plan, air space plan or otherwise.

11. Binding Effect This Agreement and all the terms, conditions and covenants expressed herein are binding upon and enure to the benefit of the Transferor and the Transferee and their successors in title and their respective heirs, executors, administrators, successors and assigns.

12. Partial Discharge The Transferor agrees that the Transferee may, without liability to the Transferor or any of its successors in title, unilaterally discharge or partially discharge the statutory right of way or any other rights herein granted as to all or any part of the Lands.

13. Multiple Transferors If at the date of this Agreement the Transferor is not the sole owner of the Lands, this Agreement shall nevertheless bind the Transferor to the full extent of its interest therein, and shall run with and bind its interest in the Lands as provided herein, and if the Transferor shall later acquire a greater or the entire interest in the Lands, this Agreement shall likewise extend to such after-acquired interest. If the Transferor or its successors in title shall at any time be comprised of more than one legal entity,

the obligations and liability of the Transferor under this Agreement shall be the joint and several obligations and liability of all legal entities comprising such Transferor.

14. Number and Gender If the sense or context of this Agreement so requires, the singular shall be construed to include the plural and vice versa, and the neuter shall be construed to include the feminine and masculine or body politic or body corporate, and vice versa.

15. Waiver Any waiver of any provision of this Agreement or of any breach of any provision of this Agreement shall only be effective if in writing signed by the waiving party, and no waiver shall be implied by indulgence, delay or other act, omission or conduct. Any waiver shall only apply to the specific matter waived.

16. Severability If any provision of this Agreement shall for any reason be held to be unenforceable, then such unenforceable provision shall be severable and severed from this Agreement, and the other provisions of this Agreement shall not be affected thereby but shall be and remain in full force and effect.

17. Additional Covenants Any covenants and agreements of the parties hereto or either of them set forth in any of the Schedules attached to this Agreement shall be deemed to be incorporated into and to form part of this Agreement as if they were set forth in the body of this Agreement in full.

18. Notices Notice to the Transferor or to the Transferee shall be sufficiently given if given in writing and mailed in Canada to the intended recipient at its address appearing in Items 5 or 6, as the case may be, of the General Instrument - Part 1, attached hereto (provided that in the case of the Transferee, such notice shall be addressed to the attention of the Real Estate Department), or at such other address as either party may from time to time advise by notice to the other. Notice to any successor in title to the Transferor shall be sufficiently given in writing and mailed in Canada to such successor in title at its address appearing on the certificate of title for the Lands or part thereof maintained by the applicable Land Title Office, or at such other address as such successor in title may from time to time advise by notice to the Transferee.

19. Further Assurances The Transferor will if requested by the Transferee and at the Transferee's expense, execute such further assurances of the statutory right of way and other rights granted herein as the Transferee may reasonably require.

IN WITNESS WHEREOF the Transferor(s) and the Transferee have executed this Agreement with effect as of the Execution Date set out on pages 1 and 2 hereof.

SCHEDULE "A"

The Right of Way Area consists of the Lands. As soon as the Transferee has constructed the Works or any of them on the Lands, the right, liberty and statutory right of way hereby granted shall thereupon and thereafter be confined and restricted to a portion of the Lands (which will be thereafter referred to as the ("the Right of Way Area") comprising a strip or portion of the Lands which will be located approximately as shown in heavy black outline or within the heavy black outline (as the case may be) on the plan attached hereto, numbered 15374-R, and will be precisely determined by a survey to be made by a British Columbia Land Surveyor at the expense of the Transferee.

The Transferee shall, on or before the 27th day of October, 1996, cause a survey of the Right of Way Area to be made and shall deposit the plan of such survey when completed in the appropriate Land Title Office. Such plan and the survey upon which it is based shall thereafter in all respects establish and define the Right of Way Area and the Land, except the Right of Way Area, shall upon the acceptance of such plan by the said Land Title Office be discharged from the right, liberty, and statutory right of way granted in paragraph 1 of this Agreement discharging such statutory right of way from the portions of the Lands not being shown as being included in said survey plan. Upon receipt of the proper fee and application made by the Transferee on behalf of the Transferor, the making of which application the Transferor hereby authorizes, the Registrar is hereby authorized to make such entries upon the Register as may be necessary to give effect to the foregoing. The Transferor agrees to accept the accuracy of the said survey and the plan thereof without exception or further approval by the Transferor.

