

SPECTRUM 4
SCHEDULE A

1.0 Purchase Price and Payment.

1.1 Payment of Purchase Price by Purchaser.

The Purchaser will pay the Initial Deposit in the amount and at the times stipulated on page one of this Agreement. The Purchaser will increase the Initial Deposit by an amount equal to ten percent (10%) of the Purchase Price by payment of such amount to the Vendor's Solicitor on or before the later of:

- (a) October 5, 2004; and
- (b) the 10th business day after delivery of the Amendment to the Purchaser;

(the Initial Deposit and the foregoing additional amount, when paid, are collectively called the "Deposit").

The Deposit will be paid to Stikeman Elliott, the solicitors for the Vendor (the "Vendor's Solicitor"), and held and paid in accordance with clause 1.2. The Purchaser will pay the balance of the Purchase Price on the Completion Date by certified solicitor's trust cheque or bank draft as provided in clause 7.10 and in accordance with clause 3.3. Notwithstanding the foregoing, the Vendor may wait to forward the Initial Deposit to the Vendor's Solicitor until the three-day rescission period pursuant to the *Real Estate Act* (British Columbia) has passed and the Purchaser has not rescinded this Agreement by such time.

1.2 Payment of the Deposit by the Vendor's Solicitor.

In respect of the Deposit, the Vendor's Solicitor is authorized:

- (a) to invest such amount in an interest-bearing certificate issued by, or a deposit account of, any Canadian chartered bank or other reputable financial institution selected by the Vendor's Solicitor or in Government of Canada Treasury Bills; and
- (b) unless precluded by Court order, to pay the Deposit:
 - (i) to the Purchaser 10 business days after receipt by the Vendor's Solicitor of:
 - A. a copy of the written notice to the Vendor from the Purchaser or the solicitor for the Purchaser (the "Purchaser's Solicitor") canceling the agreement resulting from acceptance of this Offer in accordance with clause 2.2 or clause 5.2 and evidence that such notice was given to the Vendor; or

B. a copy of the written notice to the Purchaser or the Purchaser's Solicitor from the Vendor canceling the Agreement in accordance with clause 2.4 or 4.1 and evidence that such notice was given to the Purchaser or the Purchaser's Solicitor;

or, if no such notice and evidence have been received, then:

- (ii) to the Vendor on account of the Purchase Price concurrently with the completion of the sale and purchase contemplated by the Agreement;
- (iii) to the Purchaser as liquidated damages and as the Purchaser's sole remedy if the purchase and sale contemplated by the Agreement is not completed by reason of the Vendor's default hereunder; or
- (iv) subject to clause 7.7, to the Vendor, without prejudice to any other right or remedy of the Vendor, if the purchase and sale contemplated by the Agreement is not completed by reason of the Purchaser's default hereunder. When the Purchaser is in default hereunder, the Vendor may, at its election, retain the Deposit and accrued interest as liquidated damages. The parties hereby agree that such amount constitutes a genuine pre-estimate of the minimum damages. The Vendor reserves the right to claim for further damages. The Purchaser further acknowledges and agrees that the Vendor's Solicitor does not hold the Deposit as stakeholder under the *Real Estate Act* and may pay the Deposit to the Vendor under this clause 1.2(b)(iv) notwithstanding the Vendor's Solicitors' knowledge of any adverse claimant to the Deposit including a claim by the Purchaser.

The interest, if any accrued on the Deposit will be for the account of and paid to the Vendor unless the Deposit is repaid to the Purchaser pursuant to clauses 1.2(b)(i) or (iii) above, in which case such interest will be for the account of and paid to the Purchaser.

1.3 Deposits.

The Deposit and other monies received from the Purchaser will be held in trust in the manner required by Part 2 of the *Real Estate Act* until such time as:

- (a) a strata plan in respect of the Development (the "Strata Plan") is deposited in the New Westminster/Vancouver Land Title Office (the "Land Title Office");
- (b) the Strata Lot is capable of being occupied; and
- (c) an instrument evidencing the interest of the Purchaser in the Strata Lot has been filed for registration in the Land Title Office.

2.0 Completion of the Purchase and Sale

2.1 Completion Date.

The completion of the purchase and sale of the Strata Lot will take place on the date (the "Completion Date") to be specified by the Vendor which is not less than 10 business days after the day the Vendor or the Vendor's Solicitor notifies the Purchaser or the Purchaser's Solicitor that:

- (a) an Occupancy Permit (as defined in clause 2.3) has been or prior to the Completion Date is expected to be issued; and
- (b) the Strata Plan has been or prior to the Completion Date is expected to be fully registered in the Land Title Office.

