

WHISTLER HOUSING AUTHORITY
RESIDENT RESTRICTED

BUYER'S GUIDE



helping to make **Whistler**
the place you call **home**



whistlerhousing.ca

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Helping to make WHISTLER the place you call HOME

#325- 2400 Dave Murray Place, Whistler BC, V0N 1B2
phone: (604) 905-4688 fax: (604) 932-4461
email: mail@whistlerhousing.ca
website: www.whistlerhousing.ca

I've been offered a Resident Restricted Housing Unit.....What happens next?

Checklist



Attend the Open House

You've received an invite to an Open House for a unit that you're interested in purchasing. There is usually only one Open House scheduled during the resale process, so if you are interested attend the Open House on the scheduled date. A WHA Representative will be at the Open House to answer your questions.

The Open House is where you have the opportunity to get to know the unit and get an idea of how much interest there is from other Purchase Applicants looking to purchase the same or similar units in the same housing complex.

Remember that while you may be lower down on a Project Waitlist, there are often opportunities to purchase regardless of your position on the Project Waitlist. If you are ready to purchase the best way to ensure you do not miss out on an opportunity is to attend the Open House.

The following resources are available to help inform your purchase decision:

- WHA Historical Resales Information- http://www.whistlerhousing.ca/historical_sales_information.html
- WHA Calendar of Open Houses- <http://www.whistlerhousing.ca/calendar>
- WHA Property Listings- http://www.whistlerhousing.ca/members/purchase_list.asp
- Evolution of the Resident Housing Covenants:
http://www.whistlerhousing.ca/doc_dl/1536/evolution_of_the_resident_housing_covenants.pdf
- Resident Restricted Housing Covenants and Right of First Refusal/Option to Purchase-
<http://www.whistlerhousing.ca/legal.html>



Reconfirm your Mortgage Pre-Approval

The WHA recommends you check in with your mortgage advisor to confirm that your mortgage pre-approval is still current. If you currently own another property it is especially important to confirm if you will need to include a subject in the Contract of Purchase and Sale for having sold your existing home, or if you qualify to be able to purchase the new property while still owning your existing property.



Place an Offer

If you want to place an offer on the unit, contact the WHA Representative Gord Low at glow@mountaincountry.ca to schedule an appointment to complete a *Contract of Purchase and Sale*. Offers need to be submitted prior to the deadline for offers outlined in the WHA Open House Invitation. A sample copy of the Contract is included in the *WHA Buyer's Guide*.

As part of the process for placing an offer on a unit the following information should be considered:

Contract of Purchase and Sale Requirements:

The *WHA Resale Policies* outline different aspects of the Contract of Purchase and Sale that must be adhered to. The following subjects are required to be included in the Contract of Purchase and Sale and are for the sole benefit of the purchaser.

Purchaser's Subjects

- Subject to the Purchaser(s), on or before (x date = 10 business days from date of Vendor's Acceptance) receiving acceptable financing from a lending institution of their choice. This condition is for the sole benefit of the Purchaser.

- Subject to the Purchaser, on or before (x date = 10 business days from date of Vendor's Acceptance) at the Purchaser's expense obtaining and approving an inspection report against any defects whose cumulative cost of repair exceeds \$1,000.00 and which reasonably may adversely affect the property's use or value. The Vendor will allow access to the property for this purpose on reasonable notice. This condition is for the sole benefit of the Purchaser.
- Subject to the Purchaser(s) on or before (x date = 10 business days from date of Vendor's Acceptance), at the Seller(s) expense, obtaining and reviewing a current Form B Information Certificate, current strata Bylaws, Strata Council Meeting minutes, Annual General Meeting minutes, Extraordinary or Special Meeting minutes, Current financial statements for the last 24 months satisfactory to the Purchaser. This condition is for the sole benefit of the Purchaser.

Priority for Offers from Purchase Waitlist Applicants

Completed *Contracts of Purchase and Sale* will be presented to the Seller in order of the applicant's position on the WHA Waitlist. Choosing to remove any of the **Purchaser's Subjects** from the Contract of Purchase and Sale will not create any advantage over other offers received from Purchase Waitlist applicants higher on the Purchase Waitlist.

The only occasions where there is flexibility in the priority of the Purchase Waitlist is when a purchaser requires additional subjects to be included in the contract that impacts the Seller's ability to sell the unit in a timely fashion. The following are examples of when an owner can bypass an offer received:

- If a Purchaser is not able to accept the Seller's desired completion, adjustment and possession dates.
- If a Purchaser is required to include a subject in the Contract of Purchase and Sale that requires a firm offer be received for the sale of another property.



Submit a Deposit

If you are the successful purchaser, you will be required to submit a deposit of approximately 5-10% of the agreed upon purchase price at the time of acceptance of the offer. The funds are required to be certified and are written in trust to the Seller's lawyer. You will drop the deposit cheque off to the WHA's Representative after the offer has been accepted.



Choose a Conveyance Lawyer

Once you know you will be proceeding with purchasing the unit, you will need to retain a lawyer to convey the property and help with the completion of the sale. The WHA will inform you which lawyer the Seller is using. You will not be able to use the same lawyer as the Seller as it is considered a conflict of interest. It is recommended that you use a local law firm as they are familiar with the resident restricted housing covenants and resale process.

Your lawyer fees will be approximately \$1,500 - \$1,800. If you are a first time home buyer, you may be eligible for a Property Transfer Tax exemption. (Speak to your lawyer about the exemption). If you are not exempt, you will be required to pay the Property Transfer Tax which is 1% of the first \$200,000 and 2% on the remainder of the purchase price.

Your lawyer will require the following information from you:

- A copy of the accepted Contract of Purchase and Sale
- A copy of the Form B Information Certificate (this is provided to you as part of the Strata Documents)

You should be aware that your legal fees and the cost of the Property Transfer Tax are not allowed to be added to the future resale value of the unit.



Contact your Bank

You will also need to immediately contact your bank or mortgage broker to begin arranging your mortgage financing.



Completion of Sale

The sale usually completes approximately one month after the Open House. The possession date is normally one day after the completion date. It is the purchaser's responsibility to work with their lawyer to ensure the sale completes in the agreed upon time stated on the *Contract of Purchase and Sale*. Speak to your lawyer about arrangements for picking up the keys to your new home.

It is important to understand that the WHA Representative does not represent either the Seller or the Purchaser during the course of the transaction. The WHA Representative provides a service free-of-charge to assist you with purchasing the home, but you are encouraged to consult your lawyer for any legal questions related to the transaction.



helping to make **Whistler** the place you call **home**

Resource Information

Lawyers:

Whistler

Mountain Law Corporation	(604) 938-4947
Race and Company	(604) 932-3211
Doug McLean	(604) 935-0250
Steven M. Boorne	(604) 966-7763
Michael LeBeau	(604) 544-4535
Tom Docking	(604) 905-5180

Squamish

Jones & Co	(604) 892-2200
Toews & Company	(604) 892-5378

WHA Representative for Open Houses:

Gord Low, Mountain Country Property Management
 (604) 932-0677 ext 5 glow@mountaincountry.ca

Strata Management

Strata Management Company	Phone Number	Housing Project
Whistler Resort Management	(604) 932-2972	Cheakamus Crossing Bear Ridge, Spring Creek Millar's Ridge Nineteen Mile Creek Nita Lake Fitzsimmons Walk Spruce Grove, River Walk The Lofts Gondola Village Barnfield



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Whistler Housing Authority Resale Policy

Scope

The Whistler Housing Authority (WHA) is responsible for overseeing the resale of all price controlled resident restricted properties in Whistler. This requirement includes ensuring resident restricted properties are sold in accordance with the terms and conditions set out in the Housing Agreement, the Right of First Refusal and Option to Purchase Agreement, and the resale policies of the Whistler Housing Authority.

Purpose

The Whistler Housing Authority's resale policies outlined below will guide the WHA resale process for price controlled resident restricted properties in Whistler. The policies maintain a standardized approach for the resale of resident restricted properties.

1. WHA Resale Policy: Governing Documents

All resales of price controlled resident restricted units must adhere to and comply with the WHA resale policies and process. This process, which includes using the WHA Purchase Waitlist as the primary mechanism for securing a buyer for the price controlled resident restricted property, ensures that only qualified employees that have registered on the WHA's Purchase Waitlist have the opportunity to purchase a resident restricted unit when it comes for sale. The WHA Sellers Guide outlines the steps and checklist that make up the WHA resale process.

- a) *WHA Seller's Guide:*
https://cdn.shopify.com/s/files/1/1211/9038/files/WHA_Seller_s_Guide.pdf?8462733864416374273
- b) *WHA Purchase Waitlist Guidelines and Application:*
https://cdn.shopify.com/s/files/1/1211/9038/files/Waitlist_Guidelines_and_Purchase_Application.pdf?6869998298337910308
- c) *Resident Restricted Housing Covenants:*
<https://www.whistlerhousing.ca/pages/legal>

2. WHA Resale Policy: WHA Representation

WHA Staff and the WHA Resale Representative do not represent either the seller or the purchaser during the course of the WHA resale process. The WHA's primary role during the resale process is to ensure the resident restricted unit is sold based on the priority of the WHA Purchase Waitlist with adherence to the restrictive covenants. Independent legal advice is recommended for the buyer and seller prior to signing the Contract of Purchase and Sale.

3. WHA Resale Policy: Reconfirmation of Purchase Applicant Qualifications

The WHA re-verifies the Purchase Waitlist Qualifications for every purchase waitlist applicant at the time they enter into an agreement to purchase a resident restricted unit. This verification process includes but is not limited to the following:

- The WHA will require confirmation of the purchasers household makeup to ensure all parties with an interest in the property meet the resident restricted purchase qualifications
- The WHA will complete a land title check to confirm the purchaser and/or their spouse/partner does not own any market real estate
- The WHA will re-verify the purchaser continues to qualify as an employee of Whistler

4. WHA Resale Policy: Contract of Purchase and Sale Requirements

Required Subjects

The WHA uses a standard Contract of Purchase and Sale created specifically for the resale process for resident restricted properties. While Contracts of Purchase and Sale can vary in their content, the following Municipality and Purchaser's Subjects, are required to be included in all Contracts of Purchase and Sale of price controlled resident restricted properties:

a) Municipality's Subjects

- Subject to the Vendor(s) notifying the Purchaser in writing not later than (x date = 10 days from date of Vendor's Acceptance) that the Whistler Housing Authority Ltd., acting on behalf of the Resort Municipality of Whistler (the "Municipality"), has approved the terms of the sale of the Property to the Purchaser and that the Municipality has decided not to exercise its option to purchase the Property with respect to this transaction only.
- Subject to the Vendor (s) notifying the Purchaser in writing no later than (x date = 10 days from date of Vendor's Acceptance) that the Whistler Housing Authority Ltd., acting on behalf of the Municipality, has confirmed the Purchaser's eligibility to own the property.

These Vendor Conditions are for the sole benefit of the Vendor and may be satisfied by the Vendor by notice in writing to the Purchaser. If the Vendor's Conditions are not satisfied on or before the date specified for their removal, this

agreement will be automatically terminated, the deposit will be returned to the Purchaser, and neither party will have any further obligation to the other under this agreement.

b) Purchaser's Subjects

- Subject to the Purchaser(s), on or before (x date = 10 days from date of Vendor's Acceptance) receiving acceptable financing from a lending institution of their choice. This condition is for the sole benefit of the Purchaser.
- Subject to the Purchaser, on or before (x date = 10 days from date of Vendor's Acceptance) at the Purchaser's expense obtaining and approving an inspection report against any defects whose cumulative cost of repair exceeds \$1,000.00 and which reasonably may adversely affect the property's use or value. The Vendor will allow access to the property for this purpose on reasonable notice. This condition is for the sole benefit of the Purchaser.
- Subject to the Purchaser(s) on or before (x date = 10 days from date of Vendor's Acceptance), at the Seller(s) expense, obtaining and reviewing a current Form B Information Certificate, current strata Bylaws, Strata Council Meeting minutes, Annual General Meeting minutes, Extraordinary or Special Meeting minutes, Current financial statements for the last 24 months satisfactory to the Purchaser. This condition is for the sole benefit of the Purchaser.

c) Disallowed Subjects

Any subject that can be perceived to manipulate the maximum resale value of a resident restricted unit is not allowed to be included in the Contract of Purchase and Sale. This includes, and may not be limited to, the following subjects:

- Subject to the Purchase being required to assume the terms of the vendor's current financing arrangements (i.e. mortgage assumption).
- Subject to the inclusion of furniture in the sale price for an additional cost.
- Subject to the vendor entering into an agreement to rent back the unit for an amount that is less than the maximum allowable monthly rent for a period that exceeds the allowable maximum duration as required under Covenants ST070090 and ST080100

In addition to the Disallowed Subjects, the Completion date, Possession and Adjustment dates are required to be no more than 4 Business Days apart. In the event the seller wishes to reside in their unit for a longer timeframe after the Completion Date the seller is required to pay rent to the purchaser for no less than the maximum allowable monthly rent prorated for the number of days the unit will be occupied by the seller.

