

LAND TITLE ACT  
FORM C  
(Section 233)

29 NOV 2006 11 27

BA449351

Province of  
British Columbia

GENERAL INSTRUMENT- PART 1

(This area for Land Title Office use)

Page 1 of 23 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

3/4  
Gali Gelbart, Kornfeld Mackoff Silber LLP,  
1100 One Bentall Centre, 505 Burrard Street, Box 11,  
Vancouver, British Columbia, Canada V7X 1M5, phone:  
604-331-8300, LTO Client No. 010448

DYE & DURHAM CLIENT No. 11061

Gali Gelbart

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

026-175-878

Lot 5 District Lot 512 Group 1 New Westminster District Plan BCP15538

3. NATURE OF INTEREST: \*  
DESCRIPTION

DOCUMENT REFERENCE  
(page and paragraph)

PERSON ENTITLED TO INTEREST

SEE SCHEDULE

15 06/11/29 11:27:07 05 LM 745897  
CHARGE \$65.20

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): \*

UNIVERSITY HIGHLANDS CONDOMINIUM DEVELOPMENTS LTD., (Inc. No. BC0748612), 35<sup>th</sup>  
Floor, 1088 Burrard Street, Vancouver, B.C. V6Z 2R9

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) \*

SEA TO SKY FOUNDATION (Inc. No. 43882), Suite 1650, 1177 West Hastings Street, Vancouver, B.C.  
V6G 2Z6


7. ADDITIONAL OR MODIFIED TERMS: \*

N/A

15 06/12/14 13:47:31 05 LM 748844  
DEFECT / WITHDR \$30.00

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)




---

(as to both signatures)

**Robert D.J. Brown**  
 Barrister & Solicitor  
 10th Flr. - 938 Howe Street  
 Vancouver, B.C. V6Z 1N9  
 Phone: 604-331-6000




---


(as to both signatures)

**Galatea Gelbart**  
 Barrister & Solicitor  
 1100 - 505 Burrard Street  
 Vancouver, B.C. V7X 1M5  
 Telephone: (604) 331-8305

Execution Date		
Y	M	D
06	11	01
06	11	21

Party(ies) Signature(s)

**UNIVERSITY HIGHLANDS  
 CONDOMINIUM  
 DEVELOPMENTS LTD.** by its  
 authorized signatory(ies)

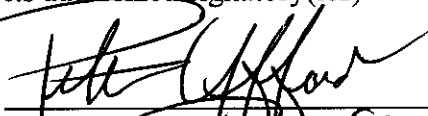



---

Print name:  
 BRUNO WAU

Print name:

**SEA TO SKY FOUNDATION** by  
 its authorized signatory(ies)




---

Print name:  
 Teta Ufford

Print name:

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. 1996, c. 124, 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.

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

LAND TITLE ACT  
**FORM E**

**SCHEDULE**

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

3.	<b>NATURE OF INTEREST:*</b> DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
	Option to Purchase	Entire Instrument	Transferee

**TERMS OF INSTRUMENT - PART II  
OPTION TO PURCHASE**

THIS OPTION AGREEMENT made as of the \_\_\_\_ of October, 2006.

BETWEEN:

**UNIVERSITY HIGHLANDS CONDOMINIUM  
DEVELOPMENTS LTD.**, a British Columbia company with an  
office at 35<sup>th</sup> floor, 1088 Burrard Street, Vancouver, BC, V6Z 2R9

(the “**Owner**”)

AND:

**SEA TO SKY FOUNDATION** a British Columbia company with  
an office at 1650 – 1177 West Hastings Street, Vancouver, BC,  
V6G 2Z6

(the “**Optionee**”)

WHEREAS:

- A. The Owner is the registered owner of the Lands (as described in this Agreement);
- B. Pursuant to the contract of purchase and sale made between Sea to Sky Foundation and Wall Financial Corporation dated the 21<sup>st</sup> of October, 2005 as amended on the 15<sup>th</sup> of September, 2006 (the “Purchase and Sale Agreement”), the Owner, as a designated nominee for and on behalf of Wall Financial Corporation, agreed to purchase the Lands on terms set out therein; and
- C. The Owner has agreed to grant to the Optionee an option to purchase the Lands on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSES that in consideration of One Dollar (\$1.00) now paid by the Optionee to the Owner and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the parties, the Owner and the Optionee covenant, agree, warrant and represent as follows:

**1. INTERPRETATION**

**1.1 Definitions.** In this Agreement:

“**Bank**” means the owner(s) of the financial charges registered against the title to the Lands;

“**Bank Discharges**” means the registrable discharges of the Bank Security;

“**Bank Security**” means the financial charges in favour of the Bank registered against title to the Lands;

“**Business Day**” means any day that is not a Saturday, Sunday or statutory holiday in British Columbia;

**“Closing Date”** means first Business Day that is the earlier of the date specified in the notice of exercise of the Option and the 90 days following the date of exercise;

**“Contaminants”** means those substances, pollutants, wastes and special wastes which presently are defined as hazardous, toxic, or a threat to public health or to the Environment under any applicable Environmental Laws, including, without limitation, any radioactive materials, urea formaldehyde foam insulation, asbestos or polychlorinated biphenyls (PCBs);

**“Environment”** means all components of the earth including, without limitation, all layers of the atmosphere, air, land (including all underground spaces and cavities and all lands submerged under water), soil, water (including surface and underground water), organic and inorganic matter and living organisms, and the interacting natural systems that include the components referred to in this definition;