2.2 Right to Cancel - Purchaser.

If by June 30, 2009 (the "Cancellation Option Date") (or if a later date results from the application of clause 5.3, then by such later date), the Occupancy Permit has not been issued and the Strata Plan has not been deposited for registration in the Land Title Office, the Purchaser will have the right to cancel the Agreement by giving 10 business days written notice to the Vendor provided that such notice is received by the Vendor before the earlier of:

- (a) the date of issuance of the Occupancy Permit; and
- (b) the date the Strata Plan is deposited for registration in the Land Title Office,

but in no event later than 7 days following the Cancellation Option Date. In such case, the Deposit and any interest accrued thereon will be paid in accordance with clause 1.2 and, subject to clause 7.2, the Agreement will be null and void effective as of the date of receipt of the notice by the Vendor and there will be no further obligations as between the Vendor and the Purchaser.

2.3 Occupancy Permit.

For the purposes of this Offer and the Agreement, "Occupancy Permit" will mean the permission by the City of Vancouver (the "City") for occupation of the Strata Lot, other than a temporary occupancy permit, which refers to the occupation of the Strata Lot, but not necessarily any other strata lot in the Development or the common property (the "Common Property") within the Development. In the event the Occupancy Permit is a conditional certificate issued by the City, the Vendor will provide the Purchaser with an unconditional Occupancy Permit issued by the City for the Strata Lot or the Development as soon as is reasonably practical.

2.4 Right to Cancel - Vendor

- (a) If by December 31, 2004 (or if a later date results from the application of clause 5.3, then by such later date), the Vendor has not for any reason obtained the final building permit amendment in respect of the Development, the Vendor will have the right to cancel the Agreement by giving 10 business days written notice to the Purchaser or the Purchaser's Solicitor;

- (b) If by June 30, 2006 (or if a later date results from the application of clause 5.3, then by such later date), the construction of the Development has not commenced, the Vendor will have the right to cancel the Agreement by giving 10 business days written notice to the Purchaser or the Purchaser's Solicitor. For the purposes of this clause 2.4(b), the construction of the Development will be deemed to have commenced once the pouring of the concrete for the portions of the Development above the grade level of the road surface of Dunsmuir Viaduct has commenced;
- (c) If by September 30, 2006 (or if a later date results from the application of clause 5.3, then by such later date) the pouring of concrete for the construction of the fifth (5th) floor of the tower of the Development has not commenced, the Vendor will have the right to cancel the Agreement by giving ten (10) business days written notice to the Purchaser or the Purchaser's Solicitor;
- (d) If by June 30, 2008 (or if a later date results from the application of clause 5.3, then by such later date), the Vendor has not deposited the Strata Plan for registration in the Land Title Office or the City has not issued the Occupancy Permit, the Vendor will have the right to cancel the Agreement by giving 10 business days written notice to the Purchaser or the Purchaser's Solicitor;
- (e) In the case of cancellation of the Agreement pursuant to either clause 2.4(a), (b), (c) or (d), clause 3.4 or clause 7.1, subject to clause 7.2, the Agreement will be null and void effective as of the date of receipt of the notice by the Purchaser or the Purchaser's Solicitor, the Vendor will repay to the Purchaser all amounts paid hereunder in accordance with clause 1.2 and there will be no further obligations as between the Vendor and the Purchaser.

3.0 Closing Procedure

3.1 Preparation of Closing Documents.

The Purchaser will cause the Purchaser's Solicitor to prepare and to deliver to the Vendor's Solicitor at least five business days prior to the Completion Date the following:

- (a) a Freehold Transfer in Form A as prescribed under the *Land Title Act* (British Columbia) in respect of the Strata Lot (the "Transfer"); and
- (b) a Vendor's statement of adjustments prepared in accordance with the Agreement.

3.2 Return of Closing Documents.

On or before the Completion Date, the Vendor's Solicitor will deliver to the Purchaser's Solicitor the following:

- (a) the Transfer, duly executed by the Registered Owner and in registrable form;
- (b) the Vendor's statement of adjustments approved by the Vendor; and

- (c) any documents relating to the allocation of the parking stall(s) or lockers, if any, duly executed as required.

3.3 Acceptance and Registration of Transfer.

The Purchaser agrees to accept the Transfer executed by the Registered Owner in satisfaction of Section 6 of the *Property Law Act* of British Columbia. The Purchaser's Solicitor will be responsible for submitting the Transfer to the Land Title Office and upon acceptance of the Transfer for registration at the Land Title Office and upon receipt of a satisfactory post-lodging index search in the Land Title Office showing that the Transfer will be registered subject only to the encumbrances contemplated in the Disclosure Statement and clause 3.4 and any financing arranged by the Purchaser, the Purchaser will cause the Purchaser's Solicitor to pay the balance of the funds necessary to complete the purchase and sale of the Strata Lot as set out on the Vendor's statement of adjustments (the "Closing Funds") to the Vendor's Solicitor. The Purchaser will ensure that the Closing Funds will be available to the Vendor's Solicitor not later than 3:00 p.m. (Vancouver time) on the Completion Date.

