

BL10566, BL10674, BL11457, BL10974, BL11854 & BL11912 amended SCHEDULE "B":

SCHEDULE "B"
Revitalization Tax Exemption Agreement

THIS AGREEMENT dated for reference the 9th day of July, 2020 is

BETWEEN:

PC Urban Clement Holdings Ltd.
Suite 880, 1090 West Georgia Street,
Vancouver, BC V6E 3V7

(the "Owner")

AND:

CITY OF KELOWNA
1435 Water Street,
Kelowna, B.C.
V1Y 1J4

(the "City")

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of lands in the City of Kelowna at 740 Clement Avenue and 1195 Richter Street legally described as LOT A SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN EPP83554 (the "Parcel");
- B. Council has established a revitalization tax exemption program and has included within the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561 the designation of areas which include the Parcel as a revitalization area; and
- C. The Owner proposes to construct new improvements on the Parcel as described in Appendix "A" attached to and forming part of this agreement (the "Project") and has applied to the City to take part in the revitalization tax exemption program in respect of the Project and the City has agreed to accept the Project under the program;

THIS AGREEMENT is evidence that in consideration of the promises exchanged below, the Owner and the City covenant and agree each with the other as follows:

- 1. **The Project** – the Owner will use its best efforts to ensure that the Project is constructed, maintained, operated and used in a fashion that will be consistent with and will foster the objectives of the revitalization tax exemption program, as outlined in the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561. Without limiting the generality of the foregoing, the Owner covenants to use its best efforts to ensure that the Project will:
 - a. Provide 158 units of rental housing;
 - b. Build two 6-storey mixed-use buildings. Ground floor will be commercial retail space and floors 2 to 6 will be rental housing;

2. **Operation and Maintenance of the Project** – throughout the term of this agreement, the Owner shall operate, repair and maintain the Project and will keep the Project in a state of good repair as a prudent owner would do.
3. **Revitalization Amount** – In this agreement, “**Revitalization Amount**” means the municipal portion of property tax calculated in relation to the increase in the assessed value of improvements on the Parcel resulting from the construction of the Project as described in section 1;
4. **Revitalization Tax Exemption** – subject to fulfilment of the conditions set out in this agreement and in “City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561”, the City shall issue a revitalization tax exemption certificate (the “Tax Exemption Certificate”) to the British Columbia Assessment Authority entitling the Owner to a property tax exemption in respect of the property taxes due (not including local service taxes) in relation to the Revitalization Amount on the Parcel (the “Tax Exemption”) for the calendar year(s) set out in the Tax Exemption Certificate .
5. **Conditions** – the following conditions shall be fulfilled before the City will issue a Tax Exemption Certificate to the Owner in respect of the Project:
 - a. The Owner must complete or cause to be completed construction of the Project in a good and workmanlike fashion and in strict compliance with the building permit and the plans and specifications attached hereto as Appendix “A”;
 - b. The completed Project must substantially satisfy the performance criteria set out in Appendix “B” hereto, as determined by the City’s Development Planning Manager or designate, in their sole discretion, acting reasonably; and
 - c. The Owner must submit a copy of the Occupancy Permit and Title Certificate to the City of Kelowna’s Revenue Branch within 48 months from the date the Agreement is executed by Council.
6. **Calculation of Revitalization Tax Exemption** – the amount of the Tax Exemption shall be equal to:
 - a) [deleted]
 - b) [deleted]
 - c) [deleted]
 - d) [deleted]
 - e) For Purpose-Built Rental Housing Projects within the Core Area, Glenmore Valley Village Centre and University South Village Centre as defined by the OCP, 100% of the Revitalization Amount on the parcel, for projects that are subject to a Housing Agreement (for a minimum of 10 years) and where the proposed project is in compliance with the OCP Future Land Use designation at the time of Revitalization Tax Exemption application.
7. **Term of Tax Exemption** – provided the requirements of this agreement, and of the City of Kelowna Revitalization Tax Exemption Program Bylaw No. 9561, are met the Tax Exemption shall be for 10 years after the BC Assessment Authority validates the Tax Exemption Certificate issued by the City of Kelowna’s Revenue Branch.,

8. **Compliance with Laws** – the Owner shall construct the Project and, at all times during the term of the Tax Exemption or any renewal term, use and occupy the Parcel and the Project in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and, without limiting the generality of the foregoing, all federal, provincial, or municipal laws or statutes or bylaws, including all the rules regulations policies guidelines criteria or the like made under or pursuant to any such laws.
9. **Effect of Stratification** – if the Owner stratifies the Parcel under the Strata Property Act, then the Tax Exemption shall be prorated among the strata lots in accordance with the unit entitlement of each strata lot for:

- a. the current and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office before May 1; or
- b. for the next calendar year and each subsequent tax year during the currency of this agreement if the strata plan is accepted for registration at the Land Title Office after May 1;

so long as, if the Project is the subject of an operating agreement between the Owner and the Provincial Rental Housing Corporation, the Owner is in compliance with the operating agreement. The Owner agrees to provide written confirmation to the City regarding the Owner's compliance with the said operating agreement, satisfactory to the City, upon the City's reasonable inquiry.

10. **Termination of the agreement** - the revitalization tax exemption agreement will be valid for 48 months from the date the agreement is executed by Council. If the conditions for issuance of a Tax Exemption Certificate have not been met during this term, the owner may request a renewal term to this agreement or the agreement will be terminated.
11. **Cancellation** – the City may in its sole discretion cancel the Tax Exemption Certificate at any time:
- a. on the written request of the Owner; or
 - b. effective immediately upon delivery of a notice of cancellation to the Owner if at any time any of the conditions in the Tax Exemption Certificate are not met.
 - c. If the Owner is subject to an operating agreement with the Provincial Rental Housing Corporation and is not in compliance with the operating agreement.

