

**OFFER TO PURCHASE
("Offer")**

I/We _____

of the Town/City/Municipality of _____, in the Province of Ontario,

If Corporation

Principal Shareholder: _____

Signing Officer(s): _____

In care of: _____

Purchaser(s) Solicitor

Address

Tel #

Fax#

hereinafter called the Purchaser,

hereby agree to and with **CITY OF HAMILTON**,

hereinafter called the Vendor,

to purchase all and singular that certain parcel or tract of land and premises situated in the City of Hamilton, municipally known as **95 Dundurn Street South, Hamilton**, Ontario and being composed of a parcel of vacant land and legally described as:

Part of Lots 1 and 2 on Plan 416 in the City of Hamilton, as in Instrument Number HL189374, being PART of PIN 17139-0001 (LT), more specifically illustrated as Parts 1 and 2 on a topographical survey sketch attached hereto as Schedule "A", which shall be superseded by a reference plan to be deposited prior to closing (hereinafter called the "Subject Property"),

at the price of _____ DOLLARS
(\$ _____) of lawful money of Canada, payable as follows:

- (a) A deposit of 10% of the Purchase Price,
_____ DOLLARS (\$ _____)
by certified cheque or bank draft payable to the Vendor to be delivered to City of Hamilton, Attn: Manager, Corporate Real Estate Office, 71 Main St W Hamilton, ON L8P 4Y5, no later than 5:00PM EST of the next business day upon the Purchaser receiving notification that it is a potential purchaser.
- (b) The balance of the purchase price namely,
_____ DOLLARS (\$ _____)
and subject to adjustments, by certified cheque on the closing of this transaction.

Forming part of this Offer to Purchase is Schedule "**A**" attached hereto.

Provided that this Offer to Purchase is subject to the following conditions:

1. This Offer shall be **irrevocable by the Purchaser** and may be accepted by the Vendor up to but not after the **3rd day of April, 2023** by a letter mailed or delivered by the City Solicitor to the Purchaser's Solicitor as written above.
2. In the event that this Offer is not accepted, this Offer and everything herein contained shall be null and void and no longer binding upon any of the parties hereto and the deposit shall be returned by the Vendor without interest and the Vendor shall be fully released by the Purchaser of any and all liability arising from this Offer.
3. Subject to City of Hamilton council approval and the execution and delivery of the acceptance of this Offer by the Vendor to the Purchaser, this Offer and the letter of acceptance shall be a binding contract of purchase and sale and shall be completed in accordance with the terms herein.
4. Save and except for the fence encroachment to the north of the Subject Property, and except as to any registered restrictions or covenants, the title of the Subject Property is good and free from encumbrances. The Purchaser shall accept title of the Subject Property with the exceptions outlined in this paragraph.