3.4 Vendor's Construction Financing and Builders Lien Claims.

The Transfer may be subject to:

- (a) the Vendor's financing arranged in connection with the Development; and
- (b) any builders lien claims,

provided that the Vendor's Solicitor undertakes to clear title of all such encumbrances within a reasonable period of time after receiving the Closing Funds. The Purchaser acknowledges that the Vendor's financing may remain as a charge against the Common Property until the Vendor has completed the sale of the balance of the strata lots in the Development, whereupon the Vendor covenants such financing will be discharged entirely. If at any time, the Vendor has been unable to sell a minimum of seventy-five (75%) percent of the Strata Lots in the Development or in the Integrated Development (if the Vendor exercises its right in Section 3.1(d) of the Disclosure Statement) the Vendor will have the right to cancel the Agreement by giving ten (10) business days written notice to the Purchaser or the Purchaser's Solicitor.

3.5 Purchaser's Financing.

If the Purchaser is relying upon a new mortgage to finance the Purchase Price, the Purchaser, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price to the Vendor until after the Transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Purchaser:

- (a) makes available for tender to the Vendor that portion of the Purchase Price not secured by the new mortgage;
- (b) fulfills all the new mortgagee's conditions for funding except lodging the mortgage for registration; and

- (c) makes available to the Vendor a lawyer's or notary's undertaking to pay the Purchase Price upon the lodging of the Transfer and the new mortgage documents and the advance by the mortgagee of the mortgage proceeds.

4.0 **Risk, Adjustment and Possession**

4.1 **Risk.**

The Strata Lot and all other items included in the purchase contemplated herein will be and remain at the risk of the Vendor until 12:01 a.m. (Vancouver time) on the Completion Date and thereafter at the risk of the Purchaser. In the event of material damage to the Strata Lot as determined by the Vendor occurring before such time the Vendor may, at the Vendor's option, by written notice to the Purchaser or the Purchaser's Solicitor cancel the Agreement. In such case, the Deposit and any interest accrued thereon will be paid in accordance with clause 1.2 and, subject to clause 7.2, the Agreement will be null and void effective as of the date of receipt of the notice by the Purchaser or the Purchaser's Solicitor and there will be no further obligations as between the Vendor and the Purchaser. In the event the Vendor does not cancel the Agreement pursuant to this clause 4.1:

- (a) the Purchaser will complete the purchase on the Completion Date; and
- (b) the amount of any insurance proceeds in connection with loss or damage occurring prior to the passing of risk and not applied by the Vendor or the insurer to the cost of repairs, will be assigned and will be payable to the Purchaser.

For the purpose of this clause 4.1, "material damage" means loss or damage to or destruction of the Strata Lot to such an extent that, in the reasonable opinion of the Vendor, the repair thereof cannot be substantially completed within 60 days after the Completion Date.

4.2 **Adjustments.**

The Purchaser will assume and pay all taxes, rates, assessments, maintenance fees and other charges and will be entitled to receive all income relating to the Strata Lot from and including the date following the Completion Date and all adjustments, both incoming and outgoing of whatsoever nature in respect of the Strata Lot will be made as of such date and the balance of the Purchase Price due on the Completion Date will be adjusted accordingly. In addition, the Purchaser will remit to the Vendor's Solicitor on the Completion Date together with the Closing Funds the maintenance fees in respect of the Strata Lot for the period from and including the date following the Completion Date to and including the last day of the second full month following the Completion Date and the Vendor will cause the Vendor's Solicitor to forward such fees directly to the property management company for the strata corporation (the "Strata Corporation") formed upon deposit of the Strata Plan in the Land Title Office. If the amount of any such taxes, rates or assessments have been levied in respect of a parcel greater than the Strata Lot, the portion thereof which will be allocated to the Strata Lot will be determined as follows:

- (a) if such parcel includes the Property and other land, the amount will be prorated as to the Property in the proportion that the permitted buildable square footage

of the Property bears to the permitted buildable square footage of the whole of such parcel; and

- (b) if such parcel is in respect of the Property only, the amount applicable to the Strata Lot will be prorated in the proportion that the value assigned to the Strata Lot bears to the aggregate value of all Strata Lots shown on the Strata Plan to be calculated by the Vendor based on the relative market value of the Strata Lots as determined by the Vendor, acting reasonably, with reference to the Vendor's initial price list for the Strata Lots.

4.3 Possession.

So long as the Purchase Price and all other amounts payable by the Purchaser to the Vendor in respect of the Strata Lot have been paid in full, the Purchaser will have vacant possession of the Strata Lot at 12:01 p.m. (Vancouver time) on the day following the Completion Date.

5.0 Construction

5.1 Construction.

The Vendor will construct and complete the Development and Strata Lot in a good and workmanlike manner substantially in accordance with the plans and specifications (the "Plans") referred to in Schedule B hereto subject to any changes required by the City or other approving authorities. Notwithstanding the foregoing, the Vendor may:

- (a) make minor modifications in features, design, layout, ceiling heights, column size and location, and the size, number and location of windows and doors within the Strata Lot, and assign cross over floors for emergency access and make such other minor modifications as, in the sole opinion of the Vendor and/or the architect retained by the Vendor, any entity affiliated with the Vendor or the project manager (together called the "Architect"), are desirable and reasonable; and
- (b) use materials other than as prescribed in the Plans, provided that alternative materials are, in the sole opinion of the Architect, of a quality reasonably comparable or better in quality to those prescribed in the Plans.