If such cancellation occurs, the Owner of the Parcel for which the Tax Exemption Certificate was issued will remit to the City an amount equal to the value of any Tax Exemption received after the cancellation of the Tax Exemption Certificate.

12. **No Refund** – for greater certainty, under no circumstances will the Owner be entitled under the City's revitalization tax exemption program to any cash credit, any carry forward tax exemption credit or any refund for any property taxes paid.
13. **Notices** – any notice or other writing required or permitted to be given hereunder or for the purposes hereof to any party shall be sufficiently given if delivered by hand or posted on the Parcel, or if sent by prepaid registered mail (Express Post) or if transmitted by facsimile to such party:
- a. in the case of a notice to the City, at:
THE CITY OF KELOWNA
1435 Water Street,
Kelowna, B.C.
V1Y 1J4

Attention: Revenue Department

Email: Revenue@kelowna.ca

- b. in the case of a notice to the Owner, at:

PC Urban Clement Holdings Ltd.
Suite 880, 1090 West Georgia Street,
Vancouver, BC V6E 3V7

Attention: Larissa Maion

Phone: 604-282-6085

Email: lmaion@pcurban.ca

Or at such other address as the party to whom such notice or other writing is to be given shall have last notified the party giving the same.

14. **No Assignment** – the Owner shall not assign its interest in this agreement except where the owner has notified the city of Kelowna in writing prior to an assignment and where the Parcel is subdivided or consolidated at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act*.
15. **Severance** – if any portion of this agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this agreement.
16. **Interpretation** – wherever the singular or masculine is used in this agreement, the same shall be construed as meaning the plural, the feminine or body corporate where the context or the parties thereto so require.
17. **Further Assurances** – the parties hereto shall execute and do all such further deeds, acts, things and assurances that may be reasonably required to carry out the intent of this agreement.
18. **Waiver** – waiver by the City of a default by the Owner shall be in writing and shall not be deemed to be a waiver of any subsequent or other default.
19. **Powers Preserved** – this agreement does not:
 - a. Affect or limit the discretion, rights or powers of the City under any enactment or at common law, including in relation to the use or subdivision of the Parcel;
 - b. Affect or limit any enactment relating to the use or subdivision of the Parcel; or
 - c. Relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Parcel and without limitation shall not confer directly or indirectly any exemption or right of set-off from development cost charges, connection charges, application fees, user fees or other rates, levies or charges payable under any bylaw of the City.
20. **Reference** – every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, assigns, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows.

21. **Enurement** – this agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
22. Any construction of a new improvement or alteration of an existing improvement as of this bylaw undertaken prior to the application for a Revitalization Tax Exemption will not be eligible for consideration
23. The maximum Revitalization Tax Exemption authorized under this Bylaw must not exceed the Revitalization Amount on the Property between:
 - a. the calendar year before the construction or alteration began, as outlined under Section 1 of this agreement; and
 - a. the calendar year in which the construction or alteration, as outlined under Section 1 of this agreement, is completed.
24. The Property's assessed value of improvements must not be reduced below the amount assessed in the calendar year prior to construction or alteration, as a result of the Revitalization Tax Exemption.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year first above written.

Executed by the CITY OF KELOWNA by
Its authorized signatories:

Mayor

City Clerk

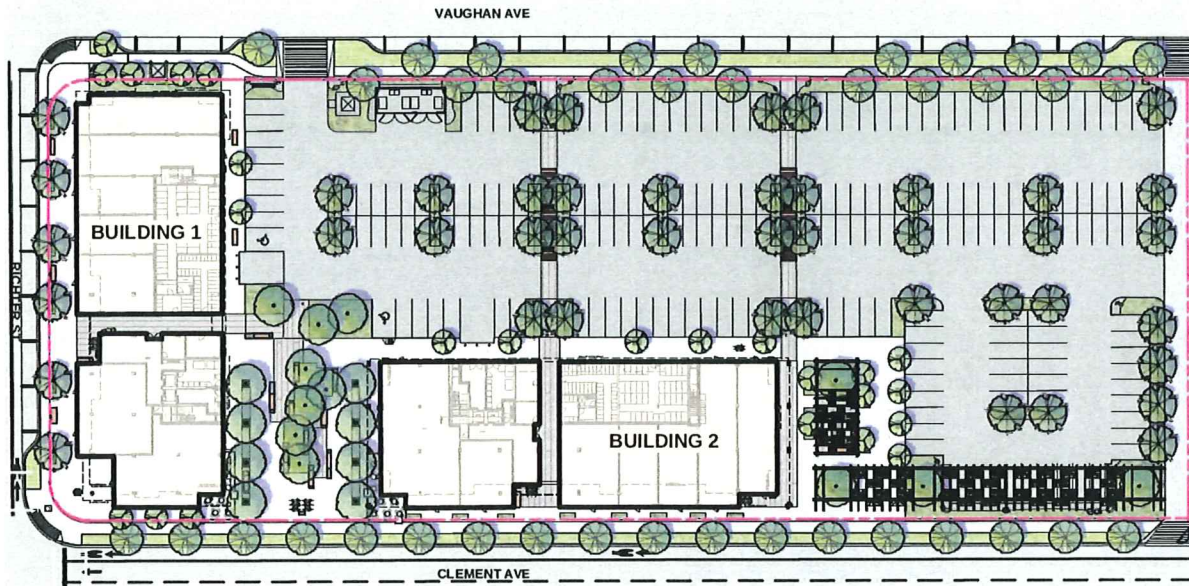
Executed by PC Urban Clement Holdings Ltd. by its Authorized signatories:



Name: Brent Sawchyn, CEO

Name:

Appendix "A": Plans and Specifications



Site Plan



Building 1 West Elevation



Building 2 South Elevation

LAND TITLE ACT
FORM C (Section 233) CHARGE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 13 PAGES

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Kathleen Higgins, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 122-459

Purpose-Built Rental Housing Agreement and Section 219 Covenant

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
 [PID] [LEGAL DESCRIPTION]

030-571-219

**LOT A SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN
 EPP83554**

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

CITY OF KELOWNA

1435 WATER STREET

KELOWNA

V1Y 1J4


BRITISH COLUMBIA

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)



J. SCOTT MYERS
Solicitor
 619, 610 GRANVILLE STREET
 VANCOUVER, B.C. V6C 3T3
 (604) 682-8670

Execution Date

Y	M	D
20	06	11

Transferor(s) Signature(s)

PC URBAN CLEMENT HOLDINGS
 LTD. by its authorized signatory
 (ies):


 Name: J. Brent Sawchyn

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 2 of 13 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y M D

SHELMARJAY HOLDINGS LTD. by its
authorized signatory(ies):

Name:

Name:

(as to all signatures)

CHARLOTTE K. WONG
Barrister & Solicitor
2110 Burquitlam Drive
Vancouver, BC V5P 2P1

20 06 11

BRITISH COLUMBIA HOUSING
MANAGEMENT COMMISSION by its
authorized signatory(ies):

Name: **Stacey Lee**

Name: **Abbas Barodawalla**

(as to all signatures)

CITY OF KELOWNA by its authorized
signatory(ies):

Name:

Name:

(as to all signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM E****SCHEDULE**PAGE **3** OF 13 PAGES

NATURE OF INTEREST
Covenant**CHARGE NO.****ADDITIONAL INFORMATION**
Section 219

NATURE OF INTEREST
Priority Agreement**CHARGE NO.****ADDITIONAL INFORMATION**
Granting the Covenant herein priority over
Mortgage CA7566393

NATURE OF INTEREST
Priority Agreement**CHARGE NO.****ADDITIONAL INFORMATION**
Granting the Covenant herein priority over
Mortgage CA7678849 and Assignment of Rents
CA7678850

NATURE OF INTEREST**CHARGE NO.****ADDITIONAL INFORMATION**

NATURE OF INTEREST**CHARGE NO.****ADDITIONAL INFORMATION**

NATURE OF INTEREST**CHARGE NO.****ADDITIONAL INFORMATION**

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 4 OF 13 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

PC URBAN CLEMENT HOLDINGS LTD. (Inc. No. BC10999800)

SHELMARJAY HOLDINGS LTD. (Inc. No. BC0855415) [as to priority]

BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION [as to priority]

PURPOSE-BUILT RENTAL HOUSING AGREEMENT AND 219 COVENANT

THIS AGREEMENT, dated for reference June 1, 2020, which affects:

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

PID: 030-571-219
LOT A SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN EPP83554

(the "Land")

IS BETWEEN:

PC URBAN CLEMENT HOLDINGS LTD. INC.NO. BC1099980
880 - 1090 West Georgia Street
Vancouver, BC
V6E 3V7

(the "Owner")

AND:

CITY OF KELOWNA, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

(the "City")

GIVEN THAT:

- A. The Owner intends to construct on the Land a commercial and residential development consisting of two mixed-use buildings that will include Purpose-Built Rental Housing (hereinafter defined);
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the City in respect of the use of land and buildings on land, construction on land, or the subdivision of land;
- D. As a condition of rezoning the Land, the Owner and the City wish to enter into this Agreement to provide for Purpose-Built Rental Housing on the terms and conditions set out in this Agreement and to restrict the use of, and construction on, the Land and the use of the Purpose-Built Rental Housing constructed on the Land, on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*; and
- E. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement.

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is

acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, pursuant to s. 483 of the *Local Government Act* and s. 219 of the *Land Title Act*, as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions -

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi-permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one Dwelling Unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one Dwelling Unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one Dwelling Unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Owner" means the registered owner of the Land from time to time and any parcels into which the Land is subdivided;

"Purpose-Built Rental Housing" means a Dwelling Unit that is intended to be used for rental housing;

"Purpose-Built Rental Housing Dwelling Units" means the 158 Dwelling Units on the Land designated as Purpose-Built Rental Housing Dwelling Units under section 2.2 of this Agreement.

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

1.2 Interpretation - 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) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) 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;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) 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;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor in function, apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement will be performed, made or exercised acting reasonably.

1.3 Purpose of Agreement - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy Purpose-Built Rental Housing that is in demand in the City of Kelowna but that is not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and
- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the

Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

ARTICLE 2

HOUSING AGREEMENT AND LAND USE RESTRICTIONS

2.1 Land Use Restrictions – Pursuant to section 219 of the *Land Title Act*, the Owner and the City hereby covenant and agree as follows:

- (a) the Land will be used only in accordance with this Agreement;
- (b) the Owner will design, construct and maintain one or more buildings on the Land and such buildings will include not less than 158 Dwelling Units which will be designated, used and occupied as a Purpose-Built Rental Housing Dwelling Unit in accordance with this Agreement; and
- (c) the Owner may only subdivide the Land via deposit of a strata plan pursuant to the *Strata Property Act*.