**“Environmental Laws”** means any Laws relating, in whole or in part, to the protection and enhancement of the Environment, occupational safety, product liability, public health, public safety and transportation of dangerous goods, including the Environment and Land Use Act (British Columbia), the Environment Assessment Act (British Columbia), the Environment Management Act (British Columbia), the Health Act (British Columbia), the Transport of Dangerous Goods Act (British Columbia), the Waste Management Act (British Columbia), the Water Act (British Columbia), the Canadian Environmental Protection Act (Canada), the Fisheries Act (Canada) and the Transportation of Dangerous Goods Act (Canada);

**“Exercise Date”** means the date on which notice of the exercise of the Option is delivered by the Optionee to the Owner under section 2.3;

**“Governmental Body”** means any domestic or foreign, national, federal, provincial, state, municipal or other local government or body and any division, agent, commission, board, or authority of any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing, and any domestic, foreign, international, judicial, quasi-judicial, arbitration or administrative court, tribunal, commission, board or panel acting under the authority of any of the foregoing;

**“Lands”** means that property known as the Sea to Sky University Project Market Housing Lands, in the District of Squamish, B.C. and legally described as follows:

PID: 026-175-878

Lot 5, District Lot 512, Group 1, New Westminster District, ~~Except portions in Plans 14003, 14927, and 15403~~ Plan BCP 15538; *AK UK*

together with all buildings and improvements on the Lands and all rights and benefits appurtenant to the Lands;

**“Lands Transfer”** means the Freehold Transfer delivered to the Optionee’s Solicitors under section 9.1(a);

**“Laws”** means all constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules, regulations and municipal bylaws, whether domestic, foreign or international, any judgments, orders, writs, injunctions, decisions, rulings, decrees, and

awards of any Governmental Body, and any published policies or guidelines of any Governmental Body and including, without limitation, any principles of common law and equity;

“**Lease**” means the lease agreement into between the parties or their nominees, as contemplated by the Purchase and Sale Agreement commencing July 1, 2007 for the lease of a development on the Lands.

“**Municipality**” means the District of Squamish;

“**Option**” means the option to purchase granted by the Owner in favour of the Optionee under section 2.1;

“**Option Expiry Date**” means the day that is six (6) months prior to the expiry of the Lease and any renewals thereof;

“**Option Fee**” means \$1.00 paid by the Optionee to the Owner;

“**Optionee’s Solicitors**” means Kornfeld Mackoff Silber;

“**Owner’s Solicitors**” means McLachlan Brown Anderson;

“**Permitted Encumbrances**” means, collectively, the legal notations set out in Schedule A and the permitted encumbrances described in Schedule A hereto;

“**Purchase and Sale Agreement**” means the contract of purchase and sale made between Sea to Sky Foundation as vendor and Wall Financial Corporation as purchaser dated the 21<sup>st</sup> of October, 2005, as amended on the 15<sup>th</sup> of September, 2006, and assigned to the Owner under an assignment agreement date the ~~21<sup>st</sup>~~ 1<sup>st</sup> of November, 2006

“**Person**” includes an individual, partnership, corporation, trust, unincorporated association, pension plan, joint venture or other entity;

“**Purchase Price**” means the amount set out in section 2.2;

- 1.2 **Currency.** All dollar amounts referred to in this Agreement are Canadian dollars.
- 1.3 **Optionee.** In respect of the transactions contemplated by this Agreement, the Optionee is acting as principal and not as agent or trustee.
- 1.4 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and of Canada applicable in the Province of British Columbia.
- 1.5 **Schedules.** The following are Schedules to this Agreement:  
 Schedule A—Permitted Encumbrances  
 Schedule B—Share Purchase Agreement

## 2. **GRANT AND EXERCISE OF OPTION**

- 2.1 **Option.** In consideration of the payment of the Option Fee, the receipt of which is acknowledged by the Owner, the Owner grants to the Optionee the sole and exclusive option, irrevocable within the time herein limited, for exercise by the Optionee to purchase the Lands.

- 2.2 **Purchase Price.** The Purchase Price for the Lands shall be the Development Costs as defined in the Purchase and Sale Agreement, as determined in accordance with Section 6.4 of the Purchase and Sale Agreement.
- 2.3 **Exercise of Option.** The Optionee may exercise the Option at any time until 5:00 P.M. on the Option Expiry Date by delivering to the Owner written notice of the exercise of the Option. If the Option is exercised as set forth in this section 2.3, this Agreement shall become a binding agreement for the purchase and sale of the Lands which shall be completed upon the terms and conditions contained in this Agreement on the Closing Date.
- 2.4 **Non-Exercise of Option.** If the Option is not exercised within the time and in the manner set forth in section 2.3, the Option and this Agreement shall be null and void and no longer binding upon the parties and the Option Fee shall be paid to the Owner.
- 2.5 **Application of Option Fee.** If the Option is exercised within the time and in the manner set forth in section 2.3, the Option Fee shall be applied to the Purchase Price on the Closing Date.