5.2 Area of the Strata Lot.

The Vendor warrants and represents that the area of the Strata Lot will be no more than 3% smaller than indicated for the Strata Lot in the Disclosure Statement, when measured in the same manner as provided therein. If the Strata Lot is more than 3% smaller, the Purchase Price will be reduced by an amount determined under the formula:

$$R = (.97 - A/P) \times \text{the Purchase Price}$$

where,

- R = the amount of the reduction of the Purchase Price in accordance with this clause 5.2;
- A = the actual area of the Strata Lot on the Completion Date when measured in the same manner as provided in the Disclosure Statement; and
- P = the area of the Strata Lot as indicated in the Disclosure Statement.

If the Strata Lot is smaller by more than 10% than indicated for the Strata Lot in the Disclosure Statement when measured in the same manner as provided therein, then the Purchaser may, by written notice to the Vendor, elect to have the Purchase Price adjusted as aforesaid or cancel the Agreement. If the Purchaser elects to cancel the Agreement, the Deposit and any interest accrued thereon will be paid in accordance with clause 1.2 and, subject to clause 7.2, the Agreement will be null and void effective as of the date of receipt of the notice by the Vendor and there will be no further obligations as between the Vendor and the Purchaser. If the Purchaser elects to complete the purchase of the Strata Lot, the Purchaser will have no claim against the Vendor other than for adjustment to the Purchase Price as aforesaid. In addition, the Vendor reserves the right to increase or decrease the size of the balconies, patios, roof decks, gardens, and/or planters by no more than 35% and alter the configuration of the balconies, patios, roof decks, gardens and/or planters, all without compensation to the Purchaser or the Strata Corporation. The Vendor affirms the construction warranty coverage set out in the Disclosure Statement and the Purchaser acknowledges and agrees that such construction warranty coverage is the sole warranty to be provided by the Vendor or another entity in connection with the Development.

5.3 Delay.

If the Vendor is delayed from completing the Strata Lot, depositing the Strata Plan for registration in the Land Title Office or performing any other obligation herein as a result of fire, explosion or accident, howsoever caused, act of any governmental authority, strike, lockout, inability to obtain or delay in obtaining labour, materials or equipment, flood, earthquake, act of God, delay or failure by carriers or contractors, unavailability of supplies or materials, breakage or other casualty, climatic conditions, interference of the Purchaser, or any other event beyond the control of the Vendor (other than lack of money), then the date set forth in clause 2.2 and any date by which the Vendor must perform such obligation under the Agreement will be extended for a period equivalent to such period of delay.

5.4 Access.

In order to ensure compliance with the Vendor's safety guidelines for the construction site, neither the Purchaser nor the Purchaser's agents or representatives will under any circumstances be permitted to inspect the Strata Lot or to enter the construction site prior to the Completion Date.

5.5 Deficiencies.

Prior to the Completion Date, a conclusive list of any defects or deficiencies (the "Deficiencies") will be prepared by a professional architect retained by the Vendor (the "Professional Architect"). The Purchaser will be deemed to have accepted the physical condition of the Strata Lot subject only to the listed Deficiencies. If required by the Purchaser, a

deficiency holdback (the "Deficiency Holdback") equal to the amount determined by the Professional Architect as the amount reasonably necessary to rectify the material Deficiencies will be maintained. In such case, on or before the Completion Date, the Vendor will provide the Purchaser or the Purchaser's Solicitor with a copy of the list of Deficiencies which will specify the amount of the Deficiency Holdback. The Deficiency Holdback will be paid to the Vendor's Solicitor on the Completion Date and will be held pending rectification of the Deficiencies. The Vendor's Solicitor will be authorized to release the Deficiency Holdback together with any interest accrued thereon to the Vendor upon receipt of: (i) written confirmation from the Professional Architect that the Deficiencies have been rectified, or (ii) an authorization to release from the Purchaser. The Vendor, its representatives and the Professional Architect will have the right to enter the Strata Lot for a period of 30 business days following the Completion Date, or such longer period as the Deficiencies might reasonably take to rectify, during normal working hours without notice in order to carry out the work necessary to rectify the Deficiencies and, in the case of the Professional Architect, to inspect such work.

