

BICYCLE PARKING LICENSE AGREEMENT

THIS AGREEMENT (this "**Agreement**") is for bicycle parking among **Fifth Avenue LP & ARI 5AP Investments LP**, each as to an undivided 50% interest (severally, the "**Owners**") and the User (as such term is defined below).

Part 1 – User Contact Information, Commencement Date and Expiry Date

Name: _____ (the "**User**")
 Company: _____
 Home Address: _____
 Mobile Phone No.: _____
 E-mail: _____
 Commencement Date: _____ (the "**Commencement Date**")
 Expiry Date: _____ (the "**Expiry Date**")

For Brookfield use only Access Card # _____

In consideration of the Fee paid by the User to the Owners, the Owners and the User agree as follows:

Part Two – Definitions

In addition to the other definitions set out elsewhere throughout this Agreement, unless there is something in the subject matter or context inconsistent therewith, in this Agreement:

"Bicycle Parking Area" means the area within the Parkade designated by the Owners from to time for the parking and storage of bicycles. As of the date of this Agreement, the Bicycle Parking Area are located on **Levels P1** of the Parkade.

"Parking Rights" means, collectively, the right to occupy, use and enjoy one (1) bicycle parking space located within the Bicycle Parking Area for the sole purpose of parking or temporarily storing, at any given time, one (1) bicycle and, only to the extent necessary to enjoy such parking or storage right, a limited, non-exclusive right of access to and from the Bicycle Parking Area through or over the areas of the Building designated from time to time for such purpose by the Owners.

"Building" means, collectively, the real estate complex and office buildings located on the lands bounded by 4th and 5th Avenues SW and 1st and 2nd Streets SW, Calgary, Alberta.

"Claims" means collectively, claims, demands, losses, liabilities, judgments, actions, causes of action, damages, costs, and expenses, including, without limitation, penalties, fees and legal fees.

"Manager" means the persons retained by the Owners from time to time to manage, operate or lease the Building, the Parkade or any portion of either. As of the date of this Agreement, the Manager includes, collectively, Brookfield Properties Canada Management Corporation, as general partner for Brookfield Properties Canada Management LP, Brookfield Properties (Canada) Inc. and Indigo Park Canada Inc..

"Mortgagee" means the mortgagee, chargee or secured party or trustee for bondholders, as the case may be, who from time to time holds any mortgage, charge or security instrument (including a deed of trust or mortgage securing bonds) and all extensions, consolidations, supplements, modifications and renewals thereof, which may now or hereafter affect the Building, or any portion thereof.

"Parkade" means, collectively, the below-ground parking facilities forming part of the Building and the elevators, lobbies, stairwells, walkways, ramps, driveways, and other facilities within, or giving access to or from, such below-ground parking facilities and such other areas or components of the Building as may be designated from time to time by the Owners. The Parkade includes the Bicycle Parking Area.

"Personal Injury" collectively and individually means any injury, loss or damage of any kind to, or suffered or incurred by, any natural individual including, bodily injury, death, injury resulting in death, personal discomfort, mental anguish, shock, sickness, disease, invasion of privacy, wrongful entry, eviction or discrimination and any and all losses, damages, costs, fees, charges, disbursements or expenses of any nature or kind related to, arising from, or associated with, such injuries, losses or damage to, or suffered or incurred by, any natural individual.

"Property Loss" collectively and individually means any loss or destruction of, damage or injury to, or disappearance of, or theft of, or defacing of, or vandalizing of, property of any nature or kind however caused and all losses, damages, costs, fees, charges, disbursements or expenses of any nature or kind related to, arising from, or associated with, such loss, injury, damage, destruction, disappearance, theft or defacing suffered or incurred by any person.

"Related Entities" means persons who or which are: (i) "affiliates" or "associates", as such terms are defined in the Section 2(1) of the *Canada Business Corporations Act*; or (ii) considered or deemed to be within the group of "related persons" or "affiliated persons", as such terms are defined in the Sections 251 and 251.1 of the *Income Tax Act (Canada)*. "Related Entity" will have a corresponding grammatical meaning. If there is a conflict among the foregoing statutory definitions, the statutory definitions will be combined as necessary so that the term "Related Entities" includes the greatest number of persons.

"Released Persons" means, collectively and individually: (i) the Owners, the Manager and the Mortgagee; and, (ii) the Owners', the Mortgagee's and the Manager's respective Related Entities; and, (iii) any person with an interest in the Building from time to time; and, (iv) the respective directors, officers, employees, agents and contractors of each of the foregoing persons; and, (v) those persons for whom each of such foregoing persons are legally responsible.

