

SCHEDULE "A"

OFFER TO PURCHASE

SUBMITTED BY: _____

TELEPHONE: _____

TO: THE TOWN OF OSOYOOS
(hereinafter called the "Vendor")

I/WE _____
[full name(s), address(es) and occupation(s)]

(hereinafter called the "Purchaser")

having fully informed ourselves of the applicable government laws, bylaws and regulations
HEREBY OFFER to purchase from the Vendor that certain parcel of land situated in the Town of
Osoyoos and being legally known and described as:

Lot Plan D.L. S.D.Y.D.

(herein called the "Land")

for the purchase price of _____

Dollars (herein called the "Purchase Price") payable as follows:

- (a) a deposit of 10% of the Purchase Price shall be paid in the form of Cash, Certified Cheque or Bank Draft to the Vendor to be held by the Vendor pending acceptance of this offer, and to be credited to the Purchase Price upon completion;
- (b) the balance of the Purchase Price plus 5% GST shall be paid to the Vendor within sixty (60) days of acceptance of this offer (Date of Completion); and
- (c) if the Purchaser fails to pay the balance of cash payment (purchase price plus 5% GST) to the Vendor on or before the Date of Completion, the deposit is forfeited on account of liquidated damages, and the Vendor may at the Vendor's option terminate the Agreement. The forfeiture of the deposit DOES NOT prevent the Vendor from seeking other remedies.

**OFFER TO PURCHASE
TERMS AND CONDITIONS OF DISPOSAL**

1. The Vendor shall convey title to the Land in fee simple to the Purchaser free and clear of all liens, charges and encumbrances.
2. The purchase and disposal of the Land shall all be completed and vacant possession shall be yielded to the Purchaser on the Completion Date.
3. The Purchaser shall deliver in conjunction with this offer a development proposal for the property being purchase which must meet the approval of the Town council and which must be completed within twelve (12) months of the purchase date. Failure to complete the proposed development will result in the land being returned to the Town and the refund of the purchase price to the Purchaser less a 10 per cent (10%) administration fee.
4. Not later than two (2) days prior to the Completion Date the Purchaser shall deposit the balance of the Purchase Price with his solicitor in trust.
5. On the Completion Date the Purchaser shall cause his solicitor:
 - (a) to make application at the Kamloops Land Title office to register the transfer of the Land; and
 - (b) to pay the balance of the Purchase Price to the Vendor by way of a certified cheque, bank draft or trust cheque forthwith following registration of the said transfer of land.
6. The Purchaser's solicitor shall prepare all documents necessary to complete the purchase and disposal of the Land, and the Purchaser shall bear all costs, fees, taxes, and other charges necessary to complete the conveyance of the Land.
7. Any tender of documents of money may be made upon the Purchaser's solicitor at his office or upon the Vendor at the Town of Osoyoos Municipal Office at 8707 Main Street, Box 3010, Osoyoos, B.C., V0H 1V0.
8. Time shall be of the essence hereof.
9. The Purchaser warrants and represents that:
 - (a) he has attended at the Land and made an inspection thereof, and agrees to purchase the land "as is",
 - (b) he is either a Canadian Citizen, a landed immigrant or a corporation organized under the laws of British Columbia.

**OFFER TO PURCHASE
TERMS AND CONDITIONS OF DISPOSAL**

10. The Purchaser acknowledges that this offer will be disqualified if it does not strictly comply with all the requirements set out in the offer information package supplied by the Vendor.
11. This offer shall remain open for acceptance by the Vendor until the thirtieth day after receipt by the Vendor, on the understanding that the Vendor shall return the deposit of 10% of the Purchase Price to the Purchaser if this offer is not accepted by that date.
12. The Purchaser agrees to grant the Vendor an Option to Purchase in the form attached to the Offer as Schedule "A". The Purchaser shall provide for registration as a package to be deposited in the Land Titles office concurrently with and immediately after, deposit of the Form A Transfer.

OFFER TO PURCHASE

If this offer is accepted
the Solicitor or Notary Public
who will act for me is:

NAME

ADDRESS

FIRM

TELEPHONE

ACCEPTANCE

The Vendors hereby accept the offer and its terms and acknowledges that it is accompanied by deposit of \$ _____ (being 10% of the Purchase Price of \$ _____).

DATED the _____ day of _____, 20____.

