

23 West Planning District

RM of Prairie Lakes: Belmont, Mb. PH: (204) 537-2241
RM of Argyle: Baldur, Mb. PH: (204) 535-2176
RM of Cartwright-Roblin: Cartwright, Mb. PH: (204) 529-2363
Cell/Text: (204) 523-2080 Email: 23westinspector@gmail.com

APPLICATION FOR: CONDITIONAL USE

AMENDMENT TO: BASIC PLANNING STATEMENT

ZONING BY-LAW

DEVELOPMENT PLAN

PLANNING SCHEME

OWNER

Hamilton Holsteins Ltd.

APPLICANT

HyLife Ltd.

LEGAL DESCRIPTION OF PROPERTY

NW-10-6-14 W

LOCATION OF PROPERTY

WLY 80ac of the NW-10-6-14 W

THE BOARD REQUIRES THAT THE FOLLOWING, AS INDICATED BE SUPPLIED:

a) CERTIFICATE OF SEARCH

f) OTHER DATA: _____

b) CERTIFICATE OF TITLE

c) AUTHORIZATION to APPLY

d) SURVEY PLAN BY M.L.S.

e) VALID OPTION TO PURCHASE

APPLICABLE DOCUMENTS:

BASIC PLANNING STATEMENT _____

DEVELOPMENT PLAN _____

ZONING BY-LAW

PLANNING SCHEME _____

SUBJECT PROVISION:

PROPOSED CHANGES:

a) **VARIED TO ALLOW:** _____

b) **CONDITIONAL USE REQUESTED:** Operate a Livestock operation consisting of 792 animal units.

c) **AMENDED TO:** _____

REASON IN SUPPORT: Build and operate a 792 AU Livestock operation as part of our integrated pork production operation.

I undertake to observe and perform all provisions of *The Planning Act*, the applicable Development Plan, Basic Planning Scheme, any development agreement entered into under *Section 48* of *The Planning Act* and any conditions imposed under *Sections 57 or 59* of *The Planning Act*, and the provisions of other relevant laws or by-laws.

SIGNATURE OF OWNER: *Glen L. Hammett* **DATE:** May 27/19
ADDRESS OF OWNER: Box 143
Glenboro, MB **PHONE:** 204 827-2358
ROK OXO

SIGNATURE OF APPLICANT: *[Signature]* **DATE:** May 24, 2019
ADDRESS of APPLICANT: Box 100 5 Fabas St
Labroquerie, MB **PHONE:** 204-424-2313
ROA OWO

APPLICATION RECEIVED BY: *K Cameron* DATE MAY 27/19
APPLICATION FEE \$ 250.00
Please make cheques payable to: 23 West Planning District
Forward completed form to:
23 West Planning District, Box 100, Belmont, Mb. ROK OCO

OPTION TO PURCHASE

This Agreement ("**Agreement**") is made effective as of the 15 day of APRIL, 2019
(the "**Effective Date**").

BETWEEN:

HAMILTON HOLSTEINS LTD.
a corporation existing under the laws of the
Province of Manitoba
(the "**Owner**")

- and -

HYLIFE LTD.,
a corporation existing under the laws of the
Province of Manitoba
(the "**Optionee**")

WHEREAS the Owner is the registered and beneficial owner of the lands legally described in **Schedule "A"** (the "**Lands**");

AND WHEREAS the Optionee desires to acquire from the Owner, and the Owner desires to grant to the Optionee, an option to purchase the portion of the Lands described as the "**Selected Parcel**" in **Schedule "A"**, on the terms and conditions set out herein;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

