

LEASE
ALPINE RESORTS COMMISSION
AND
EDELWEISS SKI CLUB OF AUSTRALIA INCORPORATED

LEASE SYNOPSIS

EDELWEISS SKI CLUB OF AUSTRALIA INCORPORATED

MT. HOTHAM ALPINE RESORT

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ALPINE RESORTS COMMISSION

LEASE

This lease is made by -

LANDLORD: ALPINE RESORTS COMMISSION of Level 4,
Amev House, 1013 Whitehorse Road, Box Hill, 3128.

TENANT: EDELWEISS SKI CLUB OF AUSTRALIA INCORPORATED of
76 Victoria Crescent, Mont Albert, Victoria, 3127.

DATE: 22nd day of March 1994

1. The ALPINE RESORTS COMMISSION is a body corporate constituted under section 4 of the *Alpine Resorts Act* 1983.
2. The landlord may grant a lease of Crown land under section 28(2) of the Act and the Alpine Resorts (Leasing) Regulations 1985.
3. The lease is subject to the provisions of the Act and any regulations made under it.
4. The landlord has resolved under section 28(4) of the Act that any lease it grants is subject to the conditions in Appendix 1.
5. The landlord grants and the tenant accepts a lease on the conditions in Appendix 1.
6. The tenant covenants with the landlord for itself and its assigns to comply with the conditions of the lease.
7. The parties also agree that:
 - 1) The term of the lease is specified in the First Schedule hereto and which is less than the prescribed limits set out in regulation 6 of the regulations.
 - 2) The value of the improvements on the land is less than the prescribed limits set out in regulation 5 of the regulations.
 - 3) Section 144 of the *Property Law Act* 1958 does not apply.

CODE: ✓
DUTY: 364.20
\$.....
STATUS: 1
PEN
ASSESSOR: [Signature]

Trn 080661911 RDC 53 21/04/94
Rqn B4 Amt \$ 364.20
Stamp Duty, Victoria

IN WITNESS whereof the parties hereto have executed this Lease the day above written.

THE COMMON SEAL of the
ALPINE RESORTS COMMISSION
was hereto affixed with the
authority of the Commission
in the presence of:

)
)
)
)
)

.....

David R. [Signature] Commissioner

[Signature] Commissioner

THE COMMON SEAL of
EDELWEISS SKI CLUB
OF AUSTRALIA INCORPORATED
was hereto affixed by
authority of the Committee
in the presence of:

)
)
)
)
)
)

[Signature] Committee Member

[Signature] Committee Member

Seal.
EDELWEISS SKI CLUB
OF AUSTRALIA INC.
A00179555



TREASURER

APPENDIX 1
LEASE CONDITIONS

PART 1 - LAND

Details of the land

1.1 *Land description*

Crown Allotment 1 Section A within the Mt Hotham Alpine Resort, Parish of Hotham, County of Bogong and containing by admeasurement 1619 square metres more or less as shown delineated and coloured yellow on the plan annexed hereto.

1.2 *Plan of the land:*

Refer to annexed plan at rear of Lease.

1.3 *What the land includes.* Land is the surface and down to a depth of 15 metres.

1.4 ***What the land does not include.*** Land is not:

- . buildings, structures, improvements, fixtures, fittings, plant, machinery, furnishings and equipment attached to the land before or during the lease;
- . land under the surface below 15 metres in depth;
- . any easement or right over any other land owned by the landlord;
- . any gold, silver or minerals as defined in the *Mines Act* 1958 either on or below the surface;
- . any uranium or thorium under the *Mines Act* 1958;
- . petroleum under the *Petroleum Act* 1958;
- . water naturally on or below the surface (including water in spring soaks, underground streams and surface streams, the banks and beds of springs, soaks and streams) but not water brought onto the land by artificial means, or rain water collected from roofs or otherwise.

2. **Reservations affecting the land**

The Landlord (or anyone authorised by it) may enter the land to do anything that is necessary to search for, mine, extract and remove any minerals. This includes the right to put on the land and use anything that is necessary for these purposes.

3. **Permitted use of land**

- 3.1 The tenant must not use the land for any purpose other than that set out in 3.2 without the prior written consent of the landlord.
- 3.2 The tenant must only use the land for the purpose(s) of providing a ski lodge for the accomodation of its members and the families and guests of such members in accordance with the tenant's Constituent Documents and providing a maximum of fourteen (14) beds and shall conduct and manage the activities carried on thereon or therefrom in a quiet orderly and lawful manner in all respects to the satisfaction of the Landlord.

