

PROPOSED AMENDMENTS TO THE UMBRELLA AGREEMENT

1. The closing shall take place on or before March 31, 2009 (the “**Closing**”), failing which the City, in its discretion, may terminate the Umbrella Agreement.
2. On Closing Ferncastle shall pay:
 - (a) \$18,966,323 (less the deposit already paid of \$1.5M plus accrued interest); and
 - (b) \$1.0M on account of the Necessary Renovations Contribution.
3. If Ferncastle intends to commence construction during the 2009 calendar year, then it must commence construction by May 15, 2009 or such later date as may be agreed to by the parties (the “**Target Construction Date**”).
4. If Ferncastle does not commence construction by the Target Construction Date then it cannot commence construction prior to July 1, 2011, but not later than September 1, 2011 provided it gives the Sony Centre written notice at least one year prior to the commencement date of construction;
5. If Ferncastle does not commence construction by September 15th, 2011:
 - (a) it must commence construction between July 1 and September 15 of the calendar year in which it chooses to commence construction but in no event later than the Outside Construction Date;
 - (b) it must provide Sony Centre with at least one year’s prior written notice of a date for commencement of construction; and
 - (c) Ferncastle must commence construction within a period of approximately 10 years from Closing (the “**Outside Construction Date**”), failing which the Umbrella Agreement shall be terminated and the City shall be entitled to retain all monies paid by Ferncastle.
6.
 - (a) In addition to the payment for the development rights and the Necessary Renovations Contribution referred to in paragraph 2, Ferncastle shall pay an additional \$7,500,000 on account of the East Side Work (the “**East Side Funds**”).
 - (b) The East Side Funds shall be payable as follows:
 - (i) \$5,000,000 shall be paid to the City in trust on the earlier of May 15, 2009 and the date on which Ferncastle commences construction, and utilized by Sony Centre as funds are expended by Sony Centre on East Side Work being made by Sony Centre; and

- (ii) \$2,500,000 shall be payable to the City on account of the East Side Work upon the substantial completion of the East Side Work.
 - (c) In the event that Ferncastle shall fail to make the payment of any of the sums described in 6(b) above, the Umbrella Agreement shall be terminated and the City shall be entitled to retain all monies previously paid by Ferncastle to the City pursuant to the Umbrella Agreement.
- 7. On commencement of construction, an additional \$4,000,000 shall be paid to BLG, in trust, \$2.0M of which shall be released to Ferncastle's contractors on substantial completion of the Project Related Renovations and \$2.0M of which shall be security for Ferncastle's other obligations to the City under the Umbrella Agreement including, without limitation, the Project Related Renovations and shall be released on substantial completion of the Private Component.
- 8. Other than remediation work, Ferncastle shall not commence construction prior to the first advance under the loan agreement between Ferncastle and the bank providing financing to Ferncastle for the Private Component (the "**Bank**"). Notwithstanding the foregoing, in the event that Ferncastle shall commence any work on the site prior to having obtained the first advance from the Bank under the loan agreement, as aforesaid, and does not shortly thereafter receive the Bank Advance, Ferncastle covenants that it shall restore the theatre to its original condition and do such other work as is necessary to make the theatre suitable for use.
- 9. On Closing, there will be no lease granted by the City to Ferncastle as originally contemplated in the Umbrella Agreement.
- 10. A deed for the Private Lands will be provided by the City to Ferncastle at the time the Bank providing financing to Ferncastle for the Private Component makes an advance of least \$2,500,000 to Ferncastle pursuant to the Bank financing (the "**Bank Advance**"), subject to the following conditions being fulfilled to the satisfaction of the City:
 - (a) the City has been provided with the loan agreement between Ferncastle and the Bank, satisfactory to the City acting reasonably;
 - (b) Ferncastle has made all payments required under the Umbrella Agreement and is not otherwise in default under the Umbrella Agreement or any ancillary agreement thereto;
 - (c) arrangements respecting bonding and construction lien holdbacks are in effect which are satisfactory to the City acting reasonably and in accordance with industry practice;
 - (d) an assignment to the City of all plans, specifications and contracts relevant to the Project Related Renovations as collateral security (subject in priority to the Bank);

- (e) the deed shall be subject to restrictive covenants respecting construction of the Private Component in accordance with approved plans and specifications, which restrictions shall be released by the City on substantial completion of the Private Component in accordance with approved plans and specifications.
- 11. The City shall grant a license to Ferncastle for construction purposes, prior to delivery of the deed referred to in paragraph 10 above.
- 12. The amended Umbrella Agreement shall contain amended default and mitigation provisions to reflect the altered arrangements with Ferncastle on terms to be mutually agreed on between the parties including, without limitation, the City's right to acquire parking rights from Ferncastle on lands owned by Ferncastle on the south side of the The Esplanade. The price and terms of the parking rights shall be as mutually agreed on between the parties, each acting reasonably.