1. **Grant of Option.** In consideration of the sum of \$1.00 paid by the Optionee to the Owner, the receipt and sufficiency of which are acknowledged by the Owner, the Owner hereby grants to the Optionee the exclusive, irrevocable option (the "**Option**") to purchase the Selected Parcel at the Purchase Price set out in **Section 2**, subject to the terms and conditions set out herein.
2. **Purchase Price.** The Purchase Price for the Selected Parcel shall be the sum of [REDACTED] (Canadian Funds) (the "**Purchase Price**"). The Purchase Price is based on an 80 acre parcel, at [REDACTED] per acre. If the Selected Parcel consists of greater or less than 80 acres, the Purchase Price shall be adjusted accordingly.
3. **Exercise of Option.** The Optionee may exercise the Option by notice in writing given to the Owner (the "**Option Notice**") no later than the fifth (5th) anniversary of the Effective Date first written above (the "**Option Expiry Date**"). The Option Notice shall set out the name of any nominee chosen by the Optionee to take title to the Selected Parcel in accordance with **Section 15**. If no Option Notice has been delivered by the Optionee to the Owner by 11:59 p.m. on the Option Expiry Date, the term of this Agreement shall end and the Option shall expire. If the Optionee exercises the Option in the manner provided, there will be created a binding agreement for the purchase and sale of the Selected Parcel, subject to the provisions of **Section 7**, which shall be completed upon the terms and conditions set out herein.

4. **Access and Due Diligence.** The Owner shall take all commercially reasonable steps to cooperate with the Optionee with respect to the Optionee's due diligence and shall provide the Optionee, without charge, with all environmental reports and other documentation in the Owner's possession with respect to the Selected Parcel within ten (10) business days after the Effective Date. The Owner hereby grants the Optionee and its employees, agents and invitees the right to enter upon the Lands from time to time until the Option Expiry Date or the Closing Date, whichever is later, at the Optionee's sole risk and expense, for the purpose of making inspections, conducting surveys, taking soil and other samples, and conducting tests and studies of the Lands, provided that the Optionee shall take reasonable precautions to minimize any disruption to the Owner's use of the Lands in the process. The Owner shall cooperate with the Optionee in obtaining all such permits, licenses, manure spreading rights and other approvals as may be required by the Optionee for its intended use of the Selected Parcel as a hog production facility, provided that the Optionee shall, at all times, be solely responsible for obtaining such approvals.

5. **Owner Representations and Warranties.** The Owner hereby makes the following representations and warranties to the Optionee and acknowledges that the Optionee is relying on such representations and warranties, which shall be true and correct on the Effective Date and on the Closing Date:

- (a) The Owner is the registered and beneficial owner of the Lands, having title in fee simple in possession, free and clear of all liens, mortgages, charges, easements, licenses, rights-of-way and encumbrances of whatsoever nature and kind other than the Permitted Encumbrances, as defined in **Schedule "B"** to this Agreement.
- (b) There is not any agreement, contract, or other option for sale of the Lands or any portion thereof other than this Agreement.
- (c) If the Owner is a corporation, it is validly formed and existing under the laws of Manitoba and is duly qualified to own and sell the Selected Parcel, and the Owner has full corporate power, authority and capacity to enter into this Agreement and carry out the transactions contemplated herein.
- (d) The Owner has taken all necessary or desirable actions, steps and other proceedings to approve and authorize, validly and effectively, the entering into, execution, delivery and performance of this Agreement and the transactions contemplated herein.
- (e) There is no action or proceeding pending, or to the Owner's knowledge threatened, against the Owner before any court, arbiter, arbitration panel, administrative tribunal or agency which, if decided adversely to the Owner, might materially affect the Owner's ability to perform its obligations hereunder.
- (f) Neither the entering into this Agreement nor the performance of its terms by the Owner will result in the breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Owner is bound or subject.
- (g) The Owner is not a "non-resident" of Canada within the meaning of the Income Tax Act (Canada).

The foregoing representations and warranties shall survive the Closing Date for a period of two (2) years.

6. **Risk.** Until the completion of closing on the Closing Date, the risk of all loss with respect to the Selected Parcel shall be with the Owner. The Owner shall pay when due all real property taxes assessed against the Lands until the earlier of the unexercised Option Expiry Date or the Closing Date.