2.2 Designation – The Owner will, prior to applying for an occupancy permit for any Dwelling Unit located on the Land, notify the City in writing which Dwelling Units located on the Land it has designated as Purpose-Built Rental Housing Dwelling Units. Such written designation is irrevocable by the Owner upon receipt by the City of the same, but the designation is not effective unless and until the City confirms its approval of such designation in writing.

2.3 Partial Release – If the Owner subdivides the Land and not all strata lots created as a result thereof contain Purpose-Built Rental Housing Dwelling Units, the Owner is entitled to apply for a release of this Agreement (including registered notice of the housing agreement herein) from such non-Purpose-Built Rental Housing Dwelling Unit strata lots pursuant to section 2.4. Notwithstanding the foregoing, the Owner will not apply for a release of this Agreement pursuant to section 2.4 below in respect of such non- Purpose-Built Rental Housing Dwelling Unit strata lots, and the Municipality will be under no obligation to provide such release, unless, at the time that the Owner applies for such release:

- (a) the Owner is not in breach of any of its obligations under this Agreement;
- (b) the Owner has notified the City in writing which of the strata lots located on the Land contain Purpose-Built Rental Housing Dwelling Units. Such written designation is irrevocable by the Owner upon receipt by the City of the same, but the designation is not effective unless and until the City confirms its approval of such designation in writing;
- (c) occupancy permits for all Purpose-Built Rental Housing Dwelling Units have been issued by the City; and
- (d) the Purpose-Built Rental Housing Dwelling Units are used and always have been used, occupied and transferred in compliance with this Agreement.

2.4 Process for Partial Release – Subject to section 2.3, at the request of the Owner and at the Owner's sole expense, the City will deliver to the Owner releases of this Agreement (including registered notice of the housing agreement herein) in registrable form for each strata lot on the Land that does not contain a Purpose-Built Rental Housing Dwelling Unit, provided that the City may withhold delivery of any release against any such non- Purpose-Built Rental Housing Dwelling Unit strata lot unless:

- (a) the Owner has filed a Rental Disclosure Statement pursuant to section 139 of the *Strata Property Act* designating each Purpose-Built Rental Housing Dwelling Unit located on the Land as a rental strata lot with a rental period expiry date no earlier than 10 years from the date of stratification; and
- (b) the strata corporation created by the filing of the strata plan over the Land has the following contained within its bylaws:

"Residential Strata Lots within the Strata Corporation are subject to a Housing Agreement with the City of Kelowna. No action will be taken by the owners or the strata corporation to restrict or limit the terms of the Housing Agreement, including, but not limited to, amendment to these bylaws".

ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS

3.1 Purchaser Qualifications - The City and the Owner agree as follows:

- (a) the Owner will not sell or transfer, or agree to sell or transfer, any interest in any strata lot designated as a Purpose-Built Rental Housing Dwelling Unit on the Land other than a full interest in the fee simple title to a person, firm, agency, society, or corporation that will continue to ensure that such Purpose-Built Rental Housing Dwelling Unit is used in accordance with this Agreement.

3.2 Use and Occupancy of Purpose-Built Rental Housing Dwelling Unit – The Owner agrees with the City as follows:

- (a) a Purpose-Built Rental Housing Dwelling Unit will only be used as a rental unit and occupied as a permanent residence by a Household pursuant to a Tenancy Agreement;
- (b) the Owner will rent or lease each Purpose-Built Rental Housing Dwelling Unit on the Land in accordance with the *Residential Tenancy Act*, and in no event may the Owner itself occupy a Purpose-Built Rental Housing Dwelling Unit or use or allow the use of the Purpose-Built Rental Housing Dwelling Unit for short-term rental accommodation; and
- (b) the Owner will deliver a copy of the Tenancy Agreement for each Purpose-Built Rental Housing Dwelling Unit to the City upon demand.

ARTICLE 4 GENERAL

4.1 Notice of Housing Agreement - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.

4.2 No Effect On Laws or Powers - This Agreement does not

- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
- (b) impose on the City 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 land, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.

4.3 Management – The Owner covenants and agrees that it will furnish good and efficient management of the Purpose-Built Rental Housing Dwelling Units and will permit representatives of the City to inspect the Purpose-Built Rental Housing Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Purpose-Built Rental Housing Dwelling 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 foregoing, the Owner acknowledges and agrees that the City, 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 Purpose-Built Rental Housing Dwelling Units.

4.4 Registration & Priority – The Owner shall, at its expense, do or cause to be done all acts necessary to register this Agreement in the land title office against title to the Land with priority over all financial charges, liens and encumbrances registered, or pending registration, at the time of application for registration of this Agreement against the title to the Land.

4.5 Notice - Any notice which may be or is required to be given under this Agreement will be in writing and either be delivered or sent by fax or email. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax is to be considered to have been given on the first business day after it is sent and any notice which is sent by email is to be considered to have been given on the day it is sent, and if such day is not a business day, the subsequent business day. If a party changes its address, fax number or email address, it will promptly give notice of its new address, fax number, or email in accordance with this section.

4.6 Agreement Runs With the Land - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

4.7 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.

4.8 Release – The Owner by this Agreement releases and forever discharges the City 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 the Dwelling Units 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. This clause will survive the termination of this Agreement.