PART 2 – TERM

4. **When does the term begin and end?**

The term begins on 01/11/1993.

The term is specified in the First Schedule hereto.

PART 3 - RENTAL

5. The rent

- 5.1 Each rent period is six years and the first rent period commences on 1 November, 1989.
- 5.2 For the first rent period the tenant must pay the lesser of a rent equivalent to 3.5% of:
 - 5.2.1 The Valuer General's site valuation of the land as at February, 1989, or
 - 5.2.2 The Valuer General's site valuation of the land as at February, 1986 plus thirty (30) percent, or
 - 5.2.3 The Valuer General's rejigged site valuation of the land as at February, 1986 plus thirty (30) percent.
- 5.3 The rent payable by the tenant shall be adjusted at the end of each year of the rent period by the percentage adjustment (if any) in the Consumer Price Index (Melbourne All Groups) between the September quarter 1989 and the September quarter in each subsequent year until the next review date.
- 5.4 The rent payable by the tenant from 1 November, 1993 to 31 October, 1994 is \$1,757.00.

6. How is the rent paid?

- 6.1 The tenant must pay the rent to the landlord without any deductions on the 1 November of each year or otherwise as determined by resolution of the Commission.
- 6.2 The tenant must pay the rent to the landlord at Level 4, Amev House, 1013 Whitehorse Road, Box Hill, 3128 (P.O. Box 382, Box Hill 3128). However, the landlord may write to the tenant directing it to pay the rent to another person or at another place.

7. Interest for late payment of rent

- 7.1 If the whole or any part of an instalment of rent is not paid by the due date for payment, the tenant must pay interest at the rate set out in regulation 5 of the Alpine Resorts (Prescribed Forms) Regulations 1985 on the arrears for each day the arrears are unpaid.
- 7.2 The payment of interest does not affect any other rights of the landlord under the lease.

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8. Review of rent by the landlord – the review dates

Subject to clauses 9, 10, 11, 12, 13 and 14, the landlord may review the rent, as at 31 October 1995 and every 6 years after that date ("the review dates").

9. Prior notice of rent review

9.1 If the landlord wants to review the rent, to apply until the next review date, subject to adjustment under 10.2, it must give the tenant a rent review notice indicating the reviewed rent. The notice should be given between 3 and 6 calendar months before a review date. The notice must include details of the valuation in 10.1.1. and the industry wide ceiling in 10.1.2.

9.2 The landlord cannot review the rent after the expiration of 6 months from the review date.

9.3 The reviewed rent is payable from 1 November following a review date.

10. How is the reviewed rent fixed?

10.1 The landlord may decrease the rent to apply until the next review date but must not increase the annual rent to more than the lower of:

10.1.1 3.5% of the Valuer-General's site valuation of the land as at 1 February prior to a review date* ; or

10.1.2 the annual rent for the year ending on a review date adjusted by the industry-wide ceiling.*

[* "Site value " as defined in the Valuation of Land Act 1960.]

[* "The industry-wide ceiling" means the ceiling determined by the Minister responsible for the *Alpine Resorts Act* 1983 after extensive consultation with associations representing the ski industry, but must not be greater than 30% above the annual rent for the year ending on the review date.]

10.2 The landlord may adjust the rent for each year following a rent review date (other than the first year) by the percentage adjustment (if any) in the consumer price index (Melbourne All Groups) between the September quarter prior to the review date and the September quarter in the year prior to the year in which the rent may be adjusted.

11. Can the tenant object to the site valuation of the land?

The tenant may object to the valuation referred to in clause 10.1.1 by giving the landlord a written objection notice within 90 days of receiving the rent review notice. The objection notice must contain the reasons for the objection and the name of a valuer.

12. What must the landlord do on receiving a notice objecting to the increase in site valuation?

The landlord must nominate a registered valuer within 30 days of receiving the objection notice.

13. How is the objection determined?

The valuers must hold a conference to determine the valuation objection within 30 days from the date the landlord nominates a valuer.

