

OFFER TO PURCHASE - TESTALINDIN WEST

THIS AGREEMENT IS BETWEEN

(Registered Name of Corporation **OR** Full Legal Name of Individual)

(Incorporation Number of Corporation **OR** Occupation of Individual)

(Address)

(Postal Code)

(the "Purchaser")

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister responsible for the ***Land Act***, Parliament Buildings, Victoria, British Columbia, V8V 1X4

(the "Province")

The parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 In this Agreement,

"Agreement" means the agreement for the purchase and sale of the Land created by the Province's acceptance of the Purchaser's offer to purchase the Land set out in Article 2;

"Closing Date" means 90 days after the Province's acceptance in Article 14, or, if applicable, 90 days after the satisfaction or waiver of all the conditions precedent in Article 5 or such other day as the parties agree to in writing, provided that if the Land Title Office is closed on that day the purchase and sale of the Land will be completed on the next day that office is open;

"Crown Grant" means an instrument in writing conveying the Land in fee simple to the Purchaser;

"Deposit" means \$ Ten Thousand (10,000.00) which will be credited against the Purchase Price;

"GST" means Goods and Services Tax imposed under the *Excise Tax Act* (Canada);

"License" means a license on the terms attached as Schedule "C" except that:

- a) the Purchaser is the licensor in place of the Province;
- b) the effective date is the Closing Date; and,
- c) the term may be amended by the Province in accordance with section 2.02 below;

"Land" means the land described in Schedule A;

"Land Title Office" means the land title office for the land title district in which the Land is located;

"Permitted Encumbrances" means the legal notations, endorsements, liens, charges and encumbrances listed in Schedule B;

"Purchase Price" means \$ _____ of lawful money of Canada which, if applicable, includes all money required to be paid for the Crown Grant and the application fee prescribed under the *Land Act* or any regulations made under that act; and

"Purchaser's Solicitor" means the solicitor or notary public, as declared by the Purchaser in section 13.03, who will be acting for the Purchaser to complete this transaction.

ARTICLE 2 - OFFER

2.01 The Purchaser offers to issue the License and purchase the Land from the Province in fee simple, subject to the Permitted Encumbrances, for the Purchase Price and on the terms and conditions set out in this Agreement.

2.02 The Purchaser acknowledges and agrees that on or before the date set out in section 5.01 the Province may extend the term of the License by up to 3 months by notice in writing to the Purchaser.

ARTICLE 3 - PURCHASE PRICE, ADJUSTMENTS AND TAXES

3.01 The Purchaser will pay the Purchase Price to the Province as follows:

- (a) the Deposit will be delivered concurrent with this offer to the Province or to the Purchaser's or the Province's real estate agent for purposes of this transaction; and
- (b) the balance of the Purchase Price, plus or minus the adjustments provided for in section 4.01, will be delivered to the Province in accordance with Article 7.

3.02 The Purchaser will pay all registration charges, *Property Transfer Tax Act* tax, GST and all other taxes and charges payable upon the transfer of the Land to the Purchaser.

3.03 If the Purchaser does not complete the purchase of the Land, the Deposit will be forfeited to the Province on account of damages, without prejudice to any other remedies of the Province.

3.04 No interest on the Deposit will be paid or be payable to the Purchaser or credited against the Purchase Price.

3.05 If the Purchaser is not registered for GST purposes, it will, on the Closing Date, remit to the Province the GST payable upon the transfer of the Land to the Purchaser. If the Purchaser is registered for GST purposes, it will in accordance with the *Excise Tax Act* (Canada), provide its GST number to the Province in the space provided in section 13.02, or on or before the Closing Date by an appropriate GST certificate, and it will account directly to the Receiver General (Canada) for the GST payable upon the transfer of the Land to the Purchaser.

3.06 All monies to be paid or remitted to the Province under this Agreement will be paid by way of solicitor's trust cheque, bank draft or certified cheque payable to the Minister of Finance, Province of British Columbia.

3.07 The Province's GST registration number is R107864738.

ARTICLE 4 - CLOSING, ADJUSTMENT AND POSSESSION DATE

4.01 The purchase and sale of the Land will be completed, possession will be yielded to the Purchaser free and clear of all liens, charges and encumbrances except the Permitted Encumbrances and all adjustments as to taxes and all other matters normally adjusted between a vendor and purchaser on the sale of real property in British Columbia will be made between the parties at 12:01 a.m. on the Closing Date.

4.02 For the purpose of section 4.01, if the Province has paid or will, during the calendar year in which the purchase and sale of the Land is completed, pay a grant in lieu of property taxes for the Land, the grant in lieu of property taxes will be deemed to be property taxes for the Land.