- 4.9 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.10 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.11 Further Acts** - The Owner will do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.12 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.13 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement 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.
- 4.14 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.15 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.16 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.17 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the General Instrument – Part 1 which is attached to and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

RECITALS:

- A. **PC URBAN CLEMENT HOLDINGS LTD.** is the registered owner of PID: 030-571-219, Lot A Section 30 Township 26 Osoyoos Division Yale District Plan EPP83554 (the "Land");
- B. **PC URBAN CLEMENT HOLDINGS LTD.** granted SHELMARJAY HOLDINGS LTD. (Inc. No. BC0855415) (the "Prior Chargeholder") a mortgage which was registered against the title to the Land in the Kamloops Land Title Office under number CA7566393 ("Prior Charge");
- C. **PC URBAN CLEMENT HOLDINGS LTD.** granted to the City ("Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged) the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charge and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the title to the Land before registration of the Prior Charge.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C Form C which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

RECITALS:

- A. **PC URBAN CLEMENT HOLDINGS LTD.** is the registered owner of PID: 030-571-219, Lot A Section 30 Township 26 Osoyoos Division Yale District Plan EPP83554 (the "Land");
- B. **PC URBAN CLEMENT HOLDINGS LTD.** granted BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION (the "Prior Chargeholder") a mortgage and assignment of rents which were registered against the title to the Land in the Kamloops Land Title Office under number CA7678849 and CA7678850 ("Prior Charges");
- C. **PC URBAN CLEMENT HOLDINGS LTD.** granted to the City ("Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged) the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charges and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the title to the Land before registration of the Prior Charges.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C Form C which is attached hereto and forms part of this Agreement.

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

STC? YES

3. NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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4. TERMS: Part 2 of this instrument consists of (select one only)
(a) Filed Standard Charge Terms D.F. No. (b) Express Charge Terms Annexed as Part 2
A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

7. ADDITIONAL OR MODIFIED TERMS:

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)	<div>Execution Date</div> <table><thead><tr><th>Y</th><th>M</th><th>D</th></tr></thead><tbody><tr><td></td><td></td><td></td></tr></tbody></table>	Y	M	D				Transferor(s) Signature(s)
Y	M	D						

OFFICER CERTIFICATION:
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

EXECUTIONS CONTINUED**Execution Date**

Transferor / Borrower / Party Signature(s)

Y	M	D
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Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

LAND TITLE ACT
FORM E

SCHEDULE	PAGE	OF	PAGES
NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION	

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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**EXPRESS CHARGE TERMS
TERMS OF INSTRUMENT – PART 2**

WHEREAS:

- A. The Commission, on behalf of Her Majesty the Queen in Right of the Province of British Columbia, provides, or assists in providing, housing for persons with limited incomes and/or for persons with special housing requirements;
- B. The Transferor wishes to develop the Improvements on the Land for the Specific Purpose, and wishes to obtain the Commission's assistance in carrying out the Specific Purpose;
- C. The Transferor has acknowledged to the Commission that:
 - (i) the Transferor is entering into this Agreement to benefit the public interest;
 - (ii) the Transferor will use the Property for the Specific Purpose during the Term in accordance with the terms of this Agreement; and
 - (iii) the provision of housing, in accordance with the Specific Purpose, is in the public interest and is more important than the fact that the use of the Property may be restricted during the Term;
- D. Section 219 of the *Land Title Act* of British Columbia provides, amongst other things, that a covenant, whether of a negative or positive nature, in respect of the use of land or the use of a building, in favour of a Crown agency, may be registered as a charge against the title to that land;
- E. The Commission is a Crown agency pursuant to Section 10 of the *Ministry of Lands, Parks and Housing Act* of British Columbia but may on behalf of the Government of the Province of British Columbia carry out its duties and functions in its own name; and
- F. The Transferor has agreed to enter into this Agreement to ensure that the Property is used for the Specific Purpose during the Term in accordance with the terms of this Agreement and that the objectives stated in paragraph D of these recitals are carried out.

THEREFORE in consideration of the premises and of the mutual covenants contained herein, and in further consideration of the sum of \$1.00 now paid by each party to the other, the receipt and sufficiency of which each party hereby acknowledges.

SECTION 1. INTERPRETATION

1.1 **Definitions.** In this Agreement:

- (a) “Agreement” means the General Instrument Part 1 and these Express Charge Terms under Part 2;
- (b) “Commission” means the British Columbia Housing Management Commission, or its successors in function;
- (c) “Eligible Occupants” means individuals who meet the eligibility criteria set out in Schedule “A”;
- (d) “Environmental Law” means any applicable federal, provincial, municipal or local law, statutes, ordinance, codes, by-law, regulation, rule, order, directive, decision, policy, instruction, guideline or decree regulating, relating to or imposing liability or standards of conduct concerning any environmental matter, occupational health and safety or the manufacture, processing, distribution, use, treatment, storage, disposal, packaging, transport, handling, containment, clean-up or other remediation or corrective action of Hazardous Substances including, but not limited to, matters related to air pollution, water pollution, noise control, or hazardous material and any similar, replacement, amendment or supplemental act and all regulations, orders or decrees, now or hereafter made pursuant to any of the foregoing;
- (e) “General Instrument Part 1” means Part 1 of the General Instrument as prescribed by the Land Title (Transfer Forms) Regulation, as amended;
- (f) “Hazardous Substances” collectively means, without limitation, contaminants, pollutants or other substances, products, materials or goods which are hazardous or dangerous to human, animal or plant health or life or the environment, and, in particular, includes substances, products, materials, or goods which are defined as hazardous substances or special waste in or pursuant to any law, regulation or order of any Statutory Authority;
- (g) “Improvements” means those improvements, structures, buildings, fixtures, equipment and systems which now exist, or which are constructed on the Land from time to time including heating, ventilating, air-conditioning, plumbing, electrical and mechanical systems and equipment;
- (h) “Interest in the Property” means the Transferor’s registered and beneficial right, title and estate in and to the Property;
- (i) “Land” means that certain parcel or those certain parcels of land, or any part thereof, described in Item 2 of the General Instrument Part 1;