5.6 Builders Lien Holdback.

That portion, if any, of the balance of the Purchase Price required by law to be held back by the Purchaser in respect of builders lien claims (the "Lien Holdback") will be paid to the Vendor's Solicitor on the Completion Date. The Lien Holdback will be held for the Purchaser by the Vendor's Solicitor, in trust, pursuant to the *Strata Property Act* and *Builders' Lien Act* (or successor statutes) solely in respect of lien claims registered in the Land Title Office against title to the Strata Lot in connection with work done or materials supplied at the request of the Vendor with respect to the Development. The Vendor's Solicitor is authorized to invest the Lien Holdback as permitted by clause 1.2 and pay to the Vendor on the earlier of the date in which the time for filing a claim of lien under the *Builders' Lien Act* expires and the 56th day (or such later date as set by statute) after the Strata Lot is conveyed to the Purchaser, the Lien Holdback plus interest, if any, accrued thereon, less the amount of any builders lien claims filed against the Strata Lot of which the Purchaser or the Purchaser's Solicitor notifies the Vendor's Solicitor in writing by 2:00 p.m. (Vancouver time) on that day. The Purchaser hereby authorizes the Vendor to bring any legal proceedings required to clear title to the Strata Lot of any lien claims filed with respect thereto including payment of funds into Court if desired by the Vendor.

5.7 Purchaser's Acknowledgements.

The Purchaser acknowledges and agrees that:

- (a) the suite and strata lot numbers assigned to the Strata Lot, the number assigned to the floor in the Development on which the Strata Lot is located and the address assigned to the Development as of the date hereof are subject to change at the discretion of the Vendor; and
- (b) the Vendor may, in its absolute discretion, expand the Development and create an Integrated Development (as that term is defined in Clause 3.1(d) of the Disclosure Statement) and if such election is made by the Vendor:
 - (i) the number of different types of Strata Lots will be revised;

- (ii) the floor and suite number of any Strata Lot may be revised to incorporate the expansion of the Development into the Integrated Development; and
- (iii) the Unit Entitlement figures of the Strata Lots will be recalculated using the same method that was used to calculate Unit Entitlement for the original Development.

5.8 **Finishing Details.**

If at the option of the Vendor there are any details left to the choice of the Purchaser in the finishing of the Strata Lot, the Purchaser will, within five days after written notice from the Vendor to the Purchaser or the Purchaser's Solicitor requesting the same be given, inform the Vendor by written notice of his choice of such details. If no written notice is received by the Vendor from the Purchaser within such five day period, the Vendor will make the choice for the Purchaser in the Vendor's sole discretion and the Purchaser agrees to accept the Vendor's choice.

6.0 **Assignment**

6.1 **No Assignment by Purchaser.**

Subject to clauses 6.2, 6.3 and 6.4, the Purchaser will not sell or assign its rights, benefits and interests under this Offer or the Agreement without the prior written consent of the Vendor, which consent may be withheld by the Vendor arbitrarily and for any reason whatsoever.

6.2 **Definition of Related Individual.**

For the purposes of this Offer and the Agreement, "Related Individual" means:

- (a) a brother, sister, child, grandchild, parent or grandparent of the Purchaser; or
- (b) a spouse of the Purchaser or of any one of the individuals described in clause (a) above;

6.3 **Assignment to Related Individual.**

The Purchaser may assign its rights, benefits and obligations under the Agreement to a Related Individual or Individuals provided that:

- (a) if the Vendor receives notice of the assignment more than 48 hours after acceptance of this Offer by the Vendor, an assignment fee equal to \$200.00 plus GST is paid by the Purchaser to the Vendor; and
- (b) the Related Individual and the Purchaser enter into an assignment agreement and a consent agreement, the forms of which are to be obtained from the Vendor, wherein:
 - (i) the Related Individual agrees to assume all the obligations of the Purchaser under the Agreement; and

- (ii) the Deposit is assigned to and deemed to belong to the Related Individual as if the Deposit was paid by the Related Individual to the Vendor under this Offer and the Agreement,

and a copy of each agreement is delivered to the Vendor.

6.4 **Assignment to Third Party**

At any time after the expiration of one year from the date of acceptance of the Agreement by the Vendor, the Purchaser may assign its rights, benefits and obligations under the Agreement to a person other than a Related Individual (the "Third Party") provided that:

- (a) an assignment fee equal to one point five percent (1.5%) of the Purchase Price plus GST is paid by the Purchaser to the Vendor; and
- (b) the Third Party and the Purchaser enter into an assignment agreement and a consent agreement, the forms of which are to be obtained from the Vendor, wherein:
 - (i) the Third Party agrees to assume all the obligations of the Purchaser under the Agreement; and
 - (ii) the Deposit is assigned to and deemed to belong to the Third Party as if the Deposit was paid by the Third Party to the Vendor under this Offer and the Agreement,

and a copy of each agreement is delivered to the Vendor.

6.5 **Liability of Purchaser.**

In the event of an assignment in accordance with clause 6.3 or 6.4, the Purchaser will remain fully liable under the Agreement and such assignment will not in any way relieve the Purchaser of its obligations under the Agreement.

6.6 **Assignment by Vendor.**

The Vendor will be entitled to sell and/or assign its rights, benefits and/or obligations under this Offer or the Agreement without the consent of the Purchaser. In such case, the Purchaser acknowledges and confirms that:

- (a) the new developer will be the assignee of the Vendor; and
- (b) other entities involved in the development of the Development may sell and/or assign their interest in the Development,

and the identity of the Vendor, the Developer, the new developer and/or any other entities involved in the development of the Development are not material to it in proceeding with the transaction contemplated herein.