7. **Water Supply.** As soon as reasonably practicable following delivery of the Option Notice, the Optionee shall, at its sole cost, use reasonable efforts to obtain an adequate water supply for the operation of a hog production facility on the Lands. The Owner shall cooperate with the Optionee in obtaining the water supply for the Lands. If, in the Optionee's sole discretion, it is unable to obtain an adequate water supply in accordance with this **Section 7**, the parties agree that this Agreement and the binding agreement referred to in **Section 3** shall be automatically terminated and neither party shall have any obligation to proceed with the Transaction.

8. **Subdivision.** As soon as reasonably practicable following delivery of the Option Notice, the parties shall cooperate to apply for the subdivision of the Lands to create a separate title for the Selected Parcel (the "**Subdivision**") if subdivision is required to create a separate title to the Selected Parcel. The Optionee shall be responsible for all costs associated with the Subdivision. If the application for the Subdivision is rejected, the parties agree that this Agreement and the binding agreement referred to in **Section 3** shall be automatically terminated and neither party shall have any obligation to proceed with the Transaction.

9. **Closing of Purchase and Sale.** The closing of the transaction of purchase and sale of the Selected Parcel contemplated herein (the "**Closing**") shall be on the tenth (10th) business day following completion of the Subdivision, or if no subdivision is required then the 10th business day following delivery of the Option Notice, or such earlier or later date as may be agreed upon between the parties (the "**Closing Date**"). The term "**business day**" used in this Agreement shall mean any day other than a Saturday, Sunday or other day on which the Optionee's primary banker is not open for regular business in Manitoba.

10. **Title and Possession.** On the Closing Date, the Owner will give vacant possession of the Selected Parcel to the Optionee or its nominee and, subject to **Section 7**, the Owner will convey title to the Selected Parcel to the Optionee or its nominee, free and clear of all liens, charges and encumbrances except for the Permitted Encumbrances.

11. **Payment of Purchase Price.** On the Closing Date, the Optionee shall pay the Purchase Price to the Owner, adjusted for real property taxes, utilities and all adjustments typically made in similar commercial transactions. Payment shall be made by bank draft, wire transfer, or certified or solicitor's trust cheque, provided that if the Optionee obtains a new mortgage to fund any or all of the Purchase Price, payment of the amount to be provided by the mortgage may be delayed by the time required for registration of the mortgage to be completed by the applicable land titles office and reported to the mortgagee and, if so, the amount shall bear interest payable to the Owner at the same rate as the new mortgage until paid.

12. **GST.** With respect to any GST payable pursuant to the *Excise Tax Act* (Canada) as a result of the transaction contemplated herein (the "**Transaction**"), the parties agree as follows:

- (a) The Optionee shall pay to the Owner, on the Closing Date, by bank draft, wire transfer, or certified or solicitor's trust cheque, all GST payable as a result of the Transaction in accordance with the *Excise Tax Act* (Canada), and the Owner shall remit such GST to the Receiver General for Canada when and to the extent required by the *Excise Tax Act* (Canada); or
- (b) notwithstanding **Subsection 11(a)**, the Owner shall not collect GST from the Optionee in the Transaction if, on the Closing Date, the Optionee is registered

under the *Excise Tax Act* and provides a statutory declaration and indemnity confirming its registration and registration number and indemnifying the Owner from liability to collect and remit GST in relation to the Transaction, in which case the Optionee shall file returns and remit GST when and to the extent required by the *Excise Tax Act*.

The provisions of this **Section 11** shall survive the closing of the Transaction.

