

SCHEDULE "Q": LOOKOUT OPTION TO PURCHASE

[attach *Land Title Act* Form C General Filing Instrument – Part 1]

TERMS OF INSTRUMENT – PART 2

THIS OPTION AGREEMENT made as of the ____ day of _____, 20__.

BETWEEN:

3536696 CANADA INC.
c/o Bentall Kennedy (Canada) LP
Suite 1800, 1055 Dunsmuir Street
Vancouver, BC
V7X 1C4

(the "**Vendor**")

AND:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo, BC
V9T 6N2

(the "**Purchaser**")

WHEREAS:

- A. The Vendor is the registered and beneficial owner of the Lands (as defined in this Agreement), which include the Property (as defined in this Agreement).
- B. The Vendor and the Purchaser have entered into a Phased Development Agreement (the "**Phased Development Agreement**") in respect of lands which include the Lands dated the ____ day of _____, _____, wherein the Vendor agreed, among other things, to:
- dedicate or transfer to the Purchaser, for park purposes, certain lands identified in the Phased Development Agreement as Park; and
 - grant to the Purchaser an option to purchase, for park purposes, the Property which is adjacent to certain park land, on the terms and conditions set forth in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of \$10 now paid by the Purchaser to the Vendor and in consideration of the sum of \$10 now paid by the Vendor to the Purchaser and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the parties, the Vendor and the Purchaser covenant and agree as follows:

ARTICLE 1—INTERPRETATION

1.1 Definitions. In this Agreement:

- (a) “Business Day” means any day that is not a Saturday, Sunday or statutory holiday in British Columbia;
- (b) “Closing Date” means, with respect to the completion of the purchase of the Property pursuant to the exercise by the Purchaser of its option to purchase, a date which is not earlier than ♦ and not later than such date as shall be the first to occur of:
 - (i) such date as shall be provided as the closing date in the notice of exercise of the option delivered by the Purchaser to the Vendor; and
 - (ii) such date as shall be 20 Business Days following ♦,but if such date is not a Business Day, then the Closing Date means the first Business Day thereafter;
- (c) “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;
- (d) “Lands” means the portion of the real property described in the copy of the Land Title Search attached hereto as Schedule “1”, together with all improvements on the Lands and all rights and benefits appurtenant to the Lands;
- (e) “Option” means the option granted by the Vendor in favour of the Purchaser under section 2.1;
- (f) “Option Exercise Date” means the date on which notice of the exercise of the Option is delivered by the Purchaser to the Vendor under Section 2.4;
- (g) “Option Expiry Date” means ♦ [three years after first Subdivision in Lakes District Phase 1E♦];
- (h) “Option Fee” means \$100 paid by the Purchaser to the Vendor;
- (i) “Permitted Encumbrances” means, collectively, the legal notations and charges set out in the copy of the title to the Lands attached hereto as Schedule “1” together with any Permitted Encumbrances. Permitted Encumbrances shall not include charges of a financial nature or other charges or notations of a non-financial nature that are not registered against the title to the Lands as of the date of the public hearing associated with the approval of the Phased Development Agreement, unless such charges would

not materially impair the use of the Lands for public park or recreation purposes and are reasonably necessary to implement the development of the Lands;

- (j) "Person" includes an individual, partnership, corporation, trust, unincorporated association, pension plan, joint venture or other entity;
- (k) "Property" means that portion of the Lands shown on the survey plan attached hereto as Schedule "2" together with all buildings, improvements, fixtures and equipment located on the Lands and all improvements, appurtenances and attachments thereto, if any;
- (l) "Purchase Price" means an amount equal to the fair market value of the Property as of the Closing Date:
 - (i) as may be agreed upon by the Vendor and the Purchaser; and
 - (ii) if the Vendor and the Purchaser do not agree, then as determined by an accredited AACI real estate appraiser experienced in such appraisals, if such an appraisal is agreed upon by the Vendor and the Purchaser; and
 - (iii) if the Vendor and the Purchaser cannot agree on such appraiser, then the average of an appraisal provided by each of the Vendor and the Purchaser, if such appraisals are prepared and they are less than 10% apart (such percentage being calculated based on the lower appraisal value); or
 - (iv) if the appraisals are more than 10% apart, then as determined by arbitration pursuant to the *Commercial Arbitration Act* of British Columbia based on the amount that a willing purchaser would pay as of the Closing Date to a willing vendor for the Property.