### 3. **AUTHORIZATION**

- 3.1 **Authorization.** The Owner expressly authorizes the Optionee and its advisers to meet with or correspond with the appropriate Governmental Bodies for the purpose of verifying the accuracy of the warranties and representations of the Owner contained in this Agreement, including but not limited to compliance with laws, bylaws, regulations and assessments, provided, however, that the Optionee shall advise the Owner of any meeting with a Governmental Body and the Owner shall be afforded the opportunity of having a representative present at any such meeting. The Owner shall promptly at the Optionee's request execute and deliver any authorizations reasonably required by the Optionee to authorize the Governmental Bodies to release such information to the Optionee.

### 4. **GENERAL COVENANTS**

- 4.1 **Covenants of the Owner.** The Owner covenants and agrees that it shall, from and after the date of this Agreement until the completion of closing on the Closing Date and except to the extent that any of the following is the obligation of the Optionee under the Lease:
- (a) take all reasonable care to protect and safeguard the Lands and operate and otherwise deal with the Lands as a careful and prudent owner would do and in such a manner that, except as contemplated in this Agreement, the warranties and representations in section 7.1 remain true and correct;
  - (b) maintain in full force and effect all insurance coverage and warranty coverage in respect of the Lands against such risks and to such limits as are in accordance with prudent business practice and suitable to the Lands and will take all reasonable steps to transfer the benefit of the insurance coverage and warranty coverage to the Optionee on the Closing Date;
  - (c) notwithstanding any other provisions of this section 4.1, not enter into any agreement, contract or lease relating to the Lands that would be registered in priority to this Agreement without the prior written consent of the Optionee, such

consent shall not to be unreasonably withheld; the Optionee acknowledges that it may be asked to consent to such agreements, covenants and rights of way as required by governmental authorities as a condition of the Development;

- (d) observe and perform all of its obligations under the Permitted Encumbrances and diligently enforce all of its rights and remedies under the Permitted Encumbrances;

4.2 **Further Covenants.** The Owner further covenants and agrees that on or before the Closing Date it will:

- (a) obtain the Bank Discharges, and such further documents from the Bank with respect to the transactions contemplated in this Agreement as may be reasonably required under the Bank Security and pursuant to Section 7.2 of the Purchase and Sale Agreement;
- (b) take or cause to be taken all proper steps and actions and corporate proceedings to enable the Owner to vest a good and marketable title to the Lands in the Optionee free and clear of all liens, encumbrances, financial charges, defects in title, equities or claims of every nature and kind except for Permitted Encumbrances and to enable the Owner to carry out the sale of the Lands and to execute and deliver this Agreement as valid and binding obligations of the Owner; and
- (c) forthwith advise the Optionee in writing upon the Owner becoming aware that any of the representations and warranties of the Owner set out in section 7.1 is inaccurate or incomplete in any material respect.

## 5. **RISK**

5.1 **Risk.** The Lands shall be at the risk of the Owner until the completion of closing on the Closing Date, after which time the Lands shall be at the risk of the Optionee. In the event of any loss or damage to the Lands occurring before the completion of closing on the Closing Date by any cause whatsoever, the Optionee may at its option elect not to complete the purchase and sale of the Lands.

## 6. **ADJUSTMENTS AND POSSESSION**

6.1 **Adjustments.** All adjustments with respect to taxes, utilities and licences, and all other items normally adjusted between a vendor and purchaser on the sale of similar commercial property shall be made with respect to the purchased property to and including the Closing Date.

6.2 **Possession.** Subject to completion of the transaction as set out in Article 10 the Optionee shall be entitled to possession of the Lands upon completion of the purchase and sale on the Closing Date subject to the Permitted Encumbrances.

## 7. **REPRESENTATIONS AND WARRANTIES**

7.1 **Representations and Warranties of the Owner.** Except where caused by default of the Optionee under the Lease, the Owner covenants, represents and warrants to the Optionee that:

- (a) the Owner is a corporation duly incorporated and validly existing under the laws of British Columbia and duly qualified to carry on business in British Columbia



- and has the corporate power and capacity to own its interest in its assets, and to enter into and to carry out the transactions contemplated in this Agreement;
- (b) the Owner is in good standing with the Office of the Registrar of Companies for British Columbia, has made all necessary filings required by the Company Act (British Columbia) and has never been struck from the register of companies maintained by the Office of the Registrar of Companies for British Columbia;
  - (c) the execution and delivery of this Agreement and the completion of the transactions contemplated in this Agreement will have been by the Closing Date duly authorized by all necessary corporate action on the part of the Owner;
  - (d) the Owner is not a non-resident of Canada within the meaning of the Income Tax Act (Canada);
  - (e) upon the Owner obtaining from the Bank the Bank Discharges, neither the execution and delivery of this Agreement nor the completion of the transactions contemplated in this Agreement will conflict with or result in a breach of the constating documents of the Owner or constitute a breach of, default under, or acceleration of any obligation under, or constitute any event which, with the giving of notice or lapse of time or otherwise, would constitute a breach of, default under, or acceleration of any obligation under, any indenture, mortgage, deed of trust or any other agreement to which the Owner is a party or by which is bound or to which any of its assets are subject;
  - (f) there is no action, claim, arbitration, suit, judgment, investigation or proceeding outstanding or pending, or to the knowledge of the Owner, threatened against or affecting the Owner in respect of the Lands or the use or occupancy, or proposed use or occupancy of the Lands or which might have a material effect on the ability of the Owner to perform its obligations under this Agreement, at law or in equity or before or by any Governmental Body, and, to the best of the Owner's knowledge, there is no basis for the same;
  - (g) no consent or approval of, or registration, declaration or filing with any Governmental Body is required for the execution or delivery of this Agreement by the Owner, the validity or enforceability of this Agreement against the Owner, or the performance by the Owner of any of the Owner's obligations under this Agreement;
  - (h) the Owner has no indebtedness or obligation to any Person which might now or in future constitute a lien, charge or encumbrance on the Lands, other than the Bank Security to be discharged and the Permitted Encumbrances;
  - (i) no Person has any agreement, or option or right to, or capable of becoming an agreement, option or right to, acquire any interest in the Lands, other than any right set out in any Permitted Encumbrances;
  - (j) no Person has entered into any lease, agreement to lease or licence or acquired any right under which the Person has any right to lease, use or occupy any portion of the Lands in the nature of a tenancy or licence, other than the Permitted Encumbrances;