13. **Owner's Closing Deliveries.** On the Closing Date, the Owner shall deliver to the Optionee, or its nominee or solicitor, the following:

- (a) **Transfer.** Registrable transfer of land which, upon registration at the appropriate land titles office, will transfer and vest title to the Selected Parcel in favour of the Optionee or its nominee, subject only to the Permitted Encumbrances.
- (b) **Declaration as to Possession.** A Declaration as to Possession, with respect to the Selected Parcel, in form and content typical for commercial real property transactions.
- (c) **Statutory Declaration.** Statutory Declaration confirming residency pursuant to Section 116 of the Income Tax Act (Canada) and confirming that the representations and warranties set out in **Section 5** are true and correct as at the Closing Date;
- (d) **Statement of Adjustments.** A statement of adjustments with respect to all items properly adjustable pursuant to this Agreement.
- (e) **Other.** Such other items and bills of sale, transfers, assignments and documents, relating to the completion of this Agreement as the Optionee or its solicitors may reasonably require to effect the Transaction.

14. **Optionee's Deliveries.** The Optionee shall deliver to the Owner or its solicitors, on the Closing Date, the following:

- (a) **Purchase Price.** The funds referred to in **Section 10**.
- (b) **GST.** The GST declaration and indemnity referred to in **Subsection 11(b)**, if applicable.
- (c) **Other.** Such other documentation relating to the completion of Transaction as the Owner or its solicitors may reasonably require.

15. **Legal and Other Costs.** Each party shall be responsible for its own legal costs in respect of this Agreement and the closing of the Transactions. The Optionee shall be responsible for all land transfer taxes and fees associated with the registration of the Transfer of the title to the Selected Parcel to the Optionee and all costs associated with the Subdivision.

16. **Nominee.** The Optionee may, by notice in writing to the Owner given prior to the Closing Date, appoint a nominee to take title to the Selected Parcel.

17. **Notices.** Any notice, demand, acceptance, request, election or waiver required or permitted to be given under this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered to an officer of the party to whom the same is given or, if mailed in a post box or office, by registered mail, postage prepaid, or if sent by telefax or by electronic communication capable of confirming receipt and addressed to the party to whom the same is given as follows:

- (a) **To the Owner:**

Hamilton Holsteins Ltd.
P.O. Box 952 143 *add.*
Glenboro, Manitoba, R0K 0X0
Attention: Glen and Larissa Hamilton

(b) **To the Optionee:**

P.O. Box 100, 5 Fabas Street,
La Broquerie, Manitoba, R0A 0W0
Attention: Chief Operating Officer (Farms)
With a copy to: notice@hylife.com

Any such notice, demand, acceptance, request, election or waiver sent by facsimile or electronic (email) communication shall be deemed to have been given on the date of transmission, and if sent by mail, shall be deemed to have been given on the second business day following the date of mailing; provided that, should there be, at the time of mailing or occur between the time of mailing and the time of deemed receipt, a postal strike, slowdown or other labor dispute which might adversely affect delivery of registered mail, then such notice shall only be effective if actually delivered or sent by facsimile or email.

18. **Registration of Interest.** The Owner acknowledges and agrees that the Optionee's rights hereunder are intended to apply to and against the Lands and to be binding on the Owner and each of the Owner's successors and assigns (including all subsequent owners of the Lands or portions thereof), for the benefit of the Optionee. The Optionee shall be entitled to register a caveat against the title to the Lands giving notice of the Option, provided such caveat shall not disclose the Purchase Price. The Optionee hereby agrees to discharge or cause to be discharged, at its sole expense, such caveat forthwith upon; (i) the expiration of the unexercised Option; or, (ii) if the Optionee exercises the Option, the date upon which there ceases, for any reason, to be a binding agreement with the Owner for the purchase and sale of the Selected Parcel. The covenants of the Optionee contained in this paragraph shall survive any such expiration or termination of this Agreement.

19. **Agreement under Seal.** This Agreement shall have the effect of an agreement delivered under seal, regardless of whether seals are, in fact, affixed to this Agreement.

20. **Further Assurance.** The parties agree to execute all the necessary transfers, conveyances, declamations, and assurances that are reasonably necessary to affect the transactions contemplated in this Agreement.

