

File No.: 04-1000-20-2018-207

September 21, 2018

s.22(1)

Dear s.22(1)

Re: **Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")**

I am responding to your request of April 9, 2018 for:

All records and correspondence that pertains to any operating agreements (including drafting the agreements) involving Railyard Housing Co-operative, City of Vancouver, and Community Land Trust, or CHFBC (Co-operative Housing Federation of British Columbia) from January 1, 2014 to April 9, 2018.

All responsive records are attached. Some information in the records has been severed, (blacked out), under s.13(1), s.14, s.17(1), s.21(1), and s.22(1) of the Act. You can read or download these sections here:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00

Under section 52 of the Act you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your request. The Act allows you 30 business days from the date you receive this notice to request a review by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number assigned to your request (#04-1000-20-2018-207); 2) a copy of this letter; 3) a copy of your original request for information sent to the City of Vancouver; and 4) detailed reasons or grounds on which you are seeking the review.

Please do not hesitate to contact the Freedom of Information Office at foi@vancouver.ca if you have any questions.

Yours truly,



Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy

Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4
Phone: 604.873.7999
Fax: 604.873.7419

Encl.

:kt

Assignment of Lease and Operating Agreement

THIS Assignment is made as of the 26th day of January, 2018

AMONG

COMMUNITY LAND TRUST FOUNDATION OF BC
(Society Registration No. S0063904)
220-1651 Commercial Drive, Vancouver, B.C. V5L 3Y3

("Assignor");

AND

CLT EAST 1ST COMMUNITY SOCIETY
(Society Registration No. S0068794)
220-1651 Commercial Drive, Vancouver, B.C. V5L 3Y3

("Assignee");

AND

CITY OF VANCOUVER
453 West 12th Avenue, Vancouver, B.C. V5Y 1V4

("City");

WHEREAS:

A. The Assignor is the tenant and operator of those buildings and premises situate in the City of Vancouver, in the Province of British Columbia, having a civic address of 95 East 1st Avenue, Vancouver, and legally described as:

Parcel Identifier Number: 029-631-785
LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205

(the "Premises")

pursuant to a lease between the Assignor and the City dated January 29, 2018 attached as Schedule A to this Assignment (the "Lease") and an operating agreement between the Assignor and the City attached as Schedule B to this Assignment (the "Operating Agreement") (collectively, the "Agreements").


B. The Assignor has agreed to assign and the Assignee has agreed to assume all of the Assignor's rights, benefits and obligations under the Agreements on the terms and conditions set out in this Assignment.

NOW THEREFORE, in consideration of \$10 now paid by the Assignee to the Assignor, the mutual covenants and premises contained herein and other good and valuable consideration (the receipt and sufficiency of which is acknowledged), the parties covenant and agree as follows:

1. The Assignor assigns, transfers and sets over all its rights, title, obligations and interest in and to the Agreements and all of the benefits and advantages to be derived from the Agreements and deposits made under the Agreements to the Assignee in accordance with section 9.01 of the Lease and section G(4)(a) of the Operating Agreement.
2. The Assignee assumes all the rights, title, obligations and interest of the Assignor in and to the Agreements and will, from and after the date of this Assignment, observe and perform the obligations contained in the Agreements to be observed or performed by the Assignor. Notwithstanding the foregoing, the Assignor acknowledges and agrees that it will remain liable and responsible for all duties and obligations of the tenant and operator, as the case may be, under the Agreements.
3. The consent of the City to this Assignment does not in any way derogate from the rights of the City under the Lease as against the Assignor nor operate to release the Assignor from its obligation to pay all of the Basic Rent from time to time becoming due under the Lease or from the Assignor's obligation to observe and perform of all of the terms, covenants and conditions in the Lease. The Assignor shall remain liable during the balance of the Term of the Lease for the observance and performance of all of the terms, covenants and conditions contained in the Lease.
4. If, at the time of execution of this Assignment, the Lease has not been registered in the British Columbia Land Title Office ("LTO"), the City agrees to execute a Form C registrable lease in favour of the Assignee as tenant and deliver it to the Assignor to be registered in the LTO.
5. The Assignor and the Assignee will, on request, do and perform all such further acts and execute all such further documents as may be necessary to give full effect to the intent and meaning of this Assignment.
6. This Assignment will enure to the benefit of and be binding on the parties hereto and their respective heirs, executors, administrators, successors and assigns.
7. This Assignment may be executed in two or more counterparts, whether on originals or on facsimile copies, each of which when delivered, whether delivered by facsimile transmission or otherwise, will be deemed to be an original and all of which together will constitute one and the same document.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first above written.


COMMUNITY LAND TRUST FOUNDATION OF BC


Per: 

Authorized Signatory

Per: 
Authorized Signatory

CLT EAST 1ST COMMUNITY SOCIETY.

Per: 
Authorized Signatory

Per: 
Authorized Signatory

CITY OF VANCOUVER

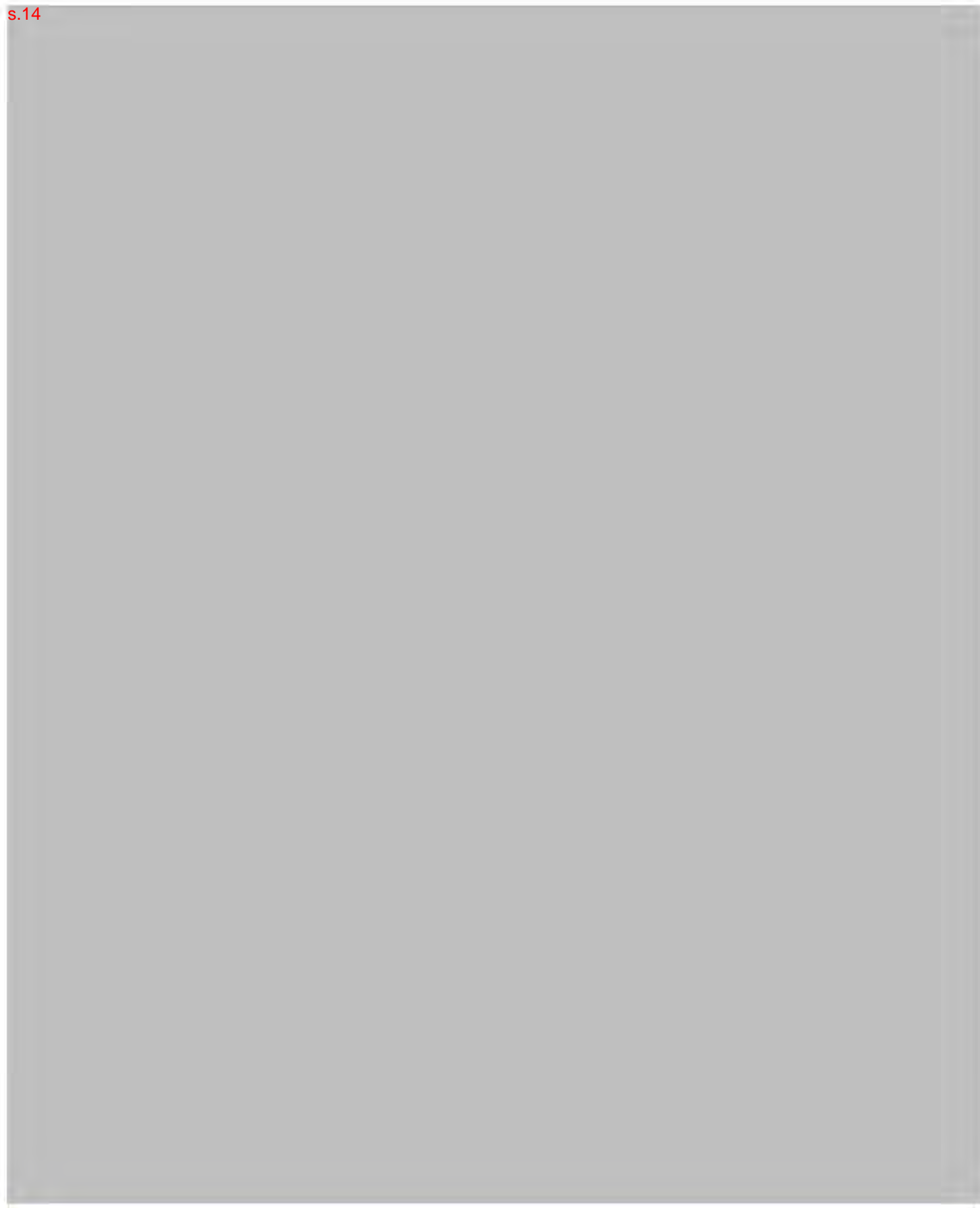
Per: 
Authorized Signatory

Per: _____
Authorized Signatory

- 4 -

SCHEDULE A
LEASE

SCHEDULE B
OPERATING AGREEMENT





From: Tiffany Duzita [mailto:TDuzita@cltrust.ca]
 Sent: Friday, November 10, 2017 1:02 AM
 To: Vernooy, Michelle
 Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Michelle,

Updated Operating Expenses and Cash flow attached. Budget is conservative at this time and once we get on site and can dive into the actual building systems, we can fine tune the maintenance costs. We are now assuming on site staff for maintenance/janitorial for 5 days per week.

To deliver shelter rates for 1847 while still maintained an overall target of 70% of HILS, we feel we can achieve 5 units with the remainder still within the threshold of affordability for the target resident (83% of HILS). The spreadsheet has been updated to reflect the 5 units.

Affordability Mix/Level		Adj. Factor		83%	
Unit Type		Shelter		HILs	
		Rent	# of Units	Rent	Adj. Rent
Studio		\$375/mo	3	\$1,000/mo	\$830/mo
1-Bedroom		\$375/mo	1	\$1,125/mo	\$934/mo
2-Bedroom		\$570/mo	1	\$1,388/mo	\$1,152/mo
3-Bedroom				\$1,663/mo	\$1,380/mo
			5		
					25
Weighted Avg Rent		\$414/mo		\$953/mo	

In summary to achieve 5 shelter units, the range of rents would be \$375/mo up to a maximum of 83% of HILS with an overall of \$953/mo.

When looking at the varying scale from baseline (the minimum affordability requirement under the RFP), a 5% reduction of the pre-paid land lease can deepen affordability by an additional 7 shelter units at 95 East 1st or can deliver all 30 units at 1847 Main at Shelter. If all 30 units at 1847 Main were at shelter, this would mean \$0 for a prepaid land lease for this site and 95 East 1st would provide a cross site subsidy similar to the original proposal to cover any deficits in operating expenses.

Any further deepening of affordability beyond the 5% of baseline would apply to deepening affordability further for units at 95 East 1st.

Still working on updating the schedule. Everyone is finding it difficult to commit to timelines until we get a definitive start date of the first site visit and can start executing the workplan. I have asked that they look at the workplan in terms of days or weeks with an estimated start date. This way you have a an understanding of the length of time required for each task versus definitive dates.

Regards,
 Tiffany

From: Vernooy, Michelle [<mailto:michelle.vernooy@vancouver.ca>]
Sent: November-06-17 10:44 AM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Tiffany,

Absolutely, you will be getting access to the building for tours, etc. prior to January 2. As soon as we can inform the other applicants that were not successful with the RFP, you will be able to do your preparation work more publicly and we will invite you to all of the meetings with the developer, some of them on site. We can also arrange any special tours if those don't include particular areas of the building.

Thanks,

Michelle

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]
Sent: Friday, November 03, 2017 12:06 AM
To: Vernooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Michelle,

I forgot to ask. Are we going to be getting access to the building for tours and information prior to January 2nd or should we assume the first site visit and transition will commence on Jan 2nd or the week of? The date affects the timeline in the workplan as the first item is the Building and System Review and Site Orientation. I just wanted to be sure about what we can assume as a starting date.

Thanks,
Tiffany

From: Tiffany Duzita
Sent: November-02-17 11:59 PM
To: 'Vernooy, Michelle' <michelle.vernooy@vancouver.ca>
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Michelle,

I'm travelling to Niagara Falls tomorrow for a conference this weekend, so I'll be able to get answers and updated information to you on Monday.

Days that work best for setting up weekly meetings are:

- Tuesday afternoon
- Wednesday anytime
- Thursday afternoon

s.21(1)



Regards,

Tiffany

From: Vernoooy, Michelle [<mailto:michelle.vernooy@vancouver.ca>]
Sent: November-02-17 4:44 PM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Tiffany,

Please respond to the following:

1. I am just following up regarding the schedule below. Could you please include dates in the timeline column. We have agreed to a January 2, 2018 takeover date with Concert.
2. We have further reviewed the PUPM and operating expenses information that you provided. We have noted that some of the line items are well below actual operating expense figures (in particular, maintenance, utilities, and insurance) that we have received from other projects in the area. Please revisit these and let me know if you feel confidence in those numbers or if you want to make any changes. We do want to ensure that you are comfortable with your budgets before we go forward.
3. For 1847 Main, please provide an estimate of how many units will be renting at shelter rates, how you anticipate the balance falling within the HILs range.

We agreed to having regular meetings. I will set them up, and we can always cancel or touch base by phone when we don't have too much to discuss. Could you provide me with times and dates that are best for a weekly meeting please?

I am anticipating that we will be able to inform the unsuccessful proponents during the week of November 13. I will let you know once that has occurred so that you can move forward with some of the discussions that you need to have. For the mean time, please keep our discussions with you regarding the results of the RFP confidential.

Thank you.

Michelle

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]
Sent: Friday, October 27, 2017 4:27 PM
To: Kuhlmann, Thor
Cc: Vernoooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor,

s.21(1)



Have a good weekend,
Tiffany

From: Kuhlmann, Thor [<mailto:thor.kuhlmann@vancouver.ca>]
Sent: October-27-17 2:08 PM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Cc: Vernooy, Michelle <michelle.vernooy@vancouver.ca>
Subject: FW: 95 E. 1st Ave and 1847 Main Street
Importance: High

Tiffany,

Thanks for this. It looks like you were up late getting it done!

A. s.13(1), s.17(1)

B. s.13(1)

C. s.13(1)

Also, please note that I will be away from the office s.22(1) Please reply on Michelle Vernooy for questions and issues that arise during this time. Thor

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]
Sent: Tuesday, October 24, 2017 10:17 PM
To: Kuhlmann, Thor
Cc: Vernooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor and Michelle,

s.21(1)

s.21(1)

s.21(1)

s.21(1)

Question #4

I have attached a draft work plan from Nov 1st onward. Assumes people will be moving in over January and into February. s.21(1)

We do have to be able to start advertising and speaking to Athlete's Village, s.21(1) and the banks as soon as possible to make this timeline work. Any delays will bump the schedule accordingly.

Question #5

Yes, the January 2nd date works better for us for the same reasons. We can do a lot of the work beforehand once given the go ahead to start.

Is the first site meeting still on for Nov 1st? We may have 4-5 people from our end that will attend. Once you have the date and time confirmed, I can let you know who will be attending with me.

Any questions or further information, let me know.

Regards,

Tiffany

From: Kuhlmann, Thor [<mailto:thor.kuhlmann@vancouver.ca>]

Sent: October-24-17 8:49 AM

To: Tiffany Duzita <TDuzita@cltrust.ca>

Cc: Vernooy, Michelle <michelle.vernooy@vancouver.ca>

Subject: RE: 95 E. 1st Ave and 1847 Main Street

Tiffany, thanks. We are looking forward to your answer to Question 4 later today. Also, what about Question 3 (timing of lease payment)? Lastly, Michelle asked you about a January 2 handover (let's call this question 5!). TK

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]

Sent: Monday, October 23, 2017 4:37 PM

To: Kuhlmann, Thor

Cc: Vernooy, Michelle

Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor,

Please see below.

s.21(1)

Refer to worksheet "35-Year Cash Flow Template"

Updated numbers have been highlighted in PINK for easy reference.

In summary:

- s.21(1)

- Rent inflation occurs at 2% per year the same as all other units except shelter.
- Financing assumptions all remain the same.
- s.21(1)

s.21(1)

Question#4

We are still working on the lease-up schedule. I am awaiting some feedback from COHO on what they need and by when, so move-ins can start as soon as the building is ready. I should have that to you tomorrow afternoon.

Regards,
Tiffany

From: Kuhlmann, Thor [<mailto:thor.kuhlmann@vancouver.ca>]
Sent: October-23-17 3:49 PM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Cc: Vernooy, Michelle <michelle.vernooy@vancouver.ca>
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Tiffany:

Great to see you Sunday. Any news on these questions (see 2-4, below)? Thor

From: Kuhlmann, Thor
Sent: Friday, October 20, 2017 11:45 AM
To: 'tduzita@cltrust.ca'
Cc: Vernooy, Michelle
Subject: 95 E. 1st Ave and 1847 Main Street

Tiffany,

Great to see you the other day and commence the discussions! Michelle is the lead on this project, but I want to connect with you on a few things:


1. She will arrange regular meetings with you over the next month to ensure we're setting aside the necessary time to conclude negotiations on time (Nov. 28 is Council date, but the report is due with the City Manager Nov. 14 with much to conclude before then!). I'll be away from the office for most of November, so she will remain your main contact person.
2. s.17(1)
3. What is your preference for timing of the lease payment?
4. You committed to provide a timeline for lease-up of 95 E 1st Ave, from Nov. 1 onward. Can you send?

Thanks, and keep in touch.

Thor Kuhlmann

Housing Planner | City of Vancouver | 604.871.6844 |

s.13(1), s.17(1)



s.13(1)

s.13(1), s.17(1), s.21(1)










s.13(1)



s.13(1)




s.13(1), s.17(1)



s.13(1), s.17(1)



s.13(1), s.17(1)





From: Tiffany Duzita [mailto:TDuzita@cltrust.ca]
Sent: Tuesday, October 24, 2017 10:17 PM
To: Kuhlmann, Thor
Cc: Vernooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor and Michelle,

Question #3

s.21(1)

- s.21(1)
- s.21(1) – 3 months from turnover of the building.

s.21(1)

s.21(1)

Question #4

I have attached a draft work plan from Nov 1st onward. Assumes people will be moving in over January and into February. s.21(1)

. This may be up to 5 months to match the timing of the lease payment noted in Question #3 above.

We do have to be able to start advertising and speaking to Athlete's Village, s.21(1) and the banks as soon as possible to make this timeline work. Any delays will bump the schedule accordingly.

Question #5

Yes, the January 2nd date works better for us for the same reasons. We can do a lot of the work beforehand once given the go ahead to start.

Is the first site meeting still on for Nov 1st? We may have 4-5 people from our end that will attend. Once you have the date and time confirmed, I can let you know who will be attending with me.

Any questions or further information, let me know.

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Tiffany, thanks. We are looking forward to your answer to Question 4 later today. Also, what about Question 3 (timing of lease payment)? Lastly, Michelle asked you about a January 2 handover (let's call this question 5!). TK

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]
Sent: Monday, October 23, 2017 4:37 PM
To: Kuhlmann, Thor
Cc: Vernooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor,
Please see below.

Questions #2

s.21(1)



Refer to worksheet "35-Year Cash Flow Template"
Updated numbers have been highlighted in **PINK** for easy reference.
In summary:

- s.21(1)



- Rent inflation occurs at 2% per year the same as all other units except shelter.
- Financing assumptions all remain the same.

- s.21(1)



Question#4

We are still working on the lease-up schedule. I am awaiting some feedback from COHO on what they need and by when, so move-ins can start as soon as the building is ready. I should have that to you tomorrow afternoon.

Regards,
Tiffany

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Sent: October-23-17 3:49 PM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Cc: Vernooy, Michelle <michelle.vernooy@vancouver.ca>
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From: Kuhlmann, Thor
Sent: Friday, October 20, 2017 11:45 AM
To: 'tduzita@cltrust.ca'
Cc: Vernooy, Michelle
Subject: 95 E. 1st Ave and 1847 Main Street

Tiffany,

Great to see you the other day and commence the discussions! Michelle is the lead on this project, but I want to connect with you on a few things:

1. She will arrange regular meetings with you over the next month to ensure we're setting aside the necessary time to conclude negotiations on time (Nov. 28 is Council date, but the report is due with the City Manager Nov. 14 with much to conclude before then!). I'll be away from the office for most of November, so she will remain your main contact person.
2. s.17(1)
3. What is your preference for timing of the lease payment?
4. You committed to provide a timeline for lease-up of 95 E 1st Ave, from Nov. 1 onward. Can you send?

Thanks, and keep in touch.

Thor Kuhlmann

Housing Planner | City of Vancouver | 604.871.6844 |

Marketing and administration schedule – Athletes Village Housing Co-operative (2 Phase)		
Task	Building Owner/Operator	Timeline
1. Building and system inventory Site visit orientation	1. Occupancy Permit 2. Fire plan 3. Building systems inventory - Heating - Mechanical - Plumbing 4. Unit content 5. Warranties 6. Restrictions	Preliminary site visit November 1, 2017 Second site visit end of November 2017
2. Schedule of unit allocation according to the income designation 3. Non-smoking units designation	7. Unit plans 8. Site visit/Orientation	One week after obtaining unit plans and completion of site visit and orientation
4. Member selection and interviewing a. Core-need member selection b. Point score system c. Market members selection d. Modified units selection e. Credit check forms f. Landlord check forms g. Interview forms/guidelines h. Open House	9.	Plan for interviewing needed before January 2011
5. Office set-up a. List of furniture, equipment, supplies b. Staffing c. Phone and internet hook-up d. Enterphone/fob programming 6. Common area/amenities set-up a. List of furniture 7. Security plan	10. Enterphone/fob orientation, manuals	Office set up list completed Staffing plan completed Hook-up and programming at start-up List of common area furniture completed after the site visit Plan complete, hiring at move-in
8. Final member selection and move-in a. Interviewing b. Credit /landlord check c. Sign-up d. Parking allocation e. Housing charge/shares deposit collection f. Member move-in g. Elevator schedule h. Key/fob register i. Enterphone codes j. Locker/storage register k. Hydro application 9. Tenant site orientations 10. Tenant orientation package 11. Security hiring	11. Unit manual 12. Unit content 13. Warranties for appliances 14. List of building facilities and amenities/ location 15. Information on sustainable features	All move-in schedules and activities ready by the end of January 2018
12. Budget a. Start-up budget b. Operating budget 13. Open Bank account a. Signatories 14. Commercial Insurance Policy		Budget completed Commercial insurance proposal in place





From: Tiffany Duzita [mailto:TDuzita@cltrust.ca]
Sent: Monday, October 23, 2017 4:37 PM
To: Kuhlmann, Thor
Cc: Vernooy, Michelle
Subject: RE: 95 E. 1st Ave and 1847 Main Street

Hi Thor,
Please see below.

Questions #2

s.21(1)

Refer to worksheet "35-Year Cash Flow Template"
Updated numbers have been highlighted in **PINK** for easy reference.
In summary:

- **s.21(1)**
- Rent inflation occurs at 2% per year the same as all other units except shelter.
- Financing assumptions all remain the same.
- **s.21(1)**

Question#4

We are still working on the lease-up schedule. I am awaiting some feedback from COHO on what they need and by when, so move-ins can start as soon as the building is ready should have that to you tomorrow afternoon.

Regards,
Tiffany

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Subject: 95 E. 1st Ave and 1847 Main Street

Tiffany,

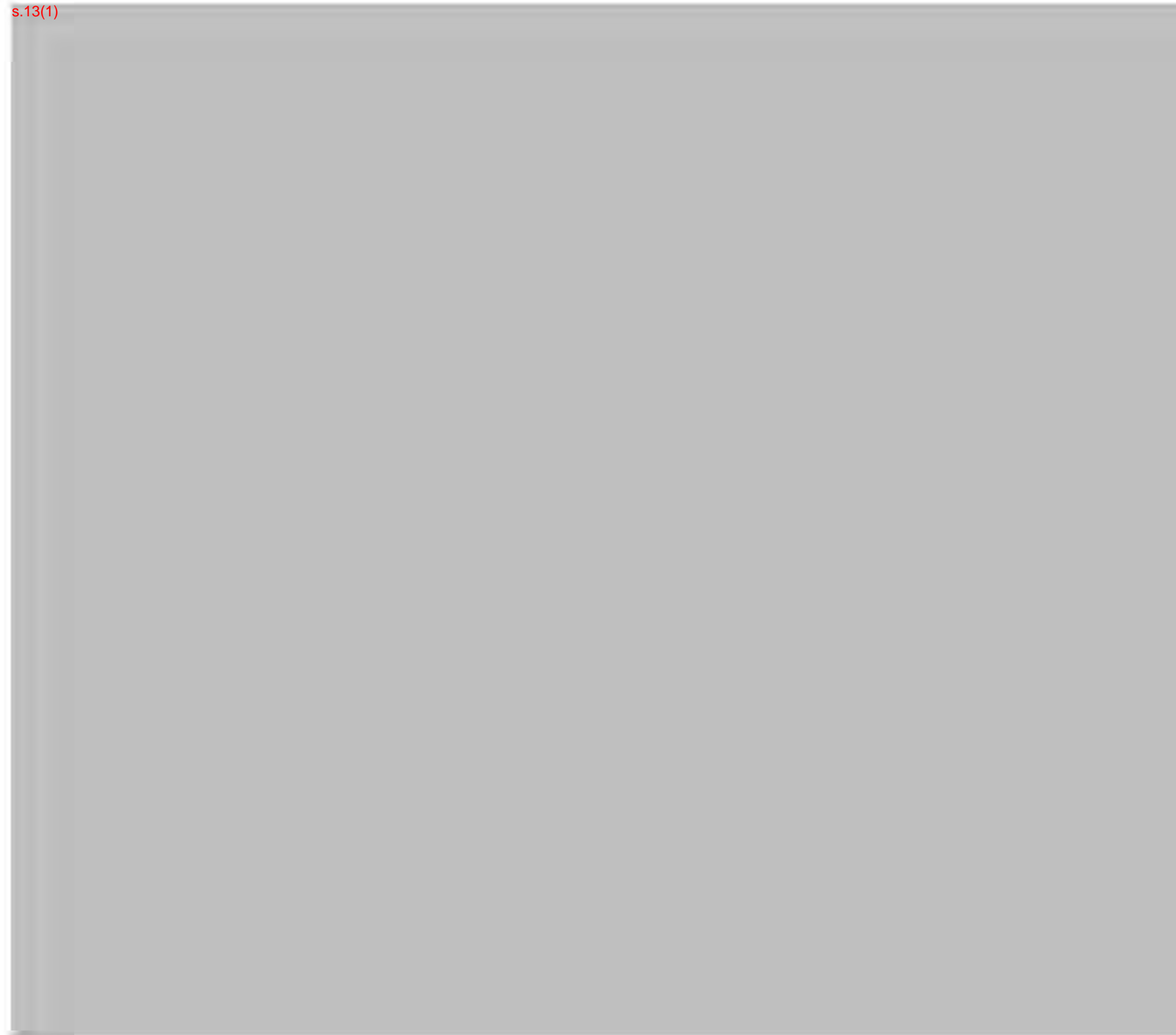
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Thanks, and keep in touch.

Thor Kuhlmann

Housing Planner | City of Vancouver | 604.871.6844 |



s.13(1)

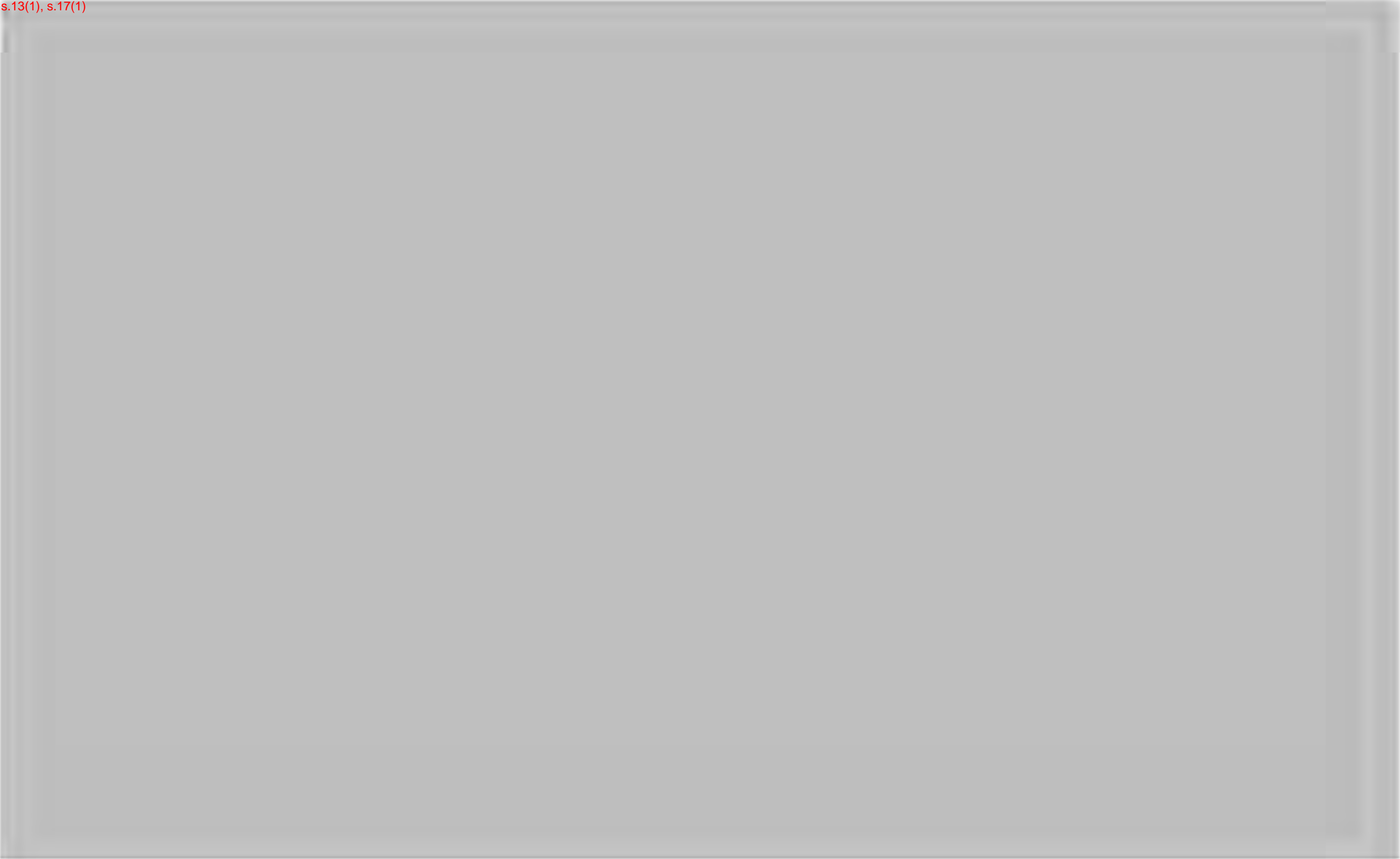


s.13(1), s.17(1), s.21(1)




s.13(1), s.17(1)





s.13(1), s.17(1)



From: Tiffany Duzita [mailto:TDuzita@cltrust.ca]
Sent: Monday, November 20, 2017 6:12 PM
To: Vernooy, Michelle
Subject: Re: Follow up Questions Regarding 95 E 1st and 1847 Main Budget Information

Hi Michelle,

Thank you for the good news. The \$20m is acceptable for both sites. I am assuming we will be paying the prepaid land lease for both sites now since they are both captured in the \$20m. That is doable, but I just wanted to confirm.