The determination of the fair market value of the Property shall:

- (v) take into account any recent sales of like interests in similar property with comparable uses in a comparable location, and all topographical, environmental and other site considerations affecting value; and
- (vi) be on the assumption that Regional District RS-1 zoning is in place as that zoning schedule read on ♦ [insert date immediately prior to the date that rezoning was adopted concurrently with the Phased Development Agreement] and on the assumption that there are no Options to Purchase or Section 219 Covenants registered against title.

The cost of the arbitration, if required, shall be borne equally by the Vendor and the Purchaser, provided that each of the Vendor and the Purchaser shall be responsible to pay their own respective appraisers and consultants in connection with such arbitration.

- (m) "Purchaser's Solicitors" means ♦;

(n) "Transfer" means the Freehold Transfer to be delivered to the Purchaser's Solicitors under section 9.1(a); and

(o) "Vendor's Solicitors" means ♦;

1.2 **Currency.** All dollar amounts referred to in this Agreement are Canadian dollars.

1.3 **Schedules.** The following are Schedules to this Agreement:

Schedule "1" — Copy of Land Title Search of the Lands

Schedule "2" — Copy of Survey Plan of the Property

ARTICLE 2—GRANT AND EXERCISE OF OPTION

2.1 **Option.** In consideration of the payment of the Option Fee the receipt and sufficiency of which is acknowledged by the Vendor, the Vendor grants to the Purchaser the sole and exclusive option, irrevocable within the time herein limited, for exercise by the Purchaser to purchase the Property subject to the mutual condition to create title to the Property set out in Section 8.3 and otherwise upon the terms and conditions provided in this Agreement.

2.2 **Purchase Price.** The Purchase Price for the Property shall be the amount determined pursuant to Section 1.1(l) hereof and be paid by the Purchaser to the Vendor plus or minus adjustments as herein provided (the "**Unpaid Balance**"), on the Closing Date pursuant to Article 9 of this Agreement.

2.3 **Exercise of Option to Purchase.** The Purchaser may exercise the Option at any time until 5:00 pm on the Option Expiry Date by delivering to the Vendor a written notice of the exercise of the Option. If the Option is exercised as set forth in this Section 2.4, this Agreement shall become a binding agreement for the purchase and sale of the Property which shall be completed on the Closing Date upon the terms and conditions contained in this Agreement.

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.

ARTICLE 3—INSPECTION

3.1 **Authorization.** The Vendor expressly authorizes the Purchaser and its advisers to meet with or correspond with any appropriate Governmental Body for the purpose of verifying the accuracy of the warranties and representations of the Vendor contained in this Agreement, including but not limited to compliance with laws, bylaws, regulations and assessments. The Vendor shall promptly at the Purchaser's request execute and deliver any authorizations reasonably required by the Purchaser to authorize the Governmental Bodies to release such information to the Purchaser. In addition the Vendor will promptly grant on request by the Purchaser or its solicitors such authorization as is reasonably required by the Purchaser to authorize Governmental Bodies and statutory authorities to release information to the Purchaser concerning compliance of the Vendor and the Property with all laws, bylaws and other governmental regulations and to confirm the status of any registered or unregistered statutory claims.

ARTICLE 4—GENERAL COVENANTS

4.1 **Covenants of the Vendor.** The Vendor covenants and agrees that it shall, from and after the date of this Agreement to the Closing Date:

- (a) notwithstanding any other provisions of this Section 4.1, not enter into any agreement, contract or lease relating to the Property;
- (b) observe and perform all of its obligations under the Permitted Encumbrances and diligently enforce all of its rights and remedies under the Permitted Encumbrances;
- (c) take or cause to be taken all proper steps and actions and corporate proceedings to enable the Vendor to vest a good and marketable title to the Property in the Purchaser free and clear of all liens, encumbrances, defects in title, equities or claims of every nature and kind except for Permitted Encumbrances and to enable the Vendor to carry out the sale of the Property and to execute and deliver this Agreement as valid and binding obligations of the Vendor; and
- (d) forthwith advise the Purchaser in writing upon the Vendor becoming aware that any representation or warranty of the Vendor set out in section 7.1 is inaccurate or incomplete in any material respect.