21. **Enurement.** This Agreement shall enure to the benefit of the parties hereto and be binding upon them and their future heirs, executors, administrators, successors and assigns.

22. **Entire Agreement.** This Agreement contains the entire agreement among the parties in respect of its subject matter and supersedes all earlier agreements. There are no verbal representations or agreements of any kind relating to the subject matter hereof not set out in this Agreement.

23. **No Waiver.** No party will be deemed to have waived the exercise of any of that party's rights under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any right under this Agreement will be deemed to be a waiver with respect to any other instance or with respect to any other right.

24. **Severability.** If any provision of this Agreement is invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other provision of this Agreement.

25. **Specific Performance.** The parties acknowledge, covenant and agree that the breach by any party of any term hereof shall be the proper subject matter of an application for an order

of specific performance, injunction (whether prohibitive or mandatory) or other form of equitable judicial relief, in addition to any other remedies available at law.

26. **Time of Essence.** In respect of all obligations pursuant to this Agreement, time shall be of the essence. Where the day on which any action is required to be taken is a Saturday, Sunday or statutory holiday observed in Manitoba, then such action may be taken on the first business day following such day.

27. **Counterparts.** This Agreement may be signed in counterparts and delivered by electronic scanning or facsimile transmission with the same effect as if the parties had signed one original copy of this Agreement. All counterparts and electronic copies shall be construed as if they constitute one and the same original document.

28. **Independent Legal Advice.** Each party hereto acknowledges having been provided with a reasonable opportunity to obtain independent legal advice regarding this Agreement, and that each such party has reviewed and understands its terms. Each party acknowledges that the Optionee's in-house counsel is acting for the Optionee only and does not represent or act for any other party hereto.

29. **Confidentiality.** Prior to the Closing Date (and, if the transaction contemplated hereby is not completed, at all times after the Closing Date), the Owner will keep confidential all information obtained by the Owner relating to this Agreement, except such information which is generally available to the public. Despite the foregoing, the Owner may disclose any information received by the Purchaser relating to this Agreement to the Owner's employees, agents and representatives who require such information for the purposes of evaluating and implementing the transaction contemplated by this Agreement.

IN WITNESS WHEREOF the parties have duly executed this Agreement effective as of the date first above written.

HYLIFE LTD.

Per: 

Name:

Title: Grant Lazaruk

Title: CEO

Per: 

Name:

Title: Denis Vielhaure

Title: CEO

HAMILTON HOLSTEINS LTD.

Per: 

Name:

Title: Charissa Hamilton

Title: President

Per: 

Name:

Title: Glen Hamilton

Title: Sec./Treas.

Title:

SCHEDULE "A"

Lands:

NW 1/4 10-6-14 WPM EXCEPTING ALL THAT PORTION DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT IN THE WESTERN LIMIT OF SAID QUARTER SECTION
DISTANT SLY THEREIN FROM THE NW ANGLE, THEREOF, 1263 FEET; THENCE
CONTINUING SLY ALONG SAID LIMIT, 777 FEET; THENCE ELY AT RIGHT ANGLES TO
THE LAST DESCRIBED COURSE, 300 FEET; THENCE NLY AND PARALLEL TO THE SAID
WESTERN LIMIT, 200 FEET; THENCE ELY AT RIGHT ANGLES TO THE LAST COURSE, 262
FEET; THENCE NLY AT AN INSIDE ANGLE OF 86 DEGREES TO THE LAST DESCRIBED
COURSE, 430 FEET; THENCE WLY IN A STRAIGHT LINE TO THE POINT OF
COMMENCEMENT

Selected Parcel:

WLY 80 Acres of the NW 1/4 10-6-14 WPM

SCHEDULE "B"
Permitted Encumbrances

The following encumbrances are referred to in the foregoing Agreement as "**Permitted Encumbrances**":