5. The Purchaser is not to call for the production of any title deeds, abstract or evidence of title except such as are in the possession of the Vendor.
6. The Purchaser is to be allowed **thirty (30) days** prior to closing to examine the title at his own expense. If within that time any valid objection to title (subject to the exceptions in paragraph 4) is made in writing to the Vendor, or its Solicitor, which the Vendor shall be unable or unwilling to remove and which the Purchaser will not waive, the contract arising out of the acceptance of this Offer shall, notwithstanding any intermediate acts or negotiations in respect of such objections, be null and void and all monies shall be returned by the Vendor without interest and it shall not be liable for any damages or costs. Save as to any valid objection so made within such time the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the real property.
7. This transaction shall be closed on or before the _____ day of _____, 2023.
8. The Purchaser agrees with the Vendor, to the following covenants, warranties, conditions and restrictions, and agrees that the transfer to it of the said lands, shall be subject to the following covenants, warranties, conditions and restrictions, which shall not merge on the closing of this transaction but shall continue on after the day of closing and run with the land:
 - (a) The Purchaser shall obtain the approval of the Vendor for any development on the said lands, prior to commencing construction of such development;
 - (b) The Purchaser shall obtain all government permits and approvals and satisfy all requirements and restrictions of the Vendor, and all other agencies, at its own cost;
 - (c) The Purchaser shall commence construction in accordance with the current zoning upon the said lands within twenty-four (24) months of the closing date of this transaction;
 - (d) The Purchaser shall complete said construction within forty-eight (48) months of the closing date of this transaction. The building is considered completed upon the issuance of an Occupancy Permit by the City;
 - (e) No transfer of the said lands or the controlling interest thereof shall be made by the Purchaser until the Vendor confirms that the covenants in Paragraph 8(a) through 8(d) have been complied with, which covenants shall be registered on title to the property by the Vendor on closing, at the expense of the Purchaser;
 - (f) The Purchaser is responsible for the construction of a driveway from the travelled portion of the road allowance to the property line;
 - (g) The Purchaser is responsible for water lateral connections to the said lands and any requirements for storm water management affecting the said lands;
 - (h) If the Purchaser fails to comply with the conditions in Paragraph 8(c) and 8(d) within the time required, then the Vendor shall have the option, which option is granted to the Vendor by the Purchaser for good and valuable consideration, to re-purchase the property and to receive a conveyance of it free and clear of all charges and encumbrances, liens, claims or adverse interests whatsoever, and the Vendor agrees to pay the Purchaser the original purchase price for the said lands:
 - (i) less the deposit;
 - (ii) less real estate commission;
 - (iii) less all realty/property taxes due and owing on the subject lands to the date that the property is to be transferred to the municipality, whether or not these realty/property taxes have been assessed or billed;
 - (iv) less arrears of realty/property taxes, penalty and interest (including local improvement charges);
 - (v) less amounts required to discharge any mortgages, liens, charges or other encumbrances, claims or adverse interests whatsoever against the said lands;
 - (vi) less the costs of the Vendor incurred in entering on the land and retaking and reselling the land; and
 - (vii) without increase or compensation for any improvements, additions, alterations in, on or under the said lands.
9. The Purchaser acknowledges and agrees that the Purchaser is responsible for all costs, charges, fees, levies and rates affecting the said lands and for providing all services required on the said lands. In particular, without limiting the generality of the foregoing, the Purchaser is responsible for the following:
 - (a) Municipal and realty taxes;
 - (b) Municipal local improvement charges for streets, sidewalks and curbs;
 - (c) Municipal local improvement charges for water supply, storm sewers and sanitary sewers;
 - (d) Building permit application fee;

- (e) Any Special Charge upon application for a building permit;
 - (f) Storm, sanitary sewers, water lines, their connections and laterals under the street and under the said lands;
 - (g) All utility connections to the said lands;
 - (h) The construction of a driveway to and over the said lands.
10. On the closing of this transaction, the Vendor will convey the said lands to the Purchaser by a good and sufficient deed thereof in fee simple, free and clear of dower rights and all encumbrances, except as to any registered restrictions or covenants, and shall use its best efforts to deliver vacant possession of the said lands to the purchaser free of all tenancies.
11. The Purchaser shall assume all taxes, local improvements, water and sewer rates from the date set out in paragraph 7 hereof.
12. The transfer is to be prepared at the expense of the Vendor. The transfer is to be registered at the expense of the Purchaser.
13. This Agreement and its acceptance is to be read with all changes of gender or number required by the context.
14. This Agreement may not be assigned by the Purchaser.
15. In the event of failure of the Purchaser to complete this transaction by the date set out in paragraph 7 hereof, the deposit shall be forfeited to the Vendor as liquidated damages, in addition to any other right or remedy to which the Vendor may be entitled hereunder.
16. The Purchase Price does not include Harmonized Sales Tax ("HST") and, if this transaction is subject to HST, then applicable HST shall be in addition to the Purchase Price. All HST shall be collected and remitted as required by law. The Vendor shall not collect HST on closing if the Purchaser provides to the Vendor a warranty that the Purchaser is registered under the *Excise Tax Act* (Canada), a copy Purchaser's HST registration number, evidence satisfactory to the Vendor that such registration is in good standing and has not been varied or revoked, together with the Purchaser's indemnity to save harmless the Vendor from and against any liability for payment of any HST in respect of this transaction of purchase and sale. The Vendor and Purchaser agree with each other that the provisions of this section shall not merge on the closing of this transaction, or upon the registration of a deed on title, but shall continue thereafter in full force and effect.
17. Any tender of documents required in connection with the herein transaction shall be made as follows by way of the delivery by facsimile transmission upon the solicitor for the non-tendering party by five (5:00) p.m. on the day of closing of the following:
- (a) Executed non-registration closing documents;
 - (b) Paper copy of registrations documents electronically messaged by Teraview electronic mail, signed for completeness by the tendering party's solicitor;
 - (c) If acting for the purchaser, a copy of the certified cheque, solicitor's trust cheque or in the case of payment by the City, a copy of the City's cheque for the balance due on closing; and
 - (d) Covering letter detailing enclosures.
18. (a) The Purchaser acknowledges and agrees that except as expressed herein:
- (i) there have been no representations and/or warranties by the Vendor whatsoever with respect to the lands and that the lands are being purchased on an "as is", "where is" basis;
 - (ii) it submits the Offer to Purchase contemplated by this Agreement without any agreement, representation or warranty from the Vendor with respect to the lands;
 - (iii) it shall rely entirely upon its own environmental site assessment and other inspections and investigations with respect to the quality, quantity, value and title of the lands. It is understood and agreed by the Purchaser that the Vendor has not warranted the suitability of the lands for any development use or any other proposed use by the Purchaser; and
 - (iv) the Purchaser agrees to assume any and all risks relating to the physical condition of the lands, and any and all environmental liabilities relating to the lands, which existed on the lands on or prior to the closing date, including but not limited to any liability for clean-up of any hazardous substances on or under the