I've been at the Housing Central conference for the past two days, but I'm back in the office tomorrow if we need to touch base on anything.

Regards,
Tiffany

Sent from my iPhone

On Nov 20, 2017, at 3:35 PM, Vernooy, Michelle <michelle.vernooy@vancouver.ca> wrote:

Hello Tiffany,

We have run the revised numbers that were provided and are proposing that we move forward with a \$20 million pre-paid lease for the two projects, 95 E 1st and 1847 Main. We will include this as a term of the lease in our Council report and will need to seek approval from other City departments.

The required minimum affordability levels for 95 E 1st will be those that were outlined in the RFP with:

- § 10 units at STEP (shelter rate)
- § 54 units at rents geared to 30% income to people earning up to HILs (at an average of 70%);
and
- § 71 units at LEM rents that do not exceed the benchmarks of 90% of appraised market rent
and 30% of BC Housing's Moderate Income levels.

The required minimum affordability levels for 95 E 1st will be those that were outlined in the RFP with:

- § All 30 units for low-income artists below HILs and rent geared to 30% of income. Rents will
range from the shelter rates to a maximum of the HILs thresholds, averaging 70% of HILs

Please let me know if this is acceptable to CLT.

The report could not make the deadline for November 28, but has been rescheduled to December 12 or 13. This should not influence any of your dates for opening.

We will be having a conversation with the other applicants later this week and will follow up with you as soon as you are able to go more public.

Thank you

Michelle

Michelle Vernooy
Housing Planner
Affordable Housing Projects
City of Vancouver
604.871.6044

From: Tiffany Duzita [<mailto:TDuzita@cltrust.ca>]
Sent: Thursday, November 16, 2017 3:33 PM
To: Vernooy, Michelle
Subject: FW: Follow up Questions Regarding 95 E 1st and 1847 Main Budget Information

Hi Michelle,

Updated answers below to questions 1 and 2 below. I have noted them in bold and put "UPDATED". I have also updated the spreadsheet based on our discussion yesterday and some further discussion with COHO and our asset management team this morning on operating costs, inflation projections, and replacement reserves. This is outlined in the responses and the attachment.

We did look further into the heating and hot water costs for Athlete's Village as a comp as there was significant differences in the line items for 95 East 1st. Athlete's Village covers the common area expenses but their budget includes the costs for all common and interior suites. They have a 3rd party company that does separate metering and billing for each unit. Majority of this cost is recouped. Since Athlete's Village is technically liable for 100% of the cost, they do carry a contingency in case someone doesn't pay or when there is turnover of one of the units. For 95 East 1st, we added 25% to the Heating /Hot Water and Electricity line items to cover this, so we don't run into a cash flow issue.

We also looked at the maintenance items and have adjusted some numbers and put more notations off to the side, so you know what we are including in each line item.

Any questions, let me know.

Regards,
Tiffany

From: Tiffany Duzita
Sent: November-15-17 2:33 PM
To: 'Vernooy, Michelle' <michelle.vernooy@vancouver.ca>
Subject: RE: Follow up Questions Regarding 95 E 1st and 1847 Main Budget Information

Hi Michelle,

I have provided responses to your questions below in green, so you have them before our meeting. I look forward to discussing them more in detail. See you and Abi soon.

Regards,
Tiffany

From: Vernooy, Michelle [<mailto:michelle.vernooy@vancouver.ca>]
Sent: November-14-17 3:33 PM
To: Tiffany Duzita <TDuzita@cltrust.ca>
Subject: Follow up Questions Regarding 95 E 1st and 1847 Main Budget Information

Hello Tiffany,

Thank you for providing your updated proforma information. We have a few questions about the numbers that you provided. It would be helpful if you could be prepared to answer these tomorrow.

1. Your pro forma assumes a HILs rent increase at 2% per annum. Please provide a rationale for this. Our financial analysis assumed the HILS rent or a % of HILS rent at entry. Being a non-profit we always look for ways to maintain or deepen affordability. We look at average inflation costs and make sure rents keep up with inflation to cover building operating and management costs each year while still maintaining affordability requirements. In our assumptions, we have assumed 2% inflation on average. This can also fluctuate if there are spikes in certain operating costs that are out of our control (i.e. utility costs, insurance, property taxes, interest rates). We use conservative projections using industry comparables and also look to surpluses generated from a building that can be utilized to maintain a stable level of inflation on rents.

UPDATE: We have adjusted the inflation rate to 1% based on our meeting yesterday. We are still comfortable with 2% inflation but understand concerns that household incomes are not guaranteed to increase at the same pace. With a 1% inflation we will have flexibility to accommodate annual increases in rent/housing charges to accommodate those who may not be able to afford to pay more. We use the 30% rule of gross household income. At entry, members are income tested to ensure they are eligible for a unit using the 30% rule. Annual income testing is conducted for existing members to determine the annual increase. For example, if a household income increases, their housing charge will also increase but will not exceed 30% of their gross household income nor will it exceed fair market rent for a comparable product in the neighborhood. Throughout the building there will be varied housing charges creating a diversified community and giving those that cannot afford increase the security of tenure. The overall intent is to always work towards the average under the affordability terms the CLT will enter into with the City.

If the terms with the City are to always be at a % of HILS, we can structure the affordability of those units to accommodate that. For instance, HILS have gone up on average about 4% per year since 2015. In reality it will most likely be a range to deliver different levels of affordability.

2. What is the rationale for increasing the replacement reserve by 2% per annum? We have applied out same inflation rate for costs to the replacement reserve. Our asset management plan will determine building component values in today's dollars and apply an inflation factor for the future cost. For simplicity at this time, we use the same inflation in our model. Once we can develop the full plan we evaluate it each year to ensure our reserves can cover expenses in combination with refinancing where advantageous to the viability of the building with its debt to service ratio. The full asset management plan is updated every 4-5 years to make adjustments for costs based on how the building components are functioning according to their estimated lifespan and any adjustments that need to be made for the replacement reserve.

UPDATE: We have reviewed the inflation rate with our asset management team. The \$60 at 5% we don't feel will generate sufficient reserves for anything that may occur in the first 10 years of the building life, which are the most risky on a new building. Based on some recent comparables for asset management plans moving forward, our team is recommending the replacement reserve have an inflation of 3.5% and operating costs should also increase at 3.5%. This has been adjusted in the attached spreadsheet.

3. You have identified a production space revenue of \$6,000 per month for 1847 Main. Is the production space being leased out to Artscape? Can some of this be used to offset affordability for artists at 1847 Main? We will enter into a sublease/operating agreement with Artscape who will

manage the production space. The gross revenue of the residential units and the production space is assumed to achieve the affordability for the artists. Below is the excerpt from our previous response that BC Artscape provided on the management of the space and the range of membership dues for use of the space.

<image001.jpg>

4. Why is a different interest rate being used for 95 East 1st and 1847 Main? 1847 Main St is estimated to be completed 2+ yrs from now, so we used the BC Housing target interest rate for 2020 that is currently at 4.5%. BC Housing would require us to show financial viability at this rate even though the actual rate at the time might be less.

5. Please explain why there are similarities in the expenditures between the 2 buildings. Without know the details of 1847 Main St. We have applied some of the same unit costs that are used for 95 East 1st. Besides some costs that will be static regardless of number of units (i.e. property taxes, insurance, monitoring, audit), we use per unit costs per month to develop budgets that are in a preliminary stage. We will also be assuming the property management for the 1847 on behalf of BC Artscape that can generate some cost efficiencies for administration and maintenance staff.

You should also have a meeting invite for tomorrow from Abi.

Thanks,

Michelle

- The space will operate as a shared production space for resident artists and the local professional arts community. Access will be on a monthly membership basis, which will allow 24/7 access to the space, use of equipment and tools provided by BC Artscape. BC Artscape will use a sliding membership scale from \$0 to \$200 per month to ensure a range of affordability and use options. A staff person will be in the space approximately 20 hours per week to support administration and programming, but largely the space will be for production space.

From: Ge, Maggie
Sent: Tuesday, December 19, 2017 9:50 AM
To: Vernooy, Michelle
Subject: FW: Question about Lease and Operating Agreement Negotiations

Hi Michelle,

Please see attached SLA for 95 east 1st.

Thanks,
Maggie

From: Simmer, Tara
Sent: Sunday, December 17, 2017 3:09 PM
To: Ge, Maggie
Subject: RE: Question about Lease and Operating Agreement Negotiations

Please find attached the SLA for 95 east 1st. The SLA for 1837 Main needs to be refined and Matt is working on that one.

Tara

From: Ge, Maggie
Sent: Friday, November 17, 2017 2:30 PM
To: Simmer, Tara
Subject: FW: Question about Lease and Operating Agreement Negotiations

Hi Tara,

Please see emails below regarding SLA for 95 East 1st.

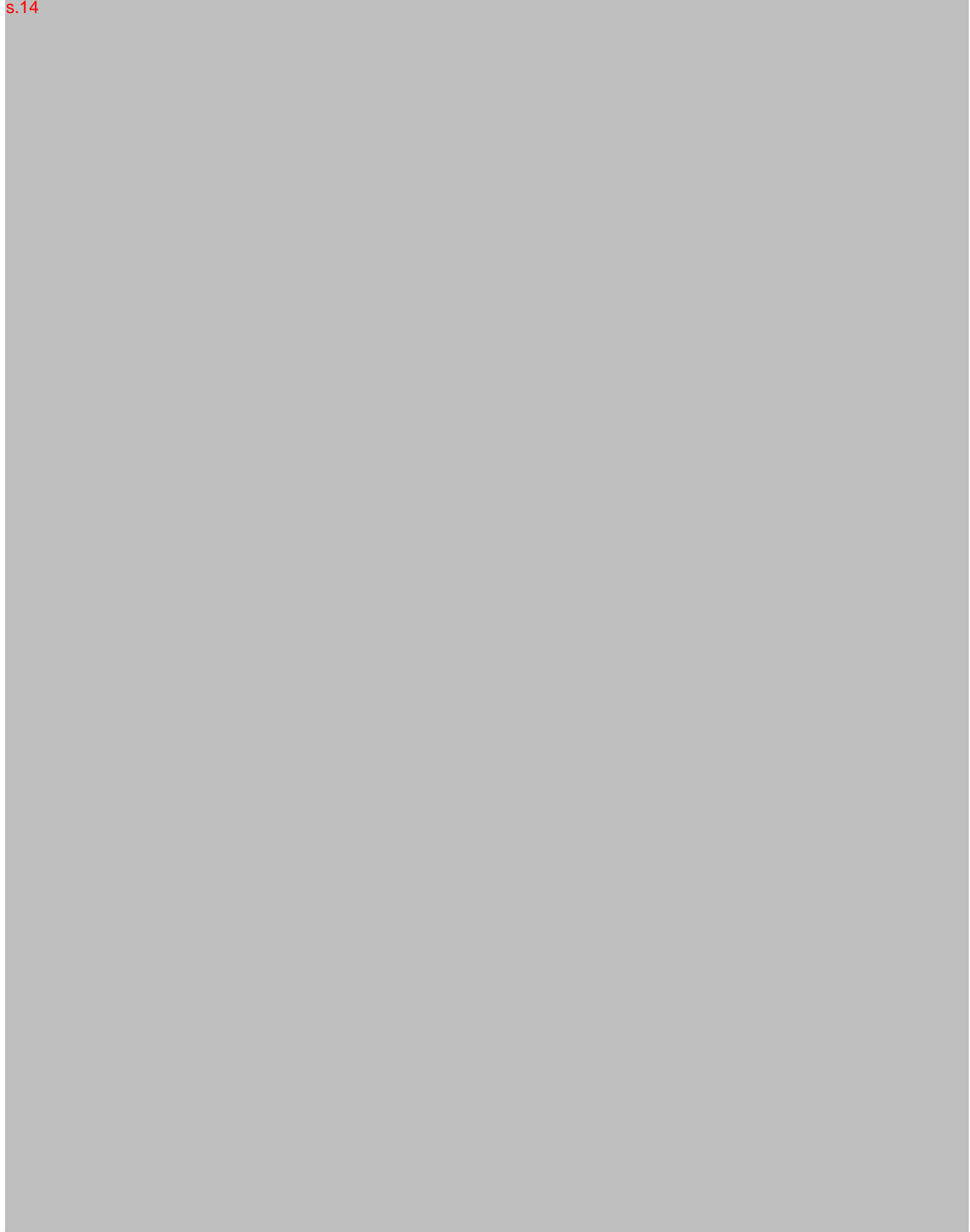
Thanks,
Maggie

From: Vernooy, Michelle
Sent: Thursday, November 16, 2017 4:25 PM
To: Ge, Maggie; Halverson, Matthew
Subject: FW: Question about Lease and Operating Agreement Negotiations

Hi,

Please not the questions below about the plan and the SLAs that need to be attached. Could you please provide these and review the documents for any concerns.

Michelle



s.14

From: Ge, Maggie
Sent: Tuesday, December 19, 2017 9:50 AM
To: Vernoooy, Michelle
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To: Ge, Maggie; Halverson, Matthew
Subject: FW: Question about Lease and Operating Agreement Negotiations

Hi,

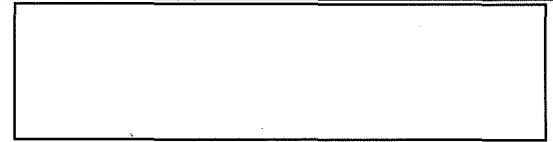
Please not the questions below about the plan and the SLAs that need to be attached. Could you please provide these and review the documents for any concerns.

Michelle

s.14



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)

Natalie Pawson, Miller Thomson LLP

400 - 725 Granville Street

Vancouver

BC V7Y 1G5

604-628-2884

Client No. 010437 File No.: 0202846.0011

CLTF / 29156115

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

029-631-785

**LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN
EPP46205**

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Lease

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):

CITY OF VANCOUVER

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

CLT EAST 1ST COMMUNITY SOCIETY

220 - 1651 COMMERCIAL DRIVE

VANCOUVER

V5L 3Y3

BRITISH COLUMBIA

CANADA

Incorporation No

S0068794

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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)

BRAD WOODS
453 WEST 12TH AVENUE
VANCOUVER BC V5Y 1V4
LAWYER

Execution Date

Y	M	D
14	02	16

Transferor(s) Signature(s)

CITY OF VANCOUVER
by its authorized signatory(ies):

Name:

FRANCES J. CONNELL
Director of Legal Services

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.

[Signature]

Execution Date

Transferor / Borrower / Party Signature(s)

by its authorized signatory(ies):

Name: Tiffany Duzita

Name: _____

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 45 PAGES

Officer Signature(s)

MIKE WALKER
BARRISTER & SOLICITOR
400 - 725 GRANVILLE STREET
VANCOUVER, B.C. V7Y 1G5
(604) 687-2242

Execution Date

Y	M	D
18	01	26

Transferor / Borrower / Party Signature(s)

CLT EAST 1ST COMMUNITY
SOCIETY

by its authorized signatory(ies):

Name: Thom Armstrong

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.

PART 2 - TERMS OF INSTRUMENT

THIS AGREEMENT is made as of the 26th day of January, 2018.

BETWEEN:

CITY OF VANCOUVER, a municipal corporation with offices
at 453 West 12th Avenue, in the City of Vancouver, in the
Province of British Columbia, V5Y 1V4

(the "Landlord")

AND:

CLT EAST 1ST COMMUNITY SOCIETY
(Society Registration No. S0068794)
with offices at 220-1651 Commercial Drive, Vancouver,
B.C. V5L 3Y3

(the "Tenant")

PREMISES:

Civic Address: 95 East 1st Avenue, Vancouver, BC

Parcel Identifier: 029-631-785

Legal Description: LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT
PLAN EPP46205

TERM: 60 years, commencing on January 29, 2018

RENT: Total prepaid rent in the amount of TWENTY MILLION FIVE
HUNDRED THOUSAND (\$20,500,000.00) for the Term

OPTION(S) TO RENEW: None.

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WITNESSES THAT WHEREAS:

- A. The Landlord is the owner of all and singular those lands and premises situate in the City of Vancouver, in the Province of British Columbia, having a civic address of 95 East 1st Avenue, Vancouver, and legally described as:

Parcel Identifier Number: 029-631-785

LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205,

which lands and premises are hereinafter called the “**Building**” or the “**Premises**”;

- B. The Landlord sought proposals to operate the Building pursuant to RFP20171205 issued on August 2, 2017 (the “**RFP**”);
- C. The Tenant submitted a proposal in response to the RFP and was duly selected by the Landlord;
- D. The Premises are subject to the liens, charges and encumbrances registered at the Land Title Office as shown on the title search attached hereto as Schedule B (all of which are collectively referred to as the “**Prior Encumbrances**”);
- E. The Landlord's City Council, by resolution made at its meeting the 12th day of December, 2017, resolved to lease the Premises to the Tenant upon the terms and conditions hereinafter set out.

NOW THEREFORE in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease the Premises unto the Tenant and the Tenant does hereby take and rent the Premises upon and subject to the conditions set out hereunder.

ARTICLE I**Section 1.01- Definitions**

Capitalized terms used in this Agreement have the meanings specified in this Section 1.01, unless otherwise provided in this Agreement:

- (a) “**Alterations**” has the meaning given to it in Section 3.03;
- (b) “**Approved Lender**” means any Mortgagee approved by Canada Mortgage and Housing Corporation for the purpose of making loans under the *National Housing Act* (Canada);
- (c) “**Basic Rent**” has the meaning given to it in Section 2.04;
- (d) “**Builders Lien Act**” has the meaning given to it in Section 3.04;
- (e) “**Commencement Date**” has the meaning given to it in Section 2.01;

- (f) **"Common Facilities Cost Sharing Agreement"** means the Common Facilities Cost Sharing Agreement in respect of the Premises dated the 26th day of June, 2015, between Concert Real Estate Corporation and the Landlord;
- (g) **"Commission"** means the British Columbia Housing Management Commission;
- (h) **"Corporation"** means Canada Mortgage and Housing Corporation or its successors in function, or at the option of Canada Mortgage and Housing Corporation, the Commission;
- (i) **"Environment"** has the meaning given to it in the *Canadian Environmental Protection Act (Canada)* as of the date of this Agreement;
- (j) **"Hazardous Substances"** means any Substance capable of creating harm to people, property and/or the Environment including, without limitation, any flammable liquids, flammable or reactive solids, oxidizers, poisons, gases (compressed, liquefied or dissolved), explosives, radioactive materials, urea formaldehyde, asbestos-containing materials, above or underground storage tanks, compounds known as chlorobiphenyls, polychlorinated biphenyls ("PCBs"), PCB-containing equipment or materials, Pollutants, contaminants, hazardous, corrosive or toxic Substances, or Waste of any kind, including, without limitation, any Substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is prohibited, controlled, regulated or licensed by any federal, provincial or municipal authority;
- (k) **"Landlord's Personnel"** has the meaning given to it in Section 5.01;
- (l) **"Loan"** means a loan to be obtained by the Tenant from the Commission, the Corporation, or a third party financial institution, with the prior approval of the City, which loan will be secured by a Mortgage of the Tenant's interest in the Premises pursuant to this Agreement, in a principal amount equal to not less than the Basic Rent plus applicable taxes;
- (m) **"Medium"** means any land, water or air and includes the Premises;
- (n) **"Mortgage"** means a registered mortgage or registered mortgages, and related security instruments, granted by the Tenant in accordance with Section 9.04 upon or in respect of the interest of the Tenant in the Premises or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (o) **"Mortgagee"** means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (p) **"Operating Agreement"** means the agreement entered into between the Tenant and the City at or around the Commencement Date in the form attached hereto as Schedule D, as it may be amended or replaced from time to time during the Term;
- (q) **"Permitted Use"** has the meaning given to it in Section 2.09;

-
- (r) **“Pollute”** is a verb which means to Release into or onto any Medium any Substance that:
- (i) alters the physical, biological or chemical nature of that Medium;
 - (ii) alters the capacity of the Medium to support any living thing, whether animal or plant life;
 - (iii) injures or is capable of injuring the health or safety of a person in, on or near the Medium;
 - (iv) injures or is capable of injuring property or any life form in, on or near the Medium;
 - (v) interferes with or is capable of interfering with visibility or the dispersion of light or any photochemical activity within the Medium;
 - (vi) interferes with or is capable of interfering with the normal conduct of business in, on, near or from the Medium;
 - (vii) causes or is capable of causing physical discomfort to a person in, on or near the Medium;
 - (viii) damages or is capable of damaging the Environment; or
 - (ix) is Waste,
- and **“Polluted”** is an adjective, and **“Pollution”** and **“Pollutant”** are nouns, which have meanings that correspond to the meaning contained in this paragraph;
- (s) **“Premises Operating Costs”** has the meaning given to it in Section 2.07(a);
- (t) **“Prior Encumbrances”** has the meaning given to it in Recital F;
- (u) **“Release”** includes release, spill, leak, pump, pour, dump, abandon, emit, empty, discharge, spray, inoculate, deposit, seep, throw, place, exhaust, inject, escape, leach, dispose, infuse or introduce;
- (v) **“Rent”** has the meaning given to it in Section 2.04;
- (w) **“Service Level Agreement”** has the meaning given to it in Section 2.07;
- (x) **“Substance”** has the meaning given to it in the *Canadian Environmental Protection Act (Canada)* as of the date of this Agreement;
- (y) **“Tenant’s Personnel”** has the meaning given to it in Section 5.01(a);
- (z) **“Term”** has the meaning given to it in Section 2.01;
- (aa) **“Waste”** has the meaning given to it in the *Environmental Management Act*, S.B.C. 2003, c. 53, as amended or substituted from time to time but if the *Environmental Management Act* is repealed, “Waste” has the meaning given to it on the day immediately preceding the repeal of that Act or if that Act is amended so that the

term "Waste" is no longer used in it, then "Waste" has the same meaning as the term which replaces it in that Act; and

(bb) "WCB" has the meaning given to it in Section 11.02;

ARTICLE II

Section 2.01- Demise and Term

Subject to the Prior Encumbrances and in consideration of the rents, covenants and conditions herein on the part of the Tenant to be performed and observed, the Landlord hereby leases the Premises to the Tenant to have and to hold the same for and during the term of sixty (60) years, commencing on the 29th day of January, 2018 (the "Commencement Date") and expiring at 11:59 p.m. on the 28th day of January, 2078 (the "Term").

Section 2.02- Early Termination by Landlord

Not so as to limit the Landlord's abilities as specified elsewhere in this Agreement, the Landlord may terminate this Agreement with the Tenant's consent, and the Landlord shall not pay to the Tenant any compensation due to such termination.

Section 2.03- Early Termination by Tenant

If the Tenant terminates the Operating Agreement pursuant to Schedule A.J.2 thereof, or any other provision permitting early termination by the Tenant, this Lease will cease and determine on the date specified in the Tenant's notice in accordance with the Operating Agreement. In such event, in addition to any adjustments provided for in the Operating Agreement, Basic Rent shall be adjusted and payable up to the date of termination only, on the basis that the Basic Rent accrues on a day to day basis for the Term.

Section 2.04- Rent

The Tenant covenants and agrees with the Landlord to pay to the Landlord for the Term, plus applicable taxes, total prepaid rent in the amount of **TWENTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$20,500,000)** (the "Basic Rent") on or before the first anniversary of the Commencement Date.

The Basic Rent together with any additional rent payable by the Tenant is referred to as "Rent" in this Agreement.

This Agreement shall be completely net to the Landlord, save and except for those certain capital and other costs which are the responsibility of the Landlord as provided in the Service Level Agreement (hereinafter defined).

Section 2.05- The Loan

The Tenant undertakes to use its reasonable best efforts to satisfy all preconditions to disbursement of the principal amount of the Loan as soon as reasonably possible after the Commencement Date, and upon receipt of the such principal amount, to thereafter forthwith pay the Rent to the Landlord as contemplated by Section 2.04.

Section 2.06- Payments Generally

All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Agreement shall be:

- (a) paid to the Landlord by the Tenant in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any setoff, compensation or deduction whatsoever at the office of the Landlord's Director of Real Estate Services specified in Section 16.01 or such other place as the Landlord may designate from time to time in writing to the Tenant;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Landlord may see fit; and
- (d) deemed to be rent, in partial consideration for which this Agreement has been entered into, and shall be payable and recoverable as Rent, such that the Landlord shall have all rights and remedies against the Tenant for default in making any such payment which may not be expressly designated as Rent as the Landlord has for default in payment of Rent.

Section 2.07- Utilities, Janitorial, Maintenance and Repairs

The arrangements concerning the utilities, janitorial, maintenance and repairs as of the date of this Agreement are contained in Schedule C attached hereto (the "**Service Level Agreement**"). The Service Level Agreement may be amended in writing from time to time by the Landlord and the Tenant by mutual agreement.

Notwithstanding the foregoing, Section 2.04 or any other provision in this Agreement:

- (a) commencing as of the Commencement Date, the Tenant shall pay all charges, rates and levies on account of utilities and other services provided to the Premises, including heat, electricity, gas, water, sewer, garbage and recycling collection, telephone, cablevision, internet, all costs related to security systems monitoring and servicing, and all other expenses and outgoings relating to the Premises ("**Premises Operating Costs**") immediately when due and, upon request, provide the Landlord with receipts evidencing such payment, unless otherwise expressly indicated in the Service Level Agreement; and
- (b) the Landlord collects some utility charges, rates, fees and levies by inserting them in the real property tax roll, such charges, rates, fees and levies include those for water supply, water meter rental, water meter shutoff, air conditioning, fireline, fireline shutoff, sewer, recycling pickup and dumping, recycling cart rental, recycling cart carryout, recycling cart storage, yard waste pickup, yard waste cart rental, garbage pickup and dumping, garbage cart rental and stopping garbage pickup. Notwithstanding that the Premises and improvements are exempt from taxation, when such charges, rates and levies are inserted in the tax roll for the Premises, the Tenant shall pay 100% of same upon receiving the Landlord's invoice therefor as if the Premises were not exempt from taxation.

The Tenant shall keep and maintain the Premises in good repair as would a reasonable and prudent owner of such premises, reasonable wear and tear and structural elements or defects excepted and in a sanitary, neat, tidy and safe condition and free from nuisance at all times.

The Landlord shall have access to the Premises in order to inspect them during normal business hours, except in the case of emergency, in which case the Landlord shall have access to the Premises at any time. The Landlord shall provide the Tenant with written notice of any repairs which, in accordance with the Service Level Agreement, the Landlord requires the Tenant to make to the Premises. The Tenant shall make such repairs in accordance with such notice. If the Tenant fails, in the opinion of the Landlord, to commence repairs within a reasonable period of time and diligently prosecute same to completion after receipt of notice from the Landlord requiring repairs, then the Landlord may carry out or cause to be carried out such repairs on the provision of reasonable notice to the Tenant in a manner so as to cause the least reasonably possible disruption to the Tenant, the costs of which shall be payable by the Tenant, and the Landlord and its employees, agents, contractors and subcontractors, shall not be liable to the Tenant for any inconvenience, annoyance, disruption, loss of income or liability suffered or incurred by the Tenant by reason of the Landlord effecting such repairs unless caused by the gross negligence or wilful misconduct of the Landlord or those for whom the Landlord is responsible in law.

Section 2.08- Common Area and Other Operating Costs

The Tenant shall be responsible for all of the costs and expenses allocated to the Landlord pursuant to the Common Facilities Cost Sharing Agreement.

Section 2.09- Use of Premises

The Tenant shall not use or occupy, nor suffer or permit the use of the Premises or any part thereof for any purpose other than the purposes set forth in the Operating Agreement (the "Permitted Use") and to do so would be a material default of this Agreement and the provisions of Article 12 shall apply.

The Tenant shall not use, or suffer or permit the use of, any part of the Premises in such a manner as to cause, suffer or permit any annoying noises or offensive odours to emanate from any part of the Premises.

By agreeing to the Tenant using the Premises for the Permitted Use, the Landlord is agreeing as the owner of the Premises only and is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Permitted Use is a permitted use under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto and other relevant by-laws. Nothing in this Section 2.09 affects the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 11.01 of this Agreement.