THIS POLICY IS INTENDED TO REFLECT THE GOALS AND MANDATE OF THE WHA. IF AT ANY TIME IN THE FUTURE CHANGES IN MARKET CONDITIONS OR GATHERED EXPERIENCE RESULT IN THIS POLICY DEVIATING FROM ITS INTENDED USE THE WHA RESERVES THE RIGHT TO MAKE ANY REQUIRED CHANGES

Vendor shall diligently follow the procedure set out in the Right of First Refusal and Option to Purchase. If the holder of the Right of First Refusal and Option to Purchase exercises its rights under either charge, the Purchaser shall be entitled to an immediate return of their deposit.

5. New Housing Agreement, Right of First Refusal and Option to Purchase: In exchange for a discharge of the existing Housing Agreement, Right of First Refusal and Option to Purchase, the Purchaser agrees to grant a new Housing Agreement on terms set out in the sample Form C and Standard Charge Terms ST 070090 and grant a new Right of First Refusal and Option to Purchase on terms set out in the standard terms ST 070089.

6. COMPLETION: The sale will be completed on or before **March 31, 2016 (Completion Date)** at the appropriate Land Title Office;

(a) tender or payment of monies by the Purchaser to the Vendor will be by certified cheque, bank draft, cash or lawyer's trust cheque.

(b) all documents required to give effect to this Contract will be delivered in registrable form where necessary and shall be lodged for registration in the appropriate Land Title Office on or before Completion Date.

(c) Time shall be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreement to pay the balance as may be necessary is entered into on or before the Completion Date, the Vendor may at the Vendor's option terminate this Contract and in such event the amount paid by the Purchaser will be absolutely forfeited to the Vendor on account of damages, without prejudice to the Vendor's other remedies.

If the Vendor has existing financial charges to be cleared from title the Vendor, while still required to clear such charges, may wait to pay and discharge existing financial charges until immediately after receipt of the purchase price, but in this event, the Purchaser may pay the purchase price to a lawyer or notary in trust, on undertakings to pay and discharge the financial charges, and remit the balance, if any, to the Vendor.

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 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 has: (a) made available for tender to the Vendor that portion of the purchase price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Vendor, a lawyer's or notary's undertaking to pay the purchase

price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds.

7. COSTS: The Purchaser will bear all costs of the conveyance, Property Transfer Tax (if applicable), and any costs related to arranging a mortgage, discharging and registering the Housing Agreement, Right of First Refusal and Option to Purchase.

8. POSSESSION: The Purchaser will have vacant possession of the property at 12 noon on: **April 1, 2016 (Possession Date)**, subject to the following existing tenancies, if any:

None or _____

9. TENANCY TERMINATION: If a tenant is currently in possession of the Property the Purchaser hereby requests that the Vendor give legal notice to the tenant to vacate the Property in accordance with the requirements of the Residential Tenancy Act, as the Purchaser intends to occupy the Property.

10. ADJUSTMENTS: The Purchaser will assume and pay all taxes, rate, local improvement assessments, current special levies, fuel, utilities and other charges from, and including the date set for adjustments and all adjustments both incoming and outgoing of whatsoever nature will be made as of **April 1, 2016 (Adjustment Date)**.

11. RISK: All buildings on the property and all other items included in the purchase and sale will be and remain at the risk of the Vendor until 12:01 am on the Completion Date. After that time, the property and all included items will be at the risk of the Purchaser.

12. INCLUDED ITEMS: The purchase price includes any buildings, improvements, fixtures, appurtenances and attachments thereto and all blinds, screen doors and windows, fixed mirrors, fixed carpeting, electric, plumbing, heating, refrigerator, stove, dishwasher and all appurtenances and attachments thereto as viewed by the Purchaser at the date of inspection, INCLUDING: Washer Dryer.
BUT EXCLUDING:

THE PROPERTY AND ALL INCLUDED ITEMS WILL BE IN SUBSTANTIALLY THE SAME CONDITION AT POSSESSION DATE AS WHEN VIEWED BY THE PURCHASER ON February 3, 2016.

13. PROPERTY DISCLOSURE STATEMENT: The attached Property Disclosure Statement dated: February 3, 2016 is incorporated into and forms part of this contract.

14. SALE ADDENDUM: The attached Sale Addendum Part A, Sale Addendum Part B, Sale Addendum Part C, AND Sale Addendum Part D is incorporated into and forms part of this contract

15. In this Contract any reference to a party includes the party's heirs, executors, administrators, successors and assigns; singular includes plural and masculine includes feminine.

16. THERE ARE NO REPRESENTATIONS, WARRANTIES, GUARANTEES, PROMISES OR AGREEMENTS OTHER THAN THOSE SET OUT ABOVE, ALL OF WHICH WILL SURVIVE THE COMPLETION OF THE SALE.

THIS OFFER IF ACCEPTED IS A LEGAL AND BINDING CONTRACT.

17. **ACCEPTANCE:** This offer, or counter-offer, will be open for acceptance until 10:00am on February 11, 2016 and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance there shall be a binding Contract of Purchase and Sale on the terms and conditions set forth.

Witness

Purchaser

Witness

Purchaser

18. The Vendor hereby accepts the above offer and agrees to complete the sale upon the terms and conditions set out above
VENDOR'S ACCEPTANCE is dated _____, 20__ at _____ o'clock __m.

Witness

Vendor

Witness

Vendor

**CONTRACT OF PURCHASE AND SALE ADDENDUM PART A
RE: RESIDENT RESTRICTED PROPERTY:
, Whistler BC, V0N 1B1**

Further to the above mentioned resident restricted property, the undersigned purchaser(s) declare:

I/we do not own other real estate that exceeds the limit set out in Point 2 of the Purchase Waitlist Guidelines.

OR

Ownership of the following other real estate at address:

And agree to sell this other real estate property (s) within six (6) months following the date of completion noted on page 2 of this Contract. **Whistler Resident Restricted Properties will be sold immediately following completion.**

After this date should the purchasers be listed on the title of the above or any other real estate other than the resident restricted property the undersigned understand and agree that the municipality can exercise its option to purchase the resident restricted property.

(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

CONTRACT OF PURCHASE AND SALE ADDENDUM PART B
RE: ADDRESS: , Whistler BC, V0N 1B1

Further to the above mentioned property, the undersigned agree to execute and deliver a limited power of attorney to the Whistler Housing Authority enabling the sale of the above property in the event that the purchasers property at:

_____ has not been sold by _____ (6 months following date of completion on page 2 of Contract).

X _____
(WITNESS, PRINT NAME)

X _____
(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

X _____
(SIGNATURE)

X _____
(WITNESS, PRINT NAME)

X _____
(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

X _____
(SIGNATURE)

CONTRACT OF PURCHASE AND SALE ADDENDUM PART C
RE: ADDRESS: , Whistler BC, V0N 1B1

AGENT DISCLOSURE: The Vendor(s) and Purchaser(s) warrant that Gordon J. Low a licensed realtor, and Mountain Country Property Management Ltd. a licensed brokerage, are acting on behalf of the Whistler Housing Authority Ltd. and does not represent either the Purchaser(s) or Vendor(s).

CONDITIONS FOR SALE (WHA):

Subject to the Vendor(s) notifying the Purchaser in writing not later than February 24, 2016 that the Whistler Housing Authority Ltd., acting on behalf of the Resort Municipality of Whistler (the "Municipality"), has approved the terms of the sale of the Property to the Purchaser and that the Municipality has decided not to exercise its option to purchase the Property with respect to this transaction only.

Subject to the Vendor (s) notifying the Purchaser in writing no later than February 24, 2016 that the Whistler Housing Authority Ltd., acting on behalf of the Municipality, has confirmed the Purchaser's eligibility to own the property.

These Vendor Conditions are for the sole benefit of the Vendor and may be satisfied by the Vendor by notice in writing to the Purchaser. If the Vendor's Conditions are not satisfied on or before the date specified for their removal, this agreement will be automatically terminated, the deposit will be returned to the Purchaser, and neither party will have any further obligation to the other under this agreement.

CONDITIONS FOR SALE (BUYER):

Subject to the Purchaser(s), on or before noon February 24, 2016 receiving acceptable financing from a lending institution of their choice. This condition is for the sole benefit of the Purchaser.

Subject to the Purchaser, on or before noon February 24, 2016 at the Purchaser's expense obtaining and approving an inspection report against any defects whose cumulative cost of repair exceeds \$1,000.00 and which reasonably may adversely affect the property's use or value. The Vendor will allow access to the property for this purpose on reasonable notice. This condition is for the sole benefit of the Purchaser.

Subject to the Purchaser(s) on or before noon February 24, 2016, at the Seller(s) expense, obtaining and reviewing a current Form B Information Certificate, current parking plan, current strata Bylaws, Strata Council Meeting minutes, Annual General Meeting minutes, Extraordinary or Special Meeting minutes, current financial statements for the last 24 months satisfactory to the Purchaser. This condition is for the sole benefit of the Purchaser.

X _____
(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

X _____
(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

X _____
(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

X _____
(WITNESS, PRINT NAME)

X _____
(SIGNATURE)

X _____
(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

X _____
(PURCHASER, PRINT NAME)

X _____
(SIGNATURE)

X _____
(VENDOR, PRINT NAME)

X _____
(SIGNATURE)

X _____
(VENDOR, PRINT NAME)

X _____
(SIGNATURE)

**CONTRACT OF PURCHASE AND SALE ADDENDUM PART D
CONFIRMATION OF TERMS OF SALE**

RE: ADDRESS: _____, Whistler BC, V0N 1B1

TAKE NOTICE THAT the Whistler Housing Authority Ltd, acting on behalf of the Resort Municipality of Whistler (the “Municipality”), having confirmed the Purchaser’s eligibility to own the property, has approved the terms of the sale of the Property to the Purchaser and that the Municipality has decided not to exercise its option to purchase the Property with respect to this transaction only.

Dated at _____, British Columbia, this _____ day of _____, 2016.

(SIGNATURE), Whistler Housing Authority Ltd. Authorized Signatory

RECEIPT OF THIS NOTICE is acknowledged by the Vendor this _____ day of _____ 2016, at Whistler, British Columbia.

(SIGNATURE)

(SIGNATURE)

NOTICE OF SATISFACTION OF CONDITIONS
RE: ADDRESS: , Whistler BC, V0N 1B1

TAKE NOTICE THAT the Purchaser has satisfied the conditions set forth in clause 14 of the Contract of Purchase and Sale.

Dated at _____, British Columbia, this ____ day of _____, 2016.

(SIGNATURE)

(SIGNATURE)

RECEIPT OF THIS NOTICE is acknowledged and has satisfied the conditions set forth in clause 14 of the Contract of Purchase and Sale by the Vendor this _____ day of _____ 2016, at Whistler, British Columbia.

(SIGNATURE)

(SIGNATURE)

THIS OFFER IS NOW UNCONDITIONAL

PROPERTY TURNOVER GUIDE – CLEANING AND KEYS

(This guide is intended to assist with handing the property over from the Vendor to the Purchaser. It does not become part of the Contract of Purchase and Sale)

- 1) Documentation: It is the Vendor(s) and Purchaser(s) responsibility to forward contracts of purchase and sale and deposit cheques to their respective lawyer or notary.
- 2) Conditions for Sale: It is the Purchaser's responsibility to initiate condition removal, including obtaining all required documentation such as strata corporation minutes and financial statements.
- 3) Keys: It is the Vendor's responsibility to make arrangement to provide keys directly to the Purchaser. All keys should be provided for entry, garbage rooms, common areas and mail box (if applicable).
- 4) Cleaning: It is the Vendor's responsibility to provide clean and vacant possession of the property to the Purchaser. The Vendor should insure the property has been thoroughly cleaned with all possessions removed.
- 5) Other Items:
 - a. Utilities: Cancel and / or relocate BC Hydro (800) 224-9376, Fortis Gas (888) 224-2710, cable TV, internet, and telephone (Telus: 310-2255).
 - b. Canada Post: Arrange to redirect mail.
 - c. Parking Passes: If applicable, leave parking passes for Purchaser.
 - d. Appliance manuals and warranty cards should be left on the premise for the new owner.