ARTICLE 5 - CONDITIONS PRECEDENT

5.01 The obligation of the Province to complete the sale of the Land is subject to the satisfaction or waiver of the following conditions on or before _____, 2015:

(a) the Province has received a copy of License, executed by both the Purchaser and the licensee, to be delivered to the licensee on the Closing Date.

5.02 The conditions set out in section 5.01 are for the sole benefit of the Province and may be waived by written notice to the Purchaser prior to the date in section 5.01. If the conditions are not satisfied or waived on or before the date in section 5.01, this Agreement will terminate, the Deposit will be returned to the Purchaser and neither party will have any further obligations to the other under this Agreement, except for any provisions which state they will survive the termination of the Agreement.

ARTICLE 6 - CLOSING DOCUMENTS

6.01 Not later than five days prior to the Closing Date, the Purchaser, at its expense, will prepare and deliver the following documents to the Province:

- (a) a statement of the adjustments provided for in section 4.01; and
- (b) all other documents necessary to complete the purchase and sale of the Land.

6.02 Prior to the Closing Date, the Province, at its expense, will deliver the Crown Grant and the documents referred to in section 6.01 to the Purchaser's Solicitor, in trust, on the Purchaser's Solicitor's undertaking to deliver the balance of the Purchase Price, the GST, if any, to the Province in accordance with section 7.04.

ARTICLE 7 - CLOSING PROCEDURE

7.01 The Purchaser will cause its solicitor to hold the Crown Grant in trust to be dealt with in accordance with this Article.

7.02 If there is a title to the Land, the Purchaser's Solicitor, or the solicitor's agent, will attend at the Land Title Office on the Closing Date and conduct a pre-registration search of title to the Land and, upon being satisfied that title to the Land is registered in the name of the Province free and clear of all liens, charges and encumbrances except the Permitted Encumbrances, the Purchaser's Solicitor, or the solicitor's agent, will deposit the Crown Grant in the Land Title Office.

7.03 If there is no title to the Land, the Purchaser's Solicitor, or the solicitor's agent, will deposit the Crown Grant in the Land Title Office on the Closing Date.

7.04 After depositing the Crown Grant in the Land Title Office in accordance with section 7.02 or 7.03, the Purchaser's Solicitor, or the solicitor's agent, will conduct a post-deposit search of the title to the Land and, upon confirming that in the normal course of procedure in the Land Title Office the Purchaser will be registered as owner in fee simple of the Land free and clear of all liens, charges and encumbrances except the Permitted Encumbrances, the Purchaser's Solicitor, at the Purchaser's expense, will deliver to the Province the balance of the Purchase Price and the GST, if any, to be remitted to the Province in accordance with section 3.05, together with a copy of the Crown Grant with registration particulars noted on it, and an executed copy of the License along with evidence of delivery of the License to the licensee.

ARTICLE 8 - TRANSFERS ON OR BEFORE THE CLOSING DATE

8.01 The Purchaser will not, on or before the Closing Date, assign, transfer or dispose of its rights under this Agreement, in whole or in part, without the prior written consent of the Province, which consent may be withheld by the Province in its sole discretion.

8.02 For the purpose of section 8.01, if the Purchaser is a corporation, a change in the control (as that term is defined in subsection 2(3) of the *Business Corporations Act*) of the Purchaser is deemed to be an assignment, transfer or disposition of the rights of the Purchaser under this Agreement.

8.03 If the Province provides its consent under section 8.01, the consent does not release the Purchaser from its obligations under this Agreement.

ARTICLE 9 - WARRANTIES, REPRESENTATIONS AND ACKNOWLEDGMENTS OF THE PURCHASER

9.01 The Purchaser warrants and represents to the Province, with the knowledge that the Province will rely upon these warranties and representations in entering into this Agreement and completing its obligations under this Agreement, that now and on the Closing Date,

- (a) if it is a corporation,
 - (i) it has been incorporated or registered and it exists and is in good standing under the laws of British Columbia or Canada, and
 - (ii) it has the corporate power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement, all of which have been authorized by the necessary corporate proceedings;
- (b) if the Purchaser is an individual, he or she is either a Canadian citizen or a permanent resident of Canada and will deliver to the Province, on request, a statutory declaration to that effect; and
- (c) the Purchaser has satisfied itself as to
 - (i) the condition of the Land (including surface and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and on or under any surrounding or neighbouring land and the current and past uses of the Land and any surrounding or neighbouring land
 - (ii) the fitness of the Land for any particular use, including the intended use of it by the Purchaser,
 - (iii) the general condition and state of all utilities or other systems on or under or which will serve the Land,
 - (iv) the zoning of the Land and the bylaws of any governmental body which relate to the development, use and occupation of the Land;

and has conducted, or had the opportunity to conduct, an independent investigation of each of these matters.