14. What happens if the tenant does not appoint a valuer or the valuers disagree?

14.1 If the tenant does not appoint a valuer, the valuer nominated by the landlord will determine the objection.

14.2 If the valuers disagree, either valuer may ask the President (if unavailable, the Vice President) of the Victorian Division of the Australian Institute of Valuers and Land Economists (Inc.) to appoint a valuer to act as umpire to determine the valuation. The determination of the umpire is final.

14.3 The umpire is to act as an expert and not as an arbitrator.

14.4 Each party must pay its own valuer and half the costs of the umpire.

15. Staying on land at end of the lease

15.1 If the tenant stays on after the end of the lease without a new lease and without the landlord's objection, the tenant becomes a monthly tenant.

15.2 The tenant must pay rent based on the annual rent in advance for each calendar month.

15.3 The terms and conditions of this lease apply to the monthly tenancy (with necessary alterations).

PART 4 – WHAT THE TENANT MUST DO UNDER THE LEASE

A. Be responsible for certain costs (for rent see Part 3)

16. *Pay Community Service, and other charges*

The tenant must pay to the landlord:

- 16.1 any community service or administration charge fixed under section 30 of the *Alpine Resorts Act* 1983;
- 16.2 reasonable legal costs and necessary disbursements and any administration charge for preparing and completing the lease fixed or set out in a regulation and any application for consent of the landlord under the lease; and
- 16.3 reasonable legal fees or expenses for every breach or default of the tenant under the lease.

17. *Pay Cost of work for which it is responsible*

The tenant must pay the reasonable cost without delay (and assume the risk) for all things that it has to do under the lease, including:

- 17.1 if the tenant has not complied with a defects notice;
- 17.2 removing vermin and pests, remedial work, fixing defects, revegetation and any other costs for which the tenant is responsible.
- 17.3 if the landlord pays any cost and expense in meeting an obligation of the tenant which the tenant fails to meet, interest on the amount so paid.
- 17.4 interest from the day the landlord makes the payment until the tenant reimburses the landlord.
- 17.5 interest at the rate set out in regulation 5 of the *Alpine Resorts (Prescribed Forms) Regulations* 1985.

B. Comply with insurance requirements

18. *Public Liability Insurance*

- 18.1 The tenant must take out and maintain in force during the term a public liability insurance policy in the joint names of the landlord and the tenant for not less than \$5 million for any one event.

18.2 The tenant must ensure the policy includes, but is not limited to, insurance cover for the tenant's liabilities under clauses 19 and 20. However, the tenant's liability is not affected by the taking out of the policy.

18.3 Upon request by the landlord the tenant must forward to the landlord a copy of the public liability insurance policy.

C. Give the landlord a release and indemnity

19. *Release*

The tenant agrees to use the land at its own risk and to release, to the full extent permitted by law, the landlord and its agents, servants, contractors and employees from all claims and demands of every kind except for their negligent acts.

20. *Indemnity*

The tenant indemnifies the landlord against any action or demand resulting from any accident damage or injury occurring on the land or any act or omission by the tenant or any employee agent contractor subtenant or licensee of the tenant in using the land other than one for or to which the landlord would otherwise be liable or subject.

D. Keep land tidy and in good order, provide refuse bins and remove rubbish

21. *Land to be kept tidy and in good order*

The tenant must keep the land tidy and in good order by doing any reasonable maintenance or repairs to the reasonable satisfaction of the Resort District Manager "the Manager".

22. *Provide refuse bins or other containers and remove rubbish*

22.1 The tenant must provide all necessary refuse bins or other refuse containers, reasonably required and approved by the landlord.

22.2 The tenant must keep all refuse bins and refuse containers in good order and condition.

22.3 The tenant must remove refuse in accordance with the landlord's reasonable directions.

E. Give notice to the landlord if it wants to surrender the lease.

23. If the tenant wishes to surrender the lease prior to the end of the term it may give a written notice to the landlord specifying the date of surrender.

F. Fix Defects to the land

24. *Report damage*

24.1 Immediately it becomes aware the tenant must advise the landlord of any damage to the land and potential damage or danger to the public from the damage to the land.

24.2 If the damage has been caused by the tenant then, subject to 46.1, the tenant must immediately carry out remedial work approved by the landlord.

25. *Maintain Drains*

The tenant must ensure that its sewerage drains are properly maintained so that no nuisance is caused on or off the land.

26. *Avoid water or snow damage*

The tenant must prevent unreasonable damage to the land or adjacent land or improvements by water dripping or snow shedding from a roof or from any other improvements for which the tenant is responsible.