INFORMATION ABOUT THE PROPERTY DISCLOSURE STATEMENT
STRATA TITLE PROPERTIES

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE PROPERTY DISCLOSURE STATEMENT.

EFFECT OF THE PROPERTY DISCLOSURE STATEMENT:

The property disclosure statement will not form part of the Contract of Purchase and Sale unless so agreed by the buyer and the seller. This can be accomplished by inserting the following wording in the Contract of Purchase and Sale:

"The attached Property Disclosure Statement dated _____ yr. _____ is incorporated into and forms part of this contract."

ANSWERS MUST BE COMPLETE AND ACCURATE:

The property disclosure statement is designed, in part, to protect the seller by establishing that all relevant information concerning the property has been provided to the buyer. It is important that the seller not answer "do not know" or "does not apply" if, in fact, the seller knows the answer. An answer must provide all relevant information known to the seller. In deciding what requires disclosure, the seller should consider whether the seller would want the information if the seller was a potential buyer of the Unit.

BUYER MUST STILL MAKE THE BUYER'S OWN INQUIRIES:

The buyer must still make the buyer's own inquiries after receiving the property disclosure statement. Each question and answer must be considered, keeping in mind that the seller's knowledge of the Unit and the Development may be incomplete. Additional information can be requested from the seller or from an independent source such as the Municipality or Regional District. The buyer can hire an independent licensed inspector to examine the Unit or the Development and/or improvements to determine whether defects exist and to provide an estimate of the cost of repairing problems that have been identified on the property disclosure statement or on an inspection report.

SIX IMPORTANT CONSIDERATIONS:

1. The seller is legally responsible for the accuracy of the information which appears on the property disclosure statement. Not only must the answers be correct, but they must be complete. The buyer will rely on this information when the buyer contracts to purchase the property. Even if the property disclosure statement is not incorporated into the Contract of Purchase and Sale, the seller will still be responsible for the accuracy of the information on the property disclosure statement if it caused the buyer to agree to buy the Unit.
2. The buyer must still make the buyer's own inquiries concerning the Unit in addition to reviewing a property disclosure statement, recognizing that, in some cases, it may not be possible to claim against the seller, if the seller cannot be found or is insolvent.
3. Anyone who is assisting the seller to complete a property disclosure statement should take care to see that the seller understands each question and that the seller's answer is complete. It is recommended that the seller complete the property disclosure statement in the seller's own writing to avoid any misunderstanding.
4. If any party to the transaction does not understand the English language, consider obtaining competent translation assistance to avoid any misunderstanding.
5. The buyer should personally inspect both the parking space(s) and storage locker(s) assigned to the Unit.
6. "Unit" is defined as the living space, including limited common property, being purchased. "Common Property" includes buildings or spaces accessible to all owners. "Lands" is defined as the land upon which the Unit, all other strata lots and Common Property are constructed. "Development" is defined as the Lands, the Unit and all other strata lots and Common Property.

PROPERTY DISCLOSURE STATEMENT STRATA TITLE PROPERTIES

The following is a statement made by the seller concerning the property or strata unit located at:

ADDRESS / STRATA UNIT #: _____

(the "Unit")

Date of Disclosure: _____

THE PROPERTY CONTAINS THE FOLLOWING BUILDINGS: _____ Principal Residence _____ Residence(s) _____ Barn(s) _____ Shed(s) _____ Other Building(s) Please describe:				
THE SELLER IS RESPONSIBLE for the accuracy of the answers on this property disclosure statement and where uncertain should reply "Do Not Know". This property disclosure statement constitutes a representation under any Contract of Purchase and Sale if so agreed, in writing, by the seller and the buyer. "Unit" is defined as the living space, including limited common property, being purchased. "Common Property" includes buildings or spaces accessible to all owners. "Lands" is defined as the land upon which the Unit, all other strata lots and Common Property are constructed. "Development" is defined as the Lands, the Unit and all other strata lots and Common Property.	THE SELLER SHOULD INITIAL THE APPROPRIATE REPLIES.			
1. LAND	YES	NO	DO NOT KNOW	DOES NOT APPLY
A. Are you aware of any past or present underground oil storage tank(s) in or on the Development?				
B. Are you aware of any current or pending local improvement levies/charges?				
C. Are you aware of any pending litigation or claim affecting the Development or the Unit from any person or public body?				
2. SERVICES	YES	NO	DO NOT KNOW	DOES NOT APPLY
A. Are you aware of any problems with the water system?				
B. Are you aware of any problems with the sanitary sewer system?				
3. BUILDING Respecting the Unit and Common Property	YES	NO	DO NOT KNOW	DOES NOT APPLY
A. Has a final building inspection been approved or a final occupancy permit been obtained?				
B. Has the fireplace, fireplace insert, or wood stove installation been approved by local authorities?				
C. (i) Has this Unit been previously occupied?				
(ii) Are you the "owner developer" as defined in the Strata Property Act?				
D. Does the Unit have any equipment leases or service contracts; e.g., security systems, water purification, etc.?				
E. Are you aware of any additions or alterations made without a required permit; e.g., building, electrical, gas, etc.?				
F. Are you aware of any structural problems with any of the buildings on the Development?				
G. Are you aware of any problems with the heating and/or central air conditioning system?				
H. Are you aware of any damage due to wind, fire or water?				
I. Are you aware of any infestation or unrepaired damage by insects or rodents?				
J. Are you aware of any leakage or unrepaired damage?				
K. Are you aware of any problems with the electrical or gas system?				
L. Are you aware of any problems with the plumbing system?				
M. Are you aware of any pet restrictions?				
N. Are you aware of any rental restrictions?				
O. Are you aware of any age restrictions?				
P. Are you aware of any other restrictions? If so, provide details on page 4, Section 5 Additional Comments.				
Q. Are you aware of any special assessments(s) voted on or proposed?				

(i) For how much? _____				
R. Have you paid any special assessments in the past 5 years? (i) For how much? _____				
S. Are you aware of any agreements that provide for future payment or possible payment of monies to you in your capacity as the current owner of the Unit?				
3. BUILDING Respecting the Unit and Common Property (continued):	YES	NO	DO NOT KNOW	DOES NOT APPLY
T. Are you aware of any pending strata corporation policy or bylaw amendment(s) which may alter or restrict the uses of the Unit?				
U. Are you aware of any problems with the swimming pool and/or hot tub?				
V. Are you aware of any additions, alterations or upgrades made to the Unit that were not installed by the original developer?				
W. Are there any agreements under which the owner of the Unit assumes responsibility for the installation and/or maintenance of alterations to the Unit or Common Property?				
X. Was this Unit constructed by an "owner builder," as defined in the <i>Homeowner Protection Act</i> , with construction commencing, or a building permit applied for, after July 1, 1999? (If so, attach Owner Builder Declaration and Disclosure Notice.)				
Y. Is this Unit or related Common Property covered by home warranty insurance under the <i>Homeowner Protection Act</i> ?				
Z. Is there a current "EnerGuide for Houses" rating number available for this Unit? (i) If so, what is the rating number? _____ (ii) When was the energy assessment report prepared? _____				
AA. Nature of Interest/Ownership: Freehold ____ Time Share ____ Leasehold ____ Undivided ____ Bare Land ____ Cooperative ____				
BB. Management Company _____ Name of Manager _____ Telephone _____ Address _____				
CC. Strata Council President's Name _____ Telephone _____				
DD. Strata Council Secretary's Name _____ Telephone _____				
EE. Are the following documents available?	Yes	No	Can be obtained from:	
Bylaws				
Rules/Regulations				
Year-to-date Financial Statements				
Current Year's Operating Budget				
All Minutes of Last 24 Months including Council, Special and AGM Minutes				
Engineer's Report and/or Building Envelope Analysis				
Strata Plan				
FF. What is the monthly strata fee? \$ _____				
Does this monthly fee include:	YES	NO	DO NOT KNOW	DOES NOT APPLY
Management?				
Heat?				
Hot Water?				
Gas Fireplace?				
Garbage?				
Sewer?				
GG. (i) Number of Unit parking stalls _____ included and specific numbers _____ (ii) Are these: (a) Limited Common Property? <input type="checkbox"/> (b) Common Property? <input type="checkbox"/> (c) Rented? <input type="checkbox"/> (d) Long Term Lease? <input type="checkbox"/> (e) Other? <input type="checkbox"/>				
HH. (i) Storage Locker? Yes <input type="checkbox"/> No <input type="checkbox"/> Number(s) _____ (ii) Are these: (a) Limited Common Property? <input type="checkbox"/> (b) Common Property? <input type="checkbox"/> (c) Rented? <input type="checkbox"/> (d) Long Term Lease? <input type="checkbox"/> (e) Other? <input type="checkbox"/>				
4. GENERAL	YES	NO	DO NOT KNOW	DOES NOT APPLY
A. Are you aware if the Unit, or any other unit, or the Development has been used as a marijuana grow operation or to manufacture illegal drugs?				

B. Are you aware of any material latent defect as defined in Real Estate Council of British Columbia Rule 5-13(1)(a) or Rule 5-13(1)(a)(ii) in respect of the Property or Unit?				
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For the purposes of Clause 4.B. of this form, Council Rule 5-13(1)(a)(i) and (ii) is set out below.

5-13 Disclosure of latent defects

(1) For the purposes of this section:

Material latent defect means a material defect that cannot be discerned through a reasonable inspection of the property, including any of the following:

- (a) a defect that renders the real estate
 - (i) dangerous or potentially dangerous to the occupants
 - (ii) unfit for habitation.

5. ADDITIONAL COMMENTS AND/OR EXPLANATIONS (Use additional pages if necessary.)

This Strata unit is subject to an existing Housing Agreement, Right of First Refusal and Option to Purchase registered on title. These Housing Covenants restrict the occupancy, rental and resale of the Strata unit.

The seller states that the information provided is true, based on the seller's current actual knowledge as of the date on page 1. Any important changes to this information made known to the seller will be disclosed by the seller to the buyer prior to closing. The seller acknowledges receipt of a copy of this property disclosure statement and agrees that a copy may be given to a prospective buyer.

PLEASE READ THE INFORMATION PAGE BEFORE SIGNING.

SELLER(S)

SELLER(S)

The buyer acknowledges that the buyer has received, read and understood a signed copy of this property disclosure statement from the seller or the seller's brokerage on the ____ day of _____, 20____. The prudent buyer will use this property disclosure statement as the starting point for the buyer's own inquiries.

The buyer is urged to carefully inspect the Development and, if desired, to have the Development inspected by a licensed inspection service of the buyer's choice.

The buyer acknowledges that all measurements are approximate. The buyer should obtain a strata plan drawing from the Land Title Office or retain a professional home measuring service if the buyer is concerned about the size.

BUYER(S)

BUYER(S)

The seller and the buyer understand that neither the listing nor selling brokerages or their managing brokers, associate brokers or representatives warrant or guarantee the information provided about the strata Unit or the Development.



Instruction Guide 5

The Role and Responsibilities of the Owners

Important Notice: This Instruction Guide has been prepared by the Superintendent of Real Estate to provide information about the *Strata Property Act* (the "Act"). This is only a guide to certain parts of the Act and Regulations. Please consult the Act and Regulations to determine the complete and precise requirements of the Act and Regulations. In addition, please remember when reviewing statements about the Standard Bylaws, that they may not apply until January 1, 2002, and even if they do apply, they may have been amended or removed if the strata corporation has filed bylaw amendments in the Land Title Office. Please check all filed bylaw amendments to determine whether and how the Standard Bylaws may have been amended.

October, 2000.

1. Who are Strata Lot Owners?

The Act makes numerous references to owners. Under the Act, an owner includes an Owner Developer, and can be any of the following persons:

the registered owner of a strata lot, and includes trustees who hold title for the benefit of someone else;

the registered owner of a leasehold strata lot in a leasehold strata plan (who is referred to in the Act as a "leasehold tenant"), and includes trustees who hold title for the benefit of someone else;

the person registered on title as a holder of an agreement for sale of a strata lot, and in this case, the registered owner will not be an owner under the Act; and

the registered holder a life estate (which is referred to in the Act as a "tenant for life") and in this case, the registered remainder owner will not be an owner under the Act.

The following persons are not defined as owners under the Act:

spouses of registered owners or tenants;

beneficiaries, who may live in or collect rent from a strata lot, but are not registered on title as owner or tenant;

tenants or sub-tenants, who may hold a long term lease or rent on a month to month basis; and

tenants with a lease that expires upon the tenant's death.

2. **What do Owners Own?**

An owner of a strata lot owns the following:

his or her strata lot

⊕ usually a strata lot's boundaries are at the center of walls, ceilings and floors, but these boundaries will be different if the strata plan shows a different boundary;

⊕ in a bare land strata plan, the strata lot will consist of the land and not the building situated on the strata lot; and

a share, as a tenant in common with other strata lot owners, of the common property and assets of the strata corporation that is based on their unit entitlement.

3. **The Rights of Strata Lot Owners**

Owners have the right to:

vote at a general meeting, unless:

⊕ pursuant to a bylaw they are ineligible to vote on resolutions needing to be passed by a majority or $\frac{3}{4}$ vote, due to unpaid strata fees or other monies owing;

⊕ they have assigned their right to vote on certain matters to tenants or mortgagees;

⊕ they no longer have a vote due to an automatic assignment to:

a tenant who is a family member, as defined in the Regulations;

a residential tenant with a lease of three years or greater; or

they lack capacity to vote or are under sixteen years of age.

under the Standard Bylaws, vote by secret ballot if requested at a general meeting;

demand certain records from the strata council;

under the Standard Bylaws, attend strata council meetings as observers for matters other than bylaw contravention, rental hardship, or matters affecting an individual's privacy;

direct the actions of the strata council by majority vote at general meetings;

limit the power of the strata council by majority vote at general meetings;

requisition general meetings with a petition of 25% of the owners;

add matters and resolutions to a general meeting agenda with a petition of 25% of the owners;

obtain insurance for:

⊕ loss or damage to his or her:

strata lot; and

fixtures built or installed on the strata lot by the Owner Developer as part of the original construction

for perils not covered by the strata corporation insurance or for amounts in excess of any strata corporation insurance;

⊕ fixtures in the owner's strata lot that were not built or installed by the Owner Developer as part of the original construction;

⊕ improvements to fixtures built or installed on the strata lot by the Owner Developer as part of the original construction;

⊕ loss of the rental value of his or her strata lot; and

⊕ liability for property damage and bodily injury that occurs either on his or her strata lot or on the common property.

seek a court or arbitration order to prevent or stop unfair acts of the strata corporation or strata council;

seek a court or arbitration order to prevent a person who holds more than 50% of the votes, including proxies, from exercising those voting rights;

seek a court or arbitration order to require the strata corporation to perform a duty under the Act, Regulations, bylaws or rules; and

seek a court or arbitration order to require the strata corporation to stop contravening the Act, Regulations, bylaws or rules.

Owners do not have a right to:

place items on the agenda of annual or special general meetings, unless 25% of the owners petition to have items on the agenda;

requisition general meetings, unless 25% of the owners petition to have a general meeting for a specific purpose;

claim any interest in the Contingency Reserve Fund upon selling his or her strata lot.

under the Standard Bylaws:

- ⊕ participate in discussions or decision making at strata council meetings, if they attend as observers;
- ⊕ refuse entry to their strata lot by any authorized person:
 - in an emergency, even though no notice has been given; and
 - to inspect and repair parts of common property or the strata lot that the strata corporation is responsible to maintain or insure, if 48 hours written notice has been given.
- ⊕ alter certain parts of the strata lot without written strata council approval;
- ⊕ alter common property or limited common property without written strata council approval.

4. **The Obligations of Strata Lot Owners**

Strata lot owners must do the following:

pay regular strata fees, usually in proportion to their unit entitlement, on the date set out in the bylaws, which is the first day of each month under Standard Bylaw 1;

maintain and repair all parts of their strata lot and limited common property which are required by the bylaws;

use property in a manner required by the bylaws, which under the Standard Bylaws requires that owners:

- ⊕ not cause a nuisance to others;
- ⊕ not make unreasonable noise;
- ⊕ not use their strata lot for an illegal purpose; and
- ⊕ leash and secure pets in common areas.

pay special levies to the strata corporation if the special levy has been approved by the necessary vote;

under the Standard Bylaws, within two weeks of becoming an owner, inform the strata corporation of their name, strata lot number, and any mailing address outside the strata development; and

comply with work orders from a local authority to do work to his or her strata lot.

5. **What Owners in a Strata Development Should be Willing to Do**

In order for a strata corporation to function effectively, strata lot owners should be willing to do the following:

participate in managing the strata corporation by sitting on the strata council;

attend general meetings to participate in important discussions and decision making about the strata corporation;

understand and observe the bylaws and rules of the strata corporation;

educate themselves about the Act and Regulations, so the strata corporation functions as it should;

compromise individual interests for the good of the strata corporation as a whole; and

take responsibility for resolving disputes between owners through discussion, mediation and arbitration, as there is no government body that can become involved in strata affairs.

References:

Sections of the Act: 1, 25, 27, 36, 43, 46, 53-55, 66, 68, 84, 92, 99, 101, 107, 108, 142, 147, 148, 161, 164
Standard Bylaws: 1-8, 17, 27

STANDARD CHARGE TERMS

FILED BY: RESORT MUNICIPALITY OF WHISTLER (Whistler Housing Authority Ltd.)

STANDARD HOUSING AGREEMENT, 219 COVENANT AND RENT CHARGE AND INDEMNITY

The following standard charge terms will be incorporated by reference in every Section 219 covenant and housing agreement in which the set is referred to by its filing number as provided by Section 235 of the *Land Title Act*.

WHEREAS:

- A. Section 219 of the Land Title Act permits the registration of a covenant of a negative or positive nature in favour of the Resort Municipality of Whistler (the "Municipality") in respect of the use of land or construction on land;
- B. The Owner (hereinafter defined) is the registered owner of the Land (hereinafter defined);
- C. The Owner and the Municipality wish to enter into this Agreement to provide for affordable employee housing on the terms and conditions set out in this Agreement, and this Agreement is both a covenant under section 219 of the *Land Title Act* and a housing agreement under s.905 of the *Local Government Act*.

THIS AGREEMENT is evidence that in consideration of the mutual promises contained in it and in consideration of the payment of \$2.00 by the Municipality to the Owner, the receipt and sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

PART I – DEFINITIONS

- 1. In this Agreement the following words have the following meanings:
 - a. "Agreement" means these standard charge terms together with the General Instrument (hereinafter defined);
 - b. "Assessed Value" means the most recent assessed value of the real property as determined by the assessment authority in which the real property is situated. If such value is not available, then the Assessed Value means the highest price in terms of money that the real property will fetch under all conditions requisite to a fair sale with the buyer and seller each acting prudently, knowledgeably and assuming the price is not effected by undue stimulus as estimated by a real estate appraiser accredited in the jurisdiction in which the real property is located;
 - c. "CCPI" means the Core Consumer Price Index for Canada published from time to time by the Bank of Canada, or its successor in function;
 - d. "Daily Amount" means \$500.00 per day as of December 31, 2005 adjusted thereafter by an amount determined by multiplying \$500.00 by the percentage change in the CCPI since December

31, 2005 to January 1 of the year that a written notice is delivered to the owner by the Municipality pursuant to section 24 herein;

- e. "Dispose" means to transfer by any method, and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release, and agree to do any of those things;
- f. "Dwelling Units" means all residential dwelling units located or to be located on the Land whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, into which ownership or right of possession or occupation of the Land may be Subdivided (hereinafter defined);
- g. "Employee" means a Qualified Person (hereinafter defined) who is either employed or self-employed for an average of not less than 20 hours per week on an annual basis at a business located within the boundaries of the Resort Municipality of Whistler which holds an RMOW business license or recognized equivalent;
- h. "Employee Unit" means a Dwelling Unit designated as an employee unit in accordance with Part II herein to be used, occupied and Disposed of in accordance with this Agreement;
- i. "General Instrument" means the Form C under the Land Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Land and citing these Standard Charge Terms;
- j. "Gross Floor Area" means the habitable gross floor area of each Employee Unit and includes enclosed sunrooms but does not include crawl spaces, open patios, open balconies or parking spaces. If the Employee Unit is a strata lot as defined by the *Strata Property Act*, the gross floor area measurements will be based on the gross floor area shown corresponding to the Employee Unit on the Strata Plan filed in the LTO (hereinafter defined) in respect of the Land. If the Employee Unit is not a strata lot as defined by the *Strata Property Act*, the gross floor area measurements will be made in accordance with the procedure for determining gross floor area set out in the *Strata Property Act* as if the Employee Unit were a strata lot;
- k. "Interest" means the property interest of the Owner in an Employee Unit;
- l. "Land" means the land described in Item 2 of the General Instrument and any part into which said land is Subdivided;
- m. "LTO" means the New Westminster/Vancouver Land Title Office or its successor;
- n. "Occupancy Permit Year" means the calendar year in which the Municipality issues an occupancy permit for an Employee Unit;
- o. "Original Rent" means the dollar amount per square foot per month set out in the Schedule to the Form C;
- p. "Owner" means the Transferor described in the General Instrument and any subsequent owner of the Land or of any part into which the Land is Subdivided, who must be an Employee or Retiree, and includes any person who is a registered owner in fee simple of an Employee Unit from time to time;
- q. "Qualified Person" means an Employee or Retiree who does not own, either directly or indirectly

through a trust, business asset, or otherwise, any interest in real property anywhere in the world, from the time that such person applies for an Employee Unit until such person completes the purchase of an Employee Unit, unless:

- i. the Assessed Value of all the real property he or she owns does not exceed 60% of the Assessed Value of the Employee Unit; or
- ii. the real property he or she owns is:
 - (1) less than 400 square feet in area,
 - (2) less than 650 square feet in area and it is the principal residence of that person and one other individual,
 - (3) less than 850 square feet in area and it is the principal residence of that person and at least one child, or
 - (4) less than 1200 square feet in area and it is the principal residence of that person and at least two children; or
- iii. the real estate he or she owns is located in Squamish or Pemberton; and

that person enters into an agreement with the Municipality to sell his or her interest in the real property within the time period specified by the Municipality, acting reasonably, or that person enters into an agreement with the Municipality with respect to the real property and the Employee Unit on terms acceptable to the Municipality in its sole discretion;

- r. "Retiree" means a Qualified Person who has ceased employment and who was an Employee for 5 of the 6 years within the boundaries of the Resort Municipality of Whistler immediately preceding the date on which the individual ceased employment;
- s. "RFR" means a right of first refusal and option to purchase the Land granted or to be granted by the Owner to the Municipality;
- t. "Subdivide" means to divide, apportion, consolidate or subdivide the Land, or the ownership or right to possession or occupation of the Land into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative units" or "shared interests in land" as defined in the *Real Estate Act*;
- u. "Tenancy Agreement" means a tenancy agreement, lease, license or other agreement granting rights to occupy an Employee Unit;
- v. "Tenant" means an occupant of an Employee Unit by way of a Tenancy Agreement.

PART II - USE OF LAND AND CONSTRUCTION OF EMPLOYEE UNITS

2. The Owner covenants and agrees with the Municipality that:
 - a. the Land will not be developed and no building or structure will be constructed on the Land unless:
 - i. as part of the construction and development of any such building or structure, the Owner also designs and constructs to completion, in accordance with a building permit issued by the Municipality and in accordance with any development permit issued by the Municipality, at least the number of Employee Units on the Land specified in the General Instrument; and
 - ii. if required by the Municipality in its sole discretion, an RFR is fully registered against

title to the Land in the LTO, with priority as set out in section 2(e) herein;

- b. the number of Dwelling Units on the Land will not exceed the number of Dwelling Units specified in the General Instrument;
 - c. the Owner will meet or exceed the construction standards for Employee Units as specified by the Municipality in a development permit issued by the Municipality in respect of development on the Land;
 - d. the Owner will at all times ensure that the Land is used and occupied in compliance with all statutes, laws, regulations, and orders of any authority having jurisdiction and without limiting the generality of the foregoing all bylaws of the Municipality and all federal, provincial, municipal or local laws, statutes or ordinances relating to environmental matters, including all rules, regulations, policies, guidelines, criteria or the like promulgated under or pursuant to any such laws; and
 - e. the Owner will do everything necessary, at the Owner's expense, to ensure that this Agreement and an RFR, if required, will be registered against title to the Land in priority to all charges and encumbrances which may have been registered or are pending registration against title to the Land save and except those specifically approved in writing by the Municipality or in favour of the Municipality.
3. If not all the Dwelling Units on the Land are to be used as Employee Units the owner will not apply for a discharge of this Agreement pursuant to section 6 in respect of any Dwelling Unit, and the Municipality will be under no obligation to provide such discharge, unless at the time that the Owner applies for the discharge the Owner is not in breach of any of its obligations under this Agreement and there are [insert the number of Employee Units stipulated in the General Instrument] other Dwelling Units on the Land which:
- a. are designated as Employee Units pursuant to section 4 and for which occupancy permits have been issued by the Municipality and which are and always have been used, occupied and Disposed of in compliance with this Agreement;
 - b. are not designated as Employee Units but the location of which has been approved in writing by the Municipality for use as Employee Units and for which occupancy permits have been issued by the Municipality and which are not and have never been Disposed of, used or occupied; or
 - c. are otherwise acceptable to the Municipality in its sole discretion upon conditions the Municipality considers necessary in its sole discretion, to ensure that the Owner fully complies with its obligations under this Agreement.

For greater certainty, any combination of Dwelling Units referred to in a, b and c will suffice to meet the requirements of this section 3, provided that the total of the combination of Dwelling Units referred to in a, b and c is equal to or greater than the number of Employee Units specified in the General Instrument;

4. All applications for Employee Unit designations must be made by the Owner by written notice delivered to the Municipality and are irrevocable by the Owner upon receipt by the Municipality of the written notice, but no designation is effective unless and until the Municipality confirms in writing that the location and the size of the Dwelling Unit is approved by the Municipality for an Employee Unit, acting reasonably as a local government. If in the sole discretion of the Municipality the Owner has failed within a reasonable time to make application for Employee Unit designations as required by this Agreement, the Municipality may in its sole discretion make such designations.

5. Notwithstanding the definition of "Land" in section 1 herein, for the purpose of stipulating the maximum allowable number of Dwelling Units on the Land and for the purpose of stipulating the number of required Employee Units to be constructed on the Land by the Owner pursuant to this Part II and for the purpose of sections 3, 4 and 6 herein, and for the purpose of the definition of Dwelling Unit in section 1, but for no other purposes, "Land" means the entire area of the legal parcel described in Item 2 of the General Instrument as at the date of registration of the General Instrument at the LTO.
6. Subject to section 3, at the request of the Owner and at the Owner's sole expense, the Municipality will deliver to the Owner discharges of this Agreement in registrable form for each Dwelling Unit that:
 - a. is a separate legal parcel; and
 - b. is not an Employee Unit,

provided that, where the Land is subdivided under the *Strata Property Act*, the Municipality may withhold delivery of any discharges required to be delivered pursuant to this section until after the Municipality has received from the strata corporation its duly authorized agreement that it will not take any action that would result in an inability to rent the Employee Units in accordance with this Agreement or would render such rental a breach of the strata corporation bylaws.

PART III - USE AND OCCUPANCY OF EMPLOYEE UNITS

7. The Owner agrees that each Employee Unit may only be owned and used as a permanent residence occupied by Employees or Retirees, and the Owner further agrees that the number of Employees or Retirees who permanently reside in the Employee Unit must be equal to or less than the number of Employees or Retirees that the Municipality's building inspector determines can reside in the Employee Unit given the number and size of bedrooms in the Employee Unit and in light of any relevant standards set by the Municipality in any bylaws of the Municipality.
8. The Owner will ensure that each Employee Unit is continuously used and occupied as set out in sections 7 and 17. Notwithstanding sections 7 and 17, the owner of the restricted unit must occupy the unit for six months plus a day out of each calendar year. Those owners who wish to leave for a finite time of more than 12 months over two calendar years will have the opportunity to apply for an exception through the WHA Board or its successor.
9. Notwithstanding anything to the contrary contained in this Agreement, if a potential tenant would be an Employee except for the fact that such potential tenant has not resided in the Municipality over the most recent twelve months, then the Owner may rent the Employee Unit to such potential tenant provided that the Employee Unit is rented or leased in accordance with all other requirements of this Agreement.
10. Within three days after receiving notice from the Municipality, the Owner will in respect of each Employee Unit, deliver, or cause to be delivered, to the Municipality a statutory declaration, substantially in the form attached as Schedule "A", sworn by the Owner, containing all of the information required to complete the statutory declaration. The Municipality may request such a statutory declaration in respect of the Employee Unit no more than four times in any calendar year. The Owner hereby irrevocably authorizes the Municipality to make such inquiries as it considers necessary and reasonable in order to confirm that the Owner is complying with this Agreement, and irrevocably authorizes and directs the recipient, including, but not limited to the provincial issuing authority for drivers licences, of the request for information from the Municipality to provide such information to the Municipality.

11. If the Owner cannot comply with the occupancy requirements for any Employee Unit for reasons of hardship, the Owner may request that the Municipality alter the Owner's obligations with respect to that Employee Unit on terms acceptable to the Municipality, but no such request may be made later than 30 days after the Municipality has delivered to the owner a notice of breach of this Agreement under Part VII herein. The Owner must deliver the request in writing in accordance with section 37 of this Agreement. The request must set out the circumstances of the hardship involved. The request must set out the reasons why the Owner cannot comply with the occupancy requirements, and must describe the hardship to the Owner that compliance would cause. The Owner agrees that the Municipality is under no obligation to grant any relief, and may proceed with its remedies under this Agreement, and at law and in equity, despite the Owner's request or the hardship involved, and the Owner agrees that the relief, if any, is to be determined by the Municipality in its sole discretion.

PART IV - DISPOSITION AND ACQUISITION OF EMPLOYEE UNITS

12. In this Part, the following words have the following meanings:
- a. "First Purchaser" means the person to whom the Interest in an Employee Unit is first transferred after issuance of the occupancy permit for the Employee Unit by the Municipality;
 - b. "Maximum Price, First Sale" means the sale price for the sale of the Employee Unit to the First Purchaser determined by multiplying the Gross Floor Area of the Employee Unit by the dollar amount set out in the schedule to the Form C. In addition to the Maximum Price, First Sale, the Owner that sells the Employee Unit to the First Purchaser will be entitled to charge the First Purchaser the net GST payable by the First Purchaser and the fee paid by the Owner to obtain the home warranty insurance required by the *Home Protection Act*.
 - c. "Change in CCPI" means the percentage change in the monthly CCPI published immediately prior to the date of Previous Sale to the monthly CCPI published immediately prior to the date of contracting for next transfer. Where the CCPI has increased since the date of Previous Sale, the Change in CCPI is positive. Where the CCPI has decreased since the date of Previous Sale, the Change in CCPI is negative.
 - d. "Previous Sale" means the last transfer of the Employee Unit.
 - e. "Previous Sale Price" means the sale price of the Previous Sale.
 - f. "Maximum Price, Resale" means the Previous Sale Price plus the Previous Sale Price multiplied by the Change in CCPI. Where the Change in CCPI is negative or cannot be determined, the Maximum Price, Resale shall be the Previous Sale Price.
13. The Owner will not Dispose of the Interest in an Employee Unit except in accordance with the terms and conditions set out in this Agreement, the RFR, and the resale policies of Whistler Housing Authority Ltd, (formally W.V. Housing Corporation) or its successor.
14. The Owner will not accept any offer to purchase the Interest in an Employee Unit for a purchase price exceeding the Maximum Price.
15. The Owner will not permit the Interest in an Employee Unit to be disposed of by sublease or assignment of a Tenancy Agreement unless such subletting or assignment is done in compliance with this Agreement.
16. The Owner will give prior written notice of this Agreement to any person to whom it proposes to Dispose

of the Interest in an Employee Unit.

17. The Owner must not rent or lease any Employee Unit except to an Employee or Retiree in accordance with section 7 and except in accordance with the following additional conditions:
- a. the Employee Unit will be used or occupied only pursuant to a Tenancy Agreement;
 - b. the monthly rent payable for the Employee Unit will not exceed the rent, rounded to the nearest dollar, determined by multiplying the Gross Floor Area by the Original Rent. Subject always to the provisions of the *Residential Tenancy Act* (British Columbia), the Owner may increase the rent payable for the Employee Unit annually, beginning with the first anniversary of the day on which the occupancy permit was issued by the Municipality for the Employee Unit, and thereafter on each successive anniversary date, by an amount determined by multiplying the rent payable for the Employee Unit at the time of the proposed rent increase by the percentage change in the CCPI since the last anniversary date;
 - c. the Owner will not require the Tenant to pay any extra charges or fees for use of any common property, limited common property, or other common area, or for sanitary sewer, storm sewer, water utilities, property taxes. For clarity, this section does not apply to cablevision, telephone, other telecommunications, gas utility or electricity utility fees or charges; Provided however, that the Owner may charge a maximum of an additional \$75.00 per month if the Employee Unit is fully furnished and an additional \$25.00 per month if the Employee Unit contains a fully functioning washer and dryer.
 - d. the Owner will attach a copy of this Agreement to the Tenancy Agreement;
 - e. the Owner will include in the Tenancy Agreement a clause requiring the Tenant to comply with the use and occupancy restrictions contained in Part III of this Agreement;
 - f. the Owner will include in the Tenancy Agreement a clause entitling the Owner to terminate the Tenancy Agreement in accordance with the *Residential Tenancy Act* if the Tenant uses or occupies, or allows use or occupation of, the Employee Unit in breach of the use or occupancy restrictions contained in this Agreement;
 - g. the Tenancy Agreement will identify all occupants of the Employee Unit, and will stipulate that anyone not identified in the Tenancy Agreement will be prohibited from residing at the Employee Unit for more than 30 consecutive days in any calendar year;
 - h. the Tenancy Agreement will provide for termination of the Tenancy Agreement by the Owner in situations where the Employee Unit is occupied by more than the number of people the Municipality's building inspector determines can reside in the Employee Unit given the number and size of bedrooms in the Employee Unit and in light of any relevant standards set by the Municipality in any bylaws of the Municipality;
 - i. the Tenancy Agreement will provide that the Owner will have the right, at the Owner's option, to terminate the Tenancy Agreement should the Tenant remain absent from the Employee Unit for three consecutive months or longer, notwithstanding the timely payment of rent;
 - j. the Tenancy Agreement will provide that the Tenant will not sublease the Employee Unit or assign the Tenancy Agreement; and
 - k. the Owner will deliver a copy of the Tenancy Agreement to the Municipality upon demand.

18. The Owner will terminate any Tenancy Agreement where the Tenant uses or occupies, or allows use or occupation of an Employee Unit in breach of this Agreement, such termination to be in accordance with the terms of the Tenancy Agreement and the *Residential Tenancy Act* (British Columbia).
19. The Municipality may, in its sole discretion, provide written consent to the Owner from time to time to do something that is otherwise not permitted under this Agreement, on such terms and conditions as the Municipality considers desirable.
20. If the Owner is leasing or renting one or more Employee Units, the Owner will, forthwith upon request by the Municipality, and from time to time as the Employee Units become vacant, identify to the Municipality which Employee Units are vacant and available for occupancy and the Owner will make best efforts to lease or rent the vacant Employee Units to qualified applicants on the Whistler Housing Authority Ltd's (formally W.V. Housing Corporation) tenancy application list.
21. The Owner will be solely responsible for screening Tenants to determine whether or not they qualify to occupy the Employee Unit in accordance with this Agreement notwithstanding that the Employee Unit may be leased or rented to someone from the Whistler Housing Authority Ltd.'s (formally W. V. Housing Corporation) tenancy list. For greater certainty, the Owner agrees that the Municipality and Whistler Housing Authority (formally W.V. Housing Corporation) are not responsible for, and make no representation to the Owner regarding, the suitability of any prospective tenant on the Whistler Housing Authority Ltd's tenancy list.
22. Upon notice from the executor of the Owner's estate, the Whistler Housing Authority Ltd./Resort Municipality of Whistler may, at it's sole discretion, waive the Right of First Refusal & Option to Purchase and consent to a transfer of the Employee Unit to the children of the deceased Owner, provided that the children of the deceased Owner are of legal age, employed in Whistler, and plan to reside in the unit as their primary residence. If the children of the deceased Owner own market real estate, they must agree to sell the market real estate within 6 months of taking ownership of the Employee Unit.

An Employee Unit can not be transferred to an Owner's beneficiary under the age of 19. If the Owner's child or children are not yet of legal age, another family member or legal guardian could reside in the Employee Unit with the child or children until the child or children reach legal age.

Where an executor is holding title to an Employee Unit in trust, not living or intending to live in the Employee Unit with the child or children, and waiting for the Owner's beneficiary of the estate to come of age to inherit for the beneficiary's own use as their primary residence, the owner occupancy requirements set out in section 8 will be waived until the Owner's beneficiary is 19 years of age, provided the Employee Unit is rented by employees or retirees at WHA or its successor's rental rates.
23. If an Owner's child is of legal age, employed in Whistler, does not own other real estate and plans to occupy the Employee Unit as a primary residence, the Owner can add the name of the child on to title of the Employee Unit or can transfer the title entirely into the child's name. Title can not be transferred into a trust.

PART V - CAPITAL IMPROVEMENTS

24. If the Owner has made capital improvements to the Employee Unit that required the issuance of a building permit by the Municipality, then the Municipality may, in its sole discretion, permit the Owner to increase the sale price for the Employee Unit at the time of resale up to an amount commensurate with the value of the capital improvements. If the Owner is dissatisfied with the value of the improvements as determined

by the Municipality, the Owner may, at its expense, engage a Quantity Surveyor to establish the value of such improvements, but the Municipality will in no way be bound by the value established by the Quantity Surveyor, and the Municipality will, in its sole discretion, determine the permitted increase, if any, in the sale price. For greater certainty, the Municipality will not permit any increase in the sale price for improvements that have been made without a building permit issued by the Municipality.

PART VI - DEMOLITION OF EMPLOYEE UNIT

25. The Owner will not demolish an Employee Units unless:
- a. the Owner has obtained the written opinion of a professional engineer or architect who is at arm's length to the Owner that it is no longer reasonable or practical to repair or replace any structural component of the Employee Unit, and the Owner has delivered to the Municipality a copy of the engineer's or architect's report; or
 - b. the Employee Unit is damaged or destroyed, to the extent of 40% or more of their value above their foundations, as determined by the Municipality in its sole discretion, acting reasonably, and
 - g. a demolition permit for the Employee Unit has been issued by the Municipality (unless the Building has, or the Dwelling Units have been destroyed by an accident, act of God, or sudden and unanticipated force) and the Employee Unit has been demolished under that permit.

Following demolition, the Owner will use and occupy the replacement Dwelling Unit in compliance with this Housing Agreement, and sections 2.c., 2.d. and 2.e. herein will apply to the construction of the replacement Dwelling Unit to the same extent and in the same manner as those sections apply to the construction of the original Dwelling Unit, and the Dwelling Unit must be approved by the Municipality as an Employee Unit in accordance with section 4.

PART VII - DEFAULT AND REMEDIES

26. The Owner acknowledges that the Municipality requires employee housing to attract employees to work for local businesses and that these businesses generate tax and other revenue for the Municipality and economic growth for the community. The Owner therefore agrees that, in addition to any other remedies available to the Municipality under this Agreement or at law or equity, if an Employee Unit is used or occupied in breach of this Agreement or rented at a rate in excess of that permitted under this Agreement, the Owner will pay, as a rent charge under section 25, the Daily Amount to the Municipality for each day of the breach of this Agreement. The Daily Amount is increased on January 1 of each year by an amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase in the CCPI between that previous January 1 and the immediately preceding December 31. The Daily Amount is due and payable immediately upon receipt by the Owner of an invoice from the Municipality for the same.
27. The Owner hereby grants to the Municipality a rent charge under s. 219 of the *Land Title Act* (British Columbia), and at common law, securing payment by the Owner to the Municipality of any amount payable by the Owner pursuant to this Agreement. The Owner agrees that the Municipality, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the Municipality in law or in equity.
28. If the Employee Unit is sold for a purchase price exceeding the Maximum Price in contravention of this Agreement, the Owner will pay the excess (the "Excess Amount") to the Municipality within 30 days after

written demand is made by the Municipality. The amount remaining unpaid after the 30 days will bear interest at 10 percent calculated from the due date until the date paid, compounded annually not in advance. The Owner further acknowledges and agrees that the Municipality's Excess Amount is fair and reasonable and is not to be construed as a penalty or forfeiture but as liquidated damages.

PART VIII - INTERPRETATION

29. In this Agreement:
- a. reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - b. article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - c. if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - d. reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - e. reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
 - f. the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
 - g. time is of the essence;
 - h. all provisions are to be interpreted as always speaking;
 - i. reference to a "party" is a reference to a party to this Agreement and to that party's respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a "party" also includes employees, agents, officers and invitees of the party;
 - j. reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
 - l. where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

PART 1X - MISCELLANEOUS

30. **Housing Agreement.** The Owner acknowledges and agrees that this:
- a. Agreement constitutes a covenant under s.219 of the *Land Title Act* and a housing agreement entered into under s.905 of the *Local Government Act* (British Columbia);
 - b. where an Employee Unit is a separate legal parcel the Municipality may file a notice of housing agreement under s.905 of the *Local Government Act* in the LTO against title to the Employee

Unit; and

- c. where Employee Units are not separate legal parcels, or have not yet been constructed, or where the land has not yet been Subdivided to create the Employee Units, the Municipality may file a notice of housing agreement under s. 905 of the *Local Government Act* in the LTO against title to the Land.
31. **Modification.** This Agreement may be modified or amended from time to time, by bylaw duly passed by the Council of the Municipality, if it is signed by the Municipality and a person who is the current registered owner of the Land.
32. **Management.** The Owner covenants and agrees that it will furnish good and efficient management of the Employee Units and will permit representatives of the Municipality to inspect the Employee Units at any reasonable time, subject to the notice provisions in the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Employee Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the forgoing, the Owner acknowledges and agrees that the Municipality, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Employee Units.
33. **Indemnity.** The Owner will indemnify and save harmless the Municipality and each of its elected officials, officers, directors, employees and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:
 - a. any act or omission of the Owner, or its officers, directors, employees, agents, contractors or other persons for whom at law the Owner is responsible;
 - b. the Owner's ownership, lease, operation, management or financing of the Land or any Employee Unit; or
 - c. any act or omission of the Municipality or any of its elected officials, board members, officers, directors, employees, agents or contractors in carrying out or enforcing this Agreement, except where such act or omission constitutes a breach of this Agreement by the Municipality or by any other person for whom at law the Municipality is responsible.
34. **Release.** The Owner by this Agreement releases and forever discharges the Municipality and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or any Employee Unit which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them.
35. **Survival.** The obligations of the Owner set out in sections 24, 25, 26, 31 and 32 will survive termination of this Agreement.
36. **Municipalities Powers Unaffected.** This Agreement does not:
 - a. affect or limit the discretion, rights, duties or powers of the Municipality under any enactment or

at common law, including in relation to the use or subdivision of the Land;

- b. impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
- c. affect or limit any enactment relating to the use or subdivision of the Land; or
- d. relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

37. **Agreement for Benefit of Municipality only.** The Owner and the Municipality agree that:

- a. this Agreement is entered into only for the benefit of the Municipality;
- b. this Agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Land or the building or any portion thereof, including any employee unit;
- c. the Municipality may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

38. **No Public Law Duty.** Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.

39. **Notice.** Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of Owner set out in the records at the LTO, and in the case of the Municipality addressed:

To: Clerk, Resort Municipality of Whistler,
4325 Blackcomb Way, Whistler, BC V0N 1B4

And to: Whistler Housing Authority,
325-2400 Dave Murray Place, Whistler, BC V0N 1B2

or to the most recent postal address provided in a written notice given each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

40. **Enuring Effect.** This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

41. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.

42. **Waiver.** All remedies of the Municipality will be cumulative and may be exercised by the Municipality in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the Municipality exercising any or all

remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

43. **Sole Agreement.** This Agreement, and any documents signed by the Owners contemplated by this Agreement, represent the whole agreement between the Municipality and the Owner respecting the use and occupation of the Employee Units, and there are no warranties, representations, conditions or collateral agreements made by the Municipality except as set forth in this Agreement.
44. **Further Assurance.** Upon request by the Municipality the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the Municipality to give effect to this Agreement.
45. **Covenant Runs with the Land.** This Agreement burdens and runs with the Land and every parcel into which it is Subdivided. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Land.
46. **Limitation on Owner's Obligations.** The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
47. **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the Municipality for breach of this Agreement or the RFR and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement or the RFR.
48. **No Joint Venture.** Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the Municipality or give the Owner any authority to bind the Municipality in any way.
49. **Applicable Law.** Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia. Without limiting the above, in the event of any conflict between any provision of this Agreement and the Residential Tenancy Act, this Agreement is without effect to the extent of the conflict.
50. **Deed and Contract.** By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

**SCHEDULE "A" STATUTORY
DECLARATION CANADA
PROVINCE OF BRITISH COLUMBIA
IN THE MATTER OF A HOUSING AGREEMENT WITH
THE RESORT MUNICIPALITY OF WHISTLER ("Housing
Agreement")**

TO WIT:

I, _____ of _____, British Columbia, do solemnly declare that:

1. I am the owner of _____ (the "Employee Unit"), and make this declaration to the best of my personal knowledge.
2. This declaration is made pursuant to the Housing Agreement in respect of the Employee Unit.
3. For the period from _____ to _____ the Employee Unit was occupied only by the Employees and Retirees (as defined in the Housing Agreement) whose names and current addresses and whose employer's names and current addresses appear below:

Names, addresses and phone numbers of Employees and Retirees:
Names, addresses and phone numbers of Employers:
4. The rent charged each month for the Employee Unit is as follows:
 (a) the monthly rent on the date 365 days before this date of this statutory declaration: \$_____ per month;
 (b) the rent on the date of this statutory declaration: \$_____; and
 (c) the proposed or actual rent that will be payable on the date that is 90 days after the date of this statutory declaration: \$_____.
5. I acknowledge and agree to comply with the Owner's obligations under this Agreement, and other charges in favour of the Municipality registered in the land title office against the land on which the Employee Unit is situated and confirm that the Owner has complied with the Owner's obligations under these Agreements.
6. I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the Canada Evidence Act.

DECLARED BEFORE ME at the _____)
 _____, British Columbia,)
 this ____ day of _____)
)
)
)
)
)
 _____)
 A for taking Affidavits for)
 British Columbia)

SCHEDULE "B"

Sample Calculations for Maximum Price, Resale.

Example 1.

A first resale

Maximum Price, First Sale \$200,000.00

Change in CCPI =

$$\frac{\text{CCPI at date of contract for resale } 113.4 - \text{CCPI at Previous Sale (first sale in this example) } 112.3}{112.3} \times 100 = .98\%$$

Maximum Price, Resale = \$200,000 plus (\$200,000 x .0098 = \$1,960) = \$201,960.00

Example 2

A fourth resale.

Previous Sale Price (from third sale) \$213,647.00

Change in CCPI =

$$\frac{\text{CCPI at date of contract for sale } 116.1 - \text{CCPI at Previous Sale (third sale in this example) } 115.2}{115.2} \times 100 = .78\%$$

Maximum Price, Resale = \$213,647 plus (\$213,647 x .0078 = \$1,666.45) = \$215,313.45

Example 3

A resale where CCPI has declined

Previous Sale Price \$213,647.00

Change in CCPI

$$\frac{\text{CCPI at date of contract for sale } 113.9 - \text{CCPI at Previous Sale } 114.2}{114.2} \times 100 = \text{negative } .26\%$$

Maximum Price, Resale = Previous Sale Price of \$213,647.00 (because percentage change is negative)

END OF SET

STANDARD CHARGE TERMS

FILED BY: RESORT MUNICIPALITY OF WHISTLER (Whistler Housing Authority Ltd.)

STANDARD RIGHT OF FIRST REFUSAL AND OPTION TO PURCHASE

The following standard charge terms are deemed to be included in every right of first refusal and option to purchase in which the set is referred to by its filing number as provided by Section 235 of the *Land Title Act*.

WHEREAS:

- A. The Owner is the registered owner of the Land (hereinafter defined);
- B. The Owner has entered into a Housing Agreement with the Resort Municipality of Whistler (the "Municipality") under section 905 of the *Local Government Act* and has granted to the Municipality a Covenant under section 219 of the *Land Title Act* relating to certain restrictions on the use of the Land (collectively, the "Housing Agreement");
- C. The purpose of the Housing Agreement and this Agreement is to ensure that the Land is used solely for the provision of affordable housing for Employees or Retirees (hereinafter defined);
- D. Pursuant to the terms of the Housing Agreement the Owner has or will agree to build or maintain Employee Units (hereinafter defined) on the Land; and
- E. In order to ensure that the Employee Units are occupied and disposed of in accordance with the Housing Agreement the Owner agrees to grant to the Municipality a right of first refusal to purchase and an option to purchase the Employee Units on the terms and conditions set out in this Agreement,

THIS AGREEMENT is evidence that in consideration of the mutual promises contained in it and in consideration of the payment of \$2.00 by the Municipality to the Owner, the receipt and sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

PART I – DEFINITIONS

- 1. In this Agreement the following words have the following meanings:
 - a. "Agreement" means these standard charge terms together with the General Instrument (hereinafter defined);
 - b. "Assessed Value" means the most recent assessed value of the real property as determined by the assessment authority in which the real property is situated. If such value is not available, then the Assessed Value means the highest price in terms of money that the real property will fetch under all conditions requisite to a fair sale with the buyer and seller each acting prudently, knowledgeably

and assuming the price is not effected by undue stimulus as estimated by a real estate appraiser accredited in the jurisdiction in which the real property is located;

- c. "Bona Fide Offer" means an offer to purchase the Owner's Interest in the Employee Unit:
- i. in writing;
 - ii. signed by an Outside Offeror (hereinafter defined);
 - iii. in a form legally enforceable against the Outside Offeror and subject to no conditions except for the Municipality's Subject (as hereinafter defined);
 - iv. providing for a deposit of not less than 5% of the proposed purchase price within 72 hours of the removal or waiver of the Municipality's Subject;
 - v. for a purchase price that does not exceed the Maximum Resale Price but may be less than the Maximum Resale Price.
 - vi. providing that if the Municipality does not exercise its right of first refusal as set forth in this Agreement, the Outside Offeror will grant to the Municipality a right of first refusal and option to purchase the Lands upon the same terms and conditions as are set forth in this Agreement;
 - vii. providing that the Outside Offeror will not assign or transfer the contract for the purchase of the Employee Unit; and
 - viii. confirming that the Outside Offeror has read and understood the terms of this Agreement, the Housing Agreement and all other charges in favour of the Municipality that are registered in the LTO against the Land and that the Outside Offeror agrees to be bound by the owner's obligations pursuant to such charges;
- d. "Business Day" means Monday to Friday inclusive except for those excluded days declared by lawful authority as holidays, excluding any day that the LTO is not open for business;
- e. "CCPI" means the Core Consumer Price Index for Canada, published from time to time by the Bank of Canada, or its successor in function;
- f. "Change in CCPI" means the percentage change in the monthly CCPI published immediately prior to the date of Previous Sale to the monthly CCPI published immediately prior to the date of contracting for next transfer. Where the CCPI has increased since the date of Previous Sale, the Change in CCPI is positive. Where the CCPI has decreased since the date of Previous Sale, the Change in CCPI is negative.
- g. "Dispose" means to transfer by any method, and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release, and agree to do any of those things;
- h. "Dwelling Units" means all residential dwelling units located or to be located on the Land whether those dwelling units are lots, strata lots or parcels, or parts or portions thereof, into which ownership or right of possession or occupation of the Land may be Subdivided;
- i. "Efforts to Sell" means the best efforts of the Owner to sell the Employee Unit using all reasonable means including, listing the Employee Unit for sale with a licensed real estate agent, advertising the Employee Unit for sale in the local newspapers, posting "for sale" signs on any bulletin boards maintained by the Municipality for sale of such units, and offering to sell the Employee Unit to the Municipality on the following terms:
- i. specifying in a written notice that it is offering to sell the Employee Unit to the

- Municipality in accordance with section 6 or 7 of this Agreement;
- ii. giving the Municipality the exclusive right for 15 Business Days from the date on which the Municipality receives the notice from the Owner pursuant to section 6 or 7 of this Agreement, to give a written notice to the Owner agreeing to purchase the Employee Unit for the purchase price which does not exceed the Maximum Price, and on the terms that are set out in section 5.b. to 5.g. of this Agreement.
- j. "Employee" means a Qualified Person (hereinafter defined) who is either employed or self employed for an average of not less than 20 hours per week on an annual basis at a business located within the boundaries of the Resort Municipality of Whistler which holds an RMOW business license or recognized equivalent;
- k. "Employee Unit" means a Dwelling Unit designated as an employee unit in accordance with the Housing Agreement to be used, occupied and Disposed of in accordance with the Housing Agreement;
- l. "First Purchaser" means the person to whom the Interest in an Employee Unit is first transferred after issuance of the occupancy permit for the Employee Unit by the Municipality;
- m. "General Instrument" means the Form C under the Land Title (Transfer Forms) Regulations, as amended, and all schedules and addenda to the Form C charging the Land and citing these Standard Charge Terms;
- n. "Gross Floor Area" means the habitable gross floor area of each Employee Unit and includes enclosed sunrooms but does not include crawl spaces, open patios, open balconies or parking spaces. If the Employee Unit is a strata lot as defined by the *Strata Property Act*, the gross floor area measurements will be based on the gross floor area shown corresponding to the Employee Unit on the Strata Plan filed in the LTO (hereinafter defined) in respect of the Land. If the Employee Unit is not a strata lot as defined by the *Strata Property Act*, the gross floor area measurements will be made in accordance with the procedure for determining gross floor area set out in the *Strata Property Act* as if the Employee Unit were a strata lot;
- o. "Interest" means the property interest of the Owner in the Employee Unit.
- p. "Land" means the land described in Item 2 of the General Instrument and any part into which said Land is Subdivided (hereinafter defined);
- q. "Lender" means a mortgagee that is a bank or other financial institution established or regulated under any enactment of British Columbia or Canada, or a receiver or receiver-manager acting on behalf of such mortgagee.
- r. "LTO" means the New Westminster/Vancouver Land Title Office or its successor.
- s. "Maximum Price, First Sale" means the sale price for the sale of the Employee Unit to the First Purchaser determined by multiplying the Gross Floor Area of the Employee Unit by the dollar amount set out in the schedule to the Form C. In addition to the Maximum Price, First Sale, the Owner that sells the Employee Unit to the First Purchaser will be entitled to charge the First Purchaser the net GST payable by the First Purchaser and the fee paid by the Owner to obtain the home warranty insurance required by the *Home Protection Act*.

t. "Maximum Price, Resale" means the Previous Sale Price plus the Previous Sale Price multiplied by the Change in CCPI. Where the Change in CCPI is negative or cannot be determined, the Maximum Price, Resale shall be the Previous Sale Price.

u. "Municipality's Subject" mean the following clauses:

The obligation of the seller to complete the transaction contemplated herein is subject to the following (the "Seller's Conditions"):

- i. the seller notifying the buyer in writing not later than _____ that the Resort Municipality of Whistler (the "Municipality") has approved the terms of the sale of the Land to the buyer and that the Municipality has decided not to exercise its option to purchase the Land with respect to this transaction only; and
- ii. the seller notifying the buyer in writing not later than _____ that the Municipality has confirmed the buyer's eligibility to own the Land.

The Seller's Conditions are for the sole benefit of the seller and may be satisfied by the seller by notice in writing to the buyer. If the Seller's Conditions are not satisfied on or before the date specified for their removal, this agreement will be automatically terminated, the deposit will be returned to the buyer, and neither party will have any further obligation to the other under this agreement;

v. "Outside Offeror" means a purchaser or prospective purchaser of the Employee Unit who deals at arm's-length with the vendor of the Employee Unit;

w. "Owner" means the Transferor described in the General Instrument and any subsequent owner of the Land or of any part into which the Land is Subdivided, and includes any person who is a registered owner in fee simple of an Employee Unit from time to time;

x. "Previous Sale" means the last transfer of the Employee Unit.

y. "Previous Sale Price" means the sale price of the Previous Sale.

z. "Qualified Person" means an Employee or Retiree who does not own, either directly or indirectly through a trust, business asset, or otherwise, any interest in real property anywhere in the world, from the time that such person applies for an Employee Unit until such person completes the purchase of an Employee Unit, unless:

- i. the Assessed Value of all the real property he or she owns does not exceed 60% of the Assessed Value of the Employee Unit; or
- ii. the real property he or she owns is:
 - (1) less than 400 square feet in area,
 - (2) less than 650 square feet in area and it is the principal residence that person and one other individual,
 - (3) less than 850 square feet in area and it is the principal residence of that person and at least one child, or
 - (4) less than 1200 square feet in area and it is the principal residence of that person and at least two children; or
- iii. the real estate he or she owns is located in Squamish or Pemberton; and.

that person enters into an agreement with the Municipality to sell his or her interest in the real property within the time period specified by the Municipality, acting reasonably, or that person enters into an agreement with the Municipality with respect to the real property and the Employee Unit on terms acceptable to the Municipality in its sole discretion;

- aa. "Retiree" means a Qualified Person who has ceased employment and who was an Employee in Whistler for 5 of the 6 years immediately preceding the date on which the individual ceased employment;
- ab. "Subdivide" means to divide, apportion, consolidate or subdivide the Land, or the ownership or right to possession or occupation of the Land into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion, organization or development of "cooperative units" or "shared interests in land" as defined in the *Real Estate Act*;
- ac. "Subsequent Purchaser" means a person who purchases the Employee Unit from the First Purchaser or from someone who owned the Employee Unit after the First Purchaser.

PART II - GENERAL

- 2. The Owner covenants and agrees that the Owner will not Dispose of its Interest in any Employee Unit unless such Interest is Disposed of in accordance with this RFR Agreement, the Standard Housing Agreement, and the resale policies of Whistler Housing Authority Ltd (formally W.V. Housing Corporation) or its successor. The Owner will not Dispose of its Interest in any Employee Unit other than to the Municipality or to an Outside Offeror pursuant to a Bona Fide Offer.
- 3. Provided that the Owner is not in breach of any of its obligations under this Agreement or under the Housing Agreement, at the request of the Owner and at the Owner's sole expense, the Municipality will deliver to the Owner discharges of this Agreement in registrable form for each Dwelling Unit that:
 - a. is a separate legal parcel; and is not an Employee Unit; and
 - b. is not an Employee Unit.

PART III - RIGHT OF FIRST REFUSAL

- 4. The Owner covenants and agrees as follows:
 - a. The Owner will not sell or offer to sell any Employee Unit for any consideration not consisting entirely of lawful money of Canada;
 - b. If the Owner receives a Bona Fide Offer to purchase any Employee Unit which the Owner is willing to accept, then the Owner will offer to sell the Employee Unit to the Municipality on the terms that are set out in section 5 of this Agreement, by giving to the Municipality a notice in writing (the "Notice") attached to a copy of the Bona Fide Offer. The Municipality will have the exclusive right for 15 Business Days (the "Election Period") from the date on which the Municipality receives from the Owner the Notice and a copy of the Bona Fide Offer within which to purchase the Employee Unit on the terms set out in section 5 of this Agreement. The Owner

agrees that the Municipality's Election Period to purchase the Employee Unit will not start to run until the Owner gives to the Municipality notice of the Bona Fide Offer with the only condition precedent or subject in the Bona Fide Offer being the Municipality's Subject;

- c. If the Municipality wishes to exercise this right of first refusal, the Municipality will give the Owner written notice of such exercise on or before the end of the Election Period. If the Municipality exercises this right of first refusal, the Municipality shall have the right to assign the Bona Fide Offer to a third party designee of its choice;
- d. If the Municipality does not exercise this right of first refusal with respect to a specific Bona Fide Offer, the Municipality's rights under this right of first refusal with respect to the particular Bona Fide Offer will be waived, but only if the terms of sale between the Outside Offeror and the Owner are in strict compliance with the terms stated in the Bona Fide Offer, and if the Owner complies with the following requirements:
 - i. the Owner delivers to the Municipality, within 5 business days after the expiry of the Election Period written proof, satisfactory to the Municipality, in its sole discretion, that the purchaser is an Outside Offeror, and that the Outside Offeror agrees to be bound by all the agreements in favour of the Municipality which affect the Employee Unit;
 - ii. the Owner does not remove the second part of the Municipality's Subject until such time as the Municipality informs the Owner that it is satisfied with the information provided pursuant to sub-section i herein;
 - iii. at least 5 Business Days before completion of the sale pursuant to the Bona Fide Offer the Owner delivers to the Municipality the following:
 - (1) written proof, satisfactory to the Municipality, in its sole discretion, that the purchase price payable under the Bona Fide Offer does not exceed the Maximum Price;
 - (2) signed Form C granting to the Municipality an option to purchase and a right of first refusal to purchase the Employee Unit (the "New Form C") on substantially the same terms as set out in this Agreement, with such amendments as the Municipality may reasonably require;
 - (3) a discharge of this Agreement (the "Discharge") for execution by the Municipality;
 - (4) undertakings from the solicitor or notary for the Outside Offeror (the "Legal Representative") on terms satisfactory to the Municipality, including that:
 - (a) the Legal Representative will only register the Discharge if it is done concurrently with the registration of the New Form C;
 - (b) the Legal Representative will ensure that the New Form C is registered against the Employee Unit in priority to all mortgages and other financial liens, charges and encumbrances, except for any charges in favour of the Municipality;

- (c) forthwith after registration of the New Form C, provide to the Municipality copies of the Discharge and the New Form C with registration particulars endorsed thereon, and a copy of the State of Title Certificate for the Land confirming registration of the New Form C; and
- (5) a copy of the vendor's statement of adjustments for the Employee Unit certified to be true by the Legal Representative; and
- iv. upon request by the Municipality, the Owner delivers to the Municipality such further evidence as the Municipality may reasonably require to confirm the purchase price of the Employee Unit, and to confirm that the Outside Offeror has granted to the Municipality an option to purchase and a right of first refusal to purchase the Employee Unit.

PART IV - GRANT OF OPTION

5. The Owner hereby grants to the Municipality the sole and exclusive irrevocable option to purchase the Employee Units (the "Option") effective immediately upon breach of any of the Owner's obligations contained in the Housing Agreement, or this Agreement, or upon the Owner advising the Municipality in writing of its intention to transfer or sell the Employee Unit. The Option will be exercised by or on behalf of the Municipality by a written notice delivered to the Owner in accordance with the following terms:
 - a. Subject to adjustments as provided in this Agreement and subject to sections 6 and 7 of this Agreement, for the purchase price (the "Purchase Price") that is the lesser of:
 - i. the purchase price set out in the Bona Fide Offer (if any); and
 - ii. the Maximum Price, Resale.
 - b. The purchase of the Employee Unit by the Municipality will be completed on the date ("Completion Date") to be chosen by the Municipality, acting reasonably, such date not to be later than thirty Business Days after the Municipality gives to the Owner its notice of intention to exercise the Option.
 - c. On the Completion Date, the Owner will convey the Employee Unit to the Municipality, or the Municipality's designee, free and clear of all mortgages and other financial liens, charges and encumbrances, provided that the Owner is entitled to use the Purchase Price to discharge any mortgage registered against title to the Employee Unit, in accordance with section 5.g.vii.
 - d. The Owner will give vacant possession of the Employee Unit to the Municipality, subject only to existing tenancies in favour of Employees or Retirees, following payment of the adjusted Purchase Price to the Owner on the Completion Date.
 - e. All adjustments, both incoming and outgoing, in connection with the purchase and sale of the Employee Unit, including adjustments of taxes, rates, rents and other matters usually the subject of adjustment between vendor and purchaser, as well as adjustments for any amounts payable by the Owner to the Municipality pursuant to the terms of this Agreement or the Housing Agreement, will be made as at the Completion Date.
 - f. The Owner covenants and agrees that it will, from and after the date of the application to register

this Agreement in the LTO, 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 Employee Unit in the Municipality, or Municipality's designee, 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 (if any, as described in the General Instrument) and to enable the Owner to carry out the sale of the Employee Unit and to execute and deliver this Agreement as valid and binding obligations of the Owner.

- g. The Owner hereby represents and warrants to, and covenants and agrees with the Municipality as at the Completion Date that:
- i. the Owner has no indebtedness or obligation to any person which might now or in future constitute a lien, charge or encumbrance on the Employee Unit;
 - ii. the Owner has not used the Employee Unit or permitted any use of the Employee Unit, to store, manufacture, dispose of, emit, spill, leak, generate, transport, 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 Employee Unit ("Contaminant");
 - iii. the Owner has not caused or permitted, the storage, manufacture, disposal, emission, spilling, leakage, treatment, generation, transportation, production, processing, release, discharge, landfilling, treatment or remediation of any Contaminant in, on, under or from the Employee Unit;
 - iv. the Owner has at all times used the Employee Unit in compliance with all laws relating to Contaminants and to the environment;
 - v. the Owner will indemnify and save harmless the Municipality, 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 Municipality by reason of a breach of any representation or warranty, covenant or agreement of the Owner set forth in this Agreement. This obligation will survive the termination of this Agreement;
 - vi. not less than 5 days before the Completion Date, the Municipality will deliver to the Owner's solicitors:
 - (1) two copies of a Form A Transfer transferring the fee simple title to the Employee Unit to the Municipality, or Municipality's designee, ("Transfer") subject only to Permitted Encumbrances,
 - (2) two copies of the Owner's Statement of Adjustments to be approved and

executed by the Owner, and

- (3) a statutory declaration of the Owner that the Owner is a resident of Canada within the meaning of the *Income Tax Act* (Canada);
- vii. on or before the Completion Date, the Owner will deliver to the Municipality's solicitors or notaries, in trust, the Transfer executed on behalf of the Owner, in registrable form, on the undertakings that:
- (1) on the Completion Date, the Municipality will apply to register the Transfer in the LTO only if the adjusted Purchase Price (less any proceeds of a new mortgage to be granted by the Municipality, or Municipality's designee) has first been deposited in the trust account of the Municipality's, or Municipality's designee's, solicitors; and
 - (2) 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 Employee Unit indicating that in the normal course of LTO procedure the Municipality, or its designee, will become the registered owner of the Employee Unit free and clear of all mortgages and other financial liens, charges and encumbrances, other than any mortgage to be discharged as provided herein, the Municipality will at once pay, or cause its designee to pay, the Owner's solicitor or notary public the adjusted Purchase Price by solicitor's trust cheque made available for pick up by the Owner's solicitor or notary public, on the undertaking of the Owner's solicitor or notary public to discharge any mortgage or other financial charge from title to the Employee Unit forthwith following completion;
- viii. the Employee Unit will be at the Owner's risk until the Completion Date and will thereafter be at the risk of the Municipality. In the event of loss or damage to the Employee Unit 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 Municipality, at the Municipality's option, may cancel this Agreement;
- ix. the Municipality, its agents and employees, have the licence, conditional on providing 48 hours prior written notice to the Owner, to enter upon the Employee Unit from time to time prior to the Completion Date, at the Municipality's sole risk and expense, for the purpose of making reasonable inspections, surveys, tests and studies of the Employee Unit; and
- x. the Municipality will pay or cause its designee to pay:
- (1) any property transfer tax payable by it under the *Property Transfer Tax Act* (British Columbia),
 - (2) LTO registration fees in connection with the transfer of the Employee Unit to the Municipality, or the Municipality's designee,
 - (3) the Municipality's legal fees and disbursements but not the Owner's, and

- (4) all goods and services tax, if any, payable in respect of transfer of the Employee Unit to the Municipality, or Municipality's designee, under the *Excise Tax Act* (Canada).

PART V - EXCEPTIONS TO RIGHT OF FIRST REFUSAL AND OPTION

6. Notwithstanding any other provision in this Agreement, if the Owner is a Lender and the Lender has for between 90 days and 119 days made Efforts to Sell, and if the Lender has been unable to enter into a Bona Fide Offer or to sell the Employee Unit to the Municipality, the Lender may after that time sell the Interest to a purchaser who is not an Employee or Retiree, but the purchase price for the Interest must not exceed the Maximum Price and the Employee Unit may only be used, occupied, re-sold or leased by that new owner in accordance with the Housing Agreement and this Agreement.
7. Notwithstanding any other provision in this Agreement, if the Owner is a Lender and the Lender has for at least 120 days made Efforts to Sell, and if the Lender has been unable to enter into a Bona Fide Offer or sell the Employee Unit to the Municipality, the Lender may after that time sell the Interest to a purchaser who is not an Employee or Retiree for any price, and the Employee Unit may be used and occupied subject only to all enactments applicable to the use of the Employee Unit but the Housing Agreement and this Agreement will not apply.

PART VI - INTERPRETATION

8. In this Agreement:
- a. reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - b. article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - c. if a word or expression is defined in this agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - d. reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
 - e. reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
 - f. the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
 - g. time is of the essence;
 - h. all provisions are to be interpreted as always speaking;

- i. reference to a "party" is a reference to a party to this agreement and to that party's respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a "party" also includes employees, agents, officers and invitees of the party;
- j. reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided; and
- k. where the word "including" is followed by a list, the contents of the list are not intended to circumscribe the generality of the expression preceding the word "including".

PART IX - MISCELLANEOUS

- 9. **Municipality not Obligated to Exercise Right of First Refusal or Option.** The Owner acknowledges and agrees that the Municipality is under no obligation to exercise its Option or the RFR.
- 10. **Duration of Option and Right Of First Refusal .** The option to purchase hereby granted and the right of first right of refusal granted by this Agreement are effective until the date that is 80 years less a day after the date on which Form C referring to this Agreement is deposited for registration in the LTO.
- 11. **Modification.** This Agreement may be modified or amended from time to time, by bylaw duly passed by the Council of the Municipality, if it is signed by the Municipality and the person who is the current registered owner of the Land. The Municipality may, in its absolute and unfettered discretion provide written consent to the Owner from time to time to do something that is otherwise not permitted under this Agreement, on such terms and conditions as the Municipality considers desirable.
- 12. **Assignability.** The Owner will not assign its interest under this Agreement without the prior written consent of the Municipality, which consent the Municipality may arbitrarily withhold. The Municipality may assign any of its rights or interests under this Agreement to a company owned by it or to an Employee or Retiree, and upon such assignment the Municipality will have no further obligations under this Agreement with respect to the rights or interests assigned by the Municipality
- 13. **Municipalities Powers Unaffected.** This Agreement does not:
 - a. affect or limit the discretion, rights, duties or powers of the Municipality under any enactment or at common law, including in relation to the use or subdivision of the Land;
 - b. impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;
 - c. affect or limit any enactment relating to the use or subdivision of the Land; or
 - d. relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.
- 14. **Agreement for Benefit of Municipality only.** The Owner and the Municipality agree that:
 - a. this agreement is entered into only for the benefit of the Municipality;

- b. this agreement is not intended to protect the interests of the Owner, any tenant, or any future owner, lessee, occupier or user of the Property, the Land or the building or any portion thereof, including any employee unit;
- c. the Municipality may at any time execute a release and discharge of this agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.
15. **No Public Law Duty.** Where the Municipality is required or permitted by this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent, the Owner agrees that the Municipality is under no public law duty of fairness or natural justice in that regard and agrees that the Municipality may do any of those things in the same manner as if it were a private party and not a public body.
16. **Liability.** Except to the extent caused by the negligence of the Municipality or any other person for whose negligence the Municipality is responsible in law, the Owner agrees to and does hereby indemnify and save harmless the Municipality, its officers, servants, agents and their heirs, personal representatives, successors and assigns against all loss, damage, costs and liabilities which they will or may be liable for or suffer in connection with the Land. The obligations of the Owner as set out in this section survive termination of this Agreement.
17. **Costs.** Unless otherwise specified in this Agreement, the Owner will comply with all the requirements of this Agreement at its own cost and expense and will pay to the Municipality, on request, all reasonable costs or expenses it incurs in connection with this Agreement.
18. **Notice.** Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered, to the postal address of Owner set out in the records of the LTO, and in the case of the Municipality addressed:
- To: Clerk, Resort Municipality of Whistler,
4325 Blackcomb Way, Whistler, BC VON 1B4
- And to: Whistler Housing Authority,
325-2400 Dave Murray Place, Whistler, B.C. VON 1B2
- or to the most recent postal address provided in a written notice given each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.
19. **Enuring Effect.** This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
20. **Severability.** If any provision of this Agreement is found to be invalid or unenforceable such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
21. **Waiver.** All remedies of the Municipality will be cumulative and may be exercised by the Municipality in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the Municipality exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach.

22. **Sole Agreement.** This Agreement, and any documents signed by the Owners contemplated by this Agreement, represent the whole agreement between the Municipality and the Owner respecting the use and occupation of the Employee Units, and there are no warranties, representations, conditions or collateral agreements made by the Municipality except as set forth in this Agreement.
23. **Further Assurance.** Upon request by the Municipality the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the Municipality to give effect to this Agreement.
24. **Covenant Runs with the Land.** This Agreement burdens and runs with the Land and every parcel into which it is consolidated or Subdivided by any means, including by subdivision under the *Land Title Act* (British Columbia) or by strata plan under the *Strata Property Act* (British Columbia). All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement, acquire an interest in the Land.
25. **Limitation on Owner's Obligations.** The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
26. **Equitable Remedies.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the Municipality for breach of this Agreement or the RFR and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement or the RFR.
27. **No Joint Venture.** Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the Municipality or give the Owner any authority to bind the Municipality in any way.
28. **Applicable Law.** Unless the context otherwise requires, the laws of British Columbia will apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia. Without limiting the above, in the event of any conflict between any provision of this Agreement and the Residential Tenancy Act, this Agreement is without effect to the extent of the conflict.
29. **Deed and Contract.** By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