9.02 The Purchaser acknowledges, covenants and agrees that:

- (a) the Land and improvements are sold to it "as is";
- (b) it has reviewed and accepted copies of the Permitted Encumbrances;
- (c) except as otherwise specifically set forth herein, the Province has not given any warranty or representation concerning:
 - (i) the fitness of the Land for any particular use, including the intended use of it by the Purchaser,
 - (ii) the condition of the Land (including surface and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and on or under any surrounding or neighbouring land and the current and past uses of the Land and any surrounding or neighbouring land,
 - (iii) the general condition and state of all utilities or other systems on or under or which will serve the Land,
 - (iv) the zoning of the Land and the bylaws of any governmental body which relate to the development, use and occupation of the Land,
 - (v) the application of any federal or provincial statute or law to the Land, and
 - (vi) the economic feasibility of the development of the Land;
- (d) it will, from and after the Closing Date

- (i) assume all environmental liabilities relating to the Land including, but not limited to, all liability for the clean-up of any toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Land or migrating from the Land (including surface water and groundwater),
 - (ii) indemnify and save harmless the Province from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by them arising out of or in connection with all environmental liabilities relating to the Land, including, but not limited to, any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land,
 - (iii) release the Province from and against all claims, demands, liabilities, losses, damages, costs, actions, causes of action, suits and proceedings by the Purchaser with respect to all environmental liabilities relating to the Land, including, but not limited to, any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Land, and
 - (iv) assume the Province's obligations under, and be bound by the terms of, the Permitted Encumbrances and indemnify and save harmless the Province from and against any claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by them as a result of any default by the Purchaser under the Permitted Encumbrances from and after the Closing Date;
- (e) there are no warranties, representations, collateral agreements or conditions affecting this Agreement except as set out in this Agreement;
 - (f) the Province is under no obligation, express or implied, to provide financial assistance or to contribute, in any way, to the Purchaser's cost of servicing or developing the Land or to assist the Purchaser in obtaining any permits or approvals in connection with the Land;
 - (g) nothing in this Agreement constitutes the Purchaser as the agent, joint venturer or partner of the Province; and
 - (h) it is aware that this Agreement and any information regarding this Agreement or the Purchaser may be disclosed or may be required to be disclosed under the *Freedom of Information and Protection of Privacy Act*, governmental policy or otherwise.

9.03 If the Purchaser is comprised of more than one person, all covenants and obligations of the Purchaser will be deemed to be joint and several covenants and obligations of each of those persons.

ARTICLE 10 - WARRANTIES AND REPRESENTATIONS OF THE PROVINCE

10.01 The Province warrants and represents to the Purchaser with the knowledge that the Purchaser will rely upon these warranties and representations in entering into this Agreement and completing its obligations under this Agreement that, now and on the Closing Date,

- (a) it has, the power and authority to dispose of the Land and the necessary proceedings have been taken by it to enter into this Agreement and to carry out its obligations under this Agreement;
- (b) it has a good, safe holding and marketable title to the Land in fee simple free and clear of all liens, charges and encumbrances except the Permitted Encumbrances;
- (c) all taxes, rates, levies and assessments in respect of the Land will either be paid in full or adjusted between the parties in accordance with section 4.01;
- (d) there is no claim or litigation pending or threatened against it which would affect the right of the Purchaser to acquire the Land; and

- (e) to the best of its knowledge, the Land has not been used for a prescribed industrial or commercial purpose or any other purpose or activity prescribed under the *Environmental Management Act* or any regulations made under that act.

ARTICLE 11 - MISCELLANEOUS

11.01 Time is of the essence of this Agreement.

11.02 The Land is at the risk of the Province until the Crown Grant has been deposited in the Land Title Office.

11.03 This Agreement is the entire agreement between the parties with respect to the purchase and sale of the Land and may not be modified except by subsequent agreement in writing.

11.04 All notices, documents or communications required or permitted to be given under this Agreement must be in writing and will be deemed to have been given if delivered by hand, courier or facsimile to the party to whom it is to be given as follows:

to the Purchaser:

(Name)

(Address)

_____, British Columbia V____

Phone: (____) ____-____ Facsimile: (____) ____-____ Email: _____

to the Province:

Ministry of Forests, Lands and Natural Resource Operations
441 Columbia Street
Kamloops, British Columbia V2C 2T3
Phone: (250) 828-4437 Facsimile: (250) 828-4442

provided, however, that a party may, by notice in writing to the other, specify another address for service of notices under this Agreement and, where another address is specified under this section, notice must be delivered to that address in accordance with this Article.

11.05 Delivery of the Crown Grant to the Purchaser's Solicitor and delivery of all money to the Province will be effected by hand or courier to the address specified for the Purchaser's Solicitor or for the Province in this Agreement, such delivery to be effective only on actual receipt.

11.06 The warranties, representations and agreements contained in this Agreement will not be subject to merger but will survive the sale of the Land to the Purchaser.