27. *Fix erosion and disturbed ground surfaces*

27.1 The tenant must:

27.1.1 repair erosion caused by its use of the land or its work;

27.1.2 revegetate all ground surfaces, other than a surface on which an improvement is constructed, disturbed by it ;

27.1.3 protect any damaged area from vehicle traffic; and

27.1.4 except for reasonable maintenance work, not interfere with the natural vegetation or existing surface without first obtaining the landlord's approval.

27.2 The tenant must give the landlord plans of the work referred to in 27.1. The plans must include details of transport (if any), soil conservation methods and proposed maintenance.

27.3 The tenant must not commence work nor do any earthworks until the landlord has approved the plans, and must not depart from the approved plans without the prior written consent of the landlord which consent must not be unreasonably withheld.

27.4 The tenant must complete the work to the landlord's reasonable satisfaction in the reasonable time specified by the landlord.

27.5 The tenant must maintain the work.

28. *Keep land free of vermin, pests and weeds*

28.1 The tenant must take all reasonable precautions to keep the land free of all vermin and pests.

28.2 The tenant must keep the land free of all noxious and undesirable weeds to the reasonable satisfaction of the Manager.

28.3 If reasonably required by the Manager, the tenant must at it's own cost, use in any building on the land a pest exterminator approved by the landlord.

G. General

29. *Accept responsibility for acts of people over which it has control*

29.1 In the performance and observance of the terms of the lease the tenant accepts full responsibility for all people over which it has control. These people include shareholders, members, servants, agents, its subtenants and licensees and their subtenants and licensees.

29.2 The tenant must also accept responsibility under the lease for a breach of a term of the lease by any of these people as if it was a breach by the tenant.

30. *Provide rules, Memorandum and Articles of Association*

If asked by the landlord, the tenant must give the landlord certified copies of all documents by which it is constituted. These include memorandum and articles of association, rules, bylaws, partnership agreements, or other documents establishing the regulations or constitution of the tenant.

31. *Follow directions of the Manager*

31.1 The tenant must follow all reasonable directions of the Manager for the use of the land under this lease given at any time, including all reasonable directions given after the Manager's written consent is given.

31.2 The tenant must follow all reasonable directions of the Manager regarding the siting and screening of all necessary tanks, including fuel, gas and septic tanks.

31.3 The tenant must comply with all reasonable directions of the Manager and officers authorised under the *Alpine Resorts Act 1983* for movement and parking of vehicles on the land.

31.4 When vacating the land or when directed by the Manager, the tenant must make good any damage to the land to the Manager's reasonable satisfaction.

31.5 If the tenant disagrees with a determination or direction of the Manager, under this clause or under 21,22,28 or 39 the tenant may appeal that determination to the management committee of the resort whose decision shall be final and binding on the parties.

32. *Give details of beds in any building on the land.*

If asked by the landlord in writing the tenant must give to the landlord a statutory declaration stating the maximum number of beds used in any building on the land on any night specified in the request.

33. *Exhibit Regulations and landlord's notices*

If asked by the landlord, the tenant must exhibit on the land in a place that can clearly be seen any notices given by the landlord under any relevant regulations made under the *Alpine Resorts Act 1983*.

34. *Keep landlord informed of persons representing the tenant*

The tenant must keep the landlord informed of the names, addresses and telephone numbers of two authorised persons representing the tenant with whom the landlord may communicate when a tenant representative is not on the land.

35. *Give notice to the landlord if it requires a further lease.*

If the tenant wishes to lease the land for a further term it must give a written notice to that effect not more than 6 nor less than 5 years prior to the end of the term.

36. *Comply with all Acts of Parliament*

The tenant must comply with all Acts of Parliament.

Note: The tenant should be particularly aware of the following Acts:

- . *Alpine Resorts Act 1983*
- . *Dangerous Goods Act 1985*
- . *Health Act 1958*
- . *Conservation & Environment Act 1987*
- . *Forests Act 1958*
- . *Flora & Fauna Guarantee Act 1988*
- . *Planning & Environment Act 1987*

PART 5 – WHAT THE TENANT MUST NOT DO UNDER THE LEASE

37. Refuse to provide temporary shelter

The tenant must not unreasonably refuse, or allow anyone else over whom the tenant has control to unreasonably refuse, shelter to a person who needs temporary shelter because of adverse weather conditions, injury or other emergency.