- (j) “Landlord” means the landlord named in the Lease if the Interest in the Property is a leasehold interest;
- (k) “Lease” means the lease of the Property granted to the Transferor by the Landlord if the Interest in the Property is a leasehold interest;
- (l) “Permitted Encumbrances” means those charges or encumbrances set forth in Schedule “B” and any other encumbrances from time to time approved in writing by the Commission;
- (m) “Person” means any association, society, corporation, individual, joint-stock company, joint venture, partnership, trustee, administrator, legal representative, unincorporated organization, or Statutory Authority;
- (n) “Personal Property” means all trade fixtures, machinery, equipment, kitchen ware, cabinetry, furniture, moveable partitions, carpets, rugs, drapes, appliances and other personal property necessary or desirable to carry out the Specific Purpose from time to time;
- (o) “Property” means the Land, Improvements, and Personal Property;
- (p) “Records” means all documentation relating to the use and occupation of the Property including occupancy agreements, information confirming Eligible Occupant status, books of account and receipts;
- (q) “Specific Purpose” means the operation of the residential portion of the Property to provide affordable rental housing as a principle residence for persons who, at the date of the commencement of their residency, are Eligible Occupants;
- (r) “Statutory Authority” means any federal, provincial, regional, municipal, or other government or authorized agency, department or ministry thereof, which has jurisdiction with respect to any matter referred to in this Agreement;
- (s) “Term” means that period of time commencing on the date when this Agreement is registered at the Land Title Office and ending on the later of the date that is ten (10) years from when:
 - (i) this Agreement is registered at the Land Title Office; or
 - (ii) the final Certificate of Occupancy for the Improvements is issued by the applicable Statutory Authority; and
- (t) “Transferor” means the Person named in the General Instrument Part 1 as Transferor.

1.2 **Time.** Time will be of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. If a time is specified in this Agreement for observing or

performing any obligation, such time will be then local Vancouver, British Columbia time.

- 1.3 **Governing Law.** This Agreement will be governed by and construed and enforced in accordance with the laws of British Columbia, and the laws of Canada applicable therein.
- 1.4 **References.** In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.
- 1.5 **Construction.** The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit, or aid in the construction of any provision contained in this Agreement. In all cases, the language in this Agreement will be construed simply, according to its fair meaning, and not strictly for or against either party.
- 1.6 **No Limitation.** The word “including” when following any general statement, term, or matter is not to be construed to limit such general statement, term, or matter to the specific items set forth immediately following such word or to similar items whether or not non-limiting language such as “without limitation” or “but not limited to” or words of similar import are used with reference thereto, but rather such general statement, term, or matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of such general statement, term, or matter.
- 1.7 **Validity of Provisions.** If a Court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement which will be construed as if such invalid, illegal, or unenforceable provision had never been contained therein and such other provisions will be enforceable to the fullest extent permitted at law or in equity provided that such enforceability is consistent with the intent of this Agreement.
- 1.8 **No Waiver.** Failure by either party to exercise any of its rights, powers or remedies hereunder, or its delay to do so, shall not constitute a waiver of those rights, powers or remedies unless such waiver is in writing. No waiver made with respect to a particular right will be deemed to be a waiver with respect to any other instance involving the exercise of the right or with respect to any other such right.
- 1.9 **Statutes.** Any reference to a statute is to such statute and to the regulations made pursuant to such statute as such statute and regulations may at any time be amended or modified and in effect, and to any statute or regulation that may be passed that has the effect of supplementing or superceding such statute or regulation.

- 1.10 **Remedies.** Each party to this Agreement, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement. No reference to nor exercise of any specific right or remedy under this Agreement or at law or in equity by either party will prejudice, limit or preclude that party from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but either party, from time to time, may exercise any one or more of such rights or remedies independently, successively, or in combination. The Transferor acknowledges that specific performance, injunctive relief (mandatory or otherwise), or other equitable relief may be the only adequate remedy for a default by the Transferor under this Agreement.
- 1.11 **Schedules.** The following schedules are attached to and form part of this Agreement:
- Schedule “A” Eligible Occupants - Criteria
- Schedule “B” Permitted Encumbrances

SECTION 2.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE TRANSFEROR

- 2.1 **Representations and Warranties of the Transferor.** Regardless of any independent investigations that the Commission may cause to be made, the Transferor represents and warrants to the Commission as follows:
- (a) the Transferor has sufficient power, authority and capacity to enter into this Agreement and the execution and delivery of this Agreement has been duly and validly authorized by all necessary proceedings;
 - (b) the execution of this Agreement by the Transferor will not constitute a breach by the Transferor of any statute, regulation or its constating documents, or of any agreement to which it is a party, or by which it is bound;
 - (c) the Transferor has good and marketable title to the Interest in the Property, free and clear of all liens, encumbrances, charges, encroachments, defects in title, equities or claims, except for the Permitted Encumbrances;
 - (d) to the best knowledge of the Transferor, having made due inquiries, the Property is free of Hazardous Substances and complies with all Environmental Laws, and there are no environmental risks or liabilities in connection with the Property known to the Transferor;