lands. Neither the Purchaser nor any permitted occupant shall have any recourse to the Vendor as a result of the nature and condition of the land, and the Vendor makes no representation, warranty, condition, either express or implied, as to soil or other environmental conditions, utilities, fitness for purpose, zoning and building by-laws, parkland, road widenings, or other possible dedications, or as to charges, levies, and regulations of the City of Hamilton, Utilities or other Regulatory Authorities.

- (b) The Vendor makes no representations regarding the current or potential uses of the Subject Property or any other matters except as set out in this agreement relating to the land being sold and responsibility for ascertaining these matters rest solely with the Purchaser.
- (c) It is understood and agreed that in the event the Purchaser develops the subject property that he/she may be required to pay: development, sewer, parkland dedication and other charges levied by the appropriate government bodies.

- 19. The Purchaser indemnifies and saves harmless the Vendor from any and all claims, costs, damages, demands, fines or awards that may arise directly or indirectly as a result of the condition of the Property, including any environmental conditions or past illegal activities in or on the property.
- 20. If there is a conflict between any provision written or typed in this Agreement (including any Schedule(s) to this Agreement) and any provision in the printed portion hereof, the written or typed provision shall supersede the printed provision to the extent of such conflict. This Agreement including any Schedule(s) attached hereto shall constitute the entire Agreement between the Purchaser and Vendor. There is no representation, warranty, collateral agreement or condition, whether direct or collateral or expressed or implied, which induced any party hereto to enter into this Agreement or on which reliance is placed by any such party, or which affects this Agreement or the property or supported hereby, other than as expressed herein.
- 21. Time shall be of the essence of this Agreement, which shall enure to the benefit of and be binding upon the Purchaser, his heirs, executors, administrators, successors and assigns, and shall enure to the benefit of and be binding upon the Vendor, its successors and assigns.
- 22. The Purchaser acknowledges that, in approving this Offer to Purchase, the approval of this sale does not constrain the discretion of the City Council of the City of Hamilton to determine whether to approve or deny any re-zoning or site plan application, Heritage Permit application or any other submission on the subject lands or any adjacent lands and any denial of any such application shall not be deemed to be acting in bad faith on the part of the City.

DATED at _____ this _____ day of _____, 2023.

[Individual Purchaser(s)]

SIGNED, SEALED AND DELIVERED)	
in the presence of:)	
)	
)	
)	_____
)	signature
)	
)	_____
)	printed name of signatory
)	
_____)	_____
Witness)	signature
)	
)	_____
)	printed name of signatory
)	
_____)	
Printed Name of Witness)	

[Corporate Purchaser]

SIGNED, SEALED AND DELIVERED
in the presence of

)
)
) _____
) signature / I have the authority to bind the Corporation
)
)
) _____
) printed name of signatory
)
)
) _____
) signature/ I have the authority to bind the Corporation
)
)
) _____
) printed name of signatory

Vendor Solicitor:

Li Cheng
Li Cheng Professional Corporation
200-10 George Street
Hamilton, Ontario L8P 1C8
Telephone: (905) 526-2127
Fax: (905) 526-2112
Email: li@georgestreetlaw.ca

With a copy to:

Legal Services Section, Corporate Services Department
City of Hamilton
5th Floor, 50 Main Street East
Hamilton, Ontario L8N 1E9
Telephone: (905) 546-4520
Fax: (905) 546-4370

SCHEDULE "A"
to Offer to Purchase

95 Dundurn Street South, Hamilton

Part of Lots 1 and 2 on Plan 416 in the City of Hamilton, as in Instrument Number HL189374, being PART of PIN 17139-0001 (LT), more specifically illustrated as Parts 1 and 2 on a topographical survey sketch which shall be superseded by a reference plan to be deposited prior to closing (the "Subject Property")