Section 2.10- Interest on Arrears

Whenever and so long as the rent or any other amounts payable hereunder by the Tenant to the Landlord shall be in arrears, such amounts shall bear interest at the rate of three percent (3%) per annum above the "prime rate" (hereinafter defined), per annum calculated monthly not in advance, from the date due until paid irrespective of whether or not the Landlord has demanded payment. In this lease, "prime rate" means the floating annual percentage rate of

interest established from time to time by the Bank of Montreal, 595 Burrard Street, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its prime rate; provided that if a court declares or holds the prime rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder shall be fourteen percent (14%) per annum calculated monthly not in advance from the date due until paid. The Landlord shall have all the remedies for the collection of such interest as in the case of rent in arrears, but this provision for interest shall not prejudice or affect any other remedy of the Landlord under this lease. The Tenant shall also pay the Landlord's standard charge levied on N.S.F. cheques.

Section 2.11- Security Deposit - Intentionally deleted

Section 2.12- Taxes

Notwithstanding the preceding terms of this agreement, in addition the Tenant shall pay monthly as additional rent in each and every month of the Term a sum equal to one-twelfth of the annual general, school and local improvement charges and taxes and any charges and taxes levied under or by virtue of the Hospital District Finance Act, R.S.B.C. 1996, c. 203, as amended or substituted from time to time, the Municipal Finance Authority Act, R.S.B.C., 1996, c. 325, as amended or substituted from time to time, and any and all other statutes, laws, enactments, regulations and ordinances of the federal or provincial governments or other competent authority, or any modifications or re-enactments thereof which, except for any exemption allowed by law, would in the ordinary course have been lawfully imposed against the Premises and against all machinery in and about the Premises for each year of the Term. This sum will be calculated by the Landlord in accordance with the mill rate and/or rates of levy for the current year. PROVIDED HOWEVER that the sums payable monthly as annual taxes under this paragraph shall, at the option of the Landlord's Director of Real Estate Services, be payable semi-annually in two lump sums on or before the date specified by the Landlord's Director of Real Estate Services. Should the Premises or any portion thereof or any trade fixtures or chattels therein for any reason become subject to taxation, then the Tenant shall pay all such taxes.

Section 2.13- Goods and Services Tax

The Tenant shall pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments which are from time to time payable by the Tenant or the Landlord as a result of or that would not be payable but for the rights and obligations contained in this Agreement, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Tenant to the Landlord. Any loss, costs, charges and expenses which relate to such taxes, rates, levies and assessments suffered by the Landlord may be collected by the Landlord as additional rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

Section 2.14- Rent Review - Intentionally deleted.

Section 2.15- Amalgamation, Sponsorship, Naming, Renaming and Signage

The Tenant shall, effective from the date hereof:

- (a) not amalgamate with any other body, without first receiving the Landlord's prior written approval, which approval may not be unreasonably withheld;
- (b) not sell, transfer, assign or otherwise permit the naming of the Premises or any portion thereof without the Landlord's prior written approval, which approval may be arbitrarily withheld;
- (c) in connection with the naming of all or any portion of the Premises, comply with any policy adopted by the Landlord's Council relating to the naming of and signage (including without limitation, flags and banners) regarding all or portions of lands and/or premises owned, leased or otherwise controlled by the Landlord in force at the time of the proposed naming; and
- (d) without limiting the generality of anything contained in this Section 2.15, the Tenant shall not disclose or promote its relationship with the Landlord in any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials in a manner which could suggest or create an association, express or implied, between the Tenant and the Landlord without the express prior written consent of the Landlord, which may be arbitrarily withheld.

Section 2.16- Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or its officers, employees or agents as to:

- (a) the state of repair of the Premises;
- (b) the suitability of the Premises for any business, activity or purpose whatever; or
- (c) the suitability of the Premises for use by the Tenant.

Section 2.17- Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such walk-throughs, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the state of repair of the Premises; and
- (b) the suitability of the Premises for use by the Tenant;
- (c) and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

Section 2.18- Excess Rent - Intentionally deleted.

Section 2.19- Permits

The Tenant shall be solely responsible at its own cost and expense for obtaining all necessary permits to construct any tenant improvements, occupy the Premises and operate its business on the Premises.

Section 2.20- Operating Agreement

It is a condition of this Agreement that the Tenant honour its obligations contained in the Operating Agreement during the Term. In the event that either party terminates the Operating Agreement, the Landlord and the Tenant will each, subject always to Sections 12.01 and 12.02, have the right and option at any time thereafter to terminate this Agreement and in such event this Agreement will terminate and will be of no further force or effect.

ARTICLE III

Section 3.01- No Damage

The Tenant shall not suffer, cause nor permit any damage or injury to the Premises other than reasonable wear and tear.

Section 3.02- Snow off Sidewalks - Intentionally deleted.

Section 3.03- Alterations

The Tenant shall not carry out or cause to be carried out any additions, renovations or material alterations to the Premises ("**Alterations**") without the Landlord's prior written consent and in the giving of such consent the Landlord may attach whatever conditions, directions, stipulations, prohibitions or deadlines as it deems appropriate and the same shall be conditions of this Agreement. All such works shall be wholly at the Tenant's expense but shall be the Landlord's absolute property except to the extent that the same may be reasonably categorized as trade fixtures.

The Tenant will obtain, at its sole expense, any and all permits, approvals and authorizations from any governmental authority, including the City of Vancouver, which may be required to undertake the Alterations. The Tenant shall be solely responsible for all claims and/or liabilities arising from or relating to any bodily injury or death, property damage or other loss or damage arising from the Alterations.

By consenting to any Alterations, the Landlord is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Alterations are permitted under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto, the City of Vancouver Building By-law No. 6134 and amendments thereto, and other relevant by-laws. No consent given by the Landlord (and no failure to enforce this section of this Agreement) will affect the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 10.01 of this Agreement.

Section 3.04- Liens and Encumbrances

In connection with all labour performed in, or materials supplied for, the making, erection, installation or alteration of any work or installations made by or for the Tenant in the Premises, the Tenant will comply with all the provisions of the *Builders Lien Act*, SBC 1997, c.45, as amended or substituted from time to time (the "**Builders Lien Act**"), and other

statutes from time to time applicable thereto, including any provision requiring or enabling the retention of any sum as a holdback.

The Tenant will not create any mortgage, security agreement or other encumbrance in respect of any of its leasehold improvements or trade fixtures or permit any such mortgage, security agreement or other encumbrance to attach to the Premises.

If and whenever any builders lien or other lien for work, labour, services or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable, or claims therefor arise or are filed or any such mortgage, security agreement or other encumbrance attaches to the title to the Premises, the Tenant will, within fifteen (15) days after receipt of notice thereof, procure the discharge thereof, including any certificate of pending litigation or other notation or charge registered in respect of any lien, by payment or giving security or in such other manner as may be required or permitted by law. Provided however, that in the event of a bona fide dispute by the Tenant of the validity or correctness of any claim for any such lien, the Tenant will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct. This section shall not prevent the Tenant mortgaging or encumbering its chattels, inventory, trade fixtures or equipment which are not fixtures.

Pursuant to Section 3(2) of the *Builders Lien Act*, the Landlord may file in the Land Title Office notice of its fee simple interest in the land or legal parcel on which the Premises are located, as is required by law to ensure that the Landlord's title does not become charged with liens related to this Agreement.

ARTICLE IV

Intentionally Deleted.

ARTICLE V

Section 5.01- Limitation of Liability

The Landlord and its officials, officers, employees, agents, contractors, subcontractors, licensees and permittees (collectively, the "Landlord's Personnel") shall not, under any circumstances, be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, however caused, that may be suffered or sustained by the Tenant, its officers, employees, agents, contractors, subcontractors, licensees, permittees, invitees (collectively, the "Tenant's Personnel") or by any other person who may be in or about the Premises; or
- (b) any loss or damage of any nature whatsoever, however caused, to the Premises, any property belonging to the Tenant, the Tenant's Personnel, or to any other person while such property is in or about the Premises,

whether in the course of the performance of the Landlord's obligations under this Agreement or otherwise, unless resulting from the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 5.02- Exclusion of Liability

The Landlord and the Landlord's Personnel shall not under any circumstances be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, that may be suffered or sustained by the Tenant or the Tenant's Personnel or any other person who may be in or about the Premises, or any loss or damage of any nature whatsoever to the Premises or to any property belonging to the Tenant, the Tenant's Personnel or to any other person while such property is in or about the Premises:
 - (i) caused by failure, by reason of breakdown or other cause, to supply adequate drainage, or by interruptions of any utility or other services, or by steam, water, rain, snow, or other substances leaking, entering, issuing or flowing onto or into any part of the Premises; or
 - (ii) however caused, if the Landlord or Landlord's Personnel enter upon the Premises in the case of an emergency;
- (b) any loss or damage of any nature whatsoever, however caused, to books, records, files, money, securities, negotiable instruments, papers or other valuables of the Tenant or its officers, employees or agents;
- (c) any business, economic or indirect loss or damage suffered or sustained by the Tenant or the Tenant's Personnel of any nature whatsoever, however caused; or
- (d) any loss which the Tenant is obligated to insure against hereunder or has insured against.

Section 5.03- Indemnification

The Tenant shall indemnify and save harmless the Landlord and the Landlord's Personnel in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by, or any act or omission of, or relating to or arising from the occupation, use and/or possession of the Premises and/or other Landlord property by the Tenant and/or the Tenant's Personnel and/or from any alterations to the Premises, and in respect of all costs, expenses and liabilities incurred by the Landlord and the Landlord's Personnel in connection with or arising out of all such claims, including the expenses of any action or legal proceeding pertaining thereto and the liabilities or obligations incurred or sustained by or imposed upon the Landlord and the Landlord's Personnel in respect of any loss, cost, expense or damage suffered or incurred by the Landlord and the Landlord's Personnel arising from any breach by the Tenant of any of its covenants and obligations under this Agreement.

Without limiting anything else contained in this Agreement, the Tenant shall at all times be liable to the Landlord for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord and/or the Landlord's Personnel sustain any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord's satisfaction and shall indemnify the Landlord and the Landlord's Personnel for any loss they might sustain due in whole or part to such actions, except where such damage or loss was caused by or

contributed to by the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 5.04- Notice of Liability Concerns

Forthwith after becoming aware of significant liability concerns regarding the operation of the Premises or any matter relating to the Premises or the use of the Premises, the Tenant shall notify the Landlord in accordance with Section 17.01 of this Agreement.

ARTICLE VI

Section 6.01- Suitability of the Premises (Environmental)

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or Landlord's Personnel as to:

- (a) the existence, nature or extent of any Pollution on or off the Premises; or
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises.

Section 6.02- Tenant's Inspection of the Premises (Environmental)

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such audits, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the existence, nature or extent of any Pollution on the Premises; and
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises;

and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

The Tenant hereby assumes any and all duties, obligations or liabilities under any relevant law in respect of the Premises, including, but not limited to, any costs, expenses or liabilities for any remedial action for any Pollution of the Premises caused by the Tenant during the Term.

Section 6.03- Release and Indemnification

The Tenant hereby releases the Landlord and its officers, employees and agents from any and all costs, expenses, damages, losses or liabilities that may be incurred or suffered by the Tenant by reason of or resulting from or in connection with or arising in any manner whatsoever out of:

- (a) the Premises not being suitable for use by the Tenant;
- (b) the Premises being, or being found to be at any time, Polluted; or

- (c) the need to take any remedial action and the taking of such action as a result of such Pollution on or off the Premises.

The Tenant shall indemnify, defend and save harmless the Landlord in respect of all claims for bodily injury (including death), property damage or other loss or damage, including damage to property outside the Premises, arising out of or in any way connected with the manufacture, storage, transportation, handling and discharge of Hazardous Substances on or from the Premises by the Tenant or any one for whom the Tenant is responsible in law.

Section 6.04- Removal of Hazardous Substances

The Tenant shall not bring upon the Premises or any part thereof, or cause or suffer the bringing upon the Premises or any part thereof, any Hazardous Substances and if at any time there shall be any Hazardous Substances upon the Premises or a part thereof as a result of the breach of this covenant, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Article;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord verification of the complete and proper removal of the Hazardous Substances from the Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with the foregoing provisions of this Section 6.04.

Section 6.05- Breach of Laws Relating to Hazardous Substances

Without limiting the generality of Section 6.04, the Tenant shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence under or a breach of any statutes, by-laws, regulations or orders from time to time enforced relating to Hazardous Substances, and at its own cost and expense, comply with all laws and regulations from time to time in force relating to the Landlord, the Tenant, the activities carried out on the Premises relating to Hazardous Substances and the protection of the Environment and shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence thereunder or a breach thereof and, if the Tenant shall, either alone or with others, cause or suffer the happening of such event, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Section 6.05;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord a report verifying the complete and proper removal thereof from the Premises or, if such is not the case, a

report as to the extent and nature of any failure to comply with the foregoing provisions of this Section 6.05.

The Tenant shall, at its own expense, remedy any damage to the Premises caused by such event within the Premises or by the performance of the Tenant's obligations under this Section 6.05 as a result of such occurrence.

If any governmental authority having jurisdiction shall require the cleanup of any Hazardous Substances held, Released, spilled, abandoned or placed upon the Premises or (having been brought onto the Premises by the Tenant or anyone the Tenant permits on the Premises during the Term) Released into the Environment from the Premises during the Term, then the Tenant shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work and shall keep the Landlord fully informed and provide to the Landlord full information with respect to proposed plans and comply with the Landlord's requirements with respect to such plans and the Tenant agrees that if the Landlord determines, in its sole discretion, that the Landlord, its property or its reputation is placed in any jeopardy by the requirement for any such work, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant, pursuant to Section 12.08 of this lease.

Section 6.06- Enquiries Pertaining to Hazardous Substances

The Tenant hereby authorizes the Landlord to make enquiries from time to time of any government or governmental agency with respect to the Tenant's compliance with any and all laws and regulations pertaining to the Tenant, the Tenant's activities on the Premises and the Premises including without limitation laws and regulations pertaining to Hazardous Substances and the protection of the Environment; and the Tenant covenants and agrees that the Tenant will from time to time provide to the Landlord such written authorization as the Landlord may require in order to facilitate the obtaining of such information.

Section 6.07- Landlord's Inspection of Goods

The Landlord may at any time and from time to time inspect the Tenant's goods upon the Premises and the Tenant's records relating thereto for the purpose of identifying the nature of the goods and the existence or absence of any Hazardous Substances and the Tenant shall assist the Landlord in so doing.

Section 6.08- Ownership Remains with Tenant

If the Tenant shall bring or create upon the Premises any Hazardous Substances or suffer the bringing or creation upon the Premises of any Hazardous Substances or if the conduct of the Tenant's business shall cause there to be any Hazardous Substance upon the Premises then, notwithstanding any rule of law or equity to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord and notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Premises and notwithstanding the expiry or earlier termination of this Agreement.

Section 6.09- Environmental Covenants Survive Termination

The obligations of the Tenant in this Article V shall survive the expiry or earlier termination of this lease save only that, to the extent that the performance of those obligations requires access to or entry upon the Premises or any part thereof the Tenant shall have such entry and access only at such times and upon such terms and conditions as the Landlord may from time to time specify; and the Landlord may, at the Tenant's cost and expense, undertake the performance of any necessary work in order to complete such obligations of the Tenant; but having commenced such work, the Landlord shall have no obligation to the Tenant to complete such work.

ARTICLE VII

Section 7.01– Landlord's Insurance - Intentionally Deleted

Section 7.02- Tenant's Insurance

The Tenant shall, without limiting any of its obligations or liabilities under this Agreement, obtain and continuously carry during the term of this Agreement at its own expense and cost, insurance coverage with minimum limits of not less than those specified, as follows:

- (a) commercial general liability insurance with limits of Five Million Dollars (\$5,000,000) per occurrence or such higher limit of coverage as the Landlord's Director of Risk Management may require from time to time and the policy shall:
 - (i) indemnify and protect the Tenant and the Tenant's Personnel against all claims for loss, damage, injury or death to any person or persons and for loss of or damage to the Premises or to any public or private property occurring within or about the Premises or arising by virtue of the Tenant's occupation or possession of the Premises, including that caused by any third party permitted to use the Premises;
 - (ii) contain a cross-liability and severability of interest clause insuring the Tenant, the Landlord, the Landlord's Personnel and the Tenant's Personnel in the same manner and to the same extent as if separate policies had been issued to each and apply with respect to any action brought against one party by the other or by any officer, employee or agent of one party and any breach of a condition of the policy by any party or by any officer, employee or agent of one party shall not affect the protection given by the policy to any other party or to any officer, employee or agent of any party;
 - (iii) name the Landlord, its officials, officers, employees and agents as additional insureds;
 - (iv) include All Risk (Broad Form) Tenant's Legal Liability insurance for an amount equal to the full replacement cost of the Premises, such coverage to include the activities and operations conducted by the Tenant and third parties in the Premises;
 - (v) include blanket contractual liability covering liability arising directly or indirectly out of the performance of this Agreement;

- (vi) provide for a limit of deductibility not greater than Five Thousand Dollars (\$5,000) or such other limit as the Landlord's Director of Risk Management may sanction from time to time; and
 - (vii) without limiting anything else contained in this Agreement, adequately protect the Tenant from the actions of the third parties that the Tenant permits to occupy all or a portion of the Premises;
- (b) All Risk (Broad Form) including Earthquake and Flood Insurance covering property of every description and kind owned by the Tenant or for which the Tenant is legally liable or provided by or on behalf of the Tenant (and which is located in the Premises), including, without limitation, fittings, fixtures, plate glass (both interior and exterior), installations, alterations, additions, partitions, trade fixtures, furniture or equipment located within the Premises in an amount not less than the full replacement cost thereof;
 - (c) Boiler and Machinery Insurance protecting the Named Insured against accidental damage to all boilers, pressure vessels (fired and unfired), refrigerating and air conditioning systems, piping and accessory equipment including the resultant damage to other properties caused by explosion, collapse, rupture, bursting, cracking and other unusual perils;
 - (d) Business interruption (rental income) insurance in an amount equal to the maximum gross rental income of the Premises pursuant to the Operating Agreement for a period of not less than twenty-four (24) months;
 - (e) Automobile liability insurance for vehicles owned by or leased or licensed to the Tenant and used in connection with services rendered by it pursuant to this Agreement and the Operating Agreement, with limits of not less than Five Million Dollars (\$5,000,000), or such other amounts as the Landlord may reasonably require from time to time, for accidental injury to or death of one or more persons or damage to or destruction of property as a result of any one accident or occurrence;
 - (f) Directors' & officers' liability insurance which covers liability incurred by the officers and directors of the Tenant, with limits of not less than Five Million Dollars (\$5,000,000) or such other amounts as the Landlord may reasonably require from time to time, per occurrence; and
 - (g) Employee dishonesty insurance covering loss of money, securities and other property which the Tenant may sustain, in an amount of not less than One Hundred Thousand Dollars (\$100,000) aggregate for any one loss, resulting from fraudulent or dishonest acts committed by an employee of the Tenant, acting alone or in collusion with others.

Section 7.03- General Requirements of Insurance

The following shall apply to all insurance policies:

- (a) the policies shall be with insurers duly authorized to carry on business in the Province of British Columbia, in a form and in amounts satisfactory from time to time and acceptable to the Landlord's Director of Risk Management and shall provide the Landlord with thirty (30) (days' prior written notice of cancellation or material change

resulting in a reduction of coverage. Notice must identify the name of the Tenant as set out in this Agreement and the location or address of the Premises;

- (b) neither the providing of insurance by the Tenant in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing shall be held to relieve the Tenant from any other provisions of this Agreement with respect to liability of the Tenant or otherwise;
- (c) the insurance coverage shall be primary insurance as respects the Landlord and any insurance or self-insurance maintained by or on behalf of the Landlord, its officials, officers, employees or agents shall be excess of this insurance and shall not contribute with it; and
- (d) subject to the provisions of this Article VI, the Tenant shall provide at his/their own cost any additional insurance which the Tenant is required by law to provide or which the Tenant considers necessary.

Section 7.04- Evidence of Insurance

Prior to the commencement of the Term, and from time to time during the Term forthwith after demand by the Landlord, the Tenant will deliver to the Landlord, for each insurance policy the Tenant must obtain under this Agreement, a certificate of insurance, satisfactory to the Landlord, and a certified copy of the policy. If the Tenant fails to deliver to the Landlord any such certificate or policy of insurance within the stipulated time, the Landlord may obtain such insurance, and the Tenant will pay to the Landlord the cost of the premiums on demand by the Landlord from time to time.

ARTICLE VIII

Section 8.01- Termination on Damage or Destruction

If the Premises are substantially damaged or destroyed to the extent that the Premises or a substantial area of the Premises are rendered unusable by the Tenant or convenient access to the Premises cannot be had, all as determined by the Landlord in its sole discretion, the Landlord may, at its option and on thirty (30) days' notice to the Tenant, elect to not rebuild or repair the Premises and may terminate this Agreement and the Tenant's liability for rent will end as of the date of such damage or destruction but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 8.02- Repair of Damage or Destruction

If the Landlord elects to rebuild or repair the Premises, the Landlord will commence rebuilding or repairing within one hundred eighty (180) calendar days of the occurrence of the damage or destruction. If the Landlord does not initiate the rebuilding or repairing within such time period or, having commenced rebuilding or repairing, does not prosecute same to completion with reasonable dispatch, then the Tenant may give the Landlord sixty (60) calendar days notice of the termination of this Agreement but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 8.03- Abatement of Rent

In the event of damage or destruction to the Premises to the extent that the Premises or part of the Premises are rendered unusable or convenient access to the Premises cannot be had, which in either case is not caused by the default or negligence of the Tenant or those for whom it is responsible in law, the rent will abate in the same proportion that the area of which the Tenant is deprived bears to the total area as determined in the opinion of the Landlord and such abatement will continue only so long as the Landlord determines its continuance to be reasonable.

ARTICLE IX

Section 9.01- Assignment

The Tenant shall not assign its interest in the Premises or any portion thereof save and except with the prior written consent of the Landlord, which consent may be unreasonably withheld. If there are personal covenants herein on the part of the Tenant which, in the opinion of the Landlord's solicitors will not run with this Agreement, then the Landlord may withhold its consent to assignment unless the prospective assignee covenants with the Landlord to be bound by such personal covenants as if such covenants had been made between the Landlord and the prospective assignee. In no way will such consent release the Tenant of its personal covenants under this Agreement.

Section 9.02- Subleasing

The Tenant shall not sublease, license, set over or otherwise part with possession of the Premises or any portion thereof or let any third party into possession of the Premises or any portion thereof save and except with the prior written consent of the Landlord, which consent the Landlord may unreasonably withhold. For certainty, the Landlord confirms that it consents to any subleasing or sublicensing permitted pursuant to the Operating Agreement.

Section 9.03- Assignment of Sublease Rent

Notwithstanding Section 9.02 hereof, the Tenant hereby assigns to the Landlord all rents and fees payable to the Tenant under any sublease, license or occupation agreement with any third party, which assignment shall supersede any provisions regarding the Tenant in bankruptcy and any claims of the creditors of the Tenant whether by execution, attachment, garnishing order or otherwise PROVIDED HOWEVER the Landlord agrees to refrain from enforcing the said assignment so long as the Tenant shall not be in default in the payment of rent or the performance or observance of its covenants hereunder. Upon the Tenant falling into default in the payment of its rent or the performance or observance of its other covenants hereunder, the Landlord may forthwith direct the sublessee, licensee or such other third party to pay to the Landlord the sublease rent, license fees or other monies as would otherwise be owing to the Tenant from time to time and the payment of such monies to the Landlord shall *pro tanto* discharge the sublessee's, licensee's or other third party's obligations to the Tenant and the Landlord shall apply such monies to the rent and the performance and observance of the Tenant's covenants hereunder notwithstanding any claims on the part of the Tenant's trustee in bankruptcy or the Tenant's creditors, whether by execution, attachment, garnishing order or otherwise. If the sublessee, licensee or other third party fails to abide by the Landlord's directions in this behalf then, at the Landlord's election, the sublease, license or other third party agreement shall cease and determine and the Landlord may forthwith re-

enter the subleased, licensed or occupied portion of the Premises and arrange for new occupants thereof whose occupation shall be subject to the provisions of this paragraph.

Section 9.04- Mortgage of Lease

The Tenant may mortgage its leasehold interest in the Premises only with the prior written consent of the Landlord, which consent may be unreasonably withheld. Notwithstanding any such mortgage, the Tenant will be and remain liable for the payment of all Rent, and the performance of all of its obligations set out in this Agreement. The Tenant may not increase the principal amount secured by any such Mortgage, change the repayment terms or agree to any other modification of the terms and conditions of any such Mortgage without the prior written consent of the Landlord.

Section 9.05- Tripartite Agreement

At the request of the Mortgagee, the Landlord will execute and deliver to the Mortgagee an agreement among the Tenant, the Landlord and the Mortgagee, or between the Landlord and the Mortgagee, which will be binding and enforceable against the Tenant (if a party thereto), the Landlord and the Mortgagee and their successors and assigns, whereby the Landlord will agree with the Mortgagee to afford to the Mortgagee such rights as may be agreed upon in respect of the Premises and the Tenant interests therein.

Section 9.06- Management Agreement

Subject to Section 9.01, under no circumstances whatsoever may the Tenant enter into any management agreement or other agreement with another party which licenses, transfers or assigns, temporarily or otherwise, the Tenant's rights and obligations in this Agreement without the Landlord's prior written consent, except as permitted by the Operating Agreement.

ARTICLE X

Section 10.01- Bankruptcy

If the Term or any of the goods or chattels of the Tenant are at any time seized or taken in execution by any creditor of the Tenant, or if the Tenant makes a general assignment for the benefit of creditors, or if the Tenant institutes proceedings to have the Tenant adjudicated as bankrupt or insolvent, or if the Tenant becomes the subject of bankruptcy or insolvency proceedings, or if a judgment, decree or order be entered by a court of competent jurisdiction adjudging the Tenant bankrupt or insolvent, or if the Tenant is unable to meet all debts as they fall due for a period of not less than three (3) months, or if the Tenant or its directors shall pass any resolution authorizing the dissolution or winding-up of the Tenant, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any part of the Tenant's property shall be appointed or applied for by the Tenant or by one or more of the Tenant's creditors, then the Landlord shall be so notified and the then current rent plus an additional three (3) months' current rent shall immediately become due and be paid and the Landlord may immediately claim the same together with any arrears of rent and, at the option of the Landlord, the Term is subject to termination forthwith. If the Tenant becomes defunct or amalgamates with any other body without obtaining the prior written consent of the Landlord then at the option of the Landlord the Term shall forthwith

terminate. If the Tenant surrenders up its certificate of incorporation or otherwise ceases to exist the Term terminates as of such surrender or dissolution.

ARTICLE XI

Section 11.01- Statutes and By-laws

The Tenant covenants to promptly and faithfully observe and comply with all federal, provincial or civic statutes, by-laws, regulations and orders now or hereafter which are in force and in effect which touch and concern the Premises or the Tenant's activities within the Premises, including, without limitation, any applicable environmental guidelines, and any amendments thereto, which deal with environmental protection and safety and/or Hazardous Substances. If any such statutes, by-laws, regulations, orders or guidelines are directed at owners, the Tenant shall perform and observe same at his own expense in the place and stead of the Landlord.

Without limiting the generality of the foregoing, the Tenant shall promptly and faithfully observe and comply with:

- (a) all federal, provincial or civic statutes, by-laws, regulations and orders and policies now or hereafter which are in force relating to the Tenant's operation of the facility and shall provide the Landlord with evidence satisfactory to the Landlord, in its sole discretion, of such compliance on request by the Landlord; and
- (b) the British Columbia *Human Rights Code*, R.S.B.C. 1996, c. 210, as amended or substituted from time to time, which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 11.01.

Section 11.02- WorkSafeBC Coverage

Not so as to restrict the generality of Section 11.01 of this Agreement, the Tenant shall comply with all applicable requirements of WorkSafeBC ("WCB") including, without limitation, any requirement to procure and carry or cause to be procured and carried and paid for, at its own expense, full WCB coverage for itself and for all workers, employees, contractors, subcontractors, agents, licensees, permittees, and all others engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises. The Landlord shall have the unfettered right to set off the amounts of the unpaid premiums and assessments for such WCB coverage against any monies owing by the Landlord to the Tenant pursuant to any grant application or otherwise. The Landlord shall have the right to withhold payment of any such monies until the WCB premiums, assessments and/or penalties in respect of the work done and/or service performed have been paid in full.

The Tenant confirms that it is registered and in good standing with the WCB and all assessments have been paid in full as of the date of this Agreement and that it shall

throughout the Term continue to be registered and in good standing with the WCB and pay all assessments in full. If requested by the Landlord, the Tenant shall provide the Landlord with the Tenant's WCB registration number and a letter from the WCB confirming that the Tenant is registered in good standing with the WCB and that all assessments have been paid to the date thereof. The Tenant shall indemnify the Landlord and hold harmless the Landlord from all manner of claims, demands, costs, losses, sanctions and penalties and proceedings arising out of or in any way related to unpaid WCB assessments owing from any person or corporation engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the WCB, including penalties levied by the WCB.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 11.02.

Section 11.03- Quiet Enjoyment

Subject to the provisions of this Agreement and subject to the provision that nothing contained or implied herein shall prejudice or affect the Landlord's rights and powers in the exercise of its functions pursuant to the *Vancouver Charter*, S.B.C. 1953, c.55, as amended or substituted from time to time, and the rights and powers of the Landlord under all of its public and private statutes, by-laws and regulations, all of which may be as fully and effectively exercised in relation to the Premises as if this Agreement had not been executed and delivered by the Landlord and the Tenant, the Landlord covenants with the Tenant for quiet enjoyment.