7.0 Miscellaneous

7.1 Amendment to Disclosure Statement.

The Vendor acknowledges its obligation to deliver to the Purchaser an amendment to the Disclosure Statement setting out particulars of the issued building permit amendment and the construction financing (the "Amendment"). The Vendor and Purchaser agree that the Agreement is terminable:

- (a) at the option of the Purchaser:
 - (i) for a period of seven days after receipt of the Amendment if the Amendment materially affects the offering; or
 - (ii) in the event the Amendment has not been received by the Purchaser by nine (9) months after the Disclosure Statement is filed with the Superintendent of Real Estate (the "9-month Date"), but is only terminable for the period from the 9-month Date until the date the Amendment is received by the Purchaser.
- (b) at the option of the Vendor in the event the Amendment has not been received by the Purchaser by the 9-month Date provided that at the Vendor's option, together with the notice delivered to the Purchaser pursuant to this clause 7.1(b) terminating this Agreement, the Vendor may deliver a Novation Agreement which:
 - (i) entitles the Purchaser to purchase the Strata Lot under a new disclosure statement (the "New Disclosure Statement");
 - (ii) contains a new 9 month deadline for delivery of the Amendment;
 - (iii) acknowledges the withdrawal of the Disclosure Statement and contains a summary of the differences between it and the New Disclosure Statement;
 - (iv) contains a release of this Agreement and a confirmation that the Deposit is being held pursuant to the Novation Agreement; and
 - (v) contains such other terms and conditions as may be agreed to between the Vendor and the Purchaser.

If the Purchaser or the Vendor (without electing to deliver the Novation Agreement), as the case may be, elect to terminate the Agreement as aforesaid, the Deposit and any interest accrued thereon will be paid in accordance with clause 1.2 and subject to clause 7.2, the Agreement will be null and void effective as of the date of receipt of the notice by the Purchaser or the Vendor, as the case may be, and there will be no further obligations as between the Vendor and the Purchaser.

7.2 Survival.

There are no representations, warranties, conditions or contracts or collateral representations, warranties, conditions or contracts, express or implied, statutory or otherwise applicable hereto including, without limitation, arising out of any marketing material such as sales brochures, representative view sets, model displays, show room displays, photographs, illustrations or renderings provided to the Purchaser or made available to the Purchaser for viewing, other than those contained herein or in the Disclosure Statement, all of which will survive the Completion Date, registration of the Transfer and payment of the Purchase Price.

7.3 Costs.

The Purchaser will pay all costs (including legal fees, property transfer tax and all GST) in connection with the completion of the transaction contemplated herein other than the costs of the Vendor incurred in clearing title to the Strata Lot and the legal fees of the Vendor. Without limiting the generality of the foregoing, the Purchaser agrees that the Purchase Price does not include GST and that, if and to the extent required under Part IX of the *Excise Tax Act* (Canada), it will remit to the Vendor on the Completion Date any GST that may be exigible under Part IX of the *Excise Tax Act* (Canada) in respect of the transaction contemplated herein, and the Vendor agrees that it will remit such funds or otherwise account for such funds to Canada Customs and Revenue Agency in accordance with its obligations under Part IX of the *Excise Tax Act* (Canada). Notwithstanding the foregoing, if the Purchaser is a corporation which is registered for GST purposes and, on or before the Completion Date, the Purchaser provides the Vendor with a certificate as to the Purchaser's GST registered status containing the Purchaser's GST registration number, the Purchaser will not be required to pay the GST to the Vendor but will be entitled to self-assess the GST and account for the same directly to Canada Customs and Revenue Agency.

7.4 Provision of Cable Television.

The Purchaser acknowledges and agrees that the Vendor may, at its option, cause the Strata Corporation or the Registered Owner to enter into agreements, covenants, easements and/or statutory rights of way with and/or in favour of the City, public utilities or other entities (which may be related to the Vendor) for the provision of utilities and telecommunication services (such as cable television) to the Development including without limitation,

- (a) a Cable Service Agreement with an entity or supplier (the "Cable Supplier"):
 - (i) providing the Cable Supplier with the exclusive right to provide cable television service to the Development at a reasonable monthly fee set by the Cable Supplier; and
 - (ii) confirming that all wires, cables and other equipment located within the Development for the provision of cable services are owned by the Cable Supplier; and
- (b) agreements with entities or suppliers (the "Telecommunications Suppliers"):

- (i) providing the Telecommunications Suppliers with the exclusive right to provide high-speed internet or future telecommunications services to the Development; and
- (ii) confirming that all wires, cables and other equipment located within the Development for the provision of high-speed internet or future telecommunications services are owned by the Telecommunications Suppliers.