- (k) the Owner has a good and marketable title to the Lands free and clear of all security interests, liens, claims, mortgages, charges, encumbrances and legal notations other than the Permitted Encumbrances and the Bank Security to be discharged;
- (l) the Permitted Encumbrances are in full force and effect and have not been further amended. Neither the Owner nor any other party to the Permitted Encumbrances is in default thereunder and there are no existing disputes thereunder;
- (m) there are no unpaid municipal taxes, local improvement taxes, rates, levies and assessments of every nature and kind assessed or imposed against the Lands or any part of the Lands;
- (n) the Owner has not received any notice and has no knowledge of any proposed expropriation of all or any part of the Lands;
- (o) the Owner has not received any notice and, except to the extent any such alteration may be requested by the Owner, has no knowledge of any intention on the part of the Municipality to alter its zoning bylaw or official community plan so as to affect the Lands or the use or proposed use of the Lands;
- (p) the Lands and the use or proposed use of the Lands do not contravene any applicable official community plan, zoning or building bylaw, covenant, registered or unregistered restriction, land use contract, law, ordinance, regulation, or order whether relating to fire, safety, the Environment, building standards, health standards or otherwise, of any Governmental Body and the Owner has not received any notice and has no knowledge of any notice or request from any Governmental Body or official, insurance company or board of fire underwriters advising or alleging any such contravention;
- (q) in respect of the Lands:
  - (i) the Owner is not aware of any document, material, report, information, proceeding, claim or other matter pertaining to the Lands and the presence of Contaminants on the Lands which are relevant to or which might impact on the use or proposed use of the Lands;
  - (ii) the Owner has not received any notice indicating that the Lands and the uses on the Lands do not comply with, or that the Owner is in violation of, any Environmental Laws and is not aware of any grounds which may give rise to the issuance of such a notice;
  - (iii) there are no outstanding orders or directions issued to the Owner by any Governmental Body relating to environmental matters requiring any work, action, repair, construction or capital expenditures with respect to the Lands which has not been carried out, and the Owner has not received, nor is the Owner aware of, any notice of the possibility of any of the same; and
  - (iv) no Governmental Body has imposed any requirement that the Owner conduct any environmental drilling, prepare and submit any environmental report or audit, prepare and submit any environmental remedial plan or

complete any remedial works, as either a condition or precondition to the granting of any permits or approvals relating to the proposed development including, without limitation, any amendment to an official community plan or zoning bylaw or issuance of a development permit, a development variance permit, a building permit or an occupancy permit;

- (r) in respect of the Bank Security:
  - (i) there is no breach of, default under, acceleration of any obligation under, or occurrence of any event which, with the giving of notice or lapse of time or otherwise, would constitute a breach of, default under, or acceleration of any obligation, under any agreement relating to bank financing, including the Bank Security; and
  - (ii) all covenants on the part of the Owner have been fully observed and performed by the Owner to date in all material respects.

7.2 **The Owner's Warranties and Representations as of the Closing Date.** The Owner covenants and agrees that all representations and warranties of the Owner set forth in this Agreement or in any document delivered in connection with the purchase and sale contemplated by this Agreement will be true and correct at and as of the closing in all material respects (as if such representations and warranties were made on the Closing Date).

7.3 **Survival of the Owner's Representations and Warranties.** The representations and warranties of the Owner set forth in this Agreement or in any document delivered in connection with the purchase and sale contemplated by this Agreement shall survive the closing of the purchase and sale of the Lands provided for in this Agreement and, notwithstanding such closing nor any investigation made by or on behalf of the Optionee, shall continue in full force and effect for the benefit of the Optionee. The Owner acknowledges that the Optionee is relying upon such representations and warranties in entering into this Agreement.

7.4 **Indemnity.** The Owner shall indemnify and save the Optionee harmless from and against all losses, costs, damages, expenses, claims and liabilities suffered or incurred by the Optionee by reason of a breach of any representation or warranty, covenant or agreement of the Owner set forth in this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, the Optionee agrees that if any of the representations or warranties of the Owner set forth in sections 7.1 is untrue or inaccurate on the Closing Date because of the occurrence, after the date of this Agreement, of any event which is:

- (a) beyond the control of the Owner; and
- (b) not the result, directly or indirectly, of any fault or default on the part of the Owner,

then, provided such untruthfulness or inaccuracy is disclosed to the Optionee on or before the Closing Date, the recourse of the Optionee against the Owner in respect of such matter shall be limited solely to the Optionee's right to elect not to complete the transactions contemplated by this Agreement and the Optionee shall not be entitled, in any circumstances, to claim any damages against the Owner in respect thereof.