Page 8

SCHEDULE "B"

PART 1 - DESCRIPTION OF CERTAIN WORKS

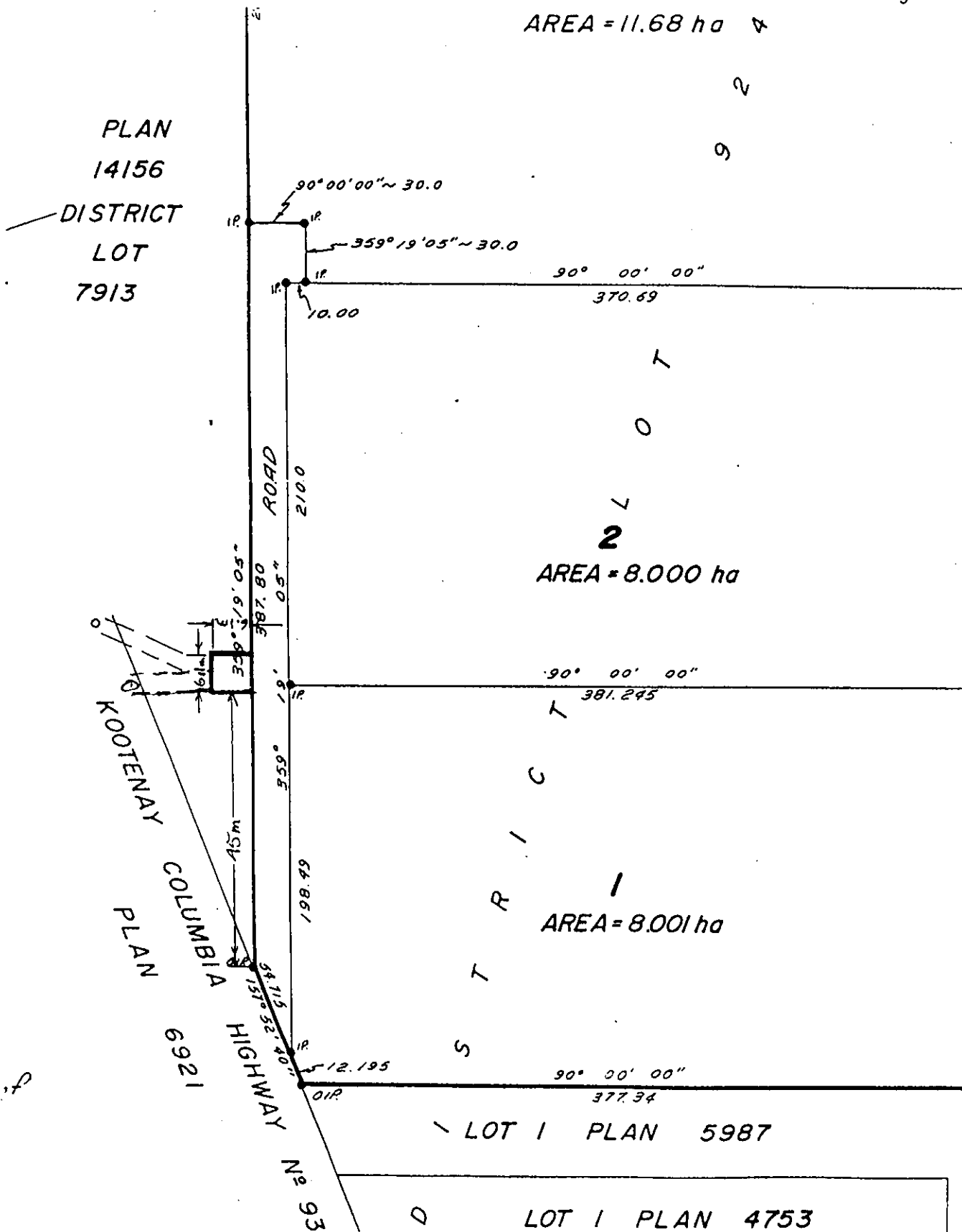
The Works shall consist of an equipment cabinet housing all forms of communication facilities, equipment and services together with ancillary appliances, attachments, fittings and appurtenances as may be required.

SRW 92.05.01 VER1 (A) BLDG - 95.08.16  
PCB - F:\SRW\1537411.SRW



SCHEDULE "C"FEE

The Transferee shall pay to the Transferor for the rights granted in this Agreement a fee of \$1.00 payable on the date of this Agreement, receipt of which the Transferor has acknowledged above. The Transferee shall in addition pay to the Transferor the sum of \$3,500.00, after the Transferee has received evidence satisfactory to it that this Agreement has been properly registered in the appropriate Land Title Office against title to the Lands. Payment of such additional sum shall be made in the same manner as for giving notice to the Transferor under this Agreement, and such payment shall be deemed to have been made and received by the Transferor upon mailing in Canada.



SKETCH 15374-R

END OF DOCUMENT