7.5 Common Areas.

The Purchaser acknowledges that the Development will include service facilities and equipment required in connection therewith such as transformers, fire protection systems and equipment, mechanical and electrical systems and equipment, emergency generator systems and equipment, electrical room, vents, ducts, fans and other such facilities and equipment (the "Service Facilities"). The Service Facilities will be located within the Development as required by the City or recommended by the Vendor's consultants. The Purchaser acknowledges that:

- (a) the current Plans may not indicate the location of all the Service Facilities and that the Vendor reserves the right to relocate, add, delete or modify all or a portion of the Service Facilities as deemed necessary by the Vendor, without compensation to the Purchaser or the Strata Corporation;
- (b) some or all of the Service Facilities may be:
 - (i) connected to or integrated with the Service Facilities located in the adjacent Concord Developments (as defined in clause 7.19); and/or
 - (ii) used by the owners, occupants or the strata corporation, as the case may be, of the adjacent Concord Developments; and
- (c) the Vendor reserves the right to relocate, add, delete or modify any storage areas on the Common Property.

7.6 Strata Corporation Obligations.

The Purchaser acknowledges and agrees:

- (a) that the Strata Corporation will be bound by certain obligations of the Vendor or Registered Owner including, without limitation, any agreements made or assumed from time to time by or on behalf of the Strata Corporation or as contemplated in clauses 2.7, 3.3 and 6.2 of the Disclosure Statement (collectively referred to as the "Strata Corporation Obligations"), in the place and stead of the Vendor or the Registered Owner, as the case may be;
- (b) that the Strata Corporation will assume all costs relating to the Strata Corporation Obligations;
- (c) at all times, to act in a manner consistent with the Strata Corporation Obligations; and

- (d) to not willfully or negligently do, or omit to do, any act or thing which may put the Vendor, the Registered Owner or the Strata Corporation in breach of the Strata Corporation Obligations.

7.7 **Time.**

Time will be of the essence and unless all payments on account of the Purchase Price, together with adjustments thereto as provided herein and all other amounts payable hereunder are paid when due, the Vendor may at its option:

- (a) cancel the Agreement by written notice to the Purchaser or the Purchaser's Solicitor and in such event the amount theretofore paid by the Purchaser and any interest accrued thereon will be absolutely forfeited to the Vendor in accordance with clause 1.2 without prejudice to its other remedies and which amount the Vendor will be entitled to be paid upon written demand therefor by the Vendor; or
- (b) elect to complete the transaction contemplated herein, in which event the Purchaser will pay to the Vendor, in addition to the Purchase Price, interest on the unpaid portion of the Purchase Price and other unpaid amounts payable hereunder at the rate of 2% per month (24% per annum) calculated daily from the date upon which such portion and amounts were due to the date upon which such portion and amounts are paid.

The Vendor may so cancel the Agreement at any time during the continuance of the default by the Purchaser, even if the Vendor has previously elected to complete the transaction. If the Purchaser's default continues beyond the extended date for completion established pursuant to clause 7.7(b), the Vendor may thereafter elect to cancel the Agreement or permit a further extension pursuant to clause 7.7(a) or 7.7(b), as applicable.

7.8 **Business Day.**

For the purposes of this Offer and the Agreement, "business day" will mean a day which is not a Saturday, Sunday or legal holiday in Vancouver, British Columbia.

7.9 **Notice.**

Any notice to be given to the Purchaser will be well and sufficiently given if sent by airmail, postage prepaid or delivered by hand or transmitted by telecopy to the Purchaser's Solicitor at their office or to the Purchaser and will be deemed to have been received if delivered or transmitted, when delivered or transmitted and if mailed, on the third business day (exclusive of Saturdays, Sundays and statutory holidays) after such mailing. The address for the Purchaser will be as set out on the first page of this Agreement or such other address as the Purchaser notifies the Vendor in writing.

7.10 **Tender.**

Any tender of documents or money under this Offer and the Agreement may be made upon the solicitor acting for the party upon whom tender is desired and money must be tendered:

- (a) in the case of payments on account of the Deposit, by personal cheque, solicitor's cheque or bank draft; and
- (b) in the case of the balance of the Purchase Price pursuant to clause 1.1, by solicitor's certified cheque or bank draft.

7.11 Currency.

All payments contemplated herein will be in Canadian funds and all references herein to dollar amounts are references to dollars in the lawful currency of Canada unless otherwise specified. If any payments are made in a currency other than Canadian currency, the funds received will be converted to Canadian funds by the Vendor's Solicitor and the Purchaser will be credited with the amount actually received by the Vendor's Solicitor at the date of conversion. The Vendor will not be responsible for any delay in converting such payments, fluctuations in exchange rates or bank fees or charges in connection with any conversion.

7.12 No Registration.

The Purchaser does not now have and will not have at any time hereafter notwithstanding any default of the Vendor, any rights to register this Offer or the Agreement, or any part of or right contained in this Offer or the Agreement, against the Strata Lot, the Development or the Property in the Land Title Office.

7.13 No MLS Listing.

The Purchaser covenants and agrees that, prior to the Completion Date, the Purchaser will not enter into any listing agreement concerning the sale or rental of the Strata Lot under the multiple listing service of the Real Estate Board of Greater Vancouver.