"Rules and Regulations" collectively means the rules, regulations, policies and procedures established by the Owners or the Manager from time to time with respect to operation of the Building, or any portion thereof. The Rules and Regulations are posted at the entrance to the Bicycle Parking Area and copy of Rules and Regulations as of the date hereof are attached hereto as Schedule A.

"Term" means that period commencing on the Commencement Date and ending on the Expiry Date.

Part Three – Terms & Conditions

1. The Owners grant and license to the User during the Term, and the User accepts such grant and license, the Parking Rights for the sole purpose of parking or temporarily storing one bicycle, all subject to the terms and conditions in this Agreement and for no other purpose whatsoever. The User's right to enjoy the Parking Rights will be subject to all Rules and Regulations, which Rules and Regulations are incorporated in their entirety into this Agreement.

2. As payment for the granting of the Parking Rights, the User will pay, in advance, the Fee plus GST to the Owners or Manager. The Fee is non-refundable, and no refunds will be permitted.

3. The User agrees the Released Persons shall not be liable for, or in any way responsible to, the User and the User's heirs, executors, administrators and assigns and any other entity or person acting on your behalf, and the Released Persons are hereby unconditionally released in respect of: (i) any Property Loss; or (ii) any Personal Injury; or (iii) loss, injury or damages (including, consequential loss), sustained by the User due to any reason or cause whatsoever including, any loss, injury or damages caused by, arising from, or related to the Parking Rights, the Bicycle Parking Area or the Building howsoever caused including, whether or not caused in whole or in part by: (iv) the negligence, acts or omissions of any or all of the Released Persons; or, (v) any act or omission of any other user, tenant or occupant of the Building.

4. **THE USER WILL BE RESPONSIBLE FOR, and will indemnify and save the Released Persons, and each of them, harmless from and against any and all Claims, liabilities, losses, costs, expenses and damages whatsoever** in connection with or due to or arising out of or occasioned wholly or in part by: (a) any Personal Injury or Property Loss caused to, incurred by, expended by, or suffered by any person whatsoever arising from or out of or related to or in connection with: (i) the enjoyment of the Parking Rights by any person; or, (ii) the storing or parking by the User of any bicycle or other property within, at, upon or about the Building, or any portion thereof, including the Bicycle Parking Area; or (iii) the User using, having access to or being present in the Building, or any portion thereof, including the Bicycle Parking Area and the Parkade; or, (iv) the User's operation, riding, driving or using the User's bicycle or other vehicle or within, at, about, to or from the Bicycle Parking Area, the Parkade and the Building or any part of the foregoing; or, (b) any fault, default, negligence, act or omission of the User; or (c) any breach or default of this Agreement by the User; or, (d) any non-compliance with or failure of the User to strictly adhere to, and perform, the Rules and Regulations.

5. The User acknowledges that this Agreement will terminate immediately if the User is no longer employed by a tenant of the Building. Either party may terminate this Agreement upon thirty (30) days' notice to the other party. If the User breaches any term or condition of this Agreement or the Rules and Regulations, the Owners may, in addition to and without limiting any other rights and remedies the Owners may have, terminate this Agreement.

6. All pass cards, tags and similar identification or access media given to the User pursuant to this Agreement are and will remain at all times the property of the Owners, are not transferable from person to person without the prior written consent of the Owners and will be returned to the Owners upon the expiration of the Term hereof, the earlier termination of this Agreement or at the written request of the Owners. The User will be responsible for the payment of any fees the Owners may charge from time to time for the replacement of any such identification which may be lost, stolen, misplaced, broken, damaged, defaced, mutilated, or which may otherwise disappear or be rendered unusable.

7. The User acknowledges and agrees that the Owners have the right to temporarily close the Building, or any portion thereof including, the Parkade, to carry-out any cleaning, repairs or alterations, or any other activity that the Owners deem necessary without any compensation to the User.

8. Notwithstanding any law or any provision of this Agreement to the contrary (including, any collective definition of the Owners), if the Owners are comprised of two or more persons, the liability and obligations of each person comprising the Owners for the liabilities and obligations of the Owners under this Agreement, are several in accordance with and in proportion to the interest in the Building held at the relevant time by such persons, and all such liabilities and obligations will not be, and are not, joint nor joint and several. Any and all damages, costs or losses suffered or incurred by the User or any other person as a result of the Owners' default under or breach of this Agreement, or from the negligence, acts or omissions of the Owners, the Manager or those persons for whom the Owners are legally responsible will be satisfied and enforced only against, and recourse thereunder will be had only against, the Building and the interest of the Owners in and to the Building (on a several basis) and no recourse to any other person or to the assets or property of any other person or of the Owners will be had, judgment issued or execution or other process levied. If at any time the Owners or one of the persons comprising the Owners is a trust (the "Trust"), then the obligations of the Trust will bind only the Trust itself and will not be personally binding upon any trustee, unit holder or beneficiary of the Trust or upon annuitants under plans of which holders of units of the Trust act as trustee or carrier, and resort will not be had to, nor will recourse or satisfaction be sought from, the private property of any such trustee, unit holder, beneficiary or annuitant.