- 7.5 **Optionee's Representations and Warranties.** The Optionee represents and warrants to the Owner, regardless of any independent investigation that the Owner may cause to be made, that:
- (a) the Optionee is a corporation incorporated and validly existing under the laws of British Columbia and duly qualified to carry on business in British Columbia;
  - (b) the Optionee is in good standing with the Office of the Registrar of Companies for British Columbia, has made all necessary filings required by the Company Act (British Columbia);
  - (c) the Optionee has the corporate power and capacity to enter into and carry out the transactions contemplated in this Agreement;
  - (d) the execution and delivery of this Agreement and the completion of the transactions contemplated in this Agreement will have been by the Closing Date duly authorized by all necessary corporate action on the part of the Optionee; and
  - (e) the Optionee is registered for Goods and Service Tax ("GST") purposes, and where applicable, it will remit GST payable in respect of its purchase of the Lands in accordance with the *Excise Tax Act*.
- 7.6 **Optionee's Warranties and Representations as of the Closing Date.** The Optionee covenants and agrees that all representations and warranties of the Optionee set forth in this Agreement or in any document delivered in connection with the purchase and sale contemplated by this Agreement will be true and correct at and as of the closing in all material respects (as if such representations and warranties were made on the Closing Date).
- 7.7 **Survival of Optionee's Representations and Warranties.** The representations and warranties of the Optionee set forth in this Agreement or in any document delivered in connection with the purchase and sale contemplated by this Agreement shall survive the closing of the purchase and sale of the Lands provided for in this Agreement and, notwithstanding such closing nor any investigation made by or on behalf of the Owner, shall continue in full force and effect for the benefit of the Owner. The Optionee acknowledges that the Owner is relying upon such representations and warranties in entering into this Agreement.
- 7.8 **Indemnity – Optionee.** The Optionee shall indemnify and save the Owner harmless from and against all losses, costs, damages, expenses, claims and liabilities suffered or incurred by the Owner by reason of a breach of any representation or warranty, covenant or agreement of the Optionee set forth in this Agreement.
8. **CONDITIONS PRECEDENT**
- 8.1 **Optionee's Conditions.** The Optionee's obligation to complete the transactions contemplated by this Agreement is subject to fulfilment of the following conditions, each of which is for the sole benefit of the Optionee:
- (a) the representations and warranties of the Owner contained in section 7.1 shall be true on and as of the Closing Date in all material respects with the same effect as though such representations and warranties had been made on and as of the Closing Date;

- (b) there shall have been no material breach by the Owner of any representations or warranties of the Owner contained in any agreement between the Owner and the Optionee relating to any part of the Lands of which the Optionee was unaware on the Exercise Date and which has not been remedied by the Owner before the Closing Date; and
- (c) each of the covenants and agreements of the Owner to be performed on or before the Closing Date under this Agreement and all other agreements between the Owner and the Optionee relating to any part of the Lands shall have been duly performed by the Owner in all material respects.

If the conditions set out in this section 8.1 have not been satisfied by the times therein specified, the Optionee may elect to not complete the purchase of the Lands, or the Optionee may waive fulfilment of the said conditions, in whole or in part, without prejudice to any of its other rights under this Agreement and complete the purchase of the Lands.

8.2 **Binding Agreement – Optionee.** In consideration of the payment of One Dollar (\$1.00) and other good and valuable consideration (the receipt and sufficiency is acknowledged) the Owner acknowledges and agrees that although the Optionee's obligation to complete the sale and purchase contemplated by this Agreement is subject to fulfilment or waiver of the conditions set out in section 8.1:

- (a) those conditions are not conditions to there being a binding agreement of purchase and sale between the parties respecting the Lands; and
- (b) this Agreement is not void, voidable, revocable or, otherwise capable of being terminated by the Owner until the time limited for the fulfilment or waiver of such conditions has expired.

## 9. **PREPARATION OF CLOSING DOCUMENTS**

9.1 **Delivery of Documents – the Owner.** On or before the Closing Date, the Owner shall cause the Solicitors to deliver to the Optionee's Solicitors the following items, in form and content satisfactory to the Optionee, acting reasonably, and duly executed by the Owner and the other parties thereto and in registrable form wherever appropriate, to be dealt with under Article 10:

- (a) Freehold Transfer (Land Title Act Form A) conveying the Lands to the Optionee, subject only to the Permitted Encumbrances;
- (b) the Bank Discharges or a solicitor's undertaking from the Owner's Solicitors satisfactory to the Optionee's Solicitors providing for registration of such discharges after completion upon receipt of the Purchase Price due to the Owner on the Closing Date;
- (c) a certificate of an authorized officer of the Owner dated the Closing Date certifying that each of the warranties and representations of the Owner set out in this Agreement is true and accurate on the Closing Date in all material respects or, to the extent any such representation or warranty is untrue or inaccurate, setting out in reasonable detail a description of the facts which give rise to such untruthfulness or inaccuracy;

- (d) a statutory declaration of an authorized officer of the Owner that the Owner is not a non-resident of Canada within the meaning of the Income Tax Act (Canada);
- (e) a statement of adjustments; and
- (f) such further deeds, acts, things, certificates and assurances as may be requisite in the reasonable opinion of the Optionee's Solicitors for more perfectly and absolutely assigning, transferring, conveying and assuring to investing in the Optionee, title to the Lands free and clear of any lien, charge, encumbrance or legal notation, other than the Permitted Encumbrances as contemplated in this Agreement.

