

TERMS OF INSTRUMENT - PART 2

OPTION TO PURCHASE

THIS AGREEMENT made the ____ day of _____, 2009.

BETWEEN:

(the "Vendor")

AND:

ARROW LAKES DEVELOPMENTS LTD.

220 Edenwold Drive N.W.

Calgary, AB T3A 3S3

(the "Purchaser")

Background

- A. The Vendor is the registered owner of those certain lands and premises located in the Nelson Trail Assessment Area, the legal description of which is as follows:
Parcel Identifier:
Strata Lot ____, District Lot 8682, Kootenay District, Strata Plan KAS_____
(the "Lands").
- B. The Vendor Purchased the Lands from the Purchaser pursuant to a Contract of Purchase and Sale dated _____ (the "Purchase Contract").
- C. Pursuant to the Purchase Contract, the Vendor agreed that the construction of residential premises on the Lands would be in compliance with design guidelines attached to in forming part of the Purchase Contract (the "Design Guidelines").
- D. As a further term of the Purchase Contract, the Vendor has agreed to grant to the Purchaser an option to purchase the Lands on the terms and conditions set out in this Agreement.

Terms of Agreement

In consideration of the sale of the Lands by the Purchaser to the Vendor and the sum of \$10.00 (the "Option Fee") now paid by the Purchaser to the Vendor (the receipt and sufficiency of which is hereby acknowledged), the parties hereby covenant and agree as follows:

1. In consideration of the Option Fee, the Vendor hereby grants to the Purchaser the sole and exclusive option (the "Option") for exercise by the Purchaser to purchase the Lands for the purchase price of _____ **(insert amount that is 85% of original purchase price)** (the "Purchase Price"), payable as provided in this Agreement.
2. Subject to section 3, the Purchaser may exercise the Option at any time prior to 12 o'clock noon on _____ **(insert date 20 years after completion date)** by delivering to the Vendor written notice of the exercise of the Option. If the Option is exercised as set out in this section, this Agreement shall become a binding agreement for the purchase and sale of the Lands which shall be completed in accordance with Section 4. If the Option is not exercised by the time limited above, it shall be null and void and the Vendor shall be entitled to retain the Option Fee.
3. Notwithstanding any other provision of this Agreement, the Purchaser hereby expressly agrees it shall not be entitled to exercise the Option prior to _____ **(insert date three years after completion)** and may thereafter only exercise the Option if:
 - (a) the Vendor has not commenced pouring the concrete foundation for the residential dwelling being constructed on the Lands; or
 - (b) having commenced construction of the residential dwelling on the Lands does not receive a final occupancy permit from the Columbia Shuswap Regional District within 24 months of commencement of construction; or
 - (c) fails to construct the residential dwelling on the Lands in accordance with the Design Guidelines.
4. The sale and purchase of the Lands shall be completed on the following terms:
 - (a) the completion date (the "Completion Date") for the sale and purchase of the Land shall be the 14th day following the date of exercise of this Option;
 - (b) on or before the Completion Date, the Purchaser shall deliver to the Purchaser's solicitors, Davidson Lawyers LLP of Vernon, British Columbia, the Purchase Price plus or minus (as the case may be) any adjustments agreed to be brought into account pursuant to paragraph (f) of this clause (the "Balance of the Purchase Price");

- (c) before the Completion Date the Purchaser shall cause to be delivered to the Vendor a Form A Transfer (the "Transfer") and the Vendor shall execute the Transfer in registrable form and return it to the Purchaser's solicitors before the Completion Date;
 - (d) the Transfer may be delivered on the professional undertaking of the Purchaser's solicitors that they will not register the Transfer in the appropriate Land Title Office unless on the same day of such registration they will make the Balance of Purchase Price available at their offices for the Vendor to pick up, or delivered at the Vendor's direction and expense, or alternatively that they will return the Transfer to the Vendor unregistered on demand;
 - (e) on or before the Completion Date, the Purchaser shall cause the Purchaser's solicitors to lodge the Transfer subject only to the Permitted Encumbrances, for registration in the Land Title Office and thereafter make the Balance of the Purchase Price available to the Vendor as set out above; and
 - (f) adjustment for taxes and utility rates shall be made between the parties as at the Completion Date and shall be added to or deducted from the Purchase Price (as the case may be), provided that any adjustments not settled by the Completion Date shall be settled between the parties immediately following the completion and the sale and the purchase of the Lands shall complete nevertheless.
5. The Vendor shall transfer the Lands to the Purchaser free from all legal notations, encumbrances, charges and tenancies except those set out and described in Schedule A (collectively, the "Permitted Encumbrances").
6. The Vendor covenants and agrees to:
- (a) take all reasonable care to protect and safeguard the Lands as a careful and prudent owner would do;
 - (b) maintain in full force and effect insurance coverage in respect of the Lands against such risks and to such limits as would a reasonable and prudent owner;
 - (c) not enter into any agreement, lease or contract relating to the Lands without the prior approval of the Purchaser; and
 - (d) observe and perform all of the Vendor's obligations under the Permitted Encumbrances and diligently enforce all of his her rights under the Permitted Encumbrances.

7. If the Purchaser shall fail to complete the purchase of the Lands on the Completion Date, the Vendor may at its option cancel this Agreement in which event all monies paid to the Vendor to the date of cancellation shall be forfeited to the Vendor as liquidated damages.
8. If the Vendor shall fail to complete the sale and the purchase of the Lands on the Completion Date the Purchaser may at its option cancel this Agreement in which event all monies paid to the Vendor to the date of cancellation shall be refunded to the Purchaser.
9. Notwithstanding Sections 7 and 8, a party not in default may, in addition to its other remedies at law or in equity, instead of exercising the option to cancel, elect to complete the sale and purchase of the Lands at a later date in which event time shall continue to be of the essence.
10. Time is of the essence of this Agreement.
11. Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or feminine or the body politic or corporate were the context or the parties so require, and where a party is more than one person, all covenants shall be deemed to be joint and several.
12. This Agreement will enure to the benefit of and be binding on the parties and their respective heirs, administrators, personal representatives, successors, and assigns.
13. Any notice, request or demand provided for in this Agreement shall be in writing and sufficiently given if served personally upon the party for whom such notice was intended, or, if faxed to the fax number set out above or to such other address as a party may notify the other in accordance with this section. All notices given by mail under this section shall be deemed to be received seven days following its posting, if posted at Calgary, Alberta, provided that after the time of posting there shall be any slowdown, strike or labour dispute which might affect the delivery of notice by mail, then such notice shall only be effective if actually delivered. Either party may, at any time, give notice in writing to the other of any change of address and thereafter all notices shall be mailed to the new address so given.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement on one or more pages of the General Instrument.

SCHEDULE A

Permitted Encumbrances

1. Legal Notation LB299493
2. Statutory Right of Way V3342 in favour of BC Hydro

END OF DOCUMENT