

**LAND TITLE ACT
FORM C
TERMS OF INSTRUMENT - PART 2**

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**PART 2 — TERMS OF INSTRUMENT
RIGHT OF FIRST REFUSAL AND OPTION TO PURCHASE**

THIS AGREEMENT dated for reference January 28, 1998 is made

BETWEEN:

GREENSIDE PROPERTIES INC. (Incorporation No. 368865)
1000 840 Howe Street, Vancouver, British Columbia V6Z 2M1

(the "Owner")

AND:

RESORT MUNICIPALITY OF WHISTLER, a municipality
incorporated under the *Resort Municipality of Whistler Act*,
R.S.B.C. 1996, c.407 and having its address at 4325 Blackcomb
Way, Whistler, B.C., V0N 1B4

(the "Purchaser")

GIVEN THAT:

- A. The Owner and the Purchaser wish to enter into this Agreement to ensure that a Lot is sold only to qualified individuals and for a price that reflects the public interest in employee housing; and
- B. The Owner has agreed to grant to the Purchaser a right of first refusal to purchase a Lot,

This Agreement is evidence that, in consideration of the payment of \$2.00 by the Purchaser to the Owner (the receipt of which is acknowledged), and in consideration of the promises exchanged below, the parties agree with each other as follows:

Definitions

1. In this Agreement:
 - (a) "Area" means the area of the Lot as shown of the subdivision plan creating the Lot;
 - (b) "Employee" means an individual:
 - (i) who is either employed or self-employed for an average of not less than 20 hours per week over the most recent three months and whose principal

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place of employment or business is located within the boundaries of the Resort Municipality of Whistler; and

- (ii) who is a member in good standing of the Whistler Valley Housing Society;
- (c) "First Purchaser" means the person to whom the Lot is first transferred by the Owner;
- (d) "First Sale Price" means the sum of \$100,000 plus works and service charges of \$12,502;
- (e) "Housing Agreement" means the housing agreement under s.905 of the *Municipal Act* between the Owner and the Municipality dated for reference December 1, 1997 and deposited for registration as a s.219 *Land Title Act* covenant in the LTO ;
- (f) "Improvements" means all structures, improvements and landscaping placed upon the Lot by an Owner;
- (g) "Interest" means the interest of the Owner in the Lot;
- (h) "LTO" means the New Westminster/Vancouver Land Title Office;
- (i) "Municipality" means the Resort Municipality of Whistler;
- (j) "Permitted Encumbrances" means all charges and encumbrances registered against title to the Strata Lot in the LTO as of the Completion Date but does not include any financial charges granted by the Owner;
- (k) "Offer" means a *bona fide* offer to purchase an interest in the Lot made by a Third Party;
- (l) "Price Control Index" means the percentage multiplier determined under section 6(c) with respect to any period;
- (m) "Prime Rate" means the annual percentage rate of interest charged by the Royal Bank of Canada, Main Branch, Vancouver, for Canadian dollar loans and published by that Bank as its prime rate;
- (n) "Retiree" means an individual who has ceased employment and who was an Employee for 5 of the 6 years immediately preceding the date on which the individual ceased employment;
- (o) "Lot" means a parcel of land legally described in item 2 of Part 1 of the Form C to which this Agreement is attached and forms part of this Agreement; and

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- (p) "Third Party" means any person, other than the Purchaser, who makes an Offer.

Interpretation

2. In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (c) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (d) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) reference to a "party" or the "parties" is a reference to a party, or the parties, to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (g) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year unless otherwise expressly provided.

REFR Grant

3. The Owner grants to the Purchaser a right of first refusal to purchase the fee simple title to the Lot on the terms of this Agreement. The Owner agrees that it must not sell, assign or in any way transfer (collectively, "Sell", "Sale" and "Sold") any of its Interest to any person other than the Purchaser unless that Interest is first offered for Sale to the Purchaser in accordance with section 4. Subject to sections 5 and 7, the Purchaser has 15 business days from the date on which it receives the notice under section 4 to elect to acquire the Lot on the same terms as those of the Offer (including purchase price) except that the agreement of purchase and sale created by that election is to be on the terms set out in sections 10 through 31.

Offer Notice

4. If the Owner receive an Offer, the Owner must at once give notice of the Offer to the Purchaser and must deliver a copy of the Offer along with that notice.

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Option to Purchase

5. Despite section 3, the Purchaser may elect, as an option to purchase hereby granted to the Purchaser to acquire the Lot:

- (a) for the purchase price that is the lesser of:
 - (i) the purchase price set out in the Offer; and
 - (ii) the purchase price calculated in accordance with section 6; and
- (b) on the terms set out in sections 10 through 31.

Price

6. For the purposes of section 5, the purchase price is to be determined in accordance with the following:

- (a) If the fee simple title to the Lot is transferred at any time between the date on which the subdivision plan is deposited in the LTO and 365 days after that date ("First Year"), the sale price, not including goods and services tax and the usual adjustments, must not exceed the amount (in this section "First Year Sale Price") that is the total of:
 - (i) the amount which is the greater of the First Sale Price or the amount determined by multiplying the First Sale Price by 1.034 and then multiplying the result by the number determined by dividing the number of days in the period described above by 365.
- (b) If fee simple title to the Lot is transferred at any time after expiry of the First Year, the sale price of the Lot, not including goods and services tax and), the usual adjustments, must not exceed the amount determined in accordance with the following:
 - (i) with respect to each quarter, the Owner must establish the factor (in this section "Price Control Index") in respect of each quarter determined by subtracting 2.0% from the Prime Rate in effect on the first day of each quarter and multiplying the result by 0.1;
 - (ii) with respect to the first period of 365 days beginning immediately after expiry of the First Year, the sale price for the Lot, excluding the Improvements, must not exceed the amount determined by adding to the First Year Sale Price the amount determined by multiplying the Price Control Index by the First Year Sale Price at the beginning of each quarter in that year and compounding with respect to each whole quarter within

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that year to the date of the sale and adding an amount to prorate from the end of the last whole quarter to the date of the sale; and

- (iii) with respect to each year after that described in section 6(b)(ii), the sale price for the Lot, exclusive of the Improvements, must not exceed the amount determined by compounding and pro-rating the purchase price as at the end of the immediately preceding year in accordance with the method set out in section 6(b)(ii).
- (c) If an appraiser who is a member in good standing of the Appraisal Institute of Canada who has been retained by the Owner at the expense of the Owner determines that the Owner has made capital improvements to the Strata Lot that materially increase the market value of the Strata Lot beyond the sale price otherwise permitted under this section, the Municipality may, in its sole discretion,, permit the Owners to increase the sale price for the Strata Lot by an amount commensurate with the increase in market value as certified by the appraiser in his or her report to the Owners as the then market value of the Improvements.
- (d) The Owner must deliver to the Municipality a certified copy of the vendor's statement of adjustments with respect to sale of the Lot by the Owner, and must deliver to the Municipality upon request such further evidence as the Municipality may reasonably require to confirm the sale price of the Lot. If the Owner sells the Lot for a sale price exceeding that permitted under this section, the Owner must pay the excess to the Municipality within 30 days after demand is made by the Municipality, with any amount remaining unpaid after those 30 days bearing interest at the Prime Rate in effect from time to time, calculated from the date due until the date paid and compounded annually not in advance.

Waiver

7. As an alternative to election under sections 3 or 5, the Purchaser is entitled to give notice to the Owner that the Purchaser agrees to waive its rights thereunder with respect to a specific Offer using the form of waiver attached as Schedule "A". The Purchaser must give notice under this section within 15 business days from the date on which it receives the notice under section 4. If the Purchaser gives notice under this section, the Purchaser's rights are deemed to be waived only if:

- (a) the Owner delivers to the Purchaser, within 2 days after notice of waiver is given by the Purchaser under this section a valid and binding written agreement of purchase and sale between the Owner and the Third Party in respect of the Interest and substantially on the terms and conditions of the Offer ("APS");

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- (b) subject to section 8, at least 5 business days before completion of the sale to the Third Party the Owner delivers to the Purchaser written proof, satisfactory to the Purchaser, in its sole discretion, that:
 - (i) the Third Party is:
 - (A) an Employee; or
 - (B) a Retiree; and
 - (ii) the APS cannot be assigned or transferred by the Third Party; and
- (c) at least 5 business days before completion of the sale to the Third Party the Owner delivers to the Purchaser written proof, satisfactory to the Purchaser, in its sole discretion, that the purchase price payable by the Third Party under the APS does not exceed the purchase price calculated in accordance with section 6.

If the Owner does not comply with section 7(a) through (c), the Purchaser's rights under sections 3 and 5 are deemed not to be waived and the Purchaser is instead deemed to have made an election under section 5. The Owner agrees that every APS entered into by the Owner must contain a provision by which the Owner and the Third Party with whom the agreement is entered into agree that the agreement is subject to a condition precedent for the benefit of both that may not be waived by either of them, such that the agreement becomes void and unenforceable unless the Purchaser's rights are deemed to be waived in accordance with sections 7(a) through (c).

Exception to RFR and Option

8. The Purchaser agrees that its rights under sections 3 and 5 do not apply in any of the following cases:

- (a) if the Owner is a mortgagee that is a bank or other financial institution established or regulated under any enactment of British Columbia or Canada or 8458429 Holdings Limited or any party to which the bank or other financial institution or 8458429 Holdings Limited has assigned or transferred any mortgage or other financial charge held by it registered against title to the Strata Lot ("Lender") and the Lender has for at least 45 days used reasonable best efforts to enter into an APS, including by listing the Interest for Sale with the Purchaser or with a licensed real estate agent ("Agent"), or both, but has been unable to enter into an APS within the 45 days:
 - (i) the Lender may after that time Sell the Interest to a Third Party who is not an Employee or Retiree, but the purchase price for the Interest must not exceed the purchase price calculated in accordance with section 6; and
 - (ii) the Lot may only be used and occupied in accordance with the Housing Agreement;

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- (b) if the Owner is a Lender and the Lender has for at least 90 days used reasonable best efforts to enter into an APS, including by listing the Interest for Sale with the Purchaser or with an Agent, or both, but has been unable to enter into an APS within the 90 days:
 - (i) the Lender may after that time Sell the Interest to a Third Party who is not an Employee or Retiree and the purchase price for the Interest may be different from the purchase price calculated in accordance with section 6; and
 - (ii) the Lot may only be used and occupied in accordance with the Housing Agreement;
- (c) if the Owner is a Lender and the Lender has for at least 120 days used reasonable best efforts to enter into an APS, including by listing the Interest for Sale with the Purchaser or with an Agent, or both, but has been unable to enter into an APS within the 120 days;
 - (i) the Lender may after that time Sell the Interest to a Third Party who is not an Employee or Retiree and the purchase price for the Interest may be different from the purchase price calculated in accordance with section 6; and
 - (ii) the Lot may be used and occupied subject only to all enactments applicable to the use of land and the Housing Agreement does not apply; and
- (d) if the Owner is not a Lender and the Owner has for at least 45 days used reasonable best efforts to enter into an APS, including by listing the Interest for Sale with the Purchaser or with an Agent, or both, but has been unable to enter into an APS within the 45 days:
 - (i) the Owner may after that time Sell the Interest to a Third Party who is not an Employee or Retiree, but the purchase price for the Interest must not exceed the purchase price calculated in accordance with section 6; and
 - (ii) the Lot may only be used and occupied in accordance with the Housing Agreement.

The Owner agrees that:

- (e) for clarity, this section applies each time an Offer is received by the Owner and each time the Interest is Sold and is not released or extinguished by the transfer to any purchaser;
- (f) it must deliver to the Purchaser written proof satisfactory to the Purchaser, in its sole discretion, to establish the existence of any of the cases set out in this section

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before this section operates such that the rights of the Purchaser under sections 3 and 5 do not apply.

The Municipality agrees that a sale, assignment or transfer as contemplated by this agreement does not include any transfer of title by which a Lender may acquire any interest in the Strata Lot through the enforcement of its rights and remedies under any mortgage or other financial charge held by it registered against title to the Strata Lot

Interest Disposal

9. Subject to section 7, if the Purchaser does not make an election under sections 3 or 5, the Owner may dispose of the Interest upon substantially the same terms as those of the Offer, but not otherwise, and if the Owner do not dispose of the Interest this Agreement and the rights it grants to the Purchaser continue in force at all times. For clarity, even if the Purchaser does not elect to Purchase the Lot under sections 3 or 5, or does not under section 7 waive its right to make that election this Agreement and the rights it grants to the Purchaser continue in force at all times.

Runs With Land

10. This Agreement and the rights it grants to the Purchaser run with the Lot and burden and bind every parcel into which the Lot is subdivided by any means (including any Lot or bare land Lot created by deposit of a strata plan under the *Condominium Act* (British Columbia), but not any common property created upon deposit of a strata plan). For clarity, this Agreement and the rights it grants to the Purchaser burden and bind each Lot.

Completion Date

11. The agreement arising from election under section 3 or 5 shall be completed on the date ("Completion Date") to be chosen by the Purchaser, such date not to be later than thirty (30) days after the date of the election notice being given to the Owner.

Payment of Purchase Price

12. The purchase price determined under section 3 or 5 shall be paid by the Purchaser 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

13. On the Completion Date, the Owner shall convey the Lot to the Purchaser free and clear of all charges except the Permitted Encumbrances..

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Possession

14. The Owner shall give vacant possession of the Lot to the Purchasers, subject only to the Permitted Encumbrances and existing tenancies, following payment of the adjusted purchase price to the Owner on the Completion Date.

Adjustments

15. All adjustments, both incoming and outgoing, in connection with the purchase and sale of the Lot, 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

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

- (a) take all reasonable care to protect and safeguard the Lot and operate and otherwise deal with the Lot as a careful and prudent owner would do and in such a manner that, except as contemplated in this Agreement, the warranties, representations and covenants of the Owner as contained in this Agreement remain true and correct;
- (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 Lot in the Purchaser at the Completion Date, 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 Owner to carry out the sale of the Lot and to execute and deliver this Agreement as valid and binding obligations of the Owner.

17. The Owner hereby represents and warrants to, and covenants and agrees with, the Purchaser as at the 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 Lot, other than the Permitted Encumbrances;
- (b) the Owner has not used the Lot or permitted any use of the Lot, 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,

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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 Lot ("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 Lot; and
- (d) the Owner has at all times used the Lot in compliance with all laws relating to Contaminants and to the environment.

Indemnity

18. The Owner covenants and agrees with the Purchaser, which covenant shall survive the completion of any conveyance of the Lot arising from the exercise of this Option, that the Owner must indemnify and save harmless the Purchaser, 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 Purchaser, whether brought against any one or more of them by the Owner or by 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

19. Not less than 14 days before the Completion Date, the Purchaser shall deliver to the Owner's solicitors:

- (a) two copies of a Form A Transfer transferring the fee simple title to the Lot to the Purchaser ("Transfer") subject only to Permitted 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).

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Closing Procedure

20. On or before the Completion Date, the Owner shall deliver to the Purchaser's solicitors, in trust, the Transfer executed on behalf of the Owner and in registrable form, on the undertakings that:

- (a) on the Completion Date, the Purchaser 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 Purchaser'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 Lot indicating that in the normal course of LTO procedure the Purchaser shall become the registered owner of the Lot free and clear of all liens, charges and encumbrances other than the Permitted Encumbrances, the Purchaser shall pay the Owner at once the adjusted Purchase Price by solicitor's trust cheque delivered to the Owner's solicitors.

Risk

21. The Lot shall be at the Owner's risk until the Completion Date and shall thereafter be at the risk of the Purchaser. In the event of loss or damage to the Lot 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, insurrection or war, the Purchaser, at the Purchaser's option, may cancel this Agreement.

Access

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

Fees and Taxes

23. The Purchaser 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 Lot to the Purchaser;
- (c) the Purchaser's legal fees and disbursements but not the Owner's; and
- (d) all goods and services tax, if any, payable in respect of transfer of the Lot to the Purchaser under the *Excise Tax Act* (Canada).

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Further Assurances

24. 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

25. 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, by telegram, by telex 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; by telegram, when transmitted by the carrier; and, by telex or facsimile when transmitted. The address of either party may be changed by notice in the manner set out in this provision.

Time of Essence

26. Time is of the essence of this Agreement.

Tender

27. 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

28. 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 Purchase Agreement between the parties with respect to the Lot constitute 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

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

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Modification

30. 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

31. 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.

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SCHEDULE "A"**LAND TITLE ACT****FORM C** (Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

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

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND: *
(PID) (LEGAL DESCRIPTION)3. NATURE OF INTEREST: *
DESCRIPTIONDOCUMENT REFERENCE
(Page and paragraph)

PERSON ENTITLED TO INTEREST

Waiver of Right of First
Refusal No. -

Entire Instrument

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms ☐(b) Express Charge Terms ☒(c) Release ☐

D.F. No.

Annexed as Part 2

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): * **RESORT MUNICIPALITY OF WHISTLER**

6. TRANSFEREE(S): *

7. ADDITIONAL OR MODIFIED TERMS: * N/A

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:

Execution Date

Officer Signature(s)

Y	M	D
98		

Party(ies) Signature(s)

RESORT MUNICIPALITY OF
WHISTLER by its authorized signatory:

Mayor: Hugh O'Reilly

Clerk: Brenda Sims

[PURCHASERS]

Name:

Name:

(as to execution both signatures)

(as to both signatures)

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. 196, 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.

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PART 2 - TERMS OF INSTRUMENT**WAIVER OF RIGHT OF FIRST REFUSAL****WHEREAS:**

A. Resort Municipality of Whistler (the "Holder") is the owner of a right of refusal dated for reference _____, 1998 (the "Right of First Refusal") and registered under number _____ as a charge against the land legally described as follows:

Parcel Identifier:

(the "Land"):

B. _____ (the "Vendor") is the registered owner of the Land and has requested the Holder to agree to transfer the Land to _____ (the "Purchasers").

NOW THEREFORE, KNOW ALL MEN BY THESES PRESENTS THAT:

1. The Holder consents to the transfer of the Land from the Vendor to the Purchasers and releases its rights under the Right of First Refusal solely with respect to that transfer and solely to the extent necessary to permit the transfer of the Land to the Purchasers free and clear of all rights and claims the Holder may have under the Right of First Refusal against the Vendor in consequence of the transfer.

2. The release contained in this instrument extends solely to those rights exercisable against the Vendor in relation to the transfer of the Land to the Purchasers and shall not operate to extinguish the legal or equitable interests in the Land that the Holder has under the Right of First Refusal and that are enforceable against the Purchasers in the future.

3. The Purchasers acknowledge and agree that the Purchasers take title to the Land subject to the continuing rights of the Holder under the Right of First Refusal and that this instrument is effective only with respect to the transfer of the Land by the Vendor to the Purchasers.

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

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CONSENT AND PRIORITY AGREEMENT

WHEREAS 8458429 Holdings Limited ("Holdings") is the holder of, a Mortgage, an Assignment of Rents and another Mortgage which were registered in the Vancouver Land Title Office under numbers, BK149272, BK149273 and BK149274 modified by BL378087, respectively (collectively called the "Registered Charges") which encumber the lands described in the attached Right of First Refusal and Option to Purchase;

AND WHEREAS Holdings is also the holder of unregistered interests (the "Unregistered Charges") in those same lands pursuant to the terms of a letter agreement dated June 17, 1989;

AND WHEREAS the Registered Charges and Unregistered Charges are hereinafter referred to together as the "Charges";

NOW THEREFORE, in consideration of the sum of \$1.00 paid by the Resort Municipality of Whistler to Holdings and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Holdings covenants and agrees as follows:

1. Holdings hereby consents to the granting and registration of the attached Right of First Refusal and Option to Purchase and Holdings hereby agrees that the Right of First Refusal and Option to Purchase shall be binding upon its interest in and to the lands described in the Right of First Refusal and Option to Purchase;
2. Holdings hereby grants to the Resort Municipality of Whistler priority for the Right of First Refusal and Option to Purchase over Holdings' right, title and interest under the Charges in and to the lands described in the Right of First Refusal and Option to Purchase and Holdings does hereby postpone the Charges and all of its rights, titles and interests thereunder to the Right of First Refusal and Option to Purchase as if the Right of First Refusal and Option to Purchase had been executed, delivered and registered prior to the execution, delivery and registration of the Charges.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee hereto has executed the Land Title Office Form C which is attached hereto and forms part of this Agreement.

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PRIORITY AGREEMENT**BETWEEN:**

RESORT MUNICIPALITY OF WHISTLER, a municipality incorporated under the *Resort Municipality of Whistler Act*, R.S.B.C. 1996, c. 407 and having its address at 4325 Blackcomb Way, Whistler, B.C., V0N 1B4

(the "Subsequent Chargee")

AND:

ROYAL BANK OF CANADA, 613 Columbia Street, New Westminster, British Columbia V3M 1A7

(the "Prior Chargee")

WHEREAS:

A. Greenside Properties Inc. (the "Owner") is the owner of those parcels of land and premises located in the Resort Municipality of Whistler and legally described as

Lots 16, 17, 18, 19, 20, all of District Lot 3860, Group 1, NWD,
Plan LMP 37517

(the "Land");

B. The Owner (or its predecessor in title) granted the Prior Chargee a mortgage which is registered against the title to the Land in the Vancouver Land Title Office under number BL370921 (the "Prior Charge");

C. On the 1st day of December, 1997 the Owner granted the Subsequent Chargee a Right of First Refusal and Option to Purchase which will be registered concurrently with this Agreement (the "Subsequent Charge");

NOW THEREFORE in consideration of the sum of One (\$1.00) Dollar now paid by the Subsequent Chargee to the Prior Chargee, the receipt and sufficiency of which are hereby acknowledged, the Prior Chargee does hereby grant to the Subsequent Chargee priority over the Prior Charge and the Prior Chargee hereby covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interest of the Subsequent Chargee shall rank ahead of the Prior Charge as though the Subsequent Charge had been executed, delivered and registered in time prior to the registration of the Prior Charge.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee hereto has executed the Land Title Office Form C which is attached hereto and forms part of this Agreement.

END OF DOCUMENT