38. Refuse the public access to the land

38.1 Subject to 38.2 the tenant must not refuse the public access to any unimproved part of the land which is normally used by the public except where to grant such access would cause the tenant to breach its obligations under this lease.

38.2 The tenant may refuse access to the public if the tenant cannot provide reasonable protection to buildings, equipment, services or facilities or where the tenant cannot ensure the safety and good behaviour of persons using buildings, equipment, services or facilities.

39. General

Keep animals, plant exotic plants, interfere with trees and plants, carry out fencing work, advertise and use conveniences for unsuitable purposes

The tenant must not:

39.1 keep any domestic animals;

39.2 plant any seeds or plants which are not native to the locality;

39.3 interfere with or cut down any tree, plant or vegetation;

39.4 carry out or allow to be carried out any fencing work;

39.5 operate or allow to be operated inside or outside any building on the land anything which amplifies music, announcements or sound to an unreasonable degree;

39.6 put up any advertisements, signs, names, notices or hoardings; or

39.7 use or allow anyone to use lavatories, toilets, sinks, drainage (including storm water drains) or other plumbing facilities for any purpose for which they were not designed,

on the land without the prior written consent of the Resort Manager, which consent shall not be unreasonably withheld.

40. *Dispose of, or deal with its interest in the land*

The tenant must not without the prior written consent of the landlord (which must not be unreasonably withheld) assign, transfer, mortgage, charge, sublet, hold on trust, or otherwise deal with the whole or any part of its interest in the land.

Note: The creation or alteration in any way of a trust under which another person becomes the beneficial owner of the lease with a controlling interest is to be regarded as an assignment or transfer.

41. *Give effect to changes in legal or beneficial ownership of shares, or interest in the lease*

The tenant must not without the prior written consent of the landlord (which must not be unreasonably withheld) register, record, enter or otherwise give effect to any change in the legal or beneficial ownership of any shares, or other interest in the tenant or the creation (or variation) of a trust by which a person becomes a beneficial owner of the lease or the tenant's rights which alters the effective control* of the tenant whether by one or a series of transactions.

* ["alters the effective control" means a change in the shareholding or voting rights which is more than 50% over three years.]

PART 6 – WHAT THE LANDLORD MAY DO UNDER THE LEASE

[See Part 3 for review of rent]

A. Insurance

42. *Adjust public liability*

The landlord may at any time require the tenant to adjust the public liability cover.

B. Consents and Opinions

43. *Landlord's consents*

43.1 The landlord may give to the tenant any necessary consents under this lease but must not unreasonably withhold a consent or grant consent on unreasonable terms.

43.2 The landlord may ask the tenant to pay all its reasonable costs and expenses (including legal fees) for giving a consent.

44. *Require information for certain requests for consent*

- 44.1 The landlord may require the tenant to give it full information about any request for its consent.
- 44.2 The landlord may also ask the tenant to produce all documents, books and vouchers for such purpose.

45. *Landlord's opinions*

The landlord in forming an opinion may inform itself in any reasonable way.

C. *Defects to the land*

46. *Serve a notice to rectify defects to the land*

- 46.1 The landlord may serve on the tenant a written notice requiring the tenant to carry out its obligations under Part 4 section F within a reasonable time, which shall be not more than 6 calendar months from the date of the notice.
- 46.2 The landlord (and anyone it requires to assist it) may carry out the tenant's obligations itself if the tenant does not comply with the notice within the time specified.
- 46.3 The landlord may charge the reasonable costs of carrying out the tenant's obligations to the tenant.
- 46.4 Any dispute under this clause must be settled under the *Commercial Arbitration Act* 1984 and each party may be legally represented under any proceedings under that Act.

47. *D. Defaults of the tenant*

- 47.1 If the tenant has not paid the rent or an instalment of rent or if the tenant has not paid the community service charge or administration charge fixed under section 30 of the **Alpine Resorts Act** 1983 within 90 days of the due date for payment, the landlord will give a notice of demand with full particulars to the tenant requiring it to make the payment due within the time stated in the notice and if the tenant fails to comply with this notice, the landlord may terminate this lease and may, by notice in writing, require the tenant to remove, within the practical time specified in the notice, all buildings and improvements erected on the land by the tenant.