ARTICLE 5—RISK

5.1 **Risk.** The Property shall be at the risk of the Vendor until the completion of the purchase and sale transaction herein contemplated.

ARTICLE 6—ADJUSTMENTS AND POSSESSION

6.1 **Adjustments.** All adjustments respecting the Property, of minimum rent, security deposits, taxes, utilities, fuel, licences, insurance and all other matters customarily adjusted between a vendor and a purchaser in the purchase and sale of bare land will be made for the Property as of the Closing Date and the Vendor will receive all incomings and pay all outgoings for the period prior to the Closing Date and from and including the Closing Date the Purchaser will receive all incomings and pay all outgoings.

6.2 **Possession.** Subject to completion of this transaction as set out in Article 9, the Purchaser shall be entitled to possession of the Property on 11:59 pm on the Closing Date.

ARTICLE 7—REPRESENTATIONS AND WARRANTIES

7.1 **Representations and Warranties of the Vendor.** The Vendor represents and warrants to the Purchaser that as of the date hereof and as of the Closing Date (except as otherwise indicated):

- (a) the Vendor is and shall be 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 Vendor is and shall be in good standing with the Office of the Registrar of Companies for British Columbia, has and shall have made all necessary filings required by the *Business Corporations 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 Vendor;
- (d) the Vendor is not a non-resident of Canada within the meaning of the Income Tax Act (Canada);
- (e) the Vendor has no indebtedness or obligation to any person which might now or in future constitute a lien, charge or encumbrance on the Property, other than the Permitted Encumbrances;
- (f) 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 Property, other than any right set out in any Permitted Encumbrances and other than as provided in this Agreement; and
- (g) following satisfaction of the mutual condition set out in Section 8.3, as of the Closing Date the Vendor will have a good and marketable title to the Property free and clear of all security interests, liens, claims, mortgages, charges, encumbrances and legal notations other than the Permitted Encumbrances.

7.2 The Vendor's Warranties and Representations as of the Closing Date. The Vendor covenants and agrees that all representations and warranties of the Vendor 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 Vendor's Representations and Warranties. The representations and warranties of the Vendor 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 Property provided for in this Agreement and, notwithstanding such closing nor any investigation made by or on behalf of the Purchaser, shall continue in full force and effect for the benefit of the Purchaser. The Vendor acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement.

7.4 Indemnity. The Vendor shall indemnify and save the Purchaser harmless from and against all losses, costs, damages, expenses, claims and liabilities suffered or incurred by the Purchaser by reason of a breach of any representation or warranty, covenant or agreement of the Vendor set forth in this Agreement.

7.5 Purchaser's Representations and Warranties. The Purchaser represents and warrants to the Vendor, regardless of any independent investigation that the Vendor may cause to be made, that:

- (a) the Purchaser is a corporation incorporated and validly existing under the laws of British Columbia;
- (b) the Purchaser has the corporate power and capacity to enter into and carry out the transactions contemplated in this Agreement; and
- (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 Purchaser.

7.6 Purchaser's Warranties and Representations as of the Closing Date. The Purchaser covenants and agrees that all representations and warranties of the Purchaser 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 Purchaser's Representations and Warranties. The representations and warranties of the Purchaser 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 Property provided for in this Agreement and, notwithstanding such closing nor any investigation made by or on behalf of the Vendor, shall continue in full force and effect for the benefit of the Vendor. The Purchaser acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement.

7.8 Indemnity—Purchaser. The Purchaser shall indemnify and save the Vendor harmless from and against all losses, costs, damages, expenses, claims and liabilities suffered or incurred by the Vendor by reason of a breach of any representation or warranty, covenant or agreement of the Purchaser set forth in this Agreement.

ARTICLE 8—CONDITIONS PRECEDENT

8.1 Purchaser's Conditions. The Purchaser'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 Purchaser:

- (a) the representations and warranties of the Vendor 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; and
- (b) unless the Purchaser was on the Option Exercise Date aware of a breach by the Vendor in performing such covenant or agreement, each of the covenants and agreements of the Vendor to be performed on or before the Closing Date under this Agreement and all other agreements between the Vendor and the Purchaser relating to any part of the Property shall have been duly performed by the Vendor in all material respects.