- (e) the Transferor has no indebtedness to any Person or to any Statutory Authority which might by operation of law or otherwise now or hereafter constitute a lien, charge or encumbrance on the Interest in the Property, other than the Permitted Encumbrances;
- (f) the Improvements (if any) on the Land have been constructed, renovated and repaired pursuant to building permits, validly issued, and in compliance with all applicable building, zoning and other municipal by-laws and restrictions, and the Transferor has not received any notice alleging any such violation. Such Improvements do not encroach upon any lands not owned by the Transferor, or on which the Transferor does not have a leasehold interest;
- (g) the Transferor is a corporation duly organized, validly existing and in good standing under the laws of British Columbia;
- (h) all municipal taxes, rates, levies and assessments in respect of the Property have been paid in full, and the Transferor has no present or future obligation to pay moneys to any Statutory Authority in connection with offsite services, roads, utilities or the like;
- (i) the Transferor is not a non-resident of Canada within the meaning of the *Income Tax Act* of Canada; and
- (j) if the Interest in the Land is a leasehold interest, the Lease is in good standing and the Transferor has observed or performed all its obligations under the Lease as required by the Lease.

2.2 **Covenants of the Transferor – General.** The Transferor covenants and agrees with the Commission as follows:

- (a) the representations and warranties contained in SECTION 2 will be true and correct on the date of this Agreement and will remain true and correct throughout the term of this Agreement;
- (b) the Transferor shall maintain the Property in a state of good repair and maintenance, and in particular will:
 - (i) establish maintenance procedures to maintain the value of the Property and prolong the life of the Improvements and Personal Property on the Land;
 - (ii) ensure that the necessary skills and tools are available to adequately clean and maintain the Property;
 - (iii) ensure that the Improvements on the Land comply with all municipal requirements, and applicable statutory, health and safety standards at all times;

- (iv) ensure that any construction, renovation or repairs carried out on the Property comply with all municipal requirements and will advise the Commission in a timely manner as to the progress of such construction, renovation or repairs; and
 - (v) ensure that all applicable fire regulations are observed and that fire inspections are carried out regularly by the appropriate authorities;
- (c) the Transferor shall maintain in force adequate insurance coverage that a prudent owner of property similar to the Property would obtain, including without limitation, insurance in respect of claims for personal injury, death, property damage, and third party or public claims arising from any accident which may occur on or within the vicinity of the Property and such other insurance as the Commission may reasonably require from time to time;
- (d) the Transferor shall pay to the appropriate Statutory Authority, as and when due, all municipal taxes, water taxes, school taxes and any other taxes, local improvements or similar rates, levies, charges and assessments whatsoever relating to the Property and shall submit to the Commission, proof of such payment;
- (e) the Transferor shall not vacate the Property or permit the Property to be used by any Person who is not entitled to use the Property;
- (f) the Transferor shall use of the Property throughout the Term for the Specific Purpose in accordance with the terms of this Agreement, and for no other purpose;
- (g) the Transferor shall promptly observe, perform, execute and comply with all present and future laws, rules, requirements, orders, directions, ordinances and regulations of every Statutory Authority that relate to the Property and further agrees at the sole cost and expense of the Transferor to do and perform all acts and things which may be required at any time during the Term by any such present or future laws, rules, requirements, orders, directions, ordinances and regulations;
- (h) if the Property now or any time hereafter comprises one or more strata lots:
 - (i) the Transferor will duly observe all of the provisions of the *Strata Property Act*, R.S.B.C. 1998, c.43, as amended or as replaced and other similar statutes affecting the Property, together with the by-laws and the rules and regulations of the strata corporation;
 - (ii) in exercising its right to vote at any strata meetings, the Transferor shall at all times vote to ensure that the Transferor is able to continue to use the Property for the Specific Purpose in accordance with this Agreement and at the Commission's written request, the Transferor shall assign to and

confer on the Commission its right to vote at any strata meetings, provided that the Commission continues to hold a mortgage charging the Property; and

- (iii) the Transferor will pay on or before the due dates thereof, the monthly maintenance fees and all assessments, contributions, or levies made against the Property by the strata corporation;
- (i) the Transferor shall not, without the Commission's prior written consent, transfer, mortgage, charge or otherwise further encumber the Property during the Term, except by the Permitted Encumbrances, provided however;
 - (i) with reference to any refinancing, the Commission's prior written consent will not be required if any financing provided by the Commission has been repaid; and
 - (ii) with reference to any transfer, with notice to the Commission, but the Commission's prior written consent will not be required if the Purchaser of the Property agrees, in writing, to be bound by the terms of this Agreement.
- (j) every year, or as otherwise requested by the Commission from time to time, the Transferor will submit to the commission:
 - (iii) move-in date of the current occupants;
 - (iv) household income of the current occupants at move-in; and
 - (iii) current monthly rent.

2.3 Covenants of the Transferor – Records and Privacy. The Transferor covenants and agrees with the Commission as follows:

- (a) the Transferor shall comply with all applicable privacy legislation and will maintain accurate and complete Records;
- (b) the Transferor shall notify the Commission in writing immediately upon becoming aware of any breach of privacy or security involving the unauthorized collection, use, disclosure or destruction of information relating to its obligations under this Agreement;
- (c) if the *Information Management Act* (British Columbia) applies to the destruction of Records, the Transferor will not destroy the Records without first obtaining the written consent of the Commission;
- (d) the Transferor shall cooperate with the Commission when the Commission has a request under the *Freedom of Information and Protection of Privacy Act* (British Columbia) to which the Records in the Transferor's custody apply, by locating

and disclosing the relevant Records as directed by the Commission upon notice and without delay;

- (e) the Transferor will retain all records that pertain to its obligations under this Agreement for the retention period required under applicable Provincial and Federal laws but for not less than seven (7) years following the date of receipt or production of the Records; and
- (f) the Commission shall have the right to inspect the Records including the right to enter any premises used by the Transferor to keep or store the Records at any time after the delivery of notice to the Transferor, and shall have the immediate right to make extracts from and take copies of the Records. The Transferor acknowledges that disclosure to the Commission without consent from the individual impacted by the Records is permitted under information and privacy legislation.