- 47.2 If the tenant fails to comply with the notice served on it under 46.1 or commits a breach of this lease, the landlord may give a further written notice with full particulars to the tenant requiring it to remedy the matters set out within 90 days from service of the notice (but the 90 days must be outside the proclaimed ski season) or within such number of days as is reasonably required to enable the tenant to comply with the notice, whichever is the greater.
- 47.3 If the tenant fails to comply with the requirements of the notice in 47.2 the landlord may terminate this lease and may, by notice in writing, require the tenant to remove, within the practical time specified in the notice, all buildings and improvements erected on the land by the tenant.

E. General

48. *Give notice if land is required for improvement*

- 48.1 In default of any other agreement between the parties and subject to 48.2, if the land or any part is reasonably required by the landlord for the improvement of the Alpine Resort, the landlord may give written notice to the tenant to sell the buildings and improvements erected on the land to the landlord for a price mutually agreed upon or in default of agreement equal to the value of such buildings and improvements as determined by a valuer agreed upon by the parties or in default of agreement by a valuer appointed by the President for the time being of the Victorian Division of the Australian Institute of Valuers and Land Economists(Inc.).
- 48.2 When giving notice under 48.1, the landlord must advise the tenant in writing of the tenant's rights to appeal against the decision to the Minister under section 29(2A) of the *Alpine Resorts Act* 1983.

49. *Attempt to sell any improvements on the land if the tenant wishes to surrender the Lease*

If the tenant serves a written notice under 23 and the landlord has taken no action under 46 and 47 the landlord may accept such surrender and at its option either

- 49.1 purchase the improvements erected on the land for a price mutually agreed upon and in default of agreement as determined by a registered valuer agreed upon by the parties, or

- 49.2 as the tenant's agent for the improvements and for itself as landlord, sell a lease of the land and improvements and pay to the tenant that portion of the proceeds of sale (less any amount owing under this lease by the tenant to the landlord) which bears the same proportion as the value of the improvements bears to the value of the land and such value shall be agreed upon by the landlord and the tenant and in default of agreement, be determined by a valuer agreed upon by the parties and in default of agreement by a valuer appointed by the President for the time being of the Victorian Division of the Australian Institute of Valuers and Land Administrators.

50. *Negotiate for further term if tenant wishes to renew the lease*

- 50.1 Upon receipt of a notice from the tenant under 35 the landlord must advise the tenant whether it will:
- 50.1.1 not renew the existing lease, or
 - 50.1.2 renew the lease for a term not greater than 6 years, or
 - 50.1.3 renew the lease for a term greater than 6 years.
- 50.2 Upon receipt of a notice from the landlord to the tenant, under 50.1.2 or, if the tenant is not satisfied with the term specified in 50.1.3 the tenant may appoint an independent building assessor to certify what is the useable and habitable life of the building.
- 50.3 If the useable and habitable life is less than 6 years, then not later than 3 years before the end of the then current term, the landlord must advise the tenant of the works it believes are required to give the improvements a useable and habitable life greater than 6 years from the end of the term, and if so, the length of lease it would be prepared to grant to the tenant if such works were carried out.
- 50.4 If the useable and habitable life is greater than the 6 years, the landlord may grant the tenant a lease for that period of time or such longer period as it may be prepared to grant or has been previously prepared to grant in its advice under 50.1.3.
- 50.5 If upon receipt of the landlord's advice under 50.3 the tenant undertakes to perform the required works or such other works as are satisfactory to the landlord, the landlord must enter into an agreement for a lease of the land to the tenant for the agreed term subject and conditional upon the tenant undertaking the required works or such works as are satisfactory to the landlord within three years or such other time as the landlord allows.

- 50.6 Without any obligation so to do, the landlord, not more than 6 years nor less than 5 years prior to the end of the term, may give advice to the tenant under 50.1 without prior receipt of a tenant's notice.

PART 7 - WHAT THE LANDLORD MUST DO UNDER THE LEASE

51. Give notice to the tenant before putting any necessary public or community services on the land

- 51.1 The landlord must give the tenant at least 90 calendar days notice of its intention to put any necessary public or community services either above or below the surface.
- 51.2 In doing its work, the landlord must not unreasonably interfere with or inconvenience the tenant in its use of the land.
- 51.3 The landlord must without delay fix any damage to the land from its work.