Section 11.04- Performance of Obligations

The Tenant covenants with the Landlord to faithfully and promptly pay the Rent and perform and observe its obligations herein.

ARTICLE XII

Section 12.01- Breach of Covenants

If and whenever:

- (a) any Rent payment or any part thereof is not made by the Tenant on the day appointed for payment thereof;
- (b) the Tenant is in default in the payment of any money, other than Rent, required to be paid by the Tenant under the terms of this Agreement and such default continues for ten (10) days following any specific due date on which the Tenant is to make such payment or, in the absence of such specific due date, for ten (10) days following notice requiring the Tenant to pay the same;
- (c) the Tenant defaults in performing or observing any of the provisions of this Agreement other than those requiring payment of money to the Landlord but including, without limiting the generality of the foregoing, failure by the Tenant to comply with any statutes, bylaws, regulations or orders relating to its operation of a facility, and such default continues for a period of twenty (20) days after notice thereof to the Tenant, except for a default which to be cured with all due diligence would require a longer

period, then after such longer period, or if the Tenant fails to proceed promptly and diligently and continuously after the service of such notice to cure same;

- (d) the Premises are vacated or unoccupied for ten (10) or more consecutive days while the Premises can be used for the Permitted Use, without the consent of the Landlord; or
- (e) the Premises are abandoned by the Tenant;
- (f) the Premises are used for purposes other than the Permitted Uses;
- (g) this Agreement is terminated;
- (h) the Operating Agreement is terminated by either party for any reason; or
- (i) the Tenant commits a breach of a Mortgage or any other agreements securing the Loan;

then and in every such case, it shall be lawful for the Landlord at any time thereafter without notice or demand, with or without process of law and by forcible entry if necessary, to re-enter into and upon the Premises, and to terminate this Agreement by leaving upon the Premises notice in writing of such termination. If the Landlord terminates this Agreement pursuant to this section, or otherwise as a result of default of the Tenant, there shall immediately become due and owing to the Landlord, in addition to any other sums payable to the Landlord hereunder as damages suffered by the Landlord as a result of the Tenant's breach, the then current month's rent, together with the rent accruing for the remainder of the Term. This provision for notice and termination shall not be construed so as to delay or supersede any specific remedy to which the Landlord may have recourse in this Agreement.

Section 12.02- Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Agreement by the Landlord will be valid against the Mortgagee who has filed with the Landlord a notice of Mortgage and specified an address for notice in accordance with Section 17.01, unless the Landlord has first given to the Mortgagee written notice of the default or contingency entitling the Landlord to re-enter, terminate or forfeit this Agreement, specifying the nature of that default or contingency, and stating the Landlord's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default or contingency specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default or contingency is other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement, and if the default or contingency cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency,

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- (iii) and the Landlord hereby grants the Mortgagee access to the Premises for that purpose. If the default or contingency is cured within the period specified, or in the circumstances referred to in 12.02(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term remaining at the date of the notice of default or contingency providing that the Mortgagee attorns as tenant to the Landlord and undertakes to be bound by and to perform and observe all of the Tenant's obligations, covenants and agreements under this Agreement until such Mortgagee as tenant assigns its leasehold estate as permitted by this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to be bound by and to perform and observe all of the Tenant's obligations, covenants and agreements under this Agreement. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Tenant's interest in this Agreement, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Landlord hereby agrees to permit curing of the default or contingency specified as aforesaid by that Mortgagee that is willing to cure the default or contingency and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of Section 12.02(b) will apply;
 - (b) in the event the Mortgagee commences foreclosure proceedings against the Tenant, whether or not the Tenant is in default of the performance of its covenants and agreements with the Landlord under this Agreement at the time such foreclosure proceedings are commenced, the Landlord will not re-enter, terminate or forfeit this Agreement after the commencement of foreclosure proceedings on the ground of any default or contingency entitling the Landlord to re-enter, terminate or forfeit this Agreement if the Mortgagee:
 - (i) has given to the Landlord notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings;
 - (iii) except for the bankruptcy or insolvency of the Tenant, which will be governed by Section 12.02(c), cures the default or contingency within a period of sixty (60) days from the date of receipt of notice from the Landlord specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement and if such default or contingency cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency; and
 - (iv) performs and observes all of the Tenant's covenants and agreements under this Agreement, except for any obligation to cure the bankruptcy or insolvency of the Tenant, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee;

PROVIDED, HOWEVER, that if the Mortgagee is an Approved Lender, the Corporation or the Commission, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Agreement to a third party or an Approved Lender, the Corporation or the Commission acquiring the Tenant's interest in this Agreement. In the event that the Mortgagee acquires the Tenant's interest in the Premises pursuant to the foreclosure proceedings, the Mortgagee will thereupon become subrogated to the rights of the Tenant under this Agreement, provided it attorns to the Landlord as tenant and undertakes to be bound by and perform the covenants and agreements of this Agreement until such Mortgagee as Tenant assigns its leasehold estate as permitted by this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to be bound by and to perform the covenants and agreements of this Agreement. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this Section 12.02(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Agreement is subject to termination or forfeiture pursuant to Section 10.01 by reason of the bankruptcy or insolvency of the Tenant and the Mortgagee has filed with the Landlord a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Section 17.01, the Landlord will give to the Mortgagee notice of the bankruptcy or insolvency of the Tenant entitling the Landlord to terminate or forfeit this Agreement and stating the Landlord's intention to take such proceedings and requiring the Mortgagee to cure the Tenant default under this Agreement (except for the bankruptcy or insolvency of the Tenant), and the Tenant's default will be deemed to have been sufficiently cured if the Mortgagee will:
 - (i) take possession and control of the Premises, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Premises, and the Landlord hereby grants the Mortgagee or such receiver access to the Premises for that purpose;
 - (ii) cure every default under this Agreement (except for the bankruptcy or insolvency of the Tenant) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Landlord of the bankruptcy or insolvency of the Tenant, or if such default or defaults are other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that if the Mortgagee is an Approved Lender, the Commission or the Corporation, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Agreement to a third party or an Approved Lender, the Commission or the Corporation acquiring the Tenant's interest in this Agreement; and

- (iii) subject to the right of an Approved Lender, the Commission or the Corporation to delay the curing of the default or contingency as set out in Section 12.02(c)(ii), attorn as tenant to the Landlord and undertake to observe, be bound by and perform the obligations, covenants and agreements of the Tenant under this Agreement until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to observe, be bound by and perform the obligations, covenants and agreements of the Tenant under this Agreement.
- (d) If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Agreement as aforesaid will be deemed granted to them in the order of the priority of their respective charges;
- (e) any re-entry, termination or forfeiture of this Agreement made in accordance with the provisions of this Agreement as against the Tenant will be valid and effectual against the Tenant even though made subject to the rights of any Mortgagee to cure any default of the Tenant and to continue as tenant under this Agreement; and
- (f) no entry upon the Premises by the Mortgagee for the purpose of curing any default of the Tenant will release or impair the continuing obligations of the Tenant.

Section 12.03- Distraint

The Tenant waives and renounces the benefit of any present or future law taking away or limiting the Landlord's rights against the property of the Tenant and, notwithstanding any such law, provided the Tenant is in default and all curative periods have expired, the Landlord may seize and sell all the Tenant's goods and property, whether within the Premises or not, and apply the proceeds of such sale towards any arrears of rent (including amounts deemed to be rent under this Agreement) and the costs of the seizure and sale. The Tenant further agrees that if it abandons the Premises and any arrears of rent remain unpaid, the Landlord, in addition to any remedy otherwise provided by law, may seize and sell those goods and property of the Tenant that were previously upon the Premises at any place to which the Tenant or any other person may have removed them from the Premises, in the same manner as if such goods and property had remained in, about or upon the Premises.

Section 12.04- Right to Re-let

If the Landlord becomes entitled to re-enter the Premises the Landlord shall have the right, if it thinks fit, to enter the Premises as the agent of the Tenant either by force or otherwise without being liable for any prosecution therefor, and as agent of the Tenant to re-let the Premises or any part or parts thereof at the risk of the Tenant and, as agent for the Tenant, to receive the rent therefor and, as agent for the Tenant, to take possession of any furniture, equipment and other property therein and sell the same at public or private sale without notice. Such rent and proceeds from the sale of the furniture, equipment and other properties shall be allocated first to the Landlord's cost of so entering and re-letting, then to interest on amounts due by the Tenant to the Landlord hereunder and unpaid, and then to the payment of such unpaid sums. The balance of such rent and proceeds, if any, may be applied by the Landlord on account of the rent due hereunder to the Landlord.

Section 12.05- Forfeiture

The Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event the Tenant shall be evicted or dispossessed from the Premises for any cause, statutory or otherwise, or if the Landlord re-enters the Premises following the occurrence of any default by the Tenant hereunder, or if this Agreement is terminated before the expiration date thereof originally fixed herein.

Section 12.06- Remedies Generally

Mention in this Agreement of any particular right or remedy of the Landlord in respect of the default by the Tenant shall not preclude the Landlord from any other right or remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No right or remedy shall be exclusive or dependent upon any one or more of such rights or remedies independently or in combination, such rights or remedies being cumulative and not alternative. Whenever the Tenant seeks a remedy in order to enforce the observance or performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed or performed, the Tenant's only remedy (except where another remedy is expressly provided herein, in which event the Tenant shall be restricted to that remedy) shall be for such damages as the Tenant shall be able to prove in a court of competent jurisdiction that the Tenant has suffered as a result of a breach (if established) by the Landlord in the observance and performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed and performed. The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Landlord and the Tenant created hereby, the Tenant's use or occupancy of the Premises or any claim for any injury. In the event of any breach or threatened breach by the Tenant of any of the terms and provisions of this Agreement, the Landlord shall have the right to injunctive relief as if no other remedies were provided herein for such breach. The Tenant hereby expressly waives any right to assert a defence based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein shall bar the Landlord from bringing any subsequent action or proceeding from time to time. If the Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Agreement, whether by a renewal or extension option herein contained or by separate agreement, the Landlord may cancel such option or agreement for renewal or extension of this Agreement, upon written notice to the Tenant.

Section 12.07- Expenses

If any legal proceeding is brought for recovery of possession of the Premises, for the recovery of rent or because of the breach of any other terms, covenants or conditions herein contained on the part of the Tenant to be kept or performed, the Tenant shall pay to the Landlord as additional rent, upon demand, all costs and expenses incurred therefor (including without limitation, all professional and consultant fees, and all legal fees on a solicitor and his own client basis, disbursements, and all court costs and expenses of any legal proceeding; and the term "proceeding" shall include, without limitation, any arbitration, administrative, governmental, quasi-governmental or any other mediation proceeding and the term "costs" shall include the pro-rata portion of the wages, salaries and all other remuneration of the Landlord's officers and employees reasonably attributed to the matter).

Without limiting the generality of the immediately preceding paragraph or any other provisions of this Agreement, the Tenant shall pay to the Landlord, as additional rent upon demand, all costs and expenses (including, without limitation, those fees, disbursements, costs and expenses set out in the bracketed insert in the immediately preceding paragraph of this Section 12.07) which the Landlord may incur or pay out by reason of, or in connection with:

- (a) any proceeding by the Landlord to terminate this Agreement or for the recovery of possession of the Premises or for the recovery of rent;
- (b) any other proceeding by the Landlord against the Tenant;
- (c) any distress levied by the Landlord against the Tenant's goods, chattels and inventory or any of them on the Premises for the recovery of rent;
- (d) any default by the Tenant in the observance or performance of any obligations of the Tenant under this Agreement whether or not the Landlord commences any proceeding against the Tenant or any indemnitor;
- (e) any proceeding brought by the Tenant against the Landlord (or any officer, employee or agent of the Landlord) in which the Tenant fails to secure a final judgment against the Landlord;
- (f) any other appearance by the Landlord or Landlord's Personnel as a witness or otherwise in any proceeding whatsoever involving or affecting the Landlord, the Tenant, this Agreement, the indemnity agreement (if any) or the Premises;
- (g) any amendment, modification or change in any of the terms of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such amendment, modification or change is finally agreed on);
- (h) any renewal, extension, surrender, or release of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such renewal, extension, surrender or release becomes effective);
- (i) any transfer of this Agreement (and any request or negotiations pertaining thereto, whether or not such transfer is approved and finally agreed on); and
- (j) any Alterations of or to the Premises (and any request or negotiations pertaining thereto, whether or not such Alterations are approved and finally agreed on).

The Tenant's obligations under this Section 12.07 shall survive the expiration or earlier termination of this Agreement.

Section 12.08- Landlord May Remedy Tenant's Default

If the Tenant fails to pay, when due, any amount required to be paid by the Tenant pursuant to this Agreement, the Landlord, after giving ten (10) days' notice in writing to the Tenant, may, but shall not be obligated to, pay all or any part of it. If the Tenant is in default in the performance of any of its covenants or obligations hereunder (other than the payment of rent required to be paid by the Tenant pursuant to this Agreement), the Landlord may from time to time after giving such notice as it considers sufficient (or without notice in the case of an

emergency) having regard to the circumstances applicable, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including, without limitation, entering upon the Premises and doing such things upon or in respect of the Premises or any part thereof as the Landlord considers requisite or necessary. All expenses incurred and expenditures attributable to or made (including all employee, overhead and other internal costs) pursuant to this Section 12.08, shall be paid by the Tenant to the Landlord as additional rent upon demand. The Landlord shall have no liability to the Tenant or any other person for any claims resulting from any such action, entry or performance of any work by the Landlord upon the Premises.

Section 12.09- Security Agreement - Intentionally deleted.

ARTICLE XIII

Section 13.01- Vacant Possession

Except as provided in the Operating Agreement, upon termination of the Term, whether by the passage of time or otherwise, the Tenant shall deliver up vacant possession of the Premises and shall leave the Premises in a sanitary, neat, tidy, safe and empty condition free from all nuisance, debris, rubbish and stock-in-trade and shall ensure that the Premises are to the standard of repair and decoration required of the Tenant pursuant to Article II hereof.

Section 13.02- Trade Fixtures

- (a) If the Tenant is not in default hereunder at the expiration of the Term, the Tenant shall have the right to remove its trade fixtures from the Premises but shall make good any damage caused to the Premises resulting from the installation or removal thereof.
- (b) If the Tenant fails to remove any of its trade fixtures and restore the Premises as provided in Section 13.02(a), all such trade fixtures shall become the property of the Landlord except to the extent that the Landlord requires removal thereof pursuant to Section 13.02(d).
- (c) If the Tenant abandons the Premises or this Agreement is terminated before the proper expiration of the Term due to a default on the part of the Tenant, as of the moment of such default by the Tenant, all trade fixtures and furnishings of the Tenant (whether or not attached in any manner to the Premises) shall, except to the extent the Landlord requires the removal thereof pursuant to Section 13.02(d) become and be deemed to be the property of the Landlord, without compensation to the Tenant but without prejudice to any other right or remedy of the Landlord at law or in equity.
- (d) Notwithstanding that any trade fixture is or may become the property of the Landlord, the Tenant shall forthwith remove all or part of the same and shall make good any damage caused to the Premises resulting from the installation or removal thereof, all at the Tenant's expense, should the Landlord so require by notice to the Tenant.
- (e) If the Tenant, after receipt of a notice from the Landlord pursuant to Section 13.02(d), fails to promptly remove any trade fixture in accordance with such notice, the Landlord may enter into the Premises and remove therefrom all or part of such trade fixture and make good any damage caused to the Premises resulting from the installation or removal thereof, without any liability accruing against the Landlord and

at the expense of the Tenant, which expense shall forthwith be paid by the Tenant to the Landlord.

Section 13.03- Overholding

If the Tenant continues to occupy the Premises after the expiration of the Term, and the Landlord shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one month's prior notice in writing.

ARTICLE XIV RIGHT OF ENTRY

Section 14.01- Landlord's Access to Premises For Showings/Inspection

The Landlord or Landlord's Personnel shall have the right to enter the Premises at any reasonable time (and upon twenty-four (24) hours prior written notice to the Tenant) to examine them or to show them to prospective purchasers, tenants or mortgagees, and to enter the Premises at such other times as mutually agreed between the Landlord and the Tenant (or on reasonable prior notice) to make such repairs as the Landlord may deem necessary or desirable and the Landlord will be allowed to take all required material into and upon the Premises without such entry constituting an eviction of the Tenant in whole or in part nor a breach of the Landlord's obligations. Whenever the Landlord enters the Premises, it shall take reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 14.02- Landlord's Access to Records

The Landlord may at any reasonable time and upon twenty-four (24) hours written notice to the Tenant enter (or permit governmental authorities to enter) the Premises or any other office of the Tenant's for the purpose of ensuring the Tenant's compliance with this Agreement, including without limitation, by auditing the Tenant's environmental and financial records and by conducting soil, water and other tests, provided that the Landlord takes reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 14.03- "For Lease/Sale" Signs

During the six (6) months prior to the expiration of the Term, the Landlord may place upon the Premises the usual notices "For Lease" or "For Sale" and the Tenant will permit the notices to remain without interference or interruption. The Landlord may at any time within six (6) months before the end of the Term enter the Premises and bring others at all reasonable hours for the purposes of showing the Premises to prospective tenants or purchasers.

Section 14.04- Emergency Access

If and when for any reason an emergency will exist or be contemplated, the Landlord or its agents may enter the Premises by a master key, or may forcibly enter them, provided reasonable care is exercised, without rendering the Landlord or such agent liable, and without in any manner affecting the Tenant's obligations under this Agreement. However,

despite the above, the Landlord has no obligation, responsibility or liability, for the care, maintenance or repair of the Premises except as otherwise specifically provided.

ARTICLE XV

Section 15.01- Option to Renew - Intentionally Deleted

ARTICLE XVI

Section 16.01- Landlord Released

In the event of the sale or lease by the Landlord of the Premises or the assignment by the Landlord of its interest in this Agreement, the Landlord will without further written agreement be released and relieved of and from such liabilities and obligations.

Section 16.02- Tenant's Covenant

The Landlord may sell, transfer or otherwise dispose of the Premises, or any portion of the Premises, to any party and upon the conveyance to such party of the Premises or any portion of them, the Tenant will attorn to and become the Tenant of such party under the terms of this Agreement and the Tenant will provide such party with an acknowledgment in writing binding upon the Tenant that it will perform the obligations and satisfy the liabilities of the Tenant.

Section 16.03- Status Statement

The Tenant will provide within ten (10) days of the request of the Landlord a status statement for the Landlord, addressed to the Landlord and any potential buyer or mortgagee, binding upon the Tenant, confirming:

- (a) that the Tenant has accepted possession of the Premises;
- (b) whether or not the Landlord has carried out all of its obligations pursuant to this Agreement;
- (c) that this Agreement constitutes the whole of the agreement between the parties (or setting out such other agreements);
- (d) that this Agreement is in full force and effect and that there are no defences or set offs which the Tenant claims against the Landlord (or setting out any such claims); and
- (e) such other matters as may be reasonably required by the Landlord or any potential or actual purchaser of the Premises.

ARTICLE XVII

Section 17.01- Delivery of Notices

Any notice required to be given hereunder must be in writing and the sender must deliver it by hand or by fax or by mail to the party to which it is to be given, as follows:

(a) to the Tenant:

COMMUNITY LAND TRUST FOUNDATION OF BC
 220-1651 Commercial Drive,
 Vancouver, British Columbia
 V5L 3Y3

Attention: Executive Director
 Fax: 604-879-4611

and

(b) to the Landlord:

City of Vancouver
 c/o Manager of Real Estate Services
 453 West 12th Avenue
 Vancouver, British Columbia
 V5Y 1V4

Attention: Manager of Real Estate Services
 Fax: 604-873-7064

or to such other address or fax number as the party may designate and will be deemed to have been received on the day of delivery or faxing if within business hours on a business day and otherwise on the next succeeding business day and, if mailed, the fifth (5th) day after mailing, provided that if there is between the time of mailing and the actual receipt of the notice a mail strike, slow-down or other labour dispute which might affect delivery of such notice then such notice shall only be effective if actually delivered.

Section 17.02- Administration of Lease

Where this Agreement requires or permits on the part of the Landlord any authority, reservation, discretion, disallowance, approval or other act of supervision or the giving of any notice, such act or action shall be well and truly performed on the part of the Landlord when performed by the Landlord's Manager of Real Estate Services or his nominee.

Section 17.03- Covenants Survive Termination

The covenants herein on the part of the Landlord and the Tenant which, as of termination of this Agreement or the Term whether by passage of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary.

Section 17.04- Time is of the Essence

Time shall be of the essence of this Agreement, save as herein otherwise specified.

Section 17.05- Captions and Headings

The captions and headings throughout this Agreement are for convenience and reference only and the words and phrases contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Agreement nor in any way affect this Agreement.

Section 17.06- Interpretation

Words herein importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females or corporations as well as males, and the converse whenever the context requires; these presents shall extend to, be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and assigns.

Section 17.07- Joint and Several

Any covenant, agreement, condition or proviso made by two (2) or more persons shall be construed as several as well as joint.

Section 17.08- Waiver

No waiver of or neglect to enforce this Agreement upon a default by the Tenant will be deemed to be a waiver of any such right upon any subsequent similar default. Without limiting the generality of this Section 17.08, the acceptance by the Landlord of part payment of any sums, including rent, required to be paid under this Agreement will not constitute a waiver or release of the Landlord's right to payment in full of such sums.

Section 17.09- Entire Agreement

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, terms or conditions expressed or implied relating to this Agreement or the Premises except as expressly set out in this Agreement, and that this Agreement may not be modified except by an agreement in writing executed by both the Landlord and the Tenant.

Section 17.10- Governing Law

This Agreement will be governed by and interpreted in accordance with the laws of British Columbia and the parties irrevocably attorn to the jurisdiction of the courts of British Columbia.

Section 17.11- Severability

If any provision or provisions of this Agreement are determined by a court to be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and the remaining provisions of this Agreement shall remain in full force and be binding upon the parties.

Section 17.12 - Relationship between Landlord and Tenant

Nothing contained in this Agreement nor any acts of the Landlord or the Tenant will be deemed to create any relationship between the Landlord and the Tenant other than the relationship of landlord and tenant.

Section 17.13 - Force Majeure

Despite anything contained in this Agreement to the contrary, if the Landlord or the Tenant is, in good faith, delayed or prevented from doing anything required by this Agreement because of a strike, labour trouble, inability to get materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or any other similar reason, that is not the fault of the party delayed or of its officers, employees or agents, the doing of the thing is excused for the period of the delay and the party delayed will promptly do what was delayed or prevented within the appropriate period after the delay. The preceding sentence does not excuse the Tenant from payment of rent or the Landlord from payment of amounts, if any, that it is required to pay, in the amounts and at the time specified in this Agreement.

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

CITY OF VANCOUVER

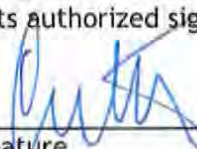
by its authorized signatory:

Signature

Print Name and Title

CLT EAST 1ST COMMUNITY SOCIETY

by its authorized signatories:



Signature

Print Name and Title

Signature

Print Name and Title

This is the signature page of a lease between the **City of Vancouver**, as Landlord, and **CLT East 1st Community Society**, as Tenant, concerning 95 East 1st Avenue, Vancouver, BC (the Premises).

SCHEDULE A
INTENTIONALLY DELETED

**SCHEDULE B
PRIOR ENCUMBRANCES**

Nature: INDEMNITY AGREEMENT
Registration Number: 472514M
Registration Date and Time: 1968-07-16 15:03
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4164767
Registration Date and Time: 2015-01-05 13:57
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4467769
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467770
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467771
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4467772
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467773
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467774
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467778
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467779
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467780
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4468046
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4468047
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: EQUITABLE CHARGE
Registration Number: CA4468050
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT

REFERENCE PLAN 17723

Nature: STATUTORY RIGHT OF WAY
Registration Number: BB4083730
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: PART IN PLAN EPP46207

Nature: COVENANT
Registration Number: CA4573666
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4573668
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: EQUITABLE CHARGE
Registration Number: CA4573670
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4573684
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: CA4573688
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: CA4863996
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4863997
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4863998
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA5410104
Registration Date and Time: 2016-08-09 11:54

Registered Owner: CITY OF VANCOUVER

Nature: COVENANT

Registration Number: CA5410105

Registration Date and Time: 2016-08-09 11:54

Registered Owner: BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION

Nature: STATUTORY RIGHT OF WAY

Registration Number: CA5686789

Registration Date and Time: 2016-12-01 07:40

Registered Owner: SHAW CABLESYSTEMS LIMITED
INCORPORATION NO. A0075382

Nature: STATUTORY RIGHT OF WAY

Registration Number: CA5928628

Registration Date and Time: 2017-04-12 12:56

Registered Owner: TELUS COMMUNICATIONS INC. INCORPORATION NO. BC1101218

**SCHEDULE C
SERVICE LEVEL AGREEMENT**

NON-MARKET HOUSING AND CULTURAL AMENITY SPACE

95 East 1st Avenue, Vancouver, B.C. and 1847 Main Street, Vancouver, B.C.

For purposes of this document, the parties are identified as follows:

Adjacent Landlords: Owners of Air Space Parcels or designated as the "Remainder" (other ASP)

Landlord: City of Vancouver (COV)

Tenant: Non Profit Operator (NPO)

Generally the Tenant will pay their portion of common costs which may be both development-wide and/or building-specific common costs, including contingency reserve funds. Further, where these categories of costs relate only to the portion of costs associated with the tenant's area - by ratio established in the Air Space Parcel Agreement (for 1847 Main Street only) - NPO (proportionate share) is outlined below; the proportion will be based on the respective floor space of the area within each parcel that is the subject of such agreement, or as the parties may mutually agree to be fair and reasonable and consistent with industry practice. For 95 East 1st Avenue, proportional shares for common facilities will be in accordance with "Proportional Share (General)" and "Proportional Share (Roadworks)" as defined by the Common Facilities Cost Sharing Agreement, and will include limitations to Owner responsibilities as set out by Proviso 4.4.

"Other ASP", identifies adjacent owners who are usually referred to as the Remainder (or Strata). Generally, the other ASP will be responsible for planning and implementing work on common systems or common areas, and the NPO will be responsible for paying a proportionate share of these costs.

The NPO is required to communicate and coordinate directly with the "other ASP" pertaining to repairs, maintenance, payments and invoicing as set out in the service level agreement and/or easement agreement. The City will advise the other ASP to communicate directly with the NPO and the City will only be involved in the event of dispute resolution.

The NPO shall have responsibility for the management, maintenance, repair and replacement of the Building and the Lands as detailed and described in this Agreement. Subject to this Agreement, including the Capital Asset Plan, the following work in respect of the Lands and the Building is required to be conducted and funded as outlined below.

The work described as "Capital" is to be funded from the Replacement Reserve and the work described as "Non-Capital" is to be funded from the Operating Income, the Operating Reserve and the Operating Surplus. The cost of the management, maintenance, repair and replacement of the Building and the Lands will be paid from the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as stated elsewhere in this Agreement.

This agreement describes categories of work that are eligible for the Operator to access Facility Reserve Fund for the capital repair and renewal costs of the Cultural Amenity Space located at 1847 Main Street. Where proportional share of cost is indicated for shared capital costs for 1847 Main Street serving more than the Cultural Amenity Space, that proportion is to be based on the area of the Cultural Amenity Space only.