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

8.2 Binding Agreement—Purchaser. In consideration of the payment of \$10 and other good and valuable consideration (the receipt and sufficiency is acknowledged) the Vendor acknowledges and agrees that although the Purchaser'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 Property; and
- (b) this Agreement is not void, voidable, revocable or, otherwise capable of being terminated by the Vendor until the time limited for the fulfilment or waiver of such conditions has expired.

8.3 Mutual Condition. The obligation of each of the Vendor and the Purchaser to complete the transactions contemplated by this Agreement is subject to title to the Property having been created as a separate legal parcel in accordance with the *Land Title Act* (British Columbia) by the date which 10 days prior to the Closing Date. The Parties acknowledge and agree that the foregoing mutual condition may only be satisfied as a matter of fact and cannot be waived by the parties. If such mutual condition has not been satisfied by the aforesaid date (as such date may be extended by agreement in writing), then this Agreement shall terminate and each of the parties hereto shall have no further obligations to, nor rights against, the other in respect of this Agreement.

ARTICLE 9—CLOSING

9.1 Preparation of Closing Documents: The Purchaser shall cause its solicitors to prepare and present to the Vendor's Solicitors for execution by the Vendor at least five Business Days prior to the Closing Date, the following documents (the "**Closing Documents**"):

- (a) registrable transfer ("Transfer") for the Property conveying the legal and beneficial ownership in the Property to the Purchaser or to its nominee as the Purchaser shall direct in writing, subject to compliance by the Purchaser with Section 11.9 hereof;
- (b) assignment of Leases in such form as the Purchaser's Solicitors shall request acting reasonably;
- (c) the Vendor's statement of adjustments;
- (d) assignment of any warranties and guarantees relating to the Property; and
- (e) a mutual undertaking of the Vendor and the Purchaser to adjust any errors or omissions in the Statements of Adjustments.

9.2 Delivery of Closing Documents. Provided the Purchaser's Solicitors have prepared and forwarded the Closing Documents to the Vendor's Solicitors as required by Section 9.1, the Vendor shall cause its Solicitors to return the Closing Documents, duly executed and notarized if required for Land

Title registration, to the Purchaser's Solicitors two Business Days before the Closing Date, together with the following:

- (a) discharges in registrable form of all liens, charges and encumbrances charging or encumbering the registered title to the Property which are not Permitted Encumbrances, or Vendor's solicitor's undertakings in the form provided for in this Agreement or in the form reasonably satisfactory to the Purchase's Solicitors;
- (b) the Vendor's statement of adjustments;
- (c) a statutory declaration of the Vendor confirming that the Vendor are not a non-resident of Canada;
- (d) copies of keys and master keys any units and facilities on the Lands which are in the possession or control of the Vendor; and
- (e) such other documents as the Purchaser's Solicitors may be reasonably require to give full effect to the covenants, agreements and the provisions of this Agreement, provided that such agreements and/or documents are delivered to the Vendor's Solicitors not later than three days prior to the Closing Date.

9.3 Purchaser Deliveries. The Purchaser shall cause to be delivered to the Vendor's Solicitors on the Closing Date the following:

- (a) the documents referred to in Section 9.1 (b), (d) and (e) and the document contemplated by Section 10.1(c)(v), all duly executed by the Purchaser; and
- (b) if the Purchaser shall assign its interest in this Agreement to its permitted assignee or assignees, a copy of any such assignment agreements duly executed by the Purchaser and such assignees.

9.4 Closing Procedures. On or before the Closing Date the Purchaser shall:

- (a) pay to its Solicitors, in trust, the Unpaid Balance by negotiable cheque certified by a chartered bank or bank draft; and
- (b) make available to the Vendor, the undertaking of the Purchaser's Solicitors to pay the Unpaid Balance upon the lodging of the Transfer provided that if the transaction does not complete for any reason or if Purchaser's Solicitors are unable to comply with their undertakings, then the Purchaser's Solicitors will either return the Transfer, unused, to the Vendor's Solicitors upon demand, or alternatively to make application to the Registrar of the Land Title Office to have the Transfer withdrawn and to return the Transfer to the Vendor's Solicitors upon receipt of same from the Land Title Office.