9.2 **Delivery of Documents – Optionee.** On or before the Closing Date, the Optionee shall deliver to the Optionee's Solicitors the following items, in form and content satisfactory to the Owner, acting reasonably, and duly executed by the Optionee and the other parties thereto and in registrable form where appropriate, to be dealt with under Article 10:

- (a) a statement of adjustments; and
- (b) a certificate of an authorized officer of the Optionee dated the Closing Date certifying that each of the representations and warranties of the Optionee set out in this Agreement is true and accurate on the Closing Date in all material respects or, to the extent any such representation or warranty is untrue or inaccurate, setting out in reasonable detail a description of the facts which give rise to such untruthfulness or inaccuracy.

9.3 **Share Purchase.** The Optionee may give written notice of its intention to complete the purchase of the Property by purchasing all of the issued and outstanding shares of the Owner or the Owner's corporate nominee on the terms provided for in section 12.1, 12.2, 12.3, and 12.4 of the Purchase and Sale Agreement, free and clear of any and all liens, encumbrances and defects of title save and except for those expressly contemplated by this Agreement. If the Optionee elects to purchase the shares of the Owner, the Optionee shall cause the Optionee's Solicitors to prepare and deliver to the Owner no later than ten (10) Business Days prior to the Closing Date the following additional documents prepared by the Optionee's Solicitors and delivered to the Owner:

- (a) Share Purchase Agreement substantially in the form annexed hereto as Schedule B;
- (b) Share certificates in the Owner or nominee company duly endorsed for transfer to the Optionee;
- (c) Resignations of all existing officers and directors of the Owner or nominee company;
- (d) Resolutions of the existing directors of the Owner or nominee company approving the transfer of shares to the Optionee; and
- (e) Such further documents required for the conveyance of the beneficial interests in the Lands, as listed in section 9.1.

9.4 **Preparation of Documents.** The documents contemplated in section 9.1(a), 9.1(c), 9.1(d), 9.1(e), and 9.1(f) will be prepared by the Optionee's Solicitors, to the extent that

preparation is required, and delivered to the Owner's Solicitors at least two Business Days before the Closing Date.

## 10. CLOSING PROCEDURE

- 10.1 **Closing.** The closing of the purchase and sale of the Lands shall commence at 9:00 A.M. on the Closing Date in the offices of the Optionee's Solicitors in Vancouver, B.C.
- 10.2 **Payment in Trust.** On or before the Closing Date the Optionee shall pay to the Optionee's Solicitors in trust the balance of the adjusted Purchase Price, after deducting the Option Fee. The Owner irrevocably directs the Optionee to cause the Optionee's Solicitors to pay the adjusted Purchase Price to the Owner's Solicitors as contemplated in this Article 10 and this shall be its good and sufficient authority for so doing.
- 10.3 **Registration.** Forthwith following the payment in section 10.2 and after receipt by the Optionee's Solicitors of the documents and items referred to in sections 9.1, 9.2, and if applicable 9.3, the Optionee shall cause the Optionee's Solicitors to file the Lands Transfer and the Bank Discharges in the New Westminster/Vancouver land title office.
- 10.4 **Payment.** Forthwith following the filing referred to in section 10.3 and upon the Optionee's Solicitors being satisfied as to the priority of the Lands Transfer, after conducting a post filing for registration check of the property index disclosing only the following:
- (a) the existing title number to the Lands;
  - (b) the Permitted Encumbrances;
  - (c) the Bank Security;
  - (d) pending numbers assigned to the Lands Transfer; and
  - (e) pending numbers assigned to the Bank Discharges, if obtained by the Closing Date;

and the Optionee shall cause the Optionee's Solicitors to deliver to the Owner's Solicitors a trust cheque for the adjusted Purchase Price and to release the items referred to in sections 9.1 and 9.2 to the Optionee and the Owner, as the case may be.

- 10.5 **Concurrent Requirements.** It is a condition of this Agreement that all requirements of this Article 10 are concurrent requirements and it is specifically agreed that nothing shall be completed on the Closing Date until everything required to be paid, executed and delivered on the Closing Date has been so paid, executed and delivered and until the Optionee's Solicitors have satisfied themselves as to the registration and priority of the Lands Transfer.

## 11. MISCELLANEOUS

- 11.1 **Time.** Time will be of the essence of this Agreement and an agreement of purchase and sale arising from this Agreement, and will remain of the essence notwithstanding the extension of any of the dates under this Agreement.
- 11.2 **No Waiver.** No failure or delay on the part of either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise

thereof or the exercise of any other right, power or privilege. Except as may be limited in this Agreement, either party may, in its sole discretion, exercise any and all rights, powers, remedies and recourses available to it under this Agreement or any other remedy available to it and such rights, powers, remedies and recourses may be exercised concurrently or individually without the necessity of making any election.