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
1.1	Heating, Ventilation and Air Conditioning exclusive to or within the Tenant's Space (excluding common equipment/systems)				
a	- annual inspection	NPO	NPO	Non-Capital	No
b	- routine maintenance and repair	NPO	NPO	Non-Capital	No
c	- provision & replacement of filter material	NPO	NPO	Non-Capital	No
d	- cleaning of ducts	NPO	NPO	Non-Capital	No
e	- life cycle replacement (Capital Maintenance)	NPO	NPO	Capital	Yes
1.2	Common Heating, Ventilation and Air Conditioning (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
2.1	Plumbing Systems exclusive to or within the Tenant's Space (excluding common systems/equipment)				
a	-preventive maintenance and repairs to hot water heating systems	NPO	NPO	Non-Capital	No
b	- major repairs and replacement of hot water heating systems	NPO	NPO	Capital	Yes
c	- repairs to all fixtures including faucets, unplugging toilets and all other routine repairs	NPO	NPO	Non-Capital	No
d	- life cycle replacement of hot water systems, fixtures and piping	NPO	NPO	Capital	Yes
2.2	Common Plumbing Systems (systems serving more than the Tenant's Space -1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
3.1	Mechanical Systems exclusive to or within the Tenant's space (excluding common systems/equipment)				

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
a	- preventive maintenance and repairs	NPO	NPO	Non-Capital	No
b	- life cycle replacement	NPO	NPO	Capital	Yes
c	- installation, maintenance and replacement of additional equipment provided and installed by the occupant	NPO	NPO	Non-Capital	No
3.2	Common Mechanical Systems (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
4.1	Fire Protection & Suppression exclusive to the Tenant's Space				
a	- monthly inspection of fire extinguishers and smoke detectors within the premises	NPO	NPO	Non-Capital	No
b	- annual inspection of fire extinguishers within premises	NPO	NPO	Non-Capital	No
c	- repairs/recharging of fire extinguishers within premises	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
4.2	Common Fire Protection & Suppression (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repairs of the fire alarm system	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement of fire alarm system	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
c	- annual inspection, maintenance and repair of fire sprinkler system	Other ASP	NPO (proportionate share)	Non-Capital	No
d	- life cycle replacement of fire sprinkler system	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
5.1	Security Systems dedicated to or within the Tenant's Space				
a	- system monitoring, inspection, maintenance and repair	NPO	NPO	Non-Capital	No
b	- life cycle replacement	NPO	NPO	Capital	Yes
c	- repair, replacement, re-keying of all locks	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
5.2	Common Security Systems (systems serving more than the Tenant's space -1847 Main Street only)				
a	- system monitoring, inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
6.1	Electrical Distribution Systems exclusive to or within the Tenant's Space (excluding common systems/equipment)				
a	- repairs and upgrades required by Code	NPO	NPO	Capital	Yes
b	- inspection, maintenance and repair of wiring, breakers and electrical panels	NPO	NPO	Non-Capital	No
c	- life cycle replacement of wiring, breakers and panels	NPO	NPO	Capital	Yes
d	- repair or replacement of switches, receptacles, cover plates	NPO	NPO	Non-Capital	No
6.2	Common Electrical Distribution Systems (systems serving more than the Tenant's Space - 1847 Main Street only)				

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
a	- inspection, maintenance and repair of electrical distribution systems to the leased premises	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement of electrical distribution systems to the leased premises	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
6.3	Lighting Systems within the Tenant's Space				
a	- bulb/tube replacement for interior lighting	NPO	NPO	Non-Capital	No
b	- annual inspection and maintenance of interior emergency/exit lighting	NPO	NPO	Non-Capital	No
c	- interior lighting ballast replacement	NPO	NPO	Non-Capital	No
d	- life cycle replacement of fixtures - except specialty fixtures such as theatrical lighting.	NPO	NPO	Capital	Yes
e	- life cycle replacement of specialty fixtures	NPO	NPO	Capital	Yes
f	- cleaning of interior light fixtures	NPO	NPO	Non-Capital	No
g	- provision, maintenance, repair and replacement of portable lighting fixtures	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
6.4	Common Lighting Systems (systems serving more than the Tenant's Space -1847 Main Street only)				
a	- inspection, maintenance, repair, and cleaning	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
7.1	Interior and Exterior Windows within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1 st Avenue)				
a	- breakage, routine repair and replacement of interior windows	NPO	NPO	Non-Capital	No
b	- breakage, routine repairs and replacement of exterior windows, not caused by occupant or operations	Other ASP**	NPO (proportionate share**)	Non-Capital	No
c	- cleaning of interior windows and interior surfaces of exterior windows	NPO	NPO	Non-Capital	No
d	-cleaning of exterior surfaces of exterior windows	Other ASP**	NPO (proportionate share**)	Non-Capital	No
e	-breakage and routine repairs of exterior windows caused by occupant or operations	Other ASP**	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
7.2	Common Area Windows - 1847 Main Street only				
a	- breakage and routine repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- cleaning (of exterior surfaces)	Other ASP	NPO (proportionate share)	Non-Capital	No
c	- cleaning (of interior surfaces)	Other ASP	NPO (proportionate share)	Non-Capital	No
d	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes
7.3	Interior and Exterior Doors within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1st Avenue)				
a	- maintenance and repair of interior doors	NPO	NPO	Non-Capital	No
b	- life cycle replacement of interior doors	NPO	NPO	Capital	Yes
c	- maintenance and repair of exterior doors	Other ASP**	NPO (proportionate share**)	Non-Capital	No
d	- life cycle replacement of exterior doors	Other ASP**	NPO (proportionate share**)	Capital	Yes (proportionate share)

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
7.4	Common Area Doors -1847 Main Street only				
a	- maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
8.1	Interior Surfaces within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1 st Avenue)				
a	- interior life cycle repainting	NPO	NPO	Capital	Yes
b	- maintenance and cleaning of window applications including, but not limited to blinds and curtains	NPO	NPO	Non-Capital	No
c	- repairs to interior walls and ceilings, including minor painting	NPO	NPO	Non-Capital	No
d	- life cycle replacement of ceiling tiles	NPO	NPO	Capital	Yes
e	- interior repairs due to building system failures such as roof leaks, exterior walls and foundation leaks not caused by the occupant or operations	Other ASP**	NPO (proportionate share**)	Capital	Yes (proportionate share)
f	- maintenance and repairs of floor coverings, including carpet and tile	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
g	- life cycle replacement of flooring	NPO	NPO	Capital	Yes (proportionate share)
h	- maintenance and repair of millwork	NPO	NPO	Non-Capital	No
i	- replacement of millwork	NPO	NPO	Capital	Yes
8.2	Common Area Interior Surfaces - 1847 Main Street only				
a	- all maintenance and repairs	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- all capital maintenance or replacements	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
9.1	Major Structural Systems included within the Tenant's Space -1847 Main Street only				
a	- repairs or replacements of foundations, flooring sub-structure, building envelope including bearing walls and roofing	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
b	- repairs and painting of exterior surfaces including windows, trim, fascia and soffits	Other ASP	NPO (proportionate share)	Non-Capital	No
c	- cleaning of exterior surfaces	Other ASP	NPO (proportionate share)	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
9.2	Major Structural Systems external to the Tenant's Space - 1847 Main Street only				
a	- all repairs and replacements	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
10.1	Site Services within the Outdoor Amenity exclusive to the Tenant				
a	- landscaping repairs including hardscapes; maintenance	NPO	NPO	Non-Capital	N/A
b	- landscaping repairs including hardscapes; replacement	NPO	NPO	Capital	N/A
c	- general cleaning of grounds, litter disposal	NPO	NPO	Non-Capital	N/A
d	- maintenance and repair of gates and fences	NPO	NPO	Non-Capital	N/A
e	- replacement of gates and fences	NPO	NPO	Capital	N/A
f	- Irrigation including DDC controls; repairs and maintenance	NPO	NPO	Non-Capital	N/A
g	- Irrigation including DDC controls; replacement	NPO	NPO	Capital	N/A

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
10.2	Common Site Services (including the Shared Outdoor Amenity Space) *Proportionate share of Common Site Services for 95 East 1 st Avenue are calculated according to the "Proportionate Share - General" as defined by the Common Facilities Cost Sharing Agreement				
a	- landscaping repairs including hardscapes, maintenance and replacement	Other ASP	NPO (proportionate share*)	Non-Capital	No
b	- grass cutting	Other ASP	NPO (proportionate share*)	Non-Capital	No
c	- general cleaning of grounds, litter disposal	Other ASP	NPO (proportionate share*)	Non-Capital	No
d	- snow and ice removal from steps, walkways, entrances including the provision of de-icing materials	Other ASP	NPO (proportionate share*)	Non-Capital	No
e	- removal of snow from entrance to parking areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
f	- snow and ice removal from roof areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
g	- repairs of water and sewage systems (beyond the building perimeter)	Other ASP	NPO (proportionate share*)	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
h	- maintenance, repair and replacement of gates and fences (excluding tenant specific gates and fences)	Other ASP	NPO (proportionate share*)	Non-Capital	No
i	- maintenance and repair of parking areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
j.	-Irrigation repairs, maintenance, including DDC controls and replacement	Other ASP	NPO (proportionate share*)	Non-Capital	No
k	- Road Works (95 East 1 st Avenue only, as defined by the Common Facilities Cost Sharing Agreement)	Other ASP	NPO (proportionate share - roadworks)	Non-Capital	N/A
11.1	Signage exterior to the Tenant Space -1847 Main Street only				
a	- maintenance, repair, and replacement (subject to prior approval of the CoV and Other ASP)	NPO	NPO	Non-Capital	No
11.2	Interior Signage within the Tenant Space				
a	- maintenance, repair and replacement of interior signage	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
12.1	Play Area and Equipment within the Shared Outdoor Amenity- 95 East 1st Avenue only *Proportionate share of Common Site Services for 95 East 1 st Avenue are calculated according to the "Proportionate Share - General" as defined by the Common Facilities Cost Sharing Agreement				
a	-maintenance, repair and replacement of play equipment within the shared outdoor amenity	NPO/Other ASP	NPO (proportionate share*)	Non-Capital	N/A
13.1	Janitorial Services within the Tenant's Space				
a	- routine janitorial/custodial services	NPO	NPO	Non-Capital	No
b	- pest control services (interior)	NPO	NPO	Non-Capital	No
c	- provision of all washroom supplies	NPO	NPO	Non-Capital	No
14.1	Appliances, Program and Other Non-Installed Equipment within the Tenant's Space				
a	- inspection, maintenance and repair of all non-building equipment including stoves, refrigerators, microwaves, coolers, free standing cabinets, track lighting	NPO	NPO	Non-Capital	No

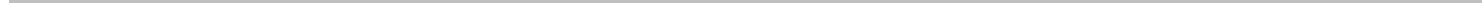
Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
b	- replacement of all appliances, program and non-installed equipment	NPO	NPO	Capital	Yes
c	- maintenance, repair and replacement of furniture	NPO	NPO	Non-Capital	No
15.1	Renovations and Upgrades within the Tenant's Space				
a	- any upgrades, additions, enhancements or improvements beyond what was originally provided during construction (subject to prior approval by CoV and if required, other ASP owners)	NPO	NPO	Capital	Yes
16.1	Utilities				
a	- electricity	NPO	NPO	Non-Capital	No
b	- gas	NPO	NPO	Non-Capital	No
c	- water and sewer	NPO	NPO	Non-Capital	No
d	Neighbourhood Energy Utility	NPO	NPO	Non-Capital	No
17.1	Business Operations				
a	- staff costs	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
b	- telephone, internet & cable services	NPO	NPO	Non-Capital	No
c	- insurance (CGL, business interruption, contents, etc.)	NPO	NPO	Non-Capital	No
d	- supplies and equipment, including for bathroom and kitchen	NPO	NPO	Non-Capital	No
e	- security services related directly to tenant's space	NPO	NPO	Non-Capital	No
f	-Building Shell Insurance	NPO	NPO (proportionate share, or all for 95 East 1 st Avenue)	Non-Capital	No

**SCHEDULE D
OPERATING AGREEMENT**

See attached.





THIS AGREEMENT is made as of the 26th day of January, 2018.

BETWEEN:

CITY OF VANCOUVER, a municipal corporation with offices
at 453 West 12th Avenue, in the City of Vancouver, in the
Province of British Columbia, V5Y 1V4

(the "Landlord")

AND:

COMMUNITY LAND TRUST FOUNDATION OF BC
(Society Registration No. S0063904)
with offices at 220-1651 Commercial Drive, Vancouver,
B.C. V5L 3Y3

(the "Tenant")

PREMISES:

Civic Address:	95 East 1st Avenue, Vancouver, BC
Parcel Identifier:	029-631-785
Legal Description:	LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205

TERM: 60 years, commencing on January 29, 2018

RENT: Total prepaid rent in the amount of TWENTY MILLION FIVE
HUNDRED THOUSAND (\$20,500,000.00) for the Term

OPTION(S) TO RENEW: None.

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WITNESSES THAT WHEREAS:

- A. The Landlord is the owner of all and singular those lands and premises situate in the City of Vancouver, in the Province of British Columbia, having a civic address of 95 East 1st Avenue, Vancouver, and legally described as:

Parcel Identifier Number: 029-631-785

LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205,

which lands and premises are hereinafter called the **"Building"** or the **"Premises"**;

- B. The Landlord sought proposals to operate the Building pursuant to RFP20171205 issued on August 2, 2017 (the **"RFP"**);
- C. The Tenant submitted a proposal in response to the RFP and was duly selected by the Landlord;
- D. The Premises are subject to the liens, charges and encumbrances registered at the Land Title Office as shown on the title search attached hereto as Schedule B (all of which are collectively referred to as the **"Prior Encumbrances"**);
- E. The Landlord's City Council, by resolution made at its meeting the 12th day of December, 2017, resolved to lease the Premises to the Tenant upon the terms and conditions hereinafter set out.

NOW THEREFORE in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord by these presents does demise and lease the Premises unto the Tenant and the Tenant does hereby take and rent the Premises upon and subject to the conditions set out hereunder.

ARTICLE I

Section 1.01- Definitions

Capitalized terms used in this Agreement have the meanings specified in this Section 1.01, unless otherwise provided in this Agreement:

- (a) **"Alterations"** has the meaning given to it in Section 3.03;
- (b) **"Approved Lender"** means any Mortgagee approved by Canada Mortgage and Housing Corporation for the purpose of making loans under the *National Housing Act* (Canada);
- (c) **"Basic Rent"** has the meaning given to it in Section 2.04;
- (d) **"Builders Lien Act"** has the meaning given to it in Section 3.04;
- (e) **"Commencement Date"** has the meaning given to it in Section 2.01;

- (f) **"Common Facilities Cost Sharing Agreement"** means the Common Facilities Cost Sharing Agreement in respect of the Premises dated the 26th day of June, 2015, between Concert Real Estate Corporation and the Landlord;
- (g) **"Commission"** means the British Columbia Housing Management Commission;
- (h) **"Corporation"** means Canada Mortgage and Housing Corporation or its successors in function, or at the option of Canada Mortgage and Housing Corporation, the Commission;
- (i) **"Environment"** has the meaning given to it in the *Canadian Environmental Protection Act (Canada)* as of the date of this Agreement;
- (j) **"Hazardous Substances"** means any Substance capable of creating harm to people, property and/or the Environment including, without limitation, any flammable liquids, flammable or reactive solids, oxidizers, poisons, gases (compressed, liquefied or dissolved), explosives, radioactive materials, urea formaldehyde, asbestos-containing materials, above or underground storage tanks, compounds known as chlorobiphenyls, polychlorinated biphenyls ("PCBs"), PCB-containing equipment or materials, Pollutants, contaminants, hazardous, corrosive or toxic Substances, or Waste of any kind, including, without limitation, any Substance the storage, manufacture, disposal, treatment, generation, use, transport, remediation or Release into the Environment of which is prohibited, controlled, regulated or licensed by any federal, provincial or municipal authority;
- (k) **"Landlord's Personnel"** has the meaning given to it in Section 5.01;
- (l) **"Loan"** means a loan to be obtained by the Tenant from the Commission, the Corporation, or a third party financial institution, with the prior approval of the City, which loan will be secured by a Mortgage of the Tenant's interest in the Premises pursuant to this Agreement, in a principal amount equal to not less than the Basic Rent plus applicable taxes;
- (m) **"Medium"** means any land, water or air and includes the Premises;
- (n) **"Mortgage"** means a registered mortgage or registered mortgages, and related security instruments, granted by the Tenant in accordance with Section 9.04 upon or in respect of the interest of the Tenant in the Premises or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (o) **"Mortgagee"** means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (p) **"Operating Agreement"** means the agreement entered into between the Tenant and the City at or around the Commencement Date in the form attached hereto as Schedule D, as it may be amended or replaced from time to time during the Term;
- (q) **"Permitted Use"** has the meaning given to it in Section 2.09;

- (r) **"Pollute"** is a verb which means to Release into or onto any Medium any Substance that:
- (i) alters the physical, biological or chemical nature of that Medium;
 - (ii) alters the capacity of the Medium to support any living thing, whether animal or plant life;
 - (iii) injures or is capable of injuring the health or safety of a person in, on or near the Medium;
 - (iv) injures or is capable of injuring property or any life form in, on or near the Medium;
 - (v) interferes with or is capable of interfering with visibility or the dispersion of light or any photochemical activity within the Medium;
 - (vi) interferes with or is capable of interfering with the normal conduct of business in, on, near or from the Medium;
 - (vii) causes or is capable of causing physical discomfort to a person in, on or near the Medium;
 - (viii) damages or is capable of damaging the Environment; or
 - (ix) is Waste,

and **"Polluted"** is an adjective, and **"Pollution"** and **"Pollutant"** are nouns, which have meanings that correspond to the meaning contained in this paragraph;

- (s) **"Premises Operating Costs"** has the meaning given to it in Section 2.07(a);
- (t) **"Prior Encumbrances"** has the meaning given to it in Recital F;
- (u) **"Release"** includes release, spill, leak, pump, pour, dump, abandon, emit, empty, discharge, spray, inoculate, deposit, seep, throw, place, exhaust, inject, escape, leach, dispose, infuse or introduce;
- (v) **"Rent"** has the meaning given to it in Section 2.04;
- (w) **"Service Level Agreement"** has the meaning given to it in Section 2.07;
- (x) **"Substance"** has the meaning given to it in the *Canadian Environmental Protection Act (Canada)* as of the date of this Agreement;
- (y) **"Tenant's Personnel"** has the meaning given to it in Section 5.01(a);
- (z) **"Term"** has the meaning given to it in Section 2.01;
- (aa) **"Waste"** has the meaning given to it in the *Environmental Management Act*, S.B.C. 2003, c. 53, as amended or substituted from time to time but if the *Environmental Management Act* is repealed, "Waste" has the meaning given to it on the day immediately preceding the repeal of that Act or if that Act is amended so that the

term "Waste" is no longer used in it, then "Waste" has the same meaning as the term which replaces it in that Act; and

(bb) "WCB" has the meaning given to it in Section 11.02;

ARTICLE II

Section 2.01- Demise and Term

Subject to the Prior Encumbrances and in consideration of the rents, covenants and conditions herein on the part of the Tenant to be performed and observed, the Landlord hereby leases the Premises to the Tenant to have and to hold the same for and during the term of sixty (60) years, commencing on the 29th day of January, 2018 (the "Commencement Date") and expiring at 11:59 p.m. on the 28th day of January, 2078 (the "Term").

Section 2.02- Early Termination by Landlord

Not so as to limit the Landlord's abilities as specified elsewhere in this Agreement, the Landlord may terminate this Agreement with the Tenant's consent, and the Landlord shall not pay to the Tenant any compensation due to such termination.

Section 2.03- Early Termination by Tenant

If the Tenant terminates the Operating Agreement pursuant to Schedule A.J.2 thereof, or any other provision permitting early termination by the Tenant, this Lease will cease and determine on the date specified in the Tenant's notice in accordance with the Operating Agreement. In such event, in addition to any adjustments provided for in the Operating Agreement, Basic Rent shall be adjusted and payable up to the date of termination only, on the basis that the Basic Rent accrues on a day to day basis for the Term.

Section 2.04- Rent

The Tenant covenants and agrees with the Landlord to pay to the Landlord for the Term, plus applicable taxes, total prepaid rent in the amount of **TWENTY MILLION FIVE HUNDRED THOUSAND DOLLARS (\$20,500,000)** (the "Basic Rent") on or before the first anniversary of the Commencement Date.

The Basic Rent together with any additional rent payable by the Tenant is referred to as "Rent" in this Agreement.

This Agreement shall be completely net to the Landlord, save and except for those certain capital and other costs which are the responsibility of the Landlord as provided in the Service Level Agreement (hereinafter defined).

Section 2.05- The Loan

The Tenant undertakes to use its reasonable best efforts to satisfy all preconditions to disbursement of the principal amount of the Loan as soon as reasonably possible after the Commencement Date, and upon receipt of the such principal amount, to thereafter forthwith pay the Rent to the Landlord as contemplated by Section 2.04.

Section 2.06- Payments Generally

All payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Agreement shall be:

- (a) paid to the Landlord by the Tenant in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any setoff, compensation or deduction whatsoever at the office of the Landlord's Director of Real Estate Services specified in Section 16.01 or such other place as the Landlord may designate from time to time in writing to the Tenant;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Landlord may see fit; and
- (d) deemed to be rent, in partial consideration for which this Agreement has been entered into, and shall be payable and recoverable as Rent, such that the Landlord shall have all rights and remedies against the Tenant for default in making any such payment which may not be expressly designated as Rent as the Landlord has for default in payment of Rent.

Section 2.07- Utilities, Janitorial, Maintenance and Repairs

The arrangements concerning the utilities, janitorial, maintenance and repairs as of the date of this Agreement are contained in Schedule C attached hereto (the "**Service Level Agreement**"). The Service Level Agreement may be amended in writing from time to time by the Landlord and the Tenant by mutual agreement.

Notwithstanding the foregoing, Section 2.04 or any other provision in this Agreement:

- (a) commencing as of the Commencement Date, the Tenant shall pay all charges, rates and levies on account of utilities and other services provided to the Premises, including heat, electricity, gas, water, sewer, garbage and recycling collection, telephone, cablevision, internet, all costs related to security systems monitoring and servicing, and all other expenses and outgoings relating to the Premises ("collectively, the "**Premises Operating Costs**") immediately when due and, upon request, provide the Landlord with receipts evidencing such payment, unless otherwise expressly indicated in the Service Level Agreement; and
- (b) the Landlord collects some utility charges, rates, fees and levies by inserting them in the real property tax roll, such charges, rates, fees and levies include those for water supply, water meter rental, water meter shutoff, air conditioning, fireline, fireline shutoff, sewer, recycling pickup and dumping, recycling cart rental, recycling cart carryout, recycling cart storage, yard waste pickup, yard waste cart rental, garbage pickup and dumping, garbage cart rental and stopping garbage pickup. Notwithstanding that the Premises and improvements are exempt from taxation, when such charges, rates and levies are inserted in the tax roll for the Premises, the Tenant shall pay 100% of same upon receiving the Landlord's invoice therefor as if the Premises were not exempt from taxation.

The Tenant shall keep and maintain the Premises in good repair as would a reasonable and prudent owner of such premises, reasonable wear and tear and structural elements or defects excepted and in a sanitary, neat, tidy and safe condition and free from nuisance at all times.

The Landlord shall have access to the Premises in order to inspect them during normal business hours, except in the case of emergency, in which case the Landlord shall have access to the Premises at any time. The Landlord shall provide the Tenant with written notice of any repairs which, in accordance with the Service Level Agreement, the Landlord requires the Tenant to make to the Premises. The Tenant shall make such repairs in accordance with such notice. If the Tenant fails, in the opinion of the Landlord, to commence repairs within a reasonable period of time and diligently prosecute same to completion after receipt of notice from the Landlord requiring repairs, then the Landlord may carry out or cause to be carried out such repairs on the provision of reasonable notice to the Tenant in a manner so as to cause the least reasonably possible disruption to the Tenant, the costs of which shall be payable by the Tenant, and the Landlord and its employees, agents, contractors and subcontractors, shall not be liable to the Tenant for any inconvenience, annoyance, disruption, loss of income or liability suffered or incurred by the Tenant by reason of the Landlord effecting such repairs unless caused by the gross negligence or wilful misconduct of the Landlord or those for whom the Landlord is responsible in law.

Section 2.08- Common Area and Other Operating Costs

The Tenant shall be responsible for all of the costs and expenses allocated to the Landlord pursuant to the Common Facilities Cost Sharing Agreement.

Section 2.09- Use of Premises

The Tenant shall not use or occupy, nor suffer or permit the use of the Premises or any part thereof for any purpose other than the purposes set forth in the Operating Agreement (the "Permitted Use") and to do so would be a material default of this Agreement and the provisions of Article 12 shall apply.

The Tenant shall not use, or suffer or permit the use of, any part of the Premises in such a manner as to cause, suffer or permit any annoying noises or offensive odours to emanate from any part of the Premises.

By agreeing to the Tenant using the Premises for the Permitted Use, the Landlord is agreeing as the owner of the Premises only and is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Permitted Use is a permitted use under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto and other relevant by-laws. Nothing in this Section 2.09 affects the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 11.01 of this Agreement.

Section 2.10- Interest on Arrears

Whenever and so long as the rent or any other amounts payable hereunder by the Tenant to the Landlord shall be in arrears, such amounts shall bear interest at the rate of three percent (3%) per annum above the "prime rate" (hereinafter defined), per annum calculated monthly not in advance, from the date due until paid irrespective of whether or not the Landlord has demanded payment. In this lease, "prime rate" means the floating annual percentage rate of

interest established from time to time by the Bank of Montreal, 595 Burrard Street, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by the Bank of Montreal as its prime rate; provided that if a court declares or holds the prime rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder shall be fourteen percent (14%) per annum calculated monthly not in advance from the date due until paid. The Landlord shall have all the remedies for the collection of such interest as in the case of rent in arrears, but this provision for interest shall not prejudice or affect any other remedy of the Landlord under this lease. The Tenant shall also pay the Landlord's standard charge levied on N.S.F. cheques.

Section 2.11- Security Deposit - Intentionally deleted

Section 2.12- Taxes

Notwithstanding the preceding terms of this agreement, in addition the Tenant shall pay monthly as additional rent in each and every month of the Term a sum equal to one-twelfth of the annual general, school and local improvement charges and taxes and any charges and taxes levied under or by virtue of the Hospital District Finance Act, R.S.B.C. 1996, c. 203, as amended or substituted from time to time, the Municipal Finance Authority Act, R.S.B.C., 1996, c. 325, as amended or substituted from time to time, and any and all other statutes, laws, enactments, regulations and ordinances of the federal or provincial governments or other competent authority, or any modifications or re-enactments thereof which, except for any exemption allowed by law, would in the ordinary course have been lawfully imposed against the Premises and against all machinery in and about the Premises for each year of the Term. This sum will be calculated by the Landlord in accordance with the mill rate and/or rates of levy for the current year. PROVIDED HOWEVER that the sums payable monthly as annual taxes under this paragraph shall, at the option of the Landlord's Director of Real Estate Services, be payable semi-annually in two lump sums on or before the date specified by the Landlord's Director of Real Estate Services. Should the Premises or any portion thereof or any trade fixtures or chattels therein for any reason become subject to taxation, then the Tenant shall pay all such taxes.

Section 2.13- Goods and Services Tax

The Tenant shall pay when due all goods and services taxes, value-added taxes, sales taxes and consumption based taxes, rates, levies and assessments which are from time to time payable by the Tenant or the Landlord as a result of or that would not be payable but for the rights and obligations contained in this Agreement, including but without derogating from the generality of the foregoing, such taxes, rates, levies and assessments payable as a result of any payment obligations herein of the Tenant to the Landlord. Any loss, costs, charges and expenses which relate to such taxes, rates, levies and assessments suffered by the Landlord may be collected by the Landlord as additional rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

Section 2.14- Rent Review - Intentionally deleted.

Section 2.15- Amalgamation, Sponsorship, Naming, Renaming and Signage

The Tenant shall, effective from the date hereof:

- (a) not amalgamate with any other body, without first receiving the Landlord's prior written approval, which approval may not be unreasonably withheld;
- (b) not sell, transfer, assign or otherwise permit the naming of the Premises or any portion thereof without the Landlord's prior written approval, which approval may be arbitrarily withheld;
- (c) in connection with the naming of all or any portion of the Premises, comply with any policy adopted by the Landlord's Council relating to the naming of and signage (including without limitation, flags and banners) regarding all or portions of lands and/or premises owned, leased or otherwise controlled by the Landlord in force at the time of the proposed naming; and
- (d) without limiting the generality of anything contained in this Section 2.15, the Tenant shall not disclose or promote its relationship with the Landlord in any verbal declarations, announcements, sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials in a manner which could suggest or create an association, express or implied, between the Tenant and the Landlord without the express prior written consent of the Landlord, which may be arbitrarily withheld.

Section 2.16- Suitability of the Premises

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or its officers, employees or agents as to:

- (a) the state of repair of the Premises;
- (b) the suitability of the Premises for any business, activity or purpose whatever; or
- (c) the suitability of the Premises for use by the Tenant.

Section 2.17- Tenant's Inspection of the Premises

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such walk-throughs, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the state of repair of the Premises; and
- (b) the suitability of the Premises for use by the Tenant;
- (c) and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

Section 2.18- Excess Rent - Intentionally deleted.

Section 2.19- Permits

The Tenant shall be solely responsible at its own cost and expense for obtaining all necessary permits to construct any tenant improvements, occupy the Premises and operate its business on the Premises.

Section 2.20- Operating Agreement

It is a condition of this Agreement that the Tenant honour its obligations contained in the Operating Agreement during the Term. In the event that either party terminates the Operating Agreement, the Landlord and the Tenant will each, subject always to Sections 12.01 and 12.02, have the right and option at any time thereafter to terminate this Agreement and in such event this Agreement will terminate and will be of no further force or effect.

ARTICLE III

Section 3.01- No Damage

The Tenant shall not suffer, cause nor permit any damage or injury to the Premises other than reasonable wear and tear.

Section 3.02- Snow off Sidewalks - Intentionally deleted.

Section 3.03- Alterations

The Tenant shall not carry out or cause to be carried out any additions, renovations or material alterations to the Premises ("Alterations") without the Landlord's prior written consent and in the giving of such consent the Landlord may attach whatever conditions, directions, stipulations, prohibitions or deadlines as it deems appropriate and the same shall be conditions of this Agreement. All such works shall be wholly at the Tenant's expense but shall be the Landlord's absolute property except to the extent that the same may be reasonably categorized as trade fixtures.

The Tenant will obtain, at its sole expense, any and all permits, approvals and authorizations from any governmental authority, including the City of Vancouver, which may be required to undertake the Alterations. The Tenant shall be solely responsible for all claims and/or liabilities arising from or relating to any bodily injury or death, property damage or other loss or damage arising from the Alterations.

By consenting to any Alterations, the Landlord is not in any way (either in its capacity as landlord or as a regulatory public body) stating, warranting or representing that the Alterations are permitted under the City of Vancouver Zoning and Development By-law No. 3575 and amendments thereto, the City of Vancouver Building By-law No. 6134 and amendments thereto, and other relevant by-laws. No consent given by the Landlord (and no failure to enforce this section of this Agreement) will affect the Tenant's obligations to comply at its sole expense with all such by-laws pursuant to Section 10.01 of this Agreement.

Section 3.04- Liens and Encumbrances

In connection with all labour performed in, or materials supplied for, the making, erection, installation or alteration of any work or installations made by or for the Tenant in the Premises, the Tenant will comply with all the provisions of the *Builders Lien Act*, SBC 1997, c.45, as amended or substituted from time to time (the "*Builders Lien Act*"), and other

statutes from time to time applicable thereto, including any provision requiring or enabling the retention of any sum as a holdback.

The Tenant will not create any mortgage, security agreement or other encumbrance in respect of any of its leasehold improvements or trade fixtures or permit any such mortgage, security agreement or other encumbrance to attach to the Premises.

If and whenever any builders lien or other lien for work, labour, services or materials supplied to or for the Tenant or for the cost of which the Tenant may be in any way liable, or claims therefor arise or are filed or any such mortgage, security agreement or other encumbrance attaches to the title to the Premises, the Tenant will, within fifteen (15) days after receipt of notice thereof, procure the discharge thereof, including any certificate of pending litigation or other notation or charge registered in respect of any lien, by payment or giving security or in such other manner as may be required or permitted by law. Provided however, that in the event of a bona fide dispute by the Tenant of the validity or correctness of any claim for any such lien, the Tenant will not be bound by the foregoing, but will be entitled to defend against the same in any proceedings brought in respect thereof after first paying into a court of competent jurisdiction the amount claimed or sufficient security therefor, and such costs as the court may direct. This section shall not prevent the Tenant mortgaging or encumbering its chattels, inventory, trade fixtures or equipment which are not fixtures.

Pursuant to Section 3(2) of the *Builders Lien Act*, the Landlord may file in the Land Title Office notice of its fee simple interest in the land or legal parcel on which the Premises are located, as is required by law to ensure that the Landlord's title does not become charged with liens related to this Agreement.

ARTICLE IV

Intentionally Deleted.

ARTICLE V

Section 5.01- Limitation of Liability

The Landlord and its officials, officers, employees, agents, contractors, subcontractors, licensees and permittees (collectively, the "Landlord's Personnel") shall not, under any circumstances, be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, however caused, that may be suffered or sustained by the Tenant, its officers, employees, agents, contractors, subcontractors, licensees, permittees, invitees (collectively, the "Tenant's Personnel") or by any other person who may be in or about the Premises; or
- (b) any loss or damage of any nature whatsoever, however caused, to the Premises, any property belonging to the Tenant, the Tenant's Personnel, or to any other person while such property is in or about the Premises,

whether in the course of the performance of the Landlord's obligations under this Agreement or otherwise, unless resulting from the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 5.02- Exclusion of Liability

The Landlord and the Landlord's Personnel shall not under any circumstances be liable or responsible in any way for:

- (a) any personal injury, death or consequential damage of any nature whatsoever, that may be suffered or sustained by the Tenant or the Tenant's Personnel or any other person who may be in or about the Premises, or any loss or damage of any nature whatsoever to the Premises or to any property belonging to the Tenant, the Tenant's Personnel or to any other person while such property is in or about the Premises:
 - (i) caused by failure, by reason of breakdown or other cause, to supply adequate drainage, or by interruptions of any utility or other services, or by steam, water, rain, snow, or other substances leaking, entering, issuing or flowing onto or into any part of the Premises; or
 - (ii) however caused, if the Landlord or Landlord's Personnel enter upon the Premises in the case of an emergency;
- (b) any loss or damage of any nature whatsoever, however caused, to books, records, files, money, securities, negotiable instruments, papers or other valuables of the Tenant or its officers, employees or agents;
- (c) any business, economic or indirect loss or damage suffered or sustained by the Tenant or the Tenant's Personnel of any nature whatsoever, however caused; or
- (d) any loss which the Tenant is obligated to insure against hereunder or has insured against.

Section 5.03- Indemnification

The Tenant shall indemnify and save harmless the Landlord and the Landlord's Personnel in respect of all claims for bodily injury or death, property damage or other loss or damage arising from the conduct of any work by, or any act or omission of, or relating to or arising from the occupation, use and/or possession of the Premises and/or other Landlord property by the Tenant and/or the Tenant's Personnel and/or from any alterations to the Premises, and in respect of all costs, expenses and liabilities incurred by the Landlord and the Landlord's Personnel in connection with or arising out of all such claims, including the expenses of any action or legal proceeding pertaining thereto and the liabilities or obligations incurred or sustained by or imposed upon the Landlord and the Landlord's Personnel in respect of any loss, cost, expense or damage suffered or incurred by the Landlord and the Landlord's Personnel arising from any breach by the Tenant of any of its covenants and obligations under this Agreement.

Without limiting anything else contained in this Agreement, the Tenant shall at all times be liable to the Landlord for the actions of any third party that the Tenant permits to use the Premises. If those actions result in any damage or loss to the Premises or if the Landlord and/or the Landlord's Personnel sustain any loss of any kind due in whole or in part to such actions, the Tenant shall repair the damage or loss to the Landlord's satisfaction and shall indemnify the Landlord and the Landlord's Personnel for any loss they might sustain due in whole or part to such actions, except where such damage or loss was caused by or

contributed to by the gross negligence or wilful misconduct of the Landlord or the Landlord's Personnel.

Section 5.04- Notice of Liability Concerns

Forthwith after becoming aware of significant liability concerns regarding the operation of the Premises or any matter relating to the Premises or the use of the Premises, the Tenant shall notify the Landlord in accordance with Section 17.01 of this Agreement.

ARTICLE VI

Section 6.01- Suitability of the Premises (Environmental)

The Tenant acknowledges and agrees that the Landlord, either itself or through its officers, employees or agents, has not made and the Tenant has not relied upon any representations or warranties from the Landlord or Landlord's Personnel as to:

- (a) the existence, nature or extent of any Pollution on or off the Premises; or
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises.

Section 6.02- Tenant's Inspection of the Premises (Environmental)

The Tenant acknowledges and agrees that it has been afforded all reasonable opportunity to inspect the Premises and all relevant documentation in respect thereof and to carry out such audits, investigations, tests and surveys as it considers reasonably necessary to ascertain:

- (a) the existence, nature or extent of any Pollution on the Premises; and
- (b) the need to take any remedial action in relation to any Pollution on or off the Premises;

and the Tenant has independently made all such inspections, audits, investigations, tests and surveys as it regards as being necessary for the above purposes. It is understood and agreed that the Premises are being leased to the Tenant on an "as is" basis.

The Tenant hereby assumes any and all duties, obligations or liabilities under any relevant law in respect of the Premises, including, but not limited to, any costs, expenses or liabilities for any remedial action for any Pollution of the Premises caused by the Tenant during the Term.

Section 6.03- Release and Indemnification

The Tenant hereby releases the Landlord and its officers, employees and agents from any and all costs, expenses, damages, losses or liabilities that may be incurred or suffered by the Tenant by reason of or resulting from or in connection with or arising in any manner whatsoever out of:

- (a) the Premises not being suitable for use by the Tenant;
- (b) the Premises being, or being found to be at any time, Polluted; or

- (c) the need to take any remedial action and the taking of such action as a result of such Pollution on or off the Premises.

The Tenant shall indemnify, defend and save harmless the Landlord in respect of all claims for bodily injury (including death), property damage or other loss or damage, including damage to property outside the Premises, arising out of or in any way connected with the manufacture, storage, transportation, handling and discharge of Hazardous Substances on or from the Premises by the Tenant or any one for whom the Tenant is responsible in law.

Section 6.04- Removal of Hazardous Substances

The Tenant shall not bring upon the Premises or any part thereof, or cause or suffer the bringing upon the Premises or any part thereof, any Hazardous Substances and if at any time there shall be any Hazardous Substances upon the Premises or a part thereof as a result of the breach of this covenant, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Article;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord verification of the complete and proper removal of the Hazardous Substances from the Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with the foregoing provisions of this Section 6.04.

Section 6.05- Breach of Laws Relating to Hazardous Substances

Without limiting the generality of Section 6.04, the Tenant shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence under or a breach of any statutes, by-laws, regulations or orders from time to time enforced relating to Hazardous Substances, and at its own cost and expense, comply with all laws and regulations from time to time in force relating to the Landlord, the Tenant, the activities carried out on the Premises relating to Hazardous Substances and the protection of the Environment and shall immediately give written notice to the Landlord of the occurrence of any event on the Premises constituting an offence thereunder or a breach thereof and, if the Tenant shall, either alone or with others, cause or suffer the happening of such event, the Tenant shall, at its own expense:

- (a) immediately give the Landlord notice to that effect and thereafter give the Landlord from time to time written notice of the extent and nature of the Tenant's compliance with the following provisions of this Section 6.05;
- (b) promptly remove the Hazardous Substances from the Premises in a manner which conforms with all laws and regulations governing the movement of the same; and
- (c) if requested by the Landlord, obtain at the Tenant's cost and expense from an independent consultant designated or approved by the Landlord a report verifying the complete and proper removal thereof from the Premises or, if such is not the case, a

report as to the extent and nature of any failure to comply with the foregoing provisions of this Section 6.05.

The Tenant shall, at its own expense, remedy any damage to the Premises caused by such event within the Premises or by the performance of the Tenant's obligations under this Section 6.05 as a result of such occurrence.

If any governmental authority having jurisdiction shall require the cleanup of any Hazardous Substances held, Released, spilled, abandoned or placed upon the Premises or (having been brought onto the Premises by the Tenant or anyone the Tenant permits on the Premises during the Term) Released into the Environment from the Premises during the Term, then the Tenant shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work and shall keep the Landlord fully informed and provide to the Landlord full information with respect to proposed plans and comply with the Landlord's requirements with respect to such plans and the Tenant agrees that if the Landlord determines, in its sole discretion, that the Landlord, its property or its reputation is placed in any jeopardy by the requirement for any such work, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant, pursuant to Section 12.08 of this lease.

Section 6.06- Enquiries Pertaining to Hazardous Substances

The Tenant hereby authorizes the Landlord to make enquiries from time to time of any government or governmental agency with respect to the Tenant's compliance with any and all laws and regulations pertaining to the Tenant, the Tenant's activities on the Premises and the Premises including without limitation laws and regulations pertaining to Hazardous Substances and the protection of the Environment; and the Tenant covenants and agrees that the Tenant will from time to time provide to the Landlord such written authorization as the Landlord may require in order to facilitate the obtaining of such information.

Section 6.07- Landlord's Inspection of Goods

The Landlord may at any time and from time to time inspect the Tenant's goods upon the Premises and the Tenant's records relating thereto for the purpose of identifying the nature of the goods and the existence or absence of any Hazardous Substances and the Tenant shall assist the Landlord in so doing.

Section 6.08- Ownership Remains with Tenant

If the Tenant shall bring or create upon the Premises any Hazardous Substances or suffer the bringing or creation upon the Premises of any Hazardous Substances or if the conduct of the Tenant's business shall cause there to be any Hazardous Substance upon the Premises then, notwithstanding any rule of law or equity to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord and notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Premises and notwithstanding the expiry or earlier termination of this Agreement.

Section 6.09- Environmental Covenants Survive Termination

The obligations of the Tenant in this Article V shall survive the expiry or earlier termination of this lease save only that, to the extent that the performance of those obligations requires access to or entry upon the Premises or any part thereof the Tenant shall have such entry and access only at such times and upon such terms and conditions as the Landlord may from time to time specify; and the Landlord may, at the Tenant's cost and expense, undertake the performance of any necessary work in order to complete such obligations of the Tenant; but having commenced such work, the Landlord shall have no obligation to the Tenant to complete such work.

ARTICLE VII

Section 7.01– Landlord’s Insurance - Intentionally Deleted

Section 7.02- Tenant’s Insurance

The Tenant shall, without limiting any of its obligations or liabilities under this Agreement, obtain and continuously carry during the term of this Agreement at its own expense and cost, insurance coverage with minimum limits of not less than those specified, as follows:

- (a) commercial general liability insurance with limits of Five Million Dollars (\$5,000,000) per occurrence or such higher limit of coverage as the Landlord’s Director of Risk Management may require from time to time and the policy shall:
 - (i) indemnify and protect the Tenant and the Tenant’s Personnel against all claims for loss, damage, injury or death to any person or persons and for loss of or damage to the Premises or to any public or private property occurring within or about the Premises or arising by virtue of the Tenant’s occupation or possession of the Premises, including that caused by any third party permitted to use the Premises;
 - (ii) contain a cross-liability and severability of interest clause insuring the Tenant, the Landlord, the Landlord’s Personnel and the Tenant’s Personnel in the same manner and to the same extent as if separate policies had been issued to each and apply with respect to any action brought against one party by the other or by any officer, employee or agent of one party and any breach of a condition of the policy by any party or by any officer, employee or agent of one party shall not affect the protection given by the policy to any other party or to any officer, employee or agent of any party;
 - (iii) name the Landlord, its officials, officers, employees and agents as additional insureds;
 - (iv) include All Risk (Broad Form) Tenant’s Legal Liability insurance for an amount equal to the full replacement cost of the Premises, such coverage to include the activities and operations conducted by the Tenant and third parties in the Premises;
 - (v) include blanket contractual liability covering liability arising directly or indirectly out of the performance of this Agreement;

- (vi) provide for a limit of deductibility not greater than Five Thousand Dollars (\$5,000) or such other limit as the Landlord's Director of Risk Management may sanction from time to time; and
 - (vii) without limiting anything else contained in this Agreement, adequately protect the Tenant from the actions of the third parties that the Tenant permits to occupy all or a portion of the Premises;
- (b) All Risk (Broad Form) including Earthquake and Flood Insurance covering property of every description and kind owned by the Tenant or for which the Tenant is legally liable or provided by or on behalf of the Tenant (and which is located in the Premises), including, without limitation, fittings, fixtures, plate glass (both interior and exterior), installations, alterations, additions, partitions, trade fixtures, furniture or equipment located within the Premises in an amount not less than the full replacement cost thereof;
 - (c) Boiler and Machinery Insurance protecting the Named Insured against accidental damage to all boilers, pressure vessels (fired and unfired), refrigerating and air conditioning systems, piping and accessory equipment including the resultant damage to other properties caused by explosion, collapse, rupture, bursting, cracking and other unusual perils;
 - (d) Business interruption (rental income) insurance in an amount equal to the maximum gross rental income of the Premises pursuant to the Operating Agreement for a period of not less than twenty-four (24) months;
 - (e) Automobile liability insurance for vehicles owned by or leased or licensed to the Tenant and used in connection with services rendered by it pursuant to this Agreement and the Operating Agreement, with limits of not less than Five Million Dollars (\$5,000,000), or such other amounts as the Landlord may reasonably require from time to time, for accidental injury to or death of one or more persons or damage to or destruction of property as a result of any one accident or occurrence;
 - (f) Directors' & officers' liability insurance which covers liability incurred by the officers and directors of the Tenant, with limits of not less than Five Million Dollars (\$5,000,000) or such other amounts as the Landlord may reasonably require from time to time, per occurrence; and
 - (g) Employee dishonesty insurance covering loss of money, securities and other property which the Tenant may sustain, in an amount of not less than One Hundred Thousand Dollars (\$100,000) aggregate for any one loss, resulting from fraudulent or dishonest acts committed by an employee of the Tenant, acting alone or in collusion with others.

Section 7.03- General Requirements of Insurance

The following shall apply to all insurance policies:

- (a) the policies shall be with insurers duly authorized to carry on business in the Province of British Columbia, in a form and in amounts satisfactory from time to time and acceptable to the Landlord's Director of Risk Management and shall provide the Landlord with thirty (30) (days' prior written notice of cancellation or material change

resulting in a reduction of coverage. Notice must identify the name of the Tenant as set out in this Agreement and the location or address of the Premises;

- (b) neither the providing of insurance by the Tenant in accordance with the requirements hereof, nor the insolvency, bankruptcy or the failure of any insurance company to pay any claim accruing shall be held to relieve the Tenant from any other provisions of this Agreement with respect to liability of the Tenant or otherwise;
- (c) the insurance coverage shall be primary insurance as respects the Landlord and any insurance or self-insurance maintained by or on behalf of the Landlord, its officials, officers, employees or agents shall be excess of this insurance and shall not contribute with it; and
- (d) subject to the provisions of this Article VI, the Tenant shall provide at his/their own cost any additional insurance which the Tenant is required by law to provide or which the Tenant considers necessary.

Section 7.04- Evidence of Insurance

Prior to the commencement of the Term, and from time to time during the Term forthwith after demand by the Landlord, the Tenant will deliver to the Landlord, for each insurance policy the Tenant must obtain under this Agreement, a certificate of insurance, satisfactory to the Landlord, and a certified copy of the policy. If the Tenant fails to deliver to the Landlord any such certificate or policy of insurance within the stipulated time, the Landlord may obtain such insurance, and the Tenant will pay to the Landlord the cost of the premiums on demand by the Landlord from time to time.

ARTICLE VIII

Section 8.01- Termination on Damage or Destruction

If the Premises are substantially damaged or destroyed to the extent that the Premises or a substantial area of the Premises are rendered unusable by the Tenant or convenient access to the Premises cannot be had, all as determined by the Landlord in its sole discretion, the Landlord may, at its option and on thirty (30) days' notice to the Tenant, elect to not rebuild or repair the Premises and may terminate this Agreement and the Tenant's liability for rent will end as of the date of such damage or destruction but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 8.02- Repair of Damage or Destruction

If the Landlord elects to rebuild or repair the Premises, the Landlord will commence rebuilding or repairing within one hundred eighty (180) calendar days of the occurrence of the damage or destruction. If the Landlord does not initiate the rebuilding or repairing within such time period or, having commenced rebuilding or repairing, does not prosecute same to completion with reasonable dispatch, then the Tenant may give the Landlord sixty (60) calendar days notice of the termination of this Agreement but such termination will not operate so as to relieve the Tenant of any liability arising from such damage or destruction. There will be no compensation to the Tenant on account of such termination.

Section 8.03- Abatement of Rent

In the event of damage or destruction to the Premises to the extent that the Premises or part of the Premises are rendered unusable or convenient access to the Premises cannot be had, which in either case is not caused by the default or negligence of the Tenant or those for whom it is responsible in law, the rent will abate in the same proportion that the area of which the Tenant is deprived bears to the total area as determined in the opinion of the Landlord and such abatement will continue only so long as the Landlord determines its continuance to be reasonable.

ARTICLE IX

Section 9.01- Assignment

The Tenant shall not assign its interest in the Premises or any portion thereof save and except with the prior written consent of the Landlord, which consent may be unreasonably withheld. If there are personal covenants herein on the part of the Tenant which, in the opinion of the Landlord's solicitors will not run with this Agreement, then the Landlord may withhold its consent to assignment unless the prospective assignee covenants with the Landlord to be bound by such personal covenants as if such covenants had been made between the Landlord and the prospective assignee. In no way will such consent release the Tenant of its personal covenants under this Agreement.

Section 9.02- Subleasing

The Tenant shall not sublease, license, set over or otherwise part with possession of the Premises or any portion thereof or let any third party into possession of the Premises or any portion thereof save and except with the prior written consent of the Landlord, which consent the Landlord may unreasonably withhold. For certainty, the Landlord confirms that it consents to any subleasing or sublicensing permitted pursuant to the Operating Agreement.

Section 9.03- Assignment of Sublease Rent

Notwithstanding Section 9.02 hereof, the Tenant hereby assigns to the Landlord all rents and fees payable to the Tenant under any sublease, license or occupation agreement with any third party, which assignment shall supersede any provisions regarding the Tenant in bankruptcy and any claims of the creditors of the Tenant whether by execution, attachment, garnishing order or otherwise PROVIDED HOWEVER the Landlord agrees to refrain from enforcing the said assignment so long as the Tenant shall not be in default in the payment of rent or the performance or observance of its covenants hereunder. Upon the Tenant falling into default in the payment of its rent or the performance or observance of its other covenants hereunder, the Landlord may forthwith direct the sublessee, licensee or such other third party to pay to the Landlord the sublease rent, license fees or other monies as would otherwise be owing to the Tenant from time to time and the payment of such monies to the Landlord shall *pro tanto* discharge the sublessee's, licensee's or other third party's obligations to the Tenant and the Landlord shall apply such monies to the rent and the performance and observance of the Tenant's covenants hereunder notwithstanding any claims on the part of the Tenant's trustee in bankruptcy or the Tenant's creditors, whether by execution, attachment, garnishing order or otherwise. If the sublessee, licensee or other third party fails to abide by the Landlord's directions in this behalf then, at the Landlord's election, the sublease, license or other third party agreement shall cease and determine and the Landlord may forthwith re-

enter the subleased, licensed or occupied portion of the Premises and arrange for new occupants thereof whose occupation shall be subject to the provisions of this paragraph.

Section 9.04- Mortgage of Lease

The Tenant may mortgage its leasehold interest in the Premises only with the prior written consent of the Landlord, which consent may be unreasonably withheld. Notwithstanding any such mortgage, the Tenant will be and remain liable for the payment of all Rent, and the performance of all of its obligations set out in this Agreement. The Tenant may not increase the principal amount secured by any such Mortgage, change the repayment terms or agree to any other modification of the terms and conditions of any such Mortgage without the prior written consent of the Landlord.

Section 9.05- Tripartite Agreement

At the request of the Mortgagee, the Landlord will execute and deliver to the Mortgagee an agreement among the Tenant, the Landlord and the Mortgagee, or between the Landlord and the Mortgagee, which will be binding and enforceable against the Tenant (if a party thereto), the Landlord and the Mortgagee and their successors and assigns, whereby the Landlord will agree with the Mortgagee to afford to the Mortgagee such rights as may be agreed upon in respect of the Premises and the Tenant interests therein.

Section 9.06- Management Agreement

Subject to Section 9.01, under no circumstances whatsoever may the Tenant enter into any management agreement or other agreement with another party which licenses, transfers or assigns, temporarily or otherwise, the Tenant's rights and obligations in this Agreement without the Landlord's prior written consent, except as permitted by the Operating Agreement.

ARTICLE X

Section 10.01- Bankruptcy

If the Term or any of the goods or chattels of the Tenant are at any time seized or taken in execution by any creditor of the Tenant, or if the Tenant makes a general assignment for the benefit of creditors, or if the Tenant institutes proceedings to have the Tenant adjudicated as bankrupt or insolvent, or if the Tenant becomes the subject of bankruptcy or insolvency proceedings, or if a judgment, decree or order be entered by a court of competent jurisdiction adjudging the Tenant bankrupt or insolvent, or if the Tenant is unable to meet all debts as they fall due for a period of not less than three (3) months, or if the Tenant or its directors shall pass any resolution authorizing the dissolution or winding-up of the Tenant, or if a receiver, interim receiver, manager, receiver-manager, trustee or liquidator of all or any part of the Tenant's property shall be appointed or applied for by the Tenant or by one or more of the Tenant's creditors, then the Landlord shall be so notified and the then current rent plus an additional three (3) months' current rent shall immediately become due and be paid and the Landlord may immediately claim the same together with any arrears of rent and, at the option of the Landlord, the Term is subject to termination forthwith. If the Tenant becomes defunct or amalgamates with any other body without obtaining the prior written consent of the Landlord then at the option of the Landlord the Term shall forthwith

terminate. If the Tenant surrenders up its certificate of incorporation or otherwise ceases to exist the Term terminates as of such surrender or dissolution.

ARTICLE XI

Section 11.01- Statutes and By-laws

The Tenant covenants to promptly and faithfully observe and comply with all federal, provincial or civic statutes, by-laws, regulations and orders now or hereafter which are in force and in effect which touch and concern the Premises or the Tenant's activities within the Premises, including, without limitation, any applicable environmental guidelines, and any amendments thereto, which deal with environmental protection and safety and/or Hazardous Substances. If any such statutes, by-laws, regulations, orders or guidelines are directed at owners, the Tenant shall perform and observe same at his own expense in the place and stead of the Landlord.

Without limiting the generality of the foregoing, the Tenant shall promptly and faithfully observe and comply with:

- (a) all federal, provincial or civic statutes, by-laws, regulations and orders and policies now or hereafter which are in force relating to the Tenant's operation of the facility and shall provide the Landlord with evidence satisfactory to the Landlord, in its sole discretion, of such compliance on request by the Landlord; and
- (b) the British Columbia *Human Rights Code*, R.S.B.C. 1996, c. 210, as amended or substituted from time to time, which prohibits discrimination in many areas including in publications which are likely to expose a person or a group or class of persons to hatred or contempt because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or that group or class of persons.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 11.01.

Section 11.02- WorkSafeBC Coverage

Not so as to restrict the generality of Section 11.01 of this Agreement, the Tenant shall comply with all applicable requirements of WorkSafeBC ("WCB") including, without limitation, any requirement to procure and carry or cause to be procured and carried and paid for, at its own expense, full WCB coverage for itself and for all workers, employees, contractors, subcontractors, agents, licensees, permittees, and all others engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises. The Landlord shall have the unfettered right to set off the amounts of the unpaid premiums and assessments for such WCB coverage against any monies owing by the Landlord to the Tenant pursuant to any grant application or otherwise. The Landlord shall have the right to withhold payment of any such monies until the WCB premiums, assessments and/or penalties in respect of the work done and/or service performed have been paid in full.

The Tenant confirms that it is registered and in good standing with the WCB and all assessments have been paid in full as of the date of this Agreement and that it shall

throughout the Term continue to be registered and in good standing with the WCB and pay all assessments in full. If requested by the Landlord, the Tenant shall provide the Landlord with the Tenant's WCB registration number and a letter from the WCB confirming that the Tenant is registered in good standing with the WCB and that all assessments have been paid to the date thereof. The Tenant shall indemnify the Landlord and hold harmless the Landlord from all manner of claims, demands, costs, losses, sanctions and penalties and proceedings arising out of or in any way related to unpaid WCB assessments owing from any person or corporation engaged on the Tenant's behalf in connection with any work done or service performed on, in or around the Premises or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the WCB, including penalties levied by the WCB.

The Tenant shall, on request by the Landlord, promptly provide the Landlord with evidence of compliance with this Section 11.02.

Section 11.03- Quiet Enjoyment

Subject to the provisions of this Agreement and subject to the provision that nothing contained or implied herein shall prejudice or affect the Landlord's rights and powers in the exercise of its functions pursuant to the *Vancouver Charter*, S.B.C. 1953, c.55, as amended or substituted from time to time, and the rights and powers of the Landlord under all of its public and private statutes, by-laws and regulations, all of which may be as fully and effectively exercised in relation to the Premises as if this Agreement had not been executed and delivered by the Landlord and the Tenant, the Landlord covenants with the Tenant for quiet enjoyment.

Section 11.04- Performance of Obligations

The Tenant covenants with the Landlord to faithfully and promptly pay the Rent and perform and observe its obligations herein.

ARTICLE XII

Section 12.01- Breach of Covenants

If and whenever:

- (a) any Rent payment or any part thereof is not made by the Tenant on the day appointed for payment thereof;
- (b) the Tenant is in default in the payment of any money, other than Rent, required to be paid by the Tenant under the terms of this Agreement and such default continues for ten (10) days following any specific due date on which the Tenant is to make such payment or, in the absence of such specific due date, for ten (10) days following notice requiring the Tenant to pay the same;
- (c) the Tenant defaults in performing or observing any of the provisions of this Agreement other than those requiring payment of money to the Landlord but including, without limiting the generality of the foregoing, failure by the Tenant to comply with any statutes, bylaws, regulations or orders relating to its operation of a facility, and such default continues for a period of twenty (20) days after notice thereof to the Tenant, except for a default which to be cured with all due diligence would require a longer

period, then after such longer period, or if the Tenant fails to proceed promptly and diligently and continuously after the service of such notice to cure same;

- (d) the Premises are vacated or unoccupied for ten (10) or more consecutive days while the Premises can be used for the Permitted Use, without the consent of the Landlord; or
- (e) the Premises are abandoned by the Tenant;
- (f) the Premises are used for purposes other than the Permitted Uses;
- (g) this Agreement is terminated;
- (h) the Operating Agreement is terminated by either party for any reason; or
- (i) the Tenant commits a breach of a Mortgage or any other agreements securing the Loan;

then and in every such case, it shall be lawful for the Landlord at any time thereafter without notice or demand, with or without process of law and by forcible entry if necessary, to re-enter into and upon the Premises, and to terminate this Agreement by leaving upon the Premises notice in writing of such termination. If the Landlord terminates this Agreement pursuant to this section, or otherwise as a result of default of the Tenant, there shall immediately become due and owing to the Landlord, in addition to any other sums payable to the Landlord hereunder as damages suffered by the Landlord as a result of the Tenant's breach, the then current month's rent, together with the rent accruing for the remainder of the Term. This provision for notice and termination shall not be construed so as to delay or supersede any specific remedy to which the Landlord may have recourse in this Agreement.

Section 12.02- Notice to and Remedies of Mortgagee

The following provisions will apply with respect to any Mortgagee:

- (a) no re-entry, termination or forfeiture of this Agreement by the Landlord will be valid against the Mortgagee who has filed with the Landlord a notice of Mortgage and specified an address for notice in accordance with Section 17.01, unless the Landlord has first given to the Mortgagee written notice of the default or contingency entitling the Landlord to re-enter, terminate or forfeit this Agreement, specifying the nature of that default or contingency, and stating the Landlord's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default or contingency specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default or contingency is other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement, and if the default or contingency cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency,

- (iii) and the Landlord hereby grants the Mortgagee access to the Premises for that purpose. If the default or contingency is cured within the period specified, or in the circumstances referred to in 12.02(a)(ii), if cured within a reasonable period, the Mortgagee will be entitled to continue as tenant for the balance of the Term remaining at the date of the notice of default or contingency providing that the Mortgagee attorns as tenant to the Landlord and undertakes to be bound by and to perform and observe all of the Tenant's obligations, covenants and agreements under this Agreement until such Mortgagee as tenant assigns its leasehold estate as permitted by this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to be bound by and to perform and observe all of the Tenant's obligations, covenants and agreements under this Agreement. If the Mortgagee consists of more than one mortgagee, each having a separate charge upon the Tenant's interest in this Agreement, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Landlord hereby agrees to permit curing of the default or contingency specified as aforesaid by that Mortgagee that is willing to cure the default or contingency and attorn as tenant as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and attorn as aforesaid, except that in the event that any Mortgagee has commenced a foreclosure action, the provisions of Section 12.02(b) will apply;
- (b) in the event the Mortgagee commences foreclosure proceedings against the Tenant, whether or not the Tenant is in default of the performance of its covenants and agreements with the Landlord under this Agreement at the time such foreclosure proceedings are commenced, the Landlord will not re-enter, terminate or forfeit this Agreement after the commencement of foreclosure proceedings on the ground of any default or contingency entitling the Landlord to re-enter, terminate or forfeit this Agreement if the Mortgagee:
 - (i) has given to the Landlord notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings;
 - (iii) except for the bankruptcy or insolvency of the Tenant, which will be governed by Section 12.02(c), cures the default or contingency within a period of sixty (60) days from the date of receipt of notice from the Landlord specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement and if such default or contingency cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency; and
 - (iv) performs and observes all of the Tenant's covenants and agreements under this Agreement, except for any obligation to cure the bankruptcy or insolvency of the Tenant, and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee;

PROVIDED, HOWEVER, that if the Mortgagee is an Approved Lender, the Corporation or the Commission, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Agreement to a third party or an Approved Lender, the Corporation or the Commission acquiring the Tenant's interest in this Agreement. In the event that the Mortgagee acquires the Tenant's interest in the Premises pursuant to the foreclosure proceedings, the Mortgagee will thereupon become subrogated to the rights of the Tenant under this Agreement, provided it attorns to the Landlord as tenant and undertakes to be bound by and perform the covenants and agreements of this Agreement until such Mortgagee as Tenant assigns its leasehold estate as permitted by this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to be bound by and to perform the covenants and agreements of this Agreement. If the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this Section 12.02(b) to a foreclosing Mortgagee will be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees;

- (c) if this Agreement is subject to termination or forfeiture pursuant to Section 10.01 by reason of the bankruptcy or insolvency of the Tenant and the Mortgagee has filed with the Landlord a notice of Mortgage in favour of the Mortgagee and specified an address for notice in accordance with Section 17.01, the Landlord will give to the Mortgagee notice of the bankruptcy or insolvency of the Tenant entitling the Landlord to terminate or forfeit this Agreement and stating the Landlord's intention to take such proceedings and requiring the Mortgagee to cure the Tenant default under this Agreement (except for the bankruptcy or insolvency of the Tenant), and the Tenant's default will be deemed to have been sufficiently cured if the Mortgagee will:
 - (i) take possession and control of the Premises, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, which receiver will take possession and control of the Premises, and the Landlord hereby grants the Mortgagee or such receiver access to the Premises for that purpose;
 - (ii) cure every default under this Agreement (except for the bankruptcy or insolvency of the Tenant) within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Landlord of the bankruptcy or insolvency of the Tenant, or if such default or defaults are other than the failure to pay Rent or any other sums required to be paid to the Landlord by any provision of this Agreement and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure such default or defaults; provided, however, that if the Mortgagee is an Approved Lender, the Commission or the Corporation, the curing of the default or contingency may be delayed until the earlier of the date of the assignment of this Agreement to a third party or an Approved Lender, the Commission or the Corporation acquiring the Tenant's interest in this Agreement; and

- (iii) subject to the right of an Approved Lender, the Commission or the Corporation to delay the curing of the default or contingency as set out in Section 12.02(c)(ii), attorn as tenant to the Landlord and undertake to observe, be bound by and perform the obligations, covenants and agreements of the Tenant under this Agreement until such Mortgagee, as tenant, assigns its leasehold estate as permitted under this Agreement and delivers to the Landlord an agreement from the assignee which is enforceable and binding on the assignee and its heirs, executors, successors, administrators and assigns as of the date of the assignment and by which the assignee agrees with the Landlord to attorn as tenant to the Landlord and to observe, be bound by and perform the obligations, covenants and agreements of the Tenant under this Agreement.
- (d) If the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Agreement as aforesaid will be deemed granted to them in the order of the priority of their respective charges;
- (e) any re-entry, termination or forfeiture of this Agreement made in accordance with the provisions of this Agreement as against the Tenant will be valid and effectual against the Tenant even though made subject to the rights of any Mortgagee to cure any default of the Tenant and to continue as tenant under this Agreement; and
- (f) no entry upon the Premises by the Mortgagee for the purpose of curing any default of the Tenant will release or impair the continuing obligations of the Tenant.

Section 12.03- Distraint

The Tenant waives and renounces the benefit of any present or future law taking away or limiting the Landlord's rights against the property of the Tenant and, notwithstanding any such law, provided the Tenant is in default and all curative periods have expired, the Landlord may seize and sell all the Tenant's goods and property, whether within the Premises or not, and apply the proceeds of such sale towards any arrears of rent (including amounts deemed to be rent under this Agreement) and the costs of the seizure and sale. The Tenant further agrees that if it abandons the Premises and any arrears of rent remain unpaid, the Landlord, in addition to any remedy otherwise provided by law, may seize and sell those goods and property of the Tenant that were previously upon the Premises at any place to which the Tenant or any other person may have removed them from the Premises, in the same manner as if such goods and property had remained in, about or upon the Premises.

Section 12.04- Right to Re-let

If the Landlord becomes entitled to re-enter the Premises the Landlord shall have the right, if it thinks fit, to enter the Premises as the agent of the Tenant either by force or otherwise without being liable for any prosecution therefor, and as agent of the Tenant to re-let the Premises or any part or parts thereof at the risk of the Tenant and, as agent for the Tenant, to receive the rent therefor and, as agent for the Tenant, to take possession of any furniture, equipment and other property therein and sell the same at public or private sale without notice. Such rent and proceeds from the sale of the furniture, equipment and other properties shall be allocated first to the Landlord's cost of so entering and re-letting, then to interest on amounts due by the Tenant to the Landlord hereunder and unpaid, and then to the payment of such unpaid sums. The balance of such rent and proceeds, if any, may be applied by the Landlord on account of the rent due hereunder to the Landlord.

Section 12.05- Forfeiture

The Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event the Tenant shall be evicted or dispossessed from the Premises for any cause, statutory or otherwise, or if the Landlord re-enters the Premises following the occurrence of any default by the Tenant hereunder, or if this Agreement is terminated before the expiration date thereof originally fixed herein.

Section 12.06- Remedies Generally

Mention in this Agreement of any particular right or remedy of the Landlord in respect of the default by the Tenant shall not preclude the Landlord from any other right or remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No right or remedy shall be exclusive or dependent upon any one or more of such rights or remedies independently or in combination, such rights or remedies being cumulative and not alternative. Whenever the Tenant seeks a remedy in order to enforce the observance or performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed or performed, the Tenant's only remedy (except where another remedy is expressly provided herein, in which event the Tenant shall be restricted to that remedy) shall be for such damages as the Tenant shall be able to prove in a court of competent jurisdiction that the Tenant has suffered as a result of a breach (if established) by the Landlord in the observance and performance of any of the terms, covenants and conditions contained in this Agreement on the part of the Landlord to be observed and performed. The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Landlord and the Tenant created hereby, the Tenant's use or occupancy of the Premises or any claim for any injury. In the event of any breach or threatened breach by the Tenant of any of the terms and provisions of this Agreement, the Landlord shall have the right to injunctive relief as if no other remedies were provided herein for such breach. The Tenant hereby expressly waives any right to assert a defence based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein shall bar the Landlord from bringing any subsequent action or proceeding from time to time. If the Tenant shall default hereunder prior to the date fixed as the commencement of any renewal or extension of this Agreement, whether by a renewal or extension option herein contained or by separate agreement, the Landlord may cancel such option or agreement for renewal or extension of this Agreement, upon written notice to the Tenant.

Section 12.07- Expenses

If any legal proceeding is brought for recovery of possession of the Premises, for the recovery of rent or because of the breach of any other terms, covenants or conditions herein contained on the part of the Tenant to be kept or performed, the Tenant shall pay to the Landlord as additional rent, upon demand, all costs and expenses incurred therefor (including without limitation, all professional and consultant fees, and all legal fees on a solicitor and his own client basis, disbursements, and all court costs and expenses of any legal proceeding; and the term "proceeding" shall include, without limitation, any arbitration, administrative, governmental, quasi-governmental or any other mediation proceeding and the term "costs" shall include the pro-rata portion of the wages, salaries and all other remuneration of the Landlord's officers and employees reasonably attributed to the matter).

Without limiting the generality of the immediately preceding paragraph or any other provisions of this Agreement, the Tenant shall pay to the Landlord, as additional rent upon demand, all costs and expenses (including, without limitation, those fees, disbursements, costs and expenses set out in the bracketed insert in the immediately preceding paragraph of this Section 12.07) which the Landlord may incur or pay out by reason of, or in connection with:

- (a) any proceeding by the Landlord to terminate this Agreement or for the recovery of possession of the Premises or for the recovery of rent;
- (b) any other proceeding by the Landlord against the Tenant;
- (c) any distress levied by the Landlord against the Tenant's goods, chattels and inventory or any of them on the Premises for the recovery of rent;
- (d) any default by the Tenant in the observance or performance of any obligations of the Tenant under this Agreement whether or not the Landlord commences any proceeding against the Tenant or any indemnitor;
- (e) any proceeding brought by the Tenant against the Landlord (or any officer, employee or agent of the Landlord) in which the Tenant fails to secure a final judgment against the Landlord;
- (f) any other appearance by the Landlord or Landlord's Personnel as a witness or otherwise in any proceeding whatsoever involving or affecting the Landlord, the Tenant, this Agreement, the indemnity agreement (if any) or the Premises;
- (g) any amendment, modification or change in any of the terms of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such amendment, modification or change is finally agreed on);
- (h) any renewal, extension, surrender, or release of this Agreement initiated by the Tenant (and any request or negotiations pertaining thereto, whether or not such renewal, extension, surrender or release becomes effective);
- (i) any transfer of this Agreement (and any request or negotiations pertaining thereto, whether or not such transfer is approved and finally agreed on); and
- (j) any Alterations of or to the Premises (and any request or negotiations pertaining thereto, whether or not such Alterations are approved and finally agreed on).

The Tenant's obligations under this Section 12.07 shall survive the expiration or earlier termination of this Agreement.

Section 12.08- Landlord May Remedy Tenant's Default

If the Tenant fails to pay, when due, any amount required to be paid by the Tenant pursuant to this Agreement, the Landlord, after giving ten (10) days' notice in writing to the Tenant, may, but shall not be obligated to, pay all or any part of it. If the Tenant is in default in the performance of any of its covenants or obligations hereunder (other than the payment of rent required to be paid by the Tenant pursuant to this Agreement), the Landlord may from time to time after giving such notice as it considers sufficient (or without notice in the case of an

emergency) having regard to the circumstances applicable, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things as may be required, including, without limitation, entering upon the Premises and doing such things upon or in respect of the Premises or any part thereof as the Landlord considers requisite or necessary. All expenses incurred and expenditures attributable to or made (including all employee, overhead and other internal costs) pursuant to this Section 12.08, shall be paid by the Tenant to the Landlord as additional rent upon demand. The Landlord shall have no liability to the Tenant or any other person for any claims resulting from any such action, entry or performance of any work by the Landlord upon the Premises.

Section 12.09- Security Agreement - Intentionally deleted.

ARTICLE XIII

Section 13.01- Vacant Possession

Except as provided in the Operating Agreement, upon termination of the Term, whether by the passage of time or otherwise, the Tenant shall deliver up vacant possession of the Premises and shall leave the Premises in a sanitary, neat, tidy, safe and empty condition free from all nuisance, debris, rubbish and stock-in-trade and shall ensure that the Premises are to the standard of repair and decoration required of the Tenant pursuant to Article II hereof.

Section 13.02- Trade Fixtures

- (a) If the Tenant is not in default hereunder at the expiration of the Term, the Tenant shall have the right to remove its trade fixtures from the Premises but shall make good any damage caused to the Premises resulting from the installation or removal thereof.
- (b) If the Tenant fails to remove any of its trade fixtures and restore the Premises as provided in Section 13.02(a), all such trade fixtures shall become the property of the Landlord except to the extent that the Landlord requires removal thereof pursuant to Section 13.02(d).
- (c) If the Tenant abandons the Premises or this Agreement is terminated before the proper expiration of the Term due to a default on the part of the Tenant, as of the moment of such default by the Tenant, all trade fixtures and furnishings of the Tenant (whether or not attached in any manner to the Premises) shall, except to the extent the Landlord requires the removal thereof pursuant to Section 13.02(d) become and be deemed to be the property of the Landlord, without compensation to the Tenant but without prejudice to any other right or remedy of the Landlord at law or in equity.
- (d) Notwithstanding that any trade fixture is or may become the property of the Landlord, the Tenant shall forthwith remove all or part of the same and shall make good any damage caused to the Premises resulting from the installation or removal thereof, all at the Tenant's expense, should the Landlord so require by notice to the Tenant.
- (e) If the Tenant, after receipt of a notice from the Landlord pursuant to Section 13.02(d), fails to promptly remove any trade fixture in accordance with such notice, the Landlord may enter into the Premises and remove therefrom all or part of such trade fixture and make good any damage caused to the Premises resulting from the installation or removal thereof, without any liability accruing against the Landlord and

at the expense of the Tenant, which expense shall forthwith be paid by the Tenant to the Landlord.

Section 13.03- Overholding

If the Tenant continues to occupy the Premises after the expiration of the Term, and the Landlord shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not from year to year, and shall be subject to the covenants and conditions herein contained so far as may be applicable to a tenancy from month to month, and shall be determined by one month's prior notice in writing.

ARTICLE XIV RIGHT OF ENTRY

Section 14.01- Landlord's Access to Premises For Showings/Inspection

The Landlord or Landlord's Personnel shall have the right to enter the Premises at any reasonable time (and upon twenty-four (24) hours prior written notice to the Tenant) to examine them or to show them to prospective purchasers, tenants or mortgagees, and to enter the Premises at such other times as mutually agreed between the Landlord and the Tenant (or on reasonable prior notice) to make such repairs as the Landlord may deem necessary or desirable and the Landlord will be allowed to take all required material into and upon the Premises without such entry constituting an eviction of the Tenant in whole or in part nor a breach of the Landlord's obligations. Whenever the Landlord enters the Premises, it shall take reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 14.02- Landlord's Access to Records

The Landlord may at any reasonable time and upon twenty-four (24) hours written notice to the Tenant enter (or permit governmental authorities to enter) the Premises or any other office of the Tenant's for the purpose of ensuring the Tenant's compliance with this Agreement, including without limitation, by auditing the Tenant's environmental and financial records and by conducting soil, water and other tests, provided that the Landlord takes reasonable steps to avoid interfering with the Tenant's use and occupation of the Premises.

Section 14.03- "For Lease/Sale" Signs

During the six (6) months prior to the expiration of the Term, the Landlord may place upon the Premises the usual notices "For Lease" or "For Sale" and the Tenant will permit the notices to remain without interference or interruption. The Landlord may at any time within six (6) months before the end of the Term enter the Premises and bring others at all reasonable hours for the purposes of showing the Premises to prospective tenants or purchasers.

Section 14.04- Emergency Access

If and when for any reason an emergency will exist or be contemplated, the Landlord or its agents may enter the Premises by a master key, or may forcibly enter them, provided reasonable care is exercised, without rendering the Landlord or such agent liable, and without in any manner affecting the Tenant's obligations under this Agreement. However,

despite the above, the Landlord has no obligation, responsibility or liability, for the care, maintenance or repair of the Premises except as otherwise specifically provided.

ARTICLE XV

Section 15.01- Option to Renew - Intentionally Deleted

ARTICLE XVI

Section 16.01- Landlord Released

In the event of the sale or lease by the Landlord of the Premises or the assignment by the Landlord of its interest in this Agreement, the Landlord will without further written agreement be released and relieved of and from such liabilities and obligations.

Section 16.02- Tenant's Covenant

The Landlord may sell, transfer or otherwise dispose of the Premises, or any portion of the Premises, to any party and upon the conveyance to such party of the Premises or any portion of them, the Tenant will attorn to and become the Tenant of such party under the terms of this Agreement and the Tenant will provide such party with an acknowledgment in writing binding upon the Tenant that it will perform the obligations and satisfy the liabilities of the Tenant.

Section 16.03- Status Statement

The Tenant will provide within ten (10) days of the request of the Landlord a status statement for the Landlord, addressed to the Landlord and any potential buyer or mortgagee, binding upon the Tenant, confirming:

- (a) that the Tenant has accepted possession of the Premises;
- (b) whether or not the Landlord has carried out all of its obligations pursuant to this Agreement;
- (c) that this Agreement constitutes the whole of the agreement between the parties (or setting out such other agreements);
- (d) that this Agreement is in full force and effect and that there are no defences or set offs which the Tenant claims against the Landlord (or setting out any such claims); and
- (e) such other matters as may be reasonably required by the Landlord or any potential or actual purchaser of the Premises.

ARTICLE XVII

Section 17.01- Delivery of Notices

Any notice required to be given hereunder must be in writing and the sender must deliver it by hand or by fax or by mail to the party to which it is to be given, as follows:

(a) to the Tenant:

COMMUNITY LAND TRUST FOUNDATION OF BC
220-1651 Commercial Drive,
Vancouver, British Columbia
V5L 3Y3

Attention: Executive Director
Fax: 604-879-4611

and

(b) to the Landlord:

City of Vancouver
c/o Manager of Real Estate Services
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

Attention: Manager of Real Estate Services
Fax: 604-873-7064

or to such other address or fax number as the party may designate and will be deemed to have been received on the day of delivery or faxing if within business hours on a business day and otherwise on the next succeeding business day and, if mailed, the fifth (5th) day after mailing, provided that if there is between the time of mailing and the actual receipt of the notice a mail strike, slow-down or other labour dispute which might affect delivery of such notice then such notice shall only be effective if actually delivered.

Section 17.02- Administration of Lease

Where this Agreement requires or permits on the part of the Landlord any authority, reservation, discretion, disallowance, approval or other act of supervision or the giving of any notice, such act or action shall be well and truly performed on the part of the Landlord when performed by the Landlord's Manager of Real Estate Services or his nominee.

Section 17.03- Covenants Survive Termination

The covenants herein on the part of the Landlord and the Tenant which, as of termination of this Agreement or the Term whether by passage of time or otherwise, remain unfulfilled, undischarged or otherwise outstanding shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns so long as there is any liability or indebtedness by either party to the other or so long as any such covenant remains unfulfilled, undischarged or otherwise outstanding, whether in whole or in part, notwithstanding anything herein to the contrary.

Section 17.04- Time is of the Essence

Time shall be of the essence of this Agreement, save as herein otherwise specified.

Section 17.05- Captions and Headings

The captions and headings throughout this Agreement are for convenience and reference only and the words and phrases contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Agreement nor in any way affect this Agreement.

Section 17.06- Interpretation

Words herein importing the singular number or the masculine gender only shall include more persons, parties or things of the same kind than one, and females or corporations as well as males, and the converse whenever the context requires; these presents shall extend to, be binding upon and enure to the benefit of the Landlord and the Tenant and their successors and assigns.

Section 17.07- Joint and Several

Any covenant, agreement, condition or proviso made by two (2) or more persons shall be construed as several as well as joint.

Section 17.08- Waiver

No waiver of or neglect to enforce this Agreement upon a default by the Tenant will be deemed to be a waiver of any such right upon any subsequent similar default. Without limiting the generality of this Section 17.08, the acceptance by the Landlord of part payment of any sums, including rent, required to be paid under this Agreement will not constitute a waiver or release of the Landlord's right to payment in full of such sums.

Section 17.09- Entire Agreement

The Tenant acknowledges that there are no covenants, representations, warranties, agreements, terms or conditions expressed or implied relating to this Agreement or the Premises except as expressly set out in this Agreement, and that this Agreement may not be modified except by an agreement in writing executed by both the Landlord and the Tenant.

Section 17.10- Governing Law

This Agreement will be governed by and interpreted in accordance with the laws of British Columbia and the parties irrevocably attorn to the jurisdiction of the courts of British Columbia.

Section 17.11- Severability

If any provision or provisions of this Agreement are determined by a court to be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and the remaining provisions of this Agreement shall remain in full force and be binding upon the parties.

Section 17.12 - Relationship between Landlord and Tenant

Nothing contained in this Agreement nor any acts of the Landlord or the Tenant will be deemed to create any relationship between the Landlord and the Tenant other than the relationship of landlord and tenant.

Section 17.13 - Force Majeure

Despite anything contained in this Agreement to the contrary, if the Landlord or the Tenant is, in good faith, delayed or prevented from doing anything required by this Agreement because of a strike, labour trouble, inability to get materials or services, power failure, restrictive governmental laws or regulations, riots, insurrection, sabotage, rebellion, war, act of God, or any other similar reason, that is not the fault of the party delayed or of its officers, employees or agents, the doing of the thing is excused for the period of the delay and the party delayed will promptly do what was delayed or prevented within the appropriate period after the delay. The preceding sentence does not excuse the Tenant from payment of rent or the Landlord from payment of amounts, if any, that it is required to pay, in the amounts and at the time specified in this Agreement.

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

CITY OF VANCOUVER

by its authorized signatory:


Signature

FRANCES J. CONNELL
Director of Legal Services

Print Name and Title

COMMUNITY LAND TRUST FOUNDATION OF BC

by its authorized signatories:


Signature

TIFFANY DUZITA, DIRECTOR
Print Name and Title

Signature

Print Name and Title

This is the signature page of a lease between the **City of Vancouver**, as Landlord, and **Community Land Trust Foundation of BC**, as Tenant, concerning 95 East 1st Avenue, Vancouver, BC (the Premises).

Section 17.12 - Relationship between Landlord and Tenant

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

CITY OF VANCOUVER

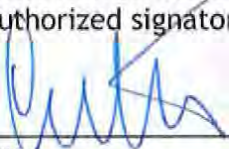
by its authorized signatory:

Signature

Print Name and Title

COMMUNITY LAND TRUST FOUNDATION OF BC

by its authorized signatories:



Signature

Thom Armstrong, Executive

Print Name and Title

Director

Signature

Print Name and Title

This is the signature page of a lease between the **City of Vancouver**, as Landlord, and **Community Land Trust Foundation of BC**, as Tenant, concerning 95 East 1st Avenue, Vancouver, BC (the Premises).

**SCHEDULE A
INTENTIONALLY DELETED**

**SCHEDULE B
PRIOR ENCUMBRANCES**

Nature: INDEMNITY AGREEMENT
Registration Number: 472514M
Registration Date and Time: 1968-07-16 15:03
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4164767
Registration Date and Time: 2015-01-05 13:57
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4467769
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467770
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467771
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4467772
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467773
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467774
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467778
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOT 345 PLAN EPP1333

Nature: COVENANT
Registration Number: CA4467779
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4467780
Registration Date and Time: 2015-06-16 10:01
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4468046
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT REFERENCE PLAN 17723

Nature: COVENANT
Registration Number: CA4468047
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT
REFERENCE PLAN 17723

Nature: EQUITABLE CHARGE
Registration Number: CA4468050
Registration Date and Time: 2015-06-16 10:56
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA
PART FORMERLY LOTS 1 AND 5 PLAN 12958 EXCEPT

REFERENCE PLAN 17723

Nature: STATUTORY RIGHT OF WAY
Registration Number: BB4083730
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: PART IN PLAN EPP46207

Nature: COVENANT
Registration Number: CA4573666
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4573668
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: EQUITABLE CHARGE
Registration Number: CA4573670
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4573684
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: CA4573688
Registration Date and Time: 2015-07-30 11:49
Registered Owner: CITY OF VANCOUVER
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: CA4863996
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: STATUTORY RIGHT OF WAY
Registration Number: CA4863997
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA4863998
Registration Date and Time: 2015-12-09 07:58
Registered Owner: CITY OF VANCOUVER

Nature: COVENANT
Registration Number: CA5410104
Registration Date and Time: 2016-08-09 11:54

Registered Owner: CITY OF VANCOUVER

Nature: COVENANT

Registration Number: CA5410105

Registration Date and Time: 2016-08-09 11:54

Registered Owner: BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION

Nature: STATUTORY RIGHT OF WAY

Registration Number: CA5686789

Registration Date and Time: 2016-12-01 07:40

Registered Owner: SHAW CABLESYSTEMS LIMITED
INCORPORATION NO. A0075382

Nature: STATUTORY RIGHT OF WAY

Registration Number: CA5928628

Registration Date and Time: 2017-04-12 12:56

Registered Owner: TELUS COMMUNICATIONS INC. INCORPORATION NO. BC1101218

**SCHEDULE C
SERVICE LEVEL AGREEMENT**

NON-MARKET HOUSING AND CULTURAL AMENITY SPACE

95 East 1st Avenue, Vancouver, B.C. and 1847 Main Street, Vancouver, B.C.

For purposes of this document, the parties are identified as follows:

Adjacent Landlords: Owners of Air Space Parcels or designated as the "Remainder" (other ASP)

Landlord: City of Vancouver (COV)

Tenant: Non Profit Operator (NPO)

Generally the Tenant will pay their portion of common costs which may be both development-wide and/or building-specific common costs, including contingency reserve funds. Further, where these categories of costs relate only to the portion of costs associated with the tenant's area - by ratio established in the Air Space Parcel Agreement (for 1847 Main Street only) - NPO (proportionate share) is outlined below; the proportion will be based on the respective floor space of the area within each parcel that is the subject of such agreement, or as the parties may mutually agree to be fair and reasonable and consistent with industry practice. For 95 East 1st Avenue, proportional shares for common facilities will be in accordance with "Proportional Share (General)" and "Proportional Share (Roadworks)" as defined by the Common Facilities Cost Sharing Agreement, and will include limitations to Owner responsibilities as set out by Proviso 4.4.

"Other ASP", identifies adjacent owners who are usually referred to as the Remainder (or Strata). Generally, the other ASP will be responsible for planning and implementing work on common systems or common areas, and the NPO will be responsible for paying a proportionate share of these costs.

The NPO is required to communicate and coordinate directly with the "other ASP" pertaining to repairs, maintenance, payments and invoicing as set out in the service level agreement and/or easement agreement. The City will advise the other ASP to communicate directly with the NPO and the City will only be involved in the event of dispute resolution.

The NPO shall have responsibility for the management, maintenance, repair and replacement of the Building and the Lands as detailed and described in this Agreement. Subject to this Agreement, including the Capital Asset Plan, the following work in respect of the Lands and the Building is required to be conducted and funded as outlined below.

The work described as "Capital" is to be funded from the Replacement Reserve and the work described as "Non-Capital" is to be funded from the Operating Income, the Operating Reserve and the Operating Surplus. The cost of the management, maintenance, repair and replacement of the Building and the Lands will be paid from the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as stated elsewhere in this Agreement.

This agreement describes categories of work that are eligible for the Operator to access Facility Reserve Fund for the capital repair and renewal costs of the Cultural Amenity Space located at 1847 Main Street. Where proportional share of cost is indicated for shared capital costs for 1847 Main Street serving more than the Cultural Amenity Space, that proportion is to be based on the area of the Cultural Amenity Space only.

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
1.1	Heating, Ventilation and Air Conditioning exclusive to or within the Tenant's Space (excluding common equipment/systems)				
a	- annual inspection	NPO	NPO	Non-Capital	No
b	- routine maintenance and repair	NPO	NPO	Non-Capital	No
c	- provision & replacement of filter material	NPO	NPO	Non-Capital	No
d	- cleaning of ducts	NPO	NPO	Non-Capital	No
e	- life cycle replacement (Capital Maintenance)	NPO	NPO	Capital	Yes
1.2	Common Heating, Ventilation and Air Conditioning (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
2.1	Plumbing Systems exclusive to or within the Tenant's Space (excluding common systems/equipment)				
a	-preventive maintenance and repairs to hot water heating systems	NPO	NPO	Non-Capital	No
b	- major repairs and replacement of hot water heating systems	NPO	NPO	Capital	Yes
c	- repairs to all fixtures including faucets, unplugging toilets and all other routine repairs	NPO	NPO	Non-Capital	No
d	- life cycle replacement of hot water systems, fixtures and piping	NPO	NPO	Capital	Yes
2.2	Common Plumbing Systems (systems serving more than the Tenant's Space -1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
3.1	Mechanical Systems exclusive to or within the Tenant's space (excluding common systems/equipment)				

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
a	- preventive maintenance and repairs	NPO	NPO	Non-Capital	No
b	- life cycle replacement	NPO	NPO	Capital	Yes
c	- installation, maintenance and replacement of additional equipment provided and installed by the occupant	NPO	NPO	Non-Capital	No
3.2	Common Mechanical Systems (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
4.1	Fire Protection & Suppression exclusive to the Tenant's Space				
a	- monthly inspection of fire extinguishers and smoke detectors within the premises	NPO	NPO	Non-Capital	No
b	- annual inspection of fire extinguishers within premises	NPO	NPO	Non-Capital	No
c	- repairs/recharging of fire extinguishers within premises	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
4.2	Common Fire Protection & Suppression (systems serving more than the Tenant's Space - 1847 Main Street only)				
a	- annual inspection, maintenance and repairs of the fire alarm system	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement of fire alarm system	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
c	- annual inspection, maintenance and repair of fire sprinkler system	Other ASP	NPO (proportionate share)	Non-Capital	No
d	- life cycle replacement of fire sprinkler system	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
5.1	Security Systems dedicated to or within the Tenant's Space				
a	- system monitoring, inspection, maintenance and repair	NPO	NPO	Non-Capital	No
b	- life cycle replacement	NPO	NPO	Capital	Yes
c	- repair, replacement, re-keying of all locks	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
5.2	Common Security Systems (systems serving more than the Tenant's space -1847 Main Street only)				
a	- system monitoring, inspection, maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
6.1	Electrical Distribution Systems exclusive to or within the Tenant's Space (excluding common systems/equipment)				
a	- repairs and upgrades required by Code	NPO	NPO	Capital	Yes
b	- inspection, maintenance and repair of wiring, breakers and electrical panels	NPO	NPO	Non-Capital	No
c	- life cycle replacement of wiring, breakers and panels	NPO	NPO	Capital	Yes
d	- repair or replacement of switches, receptacles, cover plates	NPO	NPO	Non-Capital	No
6.2	Common Electrical Distribution Systems (systems serving more than the Tenant's Space - 1847 Main Street only)				

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
a	- inspection, maintenance and repair of electrical distribution systems to the leased premises	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement of electrical distribution systems to the leased premises	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
6.3	Lighting Systems within the Tenant's Space				
a	- bulb/tube replacement for interior lighting	NPO	NPO	Non-Capital	No
b	- annual inspection and maintenance of interior emergency/exit lighting	NPO	NPO	Non-Capital	No
c	- interior lighting ballast replacement	NPO	NPO	Non-Capital	No
d	- life cycle replacement of fixtures - except specialty fixtures such as theatrical lighting.	NPO	NPO	Capital	Yes
e	- life cycle replacement of specialty fixtures	NPO	NPO	Capital	Yes
f	- cleaning of interior light fixtures	NPO	NPO	Non-Capital	No
g	- provision, maintenance, repair and replacement of portable lighting fixtures	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
6.4	Common Lighting Systems (systems serving more than the Tenant's Space -1847 Main Street only)				
a	- inspection, maintenance, repair, and cleaning	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
7.1	Interior and Exterior Windows within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1 st Avenue)				
a	- breakage, routine repair and replacement of interior windows	NPO	NPO	Non-Capital	No
b	- breakage, routine repairs and replacement of exterior windows, not caused by occupant or operations	Other ASP**	NPO (proportionate share**)	Non-Capital	No
c	- cleaning of interior windows and interior surfaces of exterior windows	NPO	NPO	Non-Capital	No
d	-cleaning of exterior surfaces of exterior windows	Other ASP**	NPO (proportionate share**)	Non-Capital	No
e	-breakage and routine repairs of exterior windows caused by occupant or operations	Other ASP**	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
7.2	Common Area Windows - 1847 Main Street only				
a	- breakage and routine repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- cleaning (of exterior surfaces)	Other ASP	NPO (proportionate share)	Non-Capital	No
c	- cleaning (of interior surfaces)	Other ASP	NPO (proportionate share)	Non-Capital	No
d	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes
7.3	Interior and Exterior Doors within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1st Avenue)				
a	- maintenance and repair of interior doors	NPO	NPO	Non-Capital	No
b	- life cycle replacement of interior doors	NPO	NPO	Capital	Yes
c	- maintenance and repair of exterior doors	Other ASP**	NPO (proportionate share**)	Non-Capital	No
d	- life cycle replacement of exterior doors	Other ASP**	NPO (proportionate share**)	Capital	Yes (proportionate share)

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
7.4	Common Area Doors -1847 Main Street only				
a	- maintenance and repair	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- life cycle replacement	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
8.1	Interior Surfaces within the Tenant's Space (items marked ** fully NPO responsibility for 95 East 1 st Avenue)				
a	- interior life cycle repainting	NPO	NPO	Capital	Yes
b	- maintenance and cleaning of window applications including, but not limited to blinds and curtains	NPO	NPO	Non-Capital	No
c	- repairs to interior walls and ceilings, including minor painting	NPO	NPO	Non-Capital	No
d	- life cycle replacement of ceiling tiles	NPO	NPO	Capital	Yes
e	- interior repairs due to building system failures such as roof leaks, exterior walls and foundation leaks not caused by the occupant or operations	Other ASP**	NPO (proportionate share**)	Capital	Yes (proportionate share)
f	- maintenance and repairs of floor coverings, including carpet and tile	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
g	- life cycle replacement of flooring	NPO	NPO	Capital	Yes (proportionate share)
h	- maintenance and repair of millwork	NPO	NPO	Non-Capital	No
i	- replacement of millwork	NPO	NPO	Capital	Yes
8.2	Common Area Interior Surfaces - 1847 Main Street only				
a	- all maintenance and repairs	Other ASP	NPO (proportionate share)	Non-Capital	No
b	- all capital maintenance or replacements	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
9.1	Major Structural Systems included within the Tenant's Space -1847 Main Street only				
a	- repairs or replacements of foundations, flooring sub-structure, building envelope including bearing walls and roofing	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
b	- repairs and painting of exterior surfaces including windows, trim, fascia and soffits	Other ASP	NPO (proportionate share)	Non-Capital	No
c	- cleaning of exterior surfaces	Other ASP	NPO (proportionate share)	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
9.2	Major Structural Systems external to the Tenant's Space - 1847 Main Street only				
a	- all repairs and replacements	Other ASP	NPO (proportionate share)	Capital	Yes (proportionate share)
10.1	Site Services within the Outdoor Amenity exclusive to the Tenant				
a	- landscaping repairs including hardscapes; maintenance	NPO	NPO	Non-Capital	N/A
b	- landscaping repairs including hardscapes; replacement	NPO	NPO	Capital	N/A
c	- general cleaning of grounds, litter disposal	NPO	NPO	Non-Capital	N/A
d	-maintenance and repair of gates and fences	NPO	NPO	Non-Capital	N/A
e	- replacement of gates and fences	NPO	NPO	Capital	N/A
f	-Irrigation including DDC controls; repairs and maintenance	NPO	NPO	Non-Capital	N/A
g	-Irrigation including DDC controls; replacement	NPO	NPO	Capital	N/A

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
10.2	Common Site Services (including the Shared Outdoor Amenity Space) *Proportionate share of Common Site Services for 95 East 1 st Avenue are calculated according to the "Proportionate Share - General" as defined by the Common Facilities Cost Sharing Agreement				
a	- landscaping repairs including hardscapes, maintenance and replacement	Other ASP	NPO (proportionate share*)	Non-Capital	No
b	- grass cutting	Other ASP	NPO (proportionate share*)	Non-Capital	No
c	- general cleaning of grounds, litter disposal	Other ASP	NPO (proportionate share*)	Non-Capital	No
d	- snow and ice removal from steps, walkways, entrances including the provision of de-icing materials	Other ASP	NPO (proportionate share*)	Non-Capital	No
e	- removal of snow from entrance to parking areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
f	- snow and ice removal from roof areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
g	- repairs of water and sewage systems (beyond the building perimeter)	Other ASP	NPO (proportionate share*)	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
h	- maintenance, repair and replacement of gates and fences (excluding tenant specific gates and fences)	Other ASP	NPO (proportionate share*)	Non-Capital	No
i	- maintenance and repair of parking areas	Other ASP	NPO (proportionate share*)	Non-Capital	No
j.	-Irrigation repairs, maintenance, including DDC controls and replacement	Other ASP	NPO (proportionate share*)	Non-Capital	No
k	- Road Works (95 East 1 st Avenue only, as defined by the Common Facilities Cost Sharing Agreement)	Other ASP	NPO (proportionate share - roadworks)	Non-Capital	N/A
11.1	Signage exterior to the Tenant Space -1847 Main Street only				
a	- maintenance, repair, and replacement (subject to prior approval of the CoV and Other ASP)	NPO	NPO	Non-Capital	No
11.2	Interior Signage within the Tenant Space				
a	- maintenance, repair and replacement of interior signage	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
12.1	Play Area and Equipment within the Shared Outdoor Amenity- 95 East 1st Avenue only *Proportionate share of Common Site Services for 95 East 1 st Avenue are calculated according to the "Proportionate Share - General" as defined by the Common Facilities Cost Sharing Agreement				
a	-maintenance, repair and replacement of play equipment within the shared outdoor amenity	NPO/Ot her ASP	NPO (proportionate share*)	Non-Capital	N/A
13.1	Janitorial Services within the Tenant's Space				
a	- routine janitorial/custodial services	NPO	NPO	Non-Capital	No
b	- pest control services (interior)	NPO	NPO	Non-Capital	No
c	- provision of all washroom supplies	NPO	NPO	Non-Capital	No
14.1	Appliances, Program and Other Non-Installed Equipment within the Tenant's Space				
a	- inspection, maintenance and repair of all non-building equipment including stoves, refrigerators, microwaves, coolers, free standing cabinets, track lighting	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
b	- replacement of all appliances, program and non-installed equipment	NPO	NPO	Capital	Yes
c	- maintenance, repair and replacement of furniture	NPO	NPO	Non-Capital	No
15.1	Renovations and Upgrades within the Tenant's Space				
a	- any upgrades, additions, enhancements or improvements beyond what was originally provided during construction (subject to prior approval by CoV and if required, other ASP owners)	NPO	NPO	Capital	Yes
16.1	Utilities				
a	- electricity	NPO	NPO	Non-Capital	No
b	- gas	NPO	NPO	Non-Capital	No
c	- water and sewer	NPO	NPO	Non-Capital	No
d	Neighbourhood Energy Utility	NPO	NPO	Non-Capital	No
17.1	Business Operations				
a	- staff costs	NPO	NPO	Non-Capital	No

Item	Description	Party to Perform the Work	Party Responsible To Pay for Work	Capital or Non-Capital	Facility Reserve Fund Eligible (Cultural Amenity Space Only)
b	- telephone, internet & cable services	NPO	NPO	Non-Capital	No
c	- insurance (CGL, business interruption, contents, etc.)	NPO	NPO	Non-Capital	No
d	- supplies and equipment, including for bathroom and kitchen	NPO	NPO	Non-Capital	No
e	- security services related directly to tenant's space	NPO	NPO	Non-Capital	No
f	-Building Shell Insurance	NPO	NPO (proportionate share, or all for 95 East 1 st Avenue)	Non-Capital	No

**SCHEDULE D
OPERATING AGREEMENT**

See attached.

OPERATING AGREEMENT

Among

CLT EAST 1ST COMMUNITY SOCIETY
(the "Operator")

and

CITY OF VANCOUVER
(the "City")

Regarding:

NON-MARKET HOUSING

located at 95 East 1st Avenue, Vancouver, B.C. and 1847 Main Street, Vancouver, B.C.

Effective as of the First Lease Commencement Date (as defined herein).

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AGREEMENT

PART 1 - SUMMARY

WHEREAS:

- A. The City is the owner of the Lands;
- B. The City sought proposals to operate the Buildings pursuant to RFP20171205 issued on August 2, 2017 (the "RFP"); and
- C. The Operator submitted a proposal in response to the RFP and was duly selected by the City to operate the Buildings on the terms and conditions set out herein.

THE PARTIES AGREE AS FOLLOWS FOR THE TERM OF THIS AGREEMENT.

PART 2- SERVICE DESCRIPTION

- 1. The City and the Operator agree that the Operator will manage the day-to-day and long-term operations of the Lands and the Buildings, will preserve and protect the Lands and the Buildings, and will collect Operating Income and will pay Operating Expenses, all on the terms and conditions of this Agreement.
- 2. The City and the Operator agree that they will abide by the terms and conditions of the Leases.
- 3. The City and the Operator acknowledge and agree that the common goal of the parties is to provide safe, secure, well managed, financially feasible and fairly priced accommodation for qualified Occupants as set out in this Agreement.

PART 3- AGREEMENT

- 4. **Term.** The obligations of the Operator under this Agreement will commence on the First Lease Commencement Date and expire on the 60th anniversary of the Second Lease Commencement Date, unless the parties otherwise first agree in writing.
- 5. **Performance Standards.** The Operator will meet the Performance Standards in all material respects and will provide written reports on its achievement of the Performance Standards as required by this Agreement.
- 6. **Entire Agreement.** All of the Schedules described in the Table of Contents and attached to this Agreement are an integral part of this Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement. No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.

IN WITNESS of which the duly authorized signatories of each of the Operator and the City have executed this Agreement effective as of the First Lease Commencement Date:


CLT EAST 1ST COMMUNITY SOCIETY

Per its authorized signatory

Signature

Date Signed

Print Name and Title


Signature

Date Signed

TIFFANY DIZITA, DIRECTOR
Print Name and Title

CITY OF VANCOUVER

Per its authorized signatory


Signature

Feb. 16 / 16
Date Signed

FRANCES J. CONNELL
Director of Legal Services

Print Name and Title

CLT EAST 1ST COMMUNITY SOCIETY

Per its authorized signatory

Signature

Date Signed

Print Name and Title

Signature

Date Signed

Print Name and Title

CITY OF VANCOUVER

Per its authorized signatory

Signature

Date Signed

Print Name and Title

SCHEDULE A - GENERAL PROVISIONS AND SCHEDULES

A. DEFINITIONS

Capitalized terms used in this Agreement have the meanings specified in this Clause A, unless otherwise provided in this Agreement:

1. **"1st Avenue Lands"** means the lands with a CIVIC address, as of the date of this Agreement, of 95 East 1st Avenue, Vancouver, B.C., legally known and described as:

Parcel Identifier Number: 029-631-785
LOT 355 FALSE CREEK GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP46205;
2. **"1st Avenue Lease"** means the lease agreement made between the Operator as lessee, and the City as lessor, of even date herewith, in respect of the 1st Avenue Lands;
3. **"1st Avenue Non-Profit"** means a non-profit organization (incorporated as a society, co-operative, federal non-share capital corporation, charitable organization, or First Nations Band Council) in good standing, with a history of or access to property management expertise in the social housing sector;
4. **"1st Avenue Non-Profit Agreement"** has the meaning set out in Schedule A, Section B.21;
5. **"1st Avenue SLA"** means the Service Level Agreement attached as Schedule C to the 1st Avenue Lease;
6. **"Arts and Culture Non-Profit"** means a non-profit organization (incorporated as a society, co-operative, federal non-share capital corporation, charitable organization, or First Nations Band Council) in good standing, with a history of ongoing quality arts and cultural programming and space operation in Vancouver, approved by the Managing Director of Cultural Services;
7. **"Arts and Culture Non-Profit Agreement"** has the meaning set out in Schedule A, Section B.19;
8. **"Assets"** of an Occupant (where **"Occupant"** includes all persons for whom the Residential Unit serves as the principal residence) means all tangible personal and real property of a potential income earning nature, wherever located, and includes without limitation, accounts in banks, credit unions, trust companies, etc., stocks and bonds, real estate, equity in a business, registered retirement savings plans, and cash;
9. **"Basic Rent"** has the meaning ascribed to that term in a Lease;
10. **"BC Artscape"** means B.C. Artscape Society, a society incorporated under the *Societies Act* (BC) under incorporation number S0064378;
11. **"Buildings"** means the multiple unit residential buildings and all other structures constructed on, and forming part of, the Lands during the Term, together with all alterations or repairs thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands;
12. **"Capital Asset Plan"** means a plan, to be prepared by the Operator (the cost of which shall be included in Operating Expenses), in form and contents to be preapproved by the City, that sets out the maintenance, repair and replacement standards and practices required to preserve the capital components of the Lands and the Building over a sixty (60) year period, including,

without limitation, in respect of the following:

- a. major maintenance or replacement of the structure, including the roof, roof membrane, bearing walls, foundations and floors of the Building, and seismic upgrades;
 - b. major repair or replacement of the exterior of the Building;
 - c. life cycle replacement of the fire alarm and safety systems;
 - d. life cycle replacement of the heating, hot water, plumbing, mechanical, electrical, sanitary and storm drainage systems (building systems);
 - e. life cycle replacement of elevators; and
 - f. all equipment, materials and supplies required to perform any of the foregoing;
13. **"Consumer Price Index"** means the consumer price index published by Statistics Canada (or by a successor or other governmental agency, including a provincial agency, if Statistics Canada stops to publish such data), in respect of the historical cost of the construction of apartment buildings in the Vancouver metropolitan area, or if such consumer price index is no longer published, an index published in substitution for the consumer price index or a replacement index designated by the City, or if no comparative calculation can reasonably be made by reference to any such consumer price index, then by reference to such other analysis which, in the City's opinion, most accurately indicates the changes in the cost of the construction of apartment buildings in the Vancouver metropolitan area during the period in question;
14. **"Cultural Amenity Space"** means the indoor shared artist production space in the Building located on the Main Street Lands designed for Artist Studio-Class B purposes, inclusive of Artist Studio - Class A and Artist Studio - Class B use (as such terms are defined in the City of Vancouver's Zoning and Development By-law), including an artist production space, storage areas, kitchenette, janitor room, two washrooms, and an office, and a multi-purpose room with kitchenette to be located on the first and second floors of the Building;
15. **"Declaration of Income and Assets"** means the declaration to be completed by an Occupant as evidence of the Income and Assets of that Occupant as required for the Housing Charge assessment (see also Schedule F);
16. **"Event of Default"** has the meaning set out in this Schedule A, Clause I;
17. **"Extraordinary Expense"** means a significant, unexpected, unforeseeable and unbudgeted capital replacement or maintenance expense, as determined by the parties, each acting reasonably, which occurs prior to:
- a. in respect of the Building situated on the 1st Avenue Lands, the 10th anniversary of the First Lease Commencement Date; and
 - b. in respect of the Building situated on the Main Street Lands, the 10th anniversary of the Second Lease Commencement Date;
18. **"Facility Reserve Fund"** means a \$750,000 fund to be used to support facility-related costs associated with the Cultural Amenity Space estimated at \$35,000 per year for 20 years, assuming 2% inflation and 2% interest per annum;
19. **"First Lease Commencement Date"** means the date as of which this Agreement and the 1st Avenue Lease have both been executed by all parties to each thereof. Upon request of any party hereto, after the First Lease Commencement Date has been established, the parties hereto shall execute and deliver a memorandum confirming the actual calendar date of the First Lease Commencement Date;
20. **"Fiscal Year"** means the fiscal year of the Operator;

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21. "HILs Unit" means a Residential Unit in respect of which a HILs Unit Housing Charge is payable;
22. "HILs Unit Housing Charge" means the Housing Charge to be charged by the Operator to a HILs Unit Occupant from time to time during the Term, which shall be no more per month than 1/40 HIL's Unit Occupant's Income;
23. "HILs Unit Occupant" means one or more cohabiting adults, with or without cohabiting children, whose collective Income does not exceed the housing income limits as set out in the then-current "Housing Income Limits" table published by the British Columbia Housing Management Commission, or a successor or equivalent publication approved by the City;
24. "Housing Charge" means the charge, determined and assessed by the Operator from time to time, payable monthly by an Occupant pursuant to an Occupancy Agreement for the right to occupy a Residential Unit;
25. "Housing Registry" means the database with current application information as maintained by the Operator;
26. "Income" of an Occupant (where "Occupant" includes all persons for whom the Residential Unit serves as the principal residence) means the total annual worldwide income before income tax from all sources of the Occupant, calculated as of the date when the Occupant becomes a resident of the Building, and includes without limitation, the following income sources:
- a. income assistance;
 - b. employment, including regular overtime, vacation pay and gratuities;
 - c. self-employment, including commission sales;
 - d. seasonal employment;
 - e. Employment Insurance and WorkSafe BC insurance;
 - f. training allowances;
 - g. income from the Resettlement Assistance Program;
 - h. child support, maintenance payments or support from family/ friends/community;
 - i. rental income from real estate or dividends from stocks or bonds, if the real monthly Income is greater than the imputed Income from the Asset; and
 - j. pension incomes including:
 - i. old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - ii. senior's supplement;
 - iii. private pension plans including Registered Retirement Income Funds;
 - iv. Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - vi. foreign pensions,
- but does not include:
- k. earnings of dependent children aged 18 and under (regardless of student status);
 - l. student loans, equalization payments, student grants and scholarships;
 - m. taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
 - n. Shelter Aid for Elderly Renters ("SAFER") and Rental Assistance Program ("RAP") payments;
 - o. Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
 - p. Universal Child Care Benefits;

- q. BC Childcare Subsidy;
- r. income from foster parenting;
- s. Child in Home of Relative and Extended Family Program;
- t. income from approved live-in care givers;
- u. GST and Income Tax rebates; and
- v. War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada.

27. **"Income Assistance"** means income received under the *Employment and Assistance Act* (British Columbia), the *Employment and Assistance for Persons with Disabilities Act* (British Columbia), or successor legislation;
28. **"Lands"** means the 1st Avenue Lands and the Main Street Lands;
29. **"Leases"** means the 1st Avenue Lease and the Main Street Lease, and **"Lease"** means either of them;
30. **"Leasehold Mortgage"** means a mortgage of the Operator's interest (as lessee) in any Lands or Buildings pursuant to the Leases, and includes all financing agreements entered into by the Operator with the mortgagee(s) related thereto;
31. **"Loan"** means the loan(s) to be obtained by the Operator to finance the Basic Rent, which will be secured by one or more Leasehold Mortgages;
32. **"Low-End of Market Unit Occupant"** means one or more cohabiting adults (18 years of age or older) with or without cohabiting children, whose collective income does not exceed the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada. For 2017, this figure is \$69,360 for a residential unit with less and two bedrooms and \$99,910 for a residential unit with two or more bedrooms;
33. **"Low-End of Market Unit"** means a Residential Unit in respect of which a Low-End of Market Unit Housing Charge is payable;
34. **"Low-End of Market Unit Housing Charge"** means the Housing Charge to be charged by the Operator to a Low-End of Market Unit Occupant which shall not exceed 90% of the appraised market rent for a comparable unit in the local area and shall be no more than 30% of the low and moderate income limit as determined by BC Housing from time to time based on data provided by Statistics Canada;
35. **"Main Street Lands"** means the lands with a CIVIC address, as of the date of this Agreement, of 1847 Main Street, Vancouver, B.C., legally known and described as:

Parcel Identifier Number: 030-275-768
LOT 1 BLOCK 14 DISTRICT LOT 200A GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP53535;
36. **"Main Street Lease"** means the lease agreement made between the Operator as lessee, and the City as lessor, of even date herewith, in respect of the Main Street Lands;
37. **"Maintenance Plan"** means a plan, to be prepared by the Operator (the cost of which shall be included in Operating Expenses), in form and contents to be pre approved by the City, that sets out the maintenance, repair and replacement standards and practices and the estimated costs required to preserve the noncapital components of the Lands and the Buildings in the upcoming 36 month period;
38. **"Managing Director of Cultural Services"** means the City's Managing Director of Cultural Services or his/her successors in function and their respective nominees;

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39. "Occasional Use Plaza" means the approximately 392.5 m² (4,225 sq. ft) plaza that is a publicly accessible space and secured by a statutory right-of-way for use by the general public and by the artist residents. It is a large, level, hard space plaza area immediately outside of the Cultural Amenity Space that also provides access for loading to and from the studios as well as for occasional event use.;
40. "Occupancy Agreement" means an agreement, lease, license or other right of an Occupant to occupy a Residential Unit;
41. "Occupancy Guidelines" means the guidelines for household sizes of an Occupant relative to the number of bedrooms in a Residential Unit. Unless otherwise agreed in writing by the City in respect of an Occupant, the following guidelines apply:
- a. no more than two and no less than one person per bedroom;
 - b. spouses and couples may share a bedroom;
 - c. parents do not share a bedroom with their children;
 - d. dependents aged 18 or over do not share a bedroom;
42. "Occupant" means one or more cohabiting adults who are party to an Occupancy Agreement in respect of a Residential Unit, together with any dependent children and all other persons for whom the Residential Unit serves as the principal residence;
43. "Operating Budget" means the annual budget for the Lands and the Building prepared by the Operator in accordance with Schedule B, Clause A;
44. "Operating Expenses" means all sums, costs, expenses, outgoings and other amounts incurred by the Operator, other than Basic Rent (as defined in the Lease), payable in respect of the occupancy and management of the Lands and the Building and in discharging its duties under the Lease and this Agreement, including, without limitation:
- a. the insurance required by the Lease;
 - b. sewer, water and garbage and recycling pickup
 - c. Utilities;
 - d. salaries and benefits paid to staff engaged in providing services to the Lands and the Building or an Occupant pursuant to this Agreement or the Lease;
 - e. contributions to the Operating Reserve and Replacement Reserve;
 - f. maintenance and repair of all non-capital items described in the Service Level Agreements;
 - g. Realty Taxes and amounts payable in lieu of Realty Taxes pursuant to the Lease;
 - h. principal, interest and fees payable pursuant to the Mortgage;
 - i. amounts payable by the Lessee under Permitted Encumbrances (each as defined in the Lease);
 - j. administration costs, excluding Operator management fees, but including accounting and legal fees;
 - k. all equipment, materials and supplies required to perform any of the foregoing;
 - l. rent-up costs;
 - m. the cost of fulfilling the City's requirements for budgets, reports, audits, and plan preparation (including without limitation the cost incurred by the Operator to prepare the Operating Budget, the Maintenance Plan, the Capital Asset Plan and the Replacement Reserve Study), for data and research, and other special requests made by the City; and
 - n. management fees of or paid by the Operator no greater than 10% per Fiscal Year of the foregoing Operating Expenses (excluding items e, g and h) for the Main Street Lands and 10% for the 1st Avenue Lands.
45. "Operating Income" means all gross income, revenue, sums and other amounts, directly or

indirectly, collected by or credited to the Operator pursuant to this Agreement or the Lease (other than pursuant to the Mortgage), including, without limitation, Housing Charges, Utilities, parking fees, vending machine revenue, laundry machine revenue and other fees and charges payable by Occupants or others for use of the Lands and the Building;

46. **"Operating Reserve"** means a reserve to be established, funded from the Operating Surplus and managed by the Operator, in an amount equivalent to:
- in the first year of the Term, the annual Operating Budget for that year (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions); and
 - thereafter, the total Operating Expenses for the Fiscal Year most recently completed based on the Operator's audited financial statements (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions), as more particularly described in Schedule B, Clause B.2;
47. **"Operating Surplus"** means any surplus Operating Income remaining after payment of all Operating Expenses as more particularly described in Schedule B, Clause C;
48. **"Performance Standards"** means those required practices and standards of performance that the Operator must meet in all material respects in accordance with this Agreement (see also Schedule G);
49. **"Personnel"** of a party means the elected officials and directors, as applicable, officers, employees, servants and agents of that party;
50. **"Prime Rate"** means at any time, the per annum rate of interest published by the main branch in Vancouver, British Columbia of the Bank of Montreal, or its successor at such time, as its reference rate for setting rates of interest on loans of Canadian dollars to customers in Canada and referred to by such bank as its "prime rate", provided however that if such bank publishes more than one such reference rate at any time, the Prime Rate will be the highest thereof, and provided further that, if a court holds that this definition of Prime Rate is vague, uncertain or otherwise defective, then the Prime Rate will be three percent (3%) greater than the per annum rate of interest established by the Bank of Canada as the rate payable on overnight loans by Schedule I Canadian Chartered Banks;
51. **"Professional Artist"** means individuals involved in the production of art, including but not limited to visual, performing, media, literary, culturally-specific, interdisciplinary and cross-disciplinary arts. Professional Artists are considered to be those having specialized training or records of accomplishment in their field(s) or who are recognized as artists by artistic peers and other arts professionals;
52. **"Realty Taxes"** means all assessments for taxes, rates, duties (including school taxes, local improvement rates and other charges levied pursuant to the *Hospital District Finance Act* (British Columbia), the *Municipal Finance Authority Act* (British Columbia) or otherwise, including by or for Translink, BC Assessment and Metro Vancouver) and all other charges for services used in or supplied to the Lands and the Building (including penalties and interest) that now are or will or may be levied, rated, charged or assessed against the Lands and the Buildings, and all other structures, machinery, equipment, facilities and other property of any nature whatsoever located thereon or therein, charged by any municipal, parliamentary, legislative, regional, school or other authority during the Term;
53. **"Replacement Reserve"** has the meaning ascribed to that term in Schedule B, Clause B.1;
54. **"Replacement Reserve Study"** means a study and analysis of the estimated costs needed to perform the repair or replacement of capital components of the Lands and the Buildings as and when needed, and the anticipated availability or shortfall of funding in the Replacement

Reserve to cover such costs as and when anticipated to be incurred;

- 55. **"Residential Unit"** means a self-contained dwelling unit in a Building with its own kitchen, bathroom, and sleeping and living spaces;
- 56. **"Second Lease Commencement Date"** means the date as of which this Agreement and the Main Street Lease have both been executed by all parties to each thereof. Upon request of any party hereto, after the Second Lease Commencement Date has been established, the parties hereto shall execute and deliver a memorandum confirming the actual calendar date of the Second Lease Commencement Date;
- 57. **"Shelter Rate Unit Occupant"** means one or more cohabiting adults who is/are in receipt of Income Assistance;
- 58. **"Shelter Rate Unit"** means a Residential Unit in respect of which a Shelter Rate Unit Housing Charge is payable;
- 59. **"Shelter Rate Unit Housing Charge"** means the Housing Charge to be charged by the Operator to a Shelter Rate Unit Occupant from time to time during the Term, based on the Unit size and type, which as of the Lease Commencement Date are as set out in Schedule F, Clause 2, and which may be adjusted as contemplated by Schedule F, or otherwise by agreement of the parties hereto;
- 60. **"Term"** means the term of this Agreement, which commences on the Lease Commencement Date and ends on the 60 year anniversary of the Lease Commencement Date, or if this Agreement or the Lease terminates earlier, ends on such earlier date;
- 61. **"Utilities"** means all charges, rates and levies on account of utilities, including for heat, electricity, gas, telephone, television, internet and other costs and expenses of a similar nature, and, if not included in Realty Taxes, for water and garbage collection; and
- 62. **"WorkSafeBC"** means the Workers' Compensation Board of British Columbia, an agency created in 1917 to promote workplace safety, and is that agency's familiar name.

B. RESPONSIBILITIES OF THE OPERATOR

- 1. **Operator's Acknowledgements.** The Operator acknowledges that it is entering into this Agreement to manage and operate the Lands and the Buildings, that