9.5 Forthwith following payment and the fulfilment of the conditions provided in Section 9.4, the Purchaser shall cause its solicitors to file the Transfer for registration in the appropriate Land Title Office.

9.6 Forthwith following the filing referred to in Section 9.5, the Purchaser shall cause its solicitors to deliver to the Vendor's Solicitors a trust cheque for the Unpaid Balance upon the Purchaser's Solicitors

being satisfied as to the Purchaser's title after conducting a post-filing registration check of the property index disclosing only the following:

- (a) Permitted Encumbrances;
- (b) the numbers assigned to the Transfers from the Vendor to the Purchaser; and
- (c) the numbers for any charges to be discharged by the Vendor's Solicitors after closing pursuant to Section 9.8 hereof.

9.7 It is a condition of this Agreement that all requirements of this Section are deemed to be concurrent requirements and it is specifically agreed that nothing will be finalised at the Closing Date until everything required as a condition precedent on the Closing Date has been paid, executed and delivered and until the Purchaser's Solicitors is satisfied as to the Purchaser's title pursuant to Section 9.6.

9.8 The Vendor acknowledges that if the title to the Property is subject to any encumbrance which is not a Permitted Encumbrance or if any registration exists in the Personal Property Registry of British Columbia, independent of any charge in relation to a Permitted Encumbrance, against the Vendor as debtor with respect to the Property or against the Vendor affecting the Vendor's ability to sell the Property free and clear of all encumbrances, other than Permitted Encumbrances, the Vendor, although required hereunder, to clear title to the Property of such encumbrances and to discharge such registrations, will not be required to clear title to the Property of such encumbrances or to discharge such registrations from the Personal Property Registry of British Columbia prior to the receipt of the Unpaid Balance, but shall be obliged to do so within a reasonable time following closing and the Purchaser shall pay or cause its solicitors to pay the Unpaid Balance for the Property to the Vendor's Solicitors in trust on undertakings to discharge any such encumbrance or any such registration within a reasonable time following the Closing Date and with respect to any such encumbrances or registrations of a financial nature to:

- (a) provide to the Purchaser's Solicitors with the Closing Documents referred to in Section 9.2 hereof, a copy of each encumbrance-holder's payout statement;
- (b) within 5 business days after the Closing Date to provide to the Purchaser's Solicitors the following:
 - (i) copies of letters delivering the payout monies from the Vendor's Solicitors to each of the encumbrance-holders;
 - (ii) copy of the cheque of the Vendor's Solicitors paying out the payout monies to each of the encumbrance-holders;
 - (iii) evidence of delivery or receipt of the payout cheques by the encumbrance-holders office;
- (c) use diligent and commercially reasonable efforts to obtain from each existing encumbrance-holder a registrable discharge of the existing financial charge in a timely manner; and

- (d) upon receipt of a registrable discharge of each of the said encumbrances, the Vendor's Solicitors will promptly attend to the registration of same in the Land Title Office or other place of record and provide the Purchaser's Solicitors with registration particulars in due course.

9.9 The purchase and sale of the Property shall be completed in accordance with the terms of this Agreement on an exchange of undertakings between the Vendor's Solicitors and Purchaser's Solicitors.

ARTICLE 10—MISCELLANEOUS

10.1 Cost of Transaction.

- (a) The Purchaser will be responsible for the costs of conveyance of the Property and its own solicitor's fees and disbursements, which will be remitted on the Closing Date.
- (b) The Vendor will be responsible for its own solicitors' fees and disbursements, any real estate commission payable in respect of this transaction.
- (c) It is understood and agreed that, unless the Purchaser is exempt from the application of Part IX of the *Excise Tax Act* (Canada) (the "**Act**") for the collection and remittance of Goods and Services Tax ("GST") and provides satisfactory proof of such exempt status to the Vendor prior to the Closing Date:
 - (i) the Purchaser shall be registered under subdivision d of Division V of Part IX of the Act for the collection and remittance of GST;
 - (ii) the Purchaser shall be liable, shall self-assess and remit to the appropriate governmental authority, all GST which is payable under the Act in connection with the transfer of the Property made pursuant to the Agreement, all in accordance with the Act;
 - (iii) to the extent the GST applies to this transaction, the Vendor shall not collect GST on completion and shall allow the Purchaser to self-assess and remit GST to the Receiver General in accordance with the Act;
 - (iv) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any inaccuracy, misstatement or misrepresentation made by the Purchaser on the Closing Date in connection with any matter raised in this paragraph or contained in any declaration referred to herein; and
 - (v) the Purchaser shall tender prior to and as a condition of completion a certificate and indemnity including verification of its registration number issued by Revenue Canada under the Act (the "**GST Certificate**").