- 11.3 **Tender.** It is agreed that tender will be made by the respective parties by way of a solicitor's trust cheque, or a certified cheque.
- 11.4 **Legal Fees.** Each party shall pay its own legal fees. The Optionee shall be responsible for all registration fees and property transfer tax payable in connection with the registration of the Lands Transfer.
- 11.5 **Entire Agreement.** This Agreement and the agreements, instruments and other documents entered into under this Agreement set forth the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersede all prior agreements and understandings among the parties with respect to the matters herein and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements, express or implied, other than those contained in this Agreement.
- 11.6 **Amendment.** This Agreement may be altered or amended only by an agreement in writing signed by the parties.
- 11.7 **Further Assurances.** Each of the parties shall at all times and from time to time and upon reasonable request do, execute and deliver all further assurances, acts and documents for the purpose of evidencing and giving full force and effect to the covenants, agreements and provisions in this Agreement.
- 11.8 **Notices.** Any demand or notice which may be given under this Agreement shall be in writing and delivered or telecopied addressed to the parties as follows:

To the Optionee:

1650 – 1177 West Hastings Street  
Vancouver, British Columbia, V6G 2Z6

Attention: Mr. Peter Ufford  
Fax No. 604.682.1500

With a copy to:

Kornfeld Mackoff Silber LLP  
1100-505 Burrard Street  
Vancouver, BC V7X 1M5

Attention: Neil Kornfeld  
Fax No. (604) 683-0570

To the Owner:

35<sup>th</sup> Floor, 1088 Burrard Street,



Vancouver, BC, V6Z 2R9

Attention: Mr. Bruno Wall  
Fax No. (604) 893-7179

With a copy to:

McLauchlin Brown  
10<sup>th</sup> Floor, 938 Howe Street,  
Vancouver, BC V6Z 1N9

Attention: Robert D.J. Brown  
Fax No. (604) 331-6008

or at such other address as either party may specify in writing to the other. The time of giving and receiving any such notice shall be deemed to be on the day of delivery or transmittal.

- 11.9 **Assignment.** The Optionee may assign its interest in this Agreement to any other Person without the prior consent of the Owner upon written notice of the assignment given to the Owner.
- 11.10 **Counterparts.** This Agreement may be executed in any number of original counterparts, with the same effect as if all the parties had signed the same document, and will become effective when one or more counterparts have been signed by all of the parties and delivered to each of the parties. All counterparts shall be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, shall be deemed to be dated the reference date set out above, and only one of which need be produced for any purpose.
- 11.11 **Binding Effect.** This Agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, legal and personal representatives, successors and permitted assigns of the parties, as applicable.
- 11.12 **Execution by Telecopy.** This Agreement may be executed by the parties and transmitted by telecopy and when it is executed and transmitted this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above-written in Item 8 of the annexed Form C—General Instrument.

Schedule A—Permitted Encumbrances  
Schedule B—Share Purchase Agreement

**SCHEDULE A**  
**PERMITTED ENCUMBRANCES**

Legal Notations:

This title may be affected by a permit under Part 26 of the Local Government Act, see BW516232

This title may be affected by a permit under Part 26 of the Local Government Act, see BW516234

Charges, Liens and Interests:

Covenant BT114184 registered April 9, 2002 in favour of District of Squamish

Easement BX204323 registered January 21, 2005

Such further easements and rights of way that may be required for utilities including water, provided such easements or rights of way shall lie within building set back areas, the Lease; and

such other agreements, covenants and rights of way as may be required by governmental authorities as a condition of the Development, subject to the consent of the Optionee pursuant to section 4.1(c) of the Option.

**SCHEDULE B**  
**SHARE PURCHASE AGREEMENT**

THIS AGREEMENT made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BETWEEN:

[\*\*\*\*\*], (Inc. No. \_\_\_\_\_), a corporation having an office at \_\_\_\_\_, Vancouver, British Columbia, \_\_\_\_\_

(the "Vendor")

OF THE FIRST PART

AND:

[\*\*\*\*\*], (Inc. No. \_\_\_\_\_), a British Columbia company having an office at \_\_\_\_\_, Vancouver, British Columbia, \_\_\_\_\_

(the "Purchaser")

OF THE SECOND PART

AND:

[\*\*\*\*\*], (Inc. No. \_\_\_\_\_), a British Columbia company having an office at \_\_\_\_\_, Vancouver, British Columbia, \_\_\_\_\_

(the "Company")

OF THE THIRD PART

WHEREAS:

- D. The Vendor is the registered and beneficial owner of all the issued and outstanding common shares without par value (the "Shares") in the capital of the Company;
- E. By an Offer to Purchase (the "Offer") made the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, as amended \_\_\_\_\_, the Company agreed to sell and \_\_\_\_\_ agreed to buy the Property, as defined in the Offer, pursuant to the terms and conditions set out in the Offer. The Offer, as accepted and as may be amended from time to time, is hereinafter called the "Property Purchase Agreement";
- F. The Vendor has agreed with the Purchaser that they will enter into this Agreement (the "Share Purchase Agreement") pursuant to which all of the Shares of the Company shall be transferred to the Purchaser;

G. The Vendor has agreed to sell to the Purchaser and the Purchaser has agreed to purchase from the Vendor the Shares on the terms and conditions as hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and covenants and agreements herein set forth the parties hereto agree as follows:

1. REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor warrants and represents to the Purchaser that:

(a) Right to Sell

- (i) the Vendor is the sole legal owner of the Shares which constitute all the issued and outstanding shares in the capital stock of the Company free and clear from any lien, claim, charges or encumbrances by law or equity; and
- (ii) the Vendor has the corporate capacity, power and authority to dispose of the Shares agreed to be sold by the Vendor hereunder;

(b) Capitalization. The Shares have been duly and validly issued. No person has any right, agreement, option or privilege (whether legal, beneficial, court-ordered, preemptive, contractual or otherwise) capable of becoming a right, agreement, option or privilege:

- (i) for the purchase or acquisition directly or indirectly of any of the Shares or any portion thereof; or
- (ii) for the purchase, subscription, allotment or issuance of any of the unissued Shares in the capital of the Company;

(c) Employees. To the best of the Vendor's knowledge, the Company does not have, and never has had, any employees and has not entered into any employment agreements;

(d) Good Standing. The Company is duly incorporated and existing under the laws of British Columbia and is in good standing with respect to filing of annual reports with the Registrar of Companies of British Columbia;

(e) Corporate Records. The corporate records and minute books maintained for the Company contain complete and accurate minutes of all meetings of, and complete and accurate copies of all resolutions passed by the directors and members of the Company since the date of its incorporation and all such resolutions were duly passed; the memorandum and articles of the Company have not been altered, except as recorded in the said corporate records and minute books; and the Register of Members and other corporate registers of the Company are complete and accurate in all respects;

(f) Carrying on Business. The Company does not carry on, and has not since the date of its incorporation ever carried on any business, and the Company has not entered into any contract or agreements other than as trustee and agent for the Vendor;

(g) Tax Returns. All tax returns of the Company for its own account required by law to be filed prior to the date hereof have been filed and, to the best of the

knowledge of the Vendor, are complete and correct. To the best of the Vendor's knowledge the Company is not now liable for the payment of any outstanding tax;

- (h) Enforcement Proceedings. To the best of the Vendor's knowledge, there are no actions, suits, proceedings or claims now threatened or pending against the Company or the Vendor in respect of taxes, governmental charges, assessments or otherwise, which adversely affect the ability of the Vendor to perform its obligations hereunder. The Vendor is not aware of any reassessment by any federal or provincial taxation authority;
- (i) No Distributions. No dividend of any kind has been declared or paid by the Company to the Vendor;
- (j) Residence. The Vendor is a resident of Canada for the purposes of the Income Tax Act (Canada);
- (k) Debts. As of the Closing Date, the Vendor shall not be indebted to the Company and the Company shall not be indebted to the Vendor or any other parties, save as will be adjusted for at closing;
- (l) Financial Statements. The Company has no financial statements;
- (m) Execution and Delivery. Neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and conditions hereof:
  - (i) conflicts with or will conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under the Vendor's charter documents; or
  - (ii) conflicts with or will conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under any agreement, instrument, mortgage, deed of trust or security instrument to which the Vendor is a party or by which it is bound.

## 2. PURCHASE AND SALE

On the basis of the warranties and representations set forth in Section 1 of this Agreement and subject to the terms and conditions of this Agreement, the Purchaser agrees to buy and the Vendor agrees to sell to the Purchaser on \_\_\_\_\_, 20\_\_ (the "Closing Date") the number of Shares owned by the Vendor for the total sum of \$1.00, which sum shall be paid by the Purchaser to the Vendor.

## 3. CONDITIONS OF CLOSING

The obligations of the Purchaser to complete the purchase of the Shares shall be subject to the following conditions, which are for the sole benefit of the Purchaser:

- (a) that on or before 5:00 p.m. (Vancouver time) on \_\_\_\_\_, 20\_\_, the Purchaser shall give notice in writing to the Vendor of the intention of the Purchaser to purchase the Shares; and
- (b) the performance by the Company of its obligations under the Property Purchase Agreement.

The obligation of the Vendor to complete the sale of the Shares shall be subject to the performance by the Purchaser of its obligations under the Property Purchase Agreement.

4. CLOSING DELIVERIES

On or before the Closing Date, the Vendor shall deliver the following documents and instruments to the Purchaser:

- (a) copies of resolutions of the directors of the Company authorizing the transfer of the Shares in accordance with this Agreement;
- (b) resignations executed by all of the persons holding positions as directors or officers of the Company;
- (c) share certificates representing the Shares, duly endorsed for transfer in favour of the Purchaser or as directed by the Purchaser, or such other documentation as may evidence the transfer of the Shares; and
- (d) all corporate records, account books and agreements made by the Company.

5. NO MERGER

The Vendor agrees that the execution and delivery of the closing documents according to Section 4 is not intended to and shall not in any way merge or otherwise restrict the terms, covenants, conditions, representations, warranties or provisions made or to be performed or observed by the Vendor contained in this Agreement other than the Vendor's obligation to deliver the said closing documents; provided that any of the Vendors' representations, warranties, covenants and agreements herein contained shall survive the Closing for a period of one year.

6. INDEMNITY

- (a) The Vendor shall indemnify and save harmless the Purchaser and the Company from and against all suits, actions, losses, liabilities, claims, expenses or costs of every nature or kind whatsoever suffered or incurred by the Purchaser or the Company as a result of any representations or warranties by the Vendor contained herein not being true or correct, and any debts or liabilities of the Company incurred in connection with any of the Company's actions or transactions done or made prior to the Closing Date.
- (b) The Purchaser shall indemnify and save harmless the directors and officers of the Company from and against all suits, actions, losses, liabilities, claims, expenses or costs of every nature or kind whatsoever suffered or incurred by the Company as a result of any representations or warranties by the Purchaser contained herein not be true or correct, and any debts or liabilities of the Company incurred in connection with any of the Company's actions or transactions done or made after the Closing Date.

7. ENUREMENT

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

8. TIME