SECTION 3.

SECTION 219 COVENANT

- 3.1 **Section 219 Covenant.** The Transferor hereby covenants with the Commission, pursuant to Section 219 of the *Land Title Act* of British Columbia, with the intent that this Section 219 Covenant will be registered as a charge against the Interest in the Property and the burden of which will run with the Interest in the Property, and will also bind the Transferor contractually, during such time as the Transferor has an Interest in the Property, that:
 - (a) the Property will be used only for the Specific Purpose during the Term in accordance with this Agreement; and
 - (b) the Interest in the Property will not be subdivided during the Term.

SECTION 4.

INDEMNITY

- 4.1 **Indemnity.** The Transferor will indemnify and save harmless the Commission and the Government of the Province of British Columbia and each of their ministers, officers, directors, employees and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against all claims, demands, actions, causes of action, damages, losses, deficiencies, costs, liabilities and expenses which may be made or brought against the Commission or the Government of the Province of British Columbia, or which the Commission or the Government of the Province of British Columbia may suffer or incur as a result of, in respect of, or arising out of:
 - (a) any non-performance or non-fulfillment of any covenant on the part of the Transferor contained in this Agreement;

- (b) any misrepresentation, inaccuracy or breach of any representation or warranty made by the Transferor contained in this Agreement;
 - (c) any other act or omission of the Transferor or its officers, directors, employees, agents, contractors or other persons for whom the Transferor is at law responsible; or
 - (d) the Commission remedying any default by the Transferor in observing or performing its obligations under this Agreement or enforcing the obligations of the Transferor under this Agreement.
- 4.2 **Release.** The Transferor releases the Commission and the Government of the Province of British Columbia, and each of their ministers, officers, directors, employees and agents and their heirs, executors, administrators, personal representatives, successors and assigns absolutely and forever, from any claims the Transferor may have against all or any of them for costs, expenses, or damages the Transferor may suffer, incur, or be put to arising out of or in connection with the terms contained in this Agreement and, from all claims arising out of advice or direction respecting the use, development, operation or lease of the Property given to the Transferor by any of them.

SECTION 5.

GENERAL PROVISIONS

- 5.1 **Notices.** Unless otherwise specified, each notice to the Transferor must be given in writing and delivered, personally, or by courier to the Transferor as follows:

619-610 Granville Street
Vancouver, BC V6C 3T3

Attention: Director

or to any other address or person that the Transferor designates.

Unless otherwise specified, each notice to the Commission must be given in writing and delivered personally or by courier to the Commission, Attention: Manager Real Estate Services, at the address shown as the registered office of the Commission in the records maintained by the British Columbia Registrar of Companies as of the date upon which the notice is sent, or to any other address or person that the Commission designates. Any notice, if delivered personally or by courier, will be deemed to have been given when actually received.

- 5.2 **Fees.** Each of the Transferor and the Commission will pay its own legal fees.
- 5.3 **Enuring Effect.** This Agreement will enure to the benefit of and be binding upon the respective successors and permitted assigns of the Transferor and the Commission.

- 5.4 **Discharge.** On the expiry of the Term, at the Transferor's cost, the Transferor may require that the Commission execute and deliver to the Transferor a release in registrable form of the Agreement.
- 5.5 **Modification or Amendment.** Except as expressly provided in this Agreement, no amendment, supplement, restatement or termination of any provision of this Agreement is binding on the parties unless it is in writing and signed by each person that is a party to this Agreement at the time of the amendment, supplement, restatement or termination.
- 5.6 **Counterparts.** This Agreement and any amendment, supplement, restatement or termination of any provision of this Agreement may be executed in any number of counterparts, each of which, when executed and delivered will deemed to be an original, but all of which taken together will be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto acknowledge that the parties have duly executed this Agreement by signing the Form C and Form D, on pages 1 and 2 hereof.

SCHEDULE “A”

ELIGIBLE OCCUPANTS

“Eligible Occupants” are limited to those persons who collectively have an Income, as defined below, that does not exceed Middle Income, as defined below.

“Income” means the total income from all sources, before tax, of all persons residing in a residential unit.

“Middle Income” means

- (a) for residential units with less than two bedrooms, Income that does not exceed the 75th income percentile for families, without children, as determined by the Commission from time to time based on data provided by Statistics Canada. For 2019, this annual Income is \$112,410.00; and
- (b) for residential units with two or more bedrooms, Income that does not exceed the 75th income percentile for families, with children, as determined by the Commission from time to time based on data provided by Statistics Canada. For 2019, this annual Income is \$155,510.00.

It is acknowledged that ten percent (10%) of the residential units may, from time to time, be occupied by persons who are not Eligible Occupants. Such residential units will be excluded from the definition of Specific Purpose during such time as they are occupied by persons who are not Eligible Occupants.

SCHEDULE “B”

PERMITTED ENCUMBRANCES

LEGAL NOTATIONS

Easement KJ100209 Over Lot A Plan KAP55947 Part Former Lot A Plan KAP55948

CHARGES & ENCUMBRANCES - EXISTING

Statutory Right of Way CA7068230

CHARGES & ENCUMBRANCES - FUTURE

The Commission consents to the registration of a Mortgage in favour of the Commission in the principal amount of \$39,500,000.00, together with an Assignment of Rents relating thereto.