52. Pay compensation where the land is reasonably required for improvement of the Alpine Resort

- 52.1 Where the lease is cancelled under section 29(2) of the Alpine Resorts Act 1983 or where the land or part of the land is required for the improvement of the Alpine Resort, in default of any other agreement between the parties and in addition to the price in 48.1 the landlord, within 120 days of the notice of cancellation of the lease, must pay to the tenant compensation for the tenant's interest.
- 52.2 If the parties cannot agree on compensation within 90 days from the date of cancellation the matter must be determined under the *Commercial Arbitration Act* 1984 and each party may be legally represented under any proceedings under that Act.

53. Give undisturbed possession of the land

Providing the tenant pays the rent and observes and performs the tenant's obligations in this lease the landlord must allow the tenant to peaceably possess and enjoy the land for the term without any interruption or disturbance from the landlord or any other person or persons lawfully claiming by, from or under the landlord.

54. Fix damage to the land

- 54.1 Immediately it becomes aware the landlord must advise the tenant of any damage to the land and potential damage or danger to the public or the tenant or a member, servant, agent or subtenant.

- 54.2 If damage or danger has been caused by the landlord the landlord must immediately carry out remedial work at its expense.

PART 8 – PROCEDURAL MATTERS

55. Discharges or releases to be in writing

- 55.1 The landlord must give its written consent to any waiver, discharge or release of any term of the lease.
- 55.2 The parties agree that no waiver, discharge or release can occur at law or in equity until the landlord gives consent.

56. Notices

- 56.1 All notices given by the tenant to the landlord must be served or sent by prepaid mail to the *Chief Executive Officer, Alpine Resorts Commission, Level 4, Amev House, 1013 Whitehorse Road, Box Hill, 3128 or P.O. Box 382, Box Hill 3128* or to the last address notified in writing to the tenant.
- 56.2 All notices given by the landlord to the tenant are to be dealt with in accordance with the Alpine Resorts (General) Regulations 1985 (No. 204).

PART 9 – ADDITIONAL CONDITIONS

57. It is an express condition of this lease that the lessee shall take the said land notwithstanding the impediment that no legal road access thereto has been provided or implied by this demise and the lessee agrees to indemnify the Alpine Resorts Commission against the expenses of acquiring providing or obtaining an easement of way or right of access to the said land or any part thereof **PROVIDED** that the lessee in gaining access to the said land shall use such part of the Mt. Hotham Alpine Resort Area as may be agreed upon by the Commission.

FIRST SCHEDULE

- (i) The term of this lease shall be twenty-four (24) years, commencing on 1 November, 1993 and ending on 31 October, 2017 subject to the provisions of (ii) below.
- (ii) The Lessee must carry out and substantially complete the connection of the Edelweiss Ski Club Lodge building to the Mt. Hotham sewerage system within two (2) years of the commencement date of this lease ("the Lessee's sewerage connection requirement").
- (iii) If the Lessee does not carry out and substantially complete the Lessee's sewerage connection requirement as provided in (ii) then the lease shall at the expiration of the two (2) year period referred to, immediately end.
- (iv) The Lessee's sewerage connection requirement shall be to the reasonable satisfaction of the Lessor and in accordance with all necessary and required approvals and consents.
- (v) The Lessee's sewerage connection requirement is an essential term of this lease.
- (vi) As soon as the Lessee's sewerage connection requirement has been completed in accordance with the provisions of this clause and to the reasonable satisfaction of the Lessor, the Lessor shall issue to the Lessee a certificate to that effect whereupon the proviso to sub-clause (i) shall be of no further force and effect.

This is the plan referred to in the annexed Lease
made the 22nd day of March 1994
between ALPINE RESORTS COMMISSION
of the one part and EDELWEISS SKI CLUB OF AUSTRALIA INCORPORATED
of the other part.

THE COMMON SEAL of the
ALPINE RESORTS COMMISSION
was hereto affixed with the
authority of the Commission
in the presence of:

.....
.....

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Commissioner

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)
Commissioner

THE COMMON SEAL of
EDELWEISS SKI CLUB
OF AUSTRALIA INCORPORATED
was hereunto affixed
by authority of the Committee
in the presence of:

.....
.....
.....

)
)
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)
)
)
Committee Member

)
)
)
)
)
)
Committee Member TREASURER



EDELWEISS SKI CLUB
OF AUSTRALIA INC.

A00179555

Scale of Chains



CP 7376 E

Contours at 10' and 20' intervals.

Prepared from surveys, January 1968