WITNESS:

Duly Authorized Representative
of the Town of Osoyoos

SCHEDULE "B"

PART 2 – TERMS OF INSTRUMENT

OPTION TO PURCHASE

THIS AGREEMENT dated for reference _____, 20____, is

BETWEEN:

("Owner")

AND: **TOWN OF OSOYOOS**, a municipal corporation incorporated under the *Municipal Act*, R.S.B.C. 1996, c. 323, having an address of Box 3010, 8707 Main Street, Osoyoos, BC V0H 1V0

("Optionee")

GIVEN THAT:

A. The Owner is the owner of the parcel of the land in the Town of Osoyoos legally described as:

PID:
Lot
District Lot
Similkameen Division Yale District
Plan

together with all buildings, privileges and appurtenances thereto ("Land");

B. The Owner has purchased the Land from the Optionee, on the agreement that the Owner would develop the Land within a specified time frame and in accordance with a valid development permit issued by the Optionee for the Land; and

C. The Owner has agreed to grant to the Optionee an option to purchase the Land on the terms and conditions set forth in this Agreement,

THIS AGREEMENT is evidence that in consideration of the TWO DOLLARS (\$2.00) now paid by the Optionee to the Owner, and other good and valuable consideration, the receipt

and sufficiency of which is acknowledged by the Owner, the Owner and the Optionee covenant, warrant and agree as follows:

Defined Terms

1. In this Agreement, "Substantial Completion" means the completion of a building on and development of the Land, in accordance with a development permit issued in respect of the Land by the Optionee, excepting only minor deficiencies, such as the Land is ready for use or is being used for its intended purpose, as determined by the Optionee, in its sole discretion, acting reasonably.

Option to Purchase

2. The Owner grants to the Optionee the sole, exclusive and irrevocable option to purchase the Land ("Option"), free and clear of all liens, charges and encumbrances for the Purchase Price of [the original purchase price of less 10%].

Option to Exercise

3. Subject to section 4, the Optionee may exercise the Option at any time up to and including the earlier of:

(a) _____, 20____; and

(b) the date is 30 days after that on which notice is given under section 4,

by delivering the Owner written notice of the exercise of the Option.

4. The Optionee may deliver to the Owner a written notice of default of Substantial Completion has not been reached by _____. If Substantial Completion has been reached on or before that date, or on or before the date of exercise of the Option, the Option is void after the date the Substantial Completion has been reached, and the Optionee must promptly thereafter deliver to the Owner a discharge, executed in registerable form, of the Option.

Consequence of Exercise

5. If the Option is exercised as set forth in section 3, this Agreement shall become a binding agreement for the purchase and disposal of the Land which shall be completed on the Completion Date (hereinafter defined) upon the terms and conditions contained in sections 6 to 27 of this Agreement.

Completion Date

6. The agreement of purchase and disposal arising from the exercise of this Option shall be completed on the date ("Completion Date") to be chosen by the Optionee, such date to be

a Kamloops Land Title Office (“LTO”) business day and to be no later than thirty (30) days after the date on which notice is given under section 3.

Payment of Purchase Price

7. The Purchase Price shall be paid by the Optionee to the Owner, subject to adjustments as provided in this Agreement, on the Completion Date according to the closing procedure as provided in this Agreement.

Title

8. On the Completion Date, the Owner shall convey the Land to the Optionee free and clear of all liens, charges and encumbrances.

Restoration

9. Unless otherwise directed by the Optionee, the Owner shall, prior to the Completion Date, take all steps necessary, at its sole expense, to restore the Land to its condition as of the date of transfer of the Land from the Optionee to the Owner, including the removal of all the buildings, structures and improvements, the restoration of the soil and landscaping, and the clean-up and removal of all personal property, waste, and debris.

Possession

10. The Owner shall give possession of the Land to the Optionee following payment of the adjusted Purchase Price to the Owner on the Completion Date.

Adjustments

11. All adjustments, both incoming and outgoing, in connection with the purchase and disposal of the Land, including adjustments of taxes, rates, rents and other matters usually the subject of adjustment between vendor and purchaser, shall be made as at the Completion Date.

Representations, Warranties and Covenants of the Owner

12. The Owner covenants and agrees that it shall, from and after the date of the application to register this Option to the LTO:

- (a) take all reasonable care to protect and safeguard the Land and operate and otherwise deal with the Land as a careful and prudent owner would do and in such a manner that the warranties, representations and covenants of the Owner as contained in this Agreement remain true and correct; and
- (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 Land in the Optionee at the Completion Date, free and clear of all liens, encumbrances, defects in title, equities or claims of every nature and kind and

to enable the Owner to carry out disposal of the Land and to execute and deliver this Agreement as valid and binding obligations of the Owner.

13. The Owner hereby represents and warrants to, and covenants and agrees with the Optionee, as at the time of executing this Agreement and as at Completion Date that:

- (a) the Owner has no indebtedness or obligation to any person which might now or in future constitute a lien, charge or encumbrance on the Land, or which cannot be discharged by the Owner from title to the Land on or before the Completion Date;
- (b) the Owner has not used the Land or permitted any use of the Land, to store, manufacture, dispose of, emit, spill, leak, generate, transport, remediate, produce, process, release, discharge, landfill, treat, or remediate any explosive, radioactive material, asbestos, urea formaldehyde, chlorobiphenyl, hydrocarbon, underground tank, pollution, contamination, hazardous substance, corrosive substance, toxic substance, special waste, waste, or matter of any kind which is or may be harmful to human safety or health or to the environment, including anything the storage, manufacture, disposal, emission, discharge, treatment, generation, use, transport, remediation or release into the environment of which is now or at any time after the execution of this Agreement is prohibited, controlled, regulated or licensed under any laws applicable to the Land "Contaminant";
- (c) the Owner has not caused or permitted, the storage, manufacture, disposal, emission, spilling, leakage, treatment, generation, transportation, remediation, production, processing, release, discharge, landfilling, treatment or remediation of any Contaminant in, on, under or from the Land; and
- (d) the Owner has at all times used the Land in compliance with all laws relating to Contaminants and to the environment.