10.2 **Further Assurances.** The Vendor and the Purchaser will each deliver to the other such further documents and assurances and do such further acts as may be reasonably required to give full effect to the intent and meaning of this Agreement.

10.3 **Notices.** A notice, demand, statement, request or other evidence required or permitted to be given hereunder must be written and will be sufficiently given if delivered in person, transmitted by facsimile or mailed in Canada by registered mail addressed as follows:

(a) if to the Vendor:

3536696 CANADA INC.
c/o Bentall Kennedy (Canada) LP
Suite 1800, 1055 Dunsmuir Street
Vancouver, BC V7X 1C4
Fax: 604-646-2805

Attention: Attention: Russell Tibbles,
Vice President, Development & Operations – Fairwinds

With copies to:

Clark Wilson LLP
900-885 West Georgia Street
Vancouver, BC
V6C 3H1
Fax: 604-687-6314

Attention: Peter Kenward

Stikeman Elliott LLP
Suite 1700 – 666 Burrard Street
Vancouver BC
V6C 2X8
Fax: 604-681-1825

Attention: Rachel Hutton; and

(b) if to the Purchaser:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo, BC V9T 6N2
Fax: 250-390-4163

Attention: Director of Corporate Services

in which case such notice, demand, statement, request or other evidence will be considered to have been given to the party to whom it is addressed on the third business day following the date of mailing, and a party at any time may give notice to the others of a change of address after which the address so specified will be considered to be the address of the party who gave the notice. Any notice, demand, statement, request or other evidence delivered in person will be considered to have been given at the time of personal delivery and any notice, demand, statement, request or other evidence transmitted by

facsimile will be considered to have been given to the party to whom it is addressed on the next business day following the date of such transmission.

ARTICLE 11—GENERAL

11.1 The Purchaser hereby waives, to the extent permitted by law, any requirement for the Vendor to obtain or provide to the Purchaser a “site profile” under the *Environmental Management Act* of British Columbia or any regulation in respect thereto.

11.2 This Agreement will be governed by and interpreted under the laws of British Columbia.

11.3 In this Agreement words importing the singular number will be deemed to include the plural and vice versa and words importing the masculine gender will be deemed to include the feminine and neuter and vice versa, as the context requires.

11.4 Time will be of the essence of this Agreement.

11.5 To the extent that any provision of this Agreement conflicts with or is in any way inconsistent with the Phased Development Agreement, the applicable provisions of the Phased Development Agreement will prevail. Subject to the foregoing, this Agreement constitutes the entire agreement between the Vendor and the Purchaser pertaining to the purchase and sale of the Property. All prior agreements, understandings and discussions whether written or oral with respect to the purchase by the Purchaser of the Property, other than the Phased Development Agreement, are superseded by this Agreement.

11.6 There are no other representations, warranties, covenants or agreements between the parties hereto in relation to the purchase and sale transactions herein contemplated except those contained in this Agreement.

11.7 If any provision of the Agreement is or is declared to be unenforceable, it shall be deemed to be and shall be severed from the remaining provisions of this Agreement and the remaining provisions of this Agreement will survive and continue in full force and effect as valid and binding obligations of the parties hereto.

11.8 This Agreement may not be amended except by written addendum signed by both the Vendor and the Purchaser.

11.9 The parties hereto expressly agree that the rights of the Purchaser under this Agreement may not be assigned by the Purchaser without the prior written consent of the Vendor.

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

11.11 This Agreement may be executed in one or more counterparts and such counterparts may be transmitted by electric facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

IN WITNESS WHEREOF the Owner and the Regional District have duly executed this Option to Purchase as of the day, month and year first above written by executing the Form C attached hereto.

Schedule "1"

Legal Description and Permitted Encumbrances

Schedule "2"

Survey Plan of Property