11.07 No term, condition, covenant or other provision of this Agreement will be considered to have been waived by a party unless such waiver is expressed in writing by the party. The waiver by a party of any breach by the other party of any term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other term, condition, covenant or other provision and the consent or approval of a party to any act by the other party requiring the consent or approval of the party will not be considered to waive or render unnecessary such consents or approvals to any subsequent, same or similar act by the other party.

11.08 No remedy conferred upon or reserved to either party is exclusive of any other remedy in this Agreement or provided by law, but such remedy will be cumulative and will be in addition to any other remedy in this Agreement now or hereafter existing at law, in equity or by statute.

11.09 This Agreement is binding upon and enures to the benefit of the Province and its assigns and the Purchaser and its heirs, executors, administrators, successors and permitted assigns.

11.10 This Agreement creates contractual rights only between the parties, does not create any equitable or legal interest in the Land and will not be registered by the Purchaser at any Land Title Office at any time. If the Purchaser registers or attempts to register this Agreement at any land title office at any time, this Agreement will be voidable at the Province's option.

11.11 The Province and the Purchaser will perform such further acts and execute such further documents as may reasonably be required to give effect to this Agreement.

11.12 The schedules to this Agreement form part of this Agreement.

11.13 This Agreement may be executed in counterparts and when the counterparts have been executed by the parties, each originally executed counterpart, whether a facsimile, photocopy or original, will be effective as if one original copy had been executed by the parties to this Agreement.

11.14 The Purchaser warrants to the Province that the Purchaser has not utilized the services of any real estate agent or salesperson in connection with the purchase or sale of the Land to whom any fees, commission or compensation may be payable by the Province, except to the extent the Province listed the Land for sale under a multiple listing agreement.

ARTICLE 12 - INTERPRETATION

12.01 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties so require.

12.02 The captions and headings contained in this Agreement are for convenience only and do not define or limit the scope or intent of this Agreement.

12.03 This Agreement will be interpreted according to the laws of the Province of British Columbia.

12.04 Where there is a reference in this Agreement to an enactment of the Province of British Columbia or of Canada, that reference will include a reference to any prior or subsequent enactment of the Province of British Columbia or Canada, as the case may be, of like effect and, unless the context otherwise requires, all statutes referred to in this Agreement are enactments of the Province of British Columbia.

12.05 If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section as the case may be, will be considered separate and severable and the remaining parts or sections as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.

ARTICLE 13 - DURATION OF OFFER

13.01 This offer may be accepted by the Province no later than _____ on _____, 2015.

13.02 If applicable, the Purchaser's GST registration number is _____.

13.03 If this offer is accepted by the Province, the solicitor or notary public who will be acting for the Purchaser is:

(NAME OF FIRM)

(ADDRESS OF FIRM)

(NAME OF SOLICITOR OR NOTARY PUBLIC)

(PHONE NO.)

(FASCIMILE NO.)

(EMAIL)

The Purchaser has executed this offer on _____, 2015.

➔ IF THE PURCHASER IS A CORPORATION:

SIGNED by an authorized signatory of _____)
_____))
(Purchaser – Print Name) _____)
in the presence of _____)
_____))
_____))
(Witness – Signature) _____)
_____))
_____))
(Witness – Print Name) _____)
_____))
_____))

Authorized Signatory

➔ IF THE PURCHASER IS AN INDIVIDUAL:

SIGNED AND DELIVERED by _____)
_____))
(Purchaser – Print Name) _____)
in the presence of _____)
_____))
_____))
(Witness – Signature) _____)
_____))
_____))
(Witness – Name) _____)
_____))
_____))

Purchaser's Signature

ARTICLE 14 - ACCEPTANCE

14.01 In consideration of the covenants and agreements of the Purchaser in this offer, the Province accepts this offer and adopts the covenants of the Province in this Agreement.

The Province has executed this Agreement on _____, 2015.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Land Act*
or the minister's authorized representative

Minister responsible for the *Land Act*
or the minister's authorized representative

SCHEDULE B
PERMITTED ENCUMBRANCES

1. All subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the Land.
2. All the interests, rights, privileges and titles contained in section 50 of the *Land Act*.
3. Any conditional or final water licence or substituted water licence issued or given under the *Water Act*, or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Land and to maintain, repair and operate any works permitted on the Land under the licence at the date of the Crown Grant.
4. All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, *Coal Act* or *Petroleum and Natural Gas Act* or under any prior or subsequent enactment of the Province of British Columbia of like effect.
5. All notations and endorsements noted as "Legal Notations" on the title, if any, to the Land or any parcel from which the Land may be created.
6. Covenant CA4592701
7. Existing 2015 grape crop guaranteed to tenure holder of Licence of Occupation No: 347411.