Indemnity

14. The Owner covenants and agrees with the Optionee, which covenant shall survive the completion of any conveyance of the Land arising from the exercise of this Option, that the Owner must indemnify and save harmless the Optionee, and its elected and appointed officials, officers, employees, and agents, from and against any and all actions, causes of action, liabilities, demands, losses, damages, costs (including remediation costs and costs of compliance with any law, and legal fees and disbursements), expenses, fines and penalties, suffered or incurred by the Optionee, whether brought against any one or more of them by the Owner or any other person, or by any governmental authority, by reason of a breach of any representation or warranty, covenant or agreement of the Owner set forth in this Agreement.

Closing Documents

15. Not less than five (5) days before the Completion Date, the Optionee shall deliver to the Owner's solicitors:

- (a) two copies of a Form A Transfer transferring the fee simple title to the Land to the Optionee (“Transfer”) free and clear of all liens, charges and encumbrances;
- (b) two copies of the Owner’s statement of adjustments to be approved and executed by the Owner; and
- (c) a statutory declaration of any authorized officer of the Owner that the Owner is a resident of Canada within the meaning of the *Income Tax Act* (Canada).

Closing Procedure

16. At least one (1) day before the Completion Date, the Owner shall deliver to the Optionee’s solicitors, in trust, the Transfer executed on behalf of the Owner and in registrable form, on the undertaking that:

- (a) on the Completion Date, the Optionee shall apply to register the Transfer in the LTO only if the adjusted Purchase Price has first been deposited in the trust account of the Optionee’s solicitors; and
- (b) after application has been made to register the Transfer in the LTO, and upon receipt of a satisfactory post-index search of the title to the Land indicating that in the normal course of LTO procedure the Optionee shall become the registered owner of the Land free and clear of all liens, charges and encumbrances, the Optionee shall pay the Owner at once the adjusted Purchase Price by solicitor’s trust cheque delivered to the Owner’s solicitors.

Risk

17. The Land shall be at the Owner’s risk until the Completion Date and shall thereafter be at the risk of the Optionee. In the event of loss or damage to the Land occurring before the completion of the closing on the Completion Date by reason of fire, tempest, lightning, earthquake, flood or other acts of God, explosion, riot, civil commotion, insurrections or war, the Optionee, at the Optionee’s option, may cancel this Agreement.

Access

18. The Optionee, its agents and employees, have the licence, conditional on providing 48 hours prior written notice to the Owner, to enter upon the Land from time to time prior to the Completion Date, at the Optionee’s sole risk and expense, for the purpose of making reasonable inspections, surveys, tests, and studies of the Land.

Fees and Taxes

19. The Owner shall pay:

- (a) any property transfer tax under the *Property Transfer Tax Act* (British Columbia);

- (b) LTO registration fees in connection with the transfer of the Land to the Optionee;
- (c) the Optionee's reasonable legal fees and disbursements;
- (d) its own legal fees and disbursements; and
- (e) all goods and services tax, if any, payable in respect of transfer of the Land to the Optionee under the *Excise Tax Act* (Canada).

Further Assurances

20. Each of the parties shall at all times hereafter execute and deliver at the request of the other all such further documents, deeds, and instruments and shall do and perform such acts as may be reasonably necessary to give full effect to the intent and meaning of this Agreement.

Notice

21. Where any notice, request, direction, or other communication is required to be given or made by either party under this Agreement, it shall be in writing and is effective if delivered in person, sent by registered mail or by facsimile addressed to the party for whom it is intended at the address set out above and any notice, request, direction or other communication shall be deemed to have been given if by registered mail, when the postal receipt is acknowledged by the other party; and by facsimile when transmitted. In the case of notice to the Optionee, notice must be addressed to the attention of the Municipal Clerk. The address of either party may be changed by notice in the manner set out in this provision.

Time of Essence

22. Time is of the essence in this Agreement.

Tender

23. Any tender of documents or money may be made upon the parties at their respective addresses set forth in this Agreement or upon their respective solicitors.

Entire Agreement and Its Survival

24. There are no representations, warranties, guaranties, promises or agreements other than those expressly contained in this Agreement, all of which shall survive the Completion Date, registration of documents and payment of the Purchase Price and shall not merge with any deeds or agreements delivered in connection with completion of this transaction and shall not merge with the Transfer or its registration. The provisions of this Option to the Purchase Agreement between the parties with respect to the Land constitutes the entire agreement between the parties and terminate and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject of this Option to Purchase Agreement.

Enurement

25. This Agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors, and assigns.

Modifications

26. This Agreement may not be modified or amended except by an instrument in writing signed by the parties or by their successors or assigns.

Interpretation

27. Wherever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties so require.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.