9. This Agreement supersedes and takes the place of all prior agreements made between the parties. This Agreement comprises the entire agreement between the Owners and the User relating to the subject matter of this Agreement. Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example (such as "including" or "such as") and then a list of, or reference to, specific matters or items, such list or reference will not be read so as to limit or restrict the generality of such statement or provision, even though words such as "without limitation" or "without limiting the generality of the foregoing" or "but not limited to" do not precede such list or reference.

10. This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

11. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, permitted successors and permitted assigns, as the case may be. The User will not assign this Agreement to any other person nor allow the Parking Rights to be enjoyed by any other person without, in each such case, obtaining the prior written approval of the Owners.

12. Sections 3, 4, 6, 8, 11 and 12, and all indemnity, release, or exemption from liability provisions of this Agreement in favour of the Released Persons, and the Owners' rights in respect of any failure by the User to perform any of the User's obligations under this Agreement will remain in full force and effect notwithstanding the expiration of the Term or earlier termination of this Agreement.

13. This Agreement may be executed and delivered by electronic transmission in .pdf or similar universally readable format and the parties hereto may rely upon all such facsimile or electronic signatures as though such facsimile or electronic signatures were original signatures.

14. The Owners and Manager are committed to compliance with privacy rights under *Personal Information Protection Act* (Alberta) and the *Personal Information Protection and Electronic Documents Act* (Canada). Some or all of the information set out above is or may be personal information. We have developed policies and procedures to ensure that your personal information is not otherwise disclosed to third parties or disclosed in an unauthorized manner. We collect, use, disclose to third parties and retain your personal information for various purposes, all related to the subject matter of the Agreement (including, without limitation, contacting you in case of an emergency or if your bicycle needs to be moved to permit maintenance or repairs to be carried out on the Building or for the collection of overdue Fee or for the enforcement of your covenants and agreements set out in the Agreement) or the management, operation, ownership and taxation of the Building. At your written request to us, we will deliver to you a copy of our policies for the collection, safeguarding, use and disclosure of personal information. By signing this Agreement, you acknowledge and agree that we may collect, use, disclose to third parties and retain your personal information and that you consent to all past, present and future collection, use, disclosure to third parties and retention by us of your personal information. Your consent to such collection, use, disclosure to third parties and retention by us of your personal information will remain in effect until you deliver to us written notice of your withdrawal or variation of such consent.

The User understands that by signing below, the User agrees to be bound by the terms of this Agreement and that the User acknowledges and agrees that that the User has read, understood, and agrees with the terms of this Agreement.

User Signature: _____ **Date:** _____

SCHEDULE A – RULES AND REGULATIONS

- The Owner or its representative shall have the right to control and operate the public portions of the Building including the Bicycle Parking Area, as it deems best for the benefit of the tenants and public generally.
- The Owner or its representative shall have the right to refuse admission to the Bicycle Parking Area outside of normal business hours to any person not producing acceptable identification and may require all persons admitted to or leaving the Bicycle Parking Area outside of normal business hours to identify themselves and register.
- Bicycles must be walked within the Parking Facilities including down the ramps to access the Bicycle Parking Area.
- Users are strictly prohibited from entering the office and retail portion of the Building (including, all building elevators, corridors and offices) with their bicycles.
- All pedestrian crossing signage must be obeyed within the Parking Facilities.
- Users are responsible for providing a strong and reliable bicycle lock or other secure device to secure their bicycle to their assigned stall (the "Lock"). Should the User's Lock be attached to items other than the User's Stall, or should the Bicycle Parking License Agreement expire, the Owner or its representative reserve the right to remove the Lock by whatever means necessary.
- Users are responsible for ensuring their assigned Bicycle Parking Area access card is not provided to others. Users will not block, open or in any way cause the Bicycle Parking Area doors to become insecure.

The Owner or its representative reserve the right to promulgate, rescind, alter or waive the rules or regulations prescribed for the Building at any time when it is necessary, desirable or proper for its best interest or, in the opinion of the Owner, in the best interests of tenants or Users.

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