7.14 Further Acts.

The parties hereto will do all further acts and things and execute all such further assurances as may be necessary to give full effect to the intent and meaning of the Agreement.

7.15 Governing Law.

This Offer and the Agreement will be governed and construed in accordance with the laws of the Province of British Columbia including the laws of Canada applicable therein.

7.16 Binding Effect.

This Offer and the Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, as applicable.

7.17 Definitions.

Any terms not otherwise defined herein will have the meanings as set out in the Disclosure Statement.

7.18 **Acknowledgements**

The Purchaser acknowledges and agrees that:

- (a) there are no representations, warranties, conditions or collateral contracts, express or implied, statutory or otherwise, or applicable hereto, made by the Vendor, its agents or employees, other than those contained herein or in the Disclosure Statement including, without limitation, arising out of any marketing material including sales brochures, models including architectural models, representative view sets, show room displays, photographs, illustrations, or renderings provided to the Purchaser or made available for its viewing;
- (b) construction with respect to other Strata Lots in the Development and/or the Common Property may still be proceeding after the Completion Date. In such event, the Vendor will cause such construction to be carried out in a manner which would minimize the interference with the Purchaser's access to the Strata Lot as much as reasonably possible; and
- (c) the Purchaser is aware that the Strata Lot is surrounded by other strata lots, common property and common facilities. There will be noise transmissions between floors and other strata lots as well as from common property and common facilities within the Development and from the general environment external to the Development. The Purchaser hereby accepts that noise transmission is normal in a downtown high-density living environment and hereby waives any claim it has or may have against the Vendor, the Registered Owner, the City or other entities as the case may be in respect of noise transmission.

7.19 **Adjacent Development and Concord Developments**

The Purchaser acknowledges that it is aware that:

- (a) the Registered Owner, the Vendor or other entities intend to develop the Costco Development and the balance of the Residential Development (excluding the Development) (collectively, the "Adjacent Developments");
- (b) the Registered Owner, or other entities intend to develop residential, commercial and associated developments on the adjacent lands comprised of the site of the former Expo '86 World Exhibition and commonly referred to as the Concord Pacific Place lands (the "Concord Developments"); and
- (c)
 - (i) the proposed boundaries between the Property, the Adjacent Developments and the Concord Developments lands are subject to alteration in any manner or direction at the discretion of the Vendor, the Registered Owner, the City or other entities, as the case may be;
 - (ii) as a consequence of any alteration of such proposed boundaries, the configuration of the common property located within the Development, including without limitation, the configuration of the parking facility located within the Development, is subject to change; and

- (iii) when applying for and obtaining rezoning and permit approvals from the City, or proceeding in any manner with the development of the Adjacent Developments and the Concord Developments, the Vendor, the Registered Owner, or the City or other entities, as the case may be, may change the designs, heights, uses and locations of the neighbouring buildings in any manner, notwithstanding that such changes may be different from those presented in the marketing model displays or other marketing materials.

The Purchaser acknowledges and confirms that:

- (d) the nature of the Adjacent Developments and the Concord Developments, including without limitation, height, size, use and location of such developments and any art piece located on such developments; and
- (e) the configuration of the boundaries between the Property, the Adjacent Developments and the Concord Developments, the configuration of the common property located within the Development, including without limitation, the configuration of the parking facility located within the Development,

are not material to it in proceeding with the transaction contemplated herein.

Except for the negligence of the Vendor or other entities in respect of the construction of any of the Adjacent Developments or the Concord Developments, the Purchaser hereby waives any claim it has or ever may have against the Vendor, the Registered Owner, the City or other entities, as the case may be, in respect of the construction or existence of any of the Adjacent Developments or the Concord Developments.

7.20 Invalidity.

If any provision of the Agreement is invalidated in whole or in part, the remaining terms of the Agreement will remain in full force.

7.21 Waiver

No failure to exercise or delay on the part of either party in exercising any right under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right.

7.22 Personal Information

The Purchaser hereby consents to the collection, use and disclosure of personal information contained in this Agreement and otherwise collected by or on behalf of the Vendor for the purpose of assisting the Vendor in securing financing for the Development and for additional purposes identified when or before personal information is collected. The Purchaser also consents to the collection, use and disclosure of the Purchaser's personal information by and to agents, contractors and service providers of the Vendor and its affiliates.

SCHEDULE B

PLANS AND SPECIFICATIONS

The Plans for the Strata Lot are the development permit plans prepared by James K.M. Cheng Architects for the Development, subject to such modifications as may be determined by the Architect from time to time, changes required by the City of Vancouver or other approving authorities or as otherwise permitted herein or accepted by the Architect upon certification of substantial completion of the Development, which plans and specifications the Vendor acknowledges will include a cook top and electric wall oven, refrigerator, dishwasher, garburator, washer, dryer, and hood fan unit. If such plans and specifications include a nook or den, as the case may be, the Purchaser acknowledges that such nook or den may be a solarium with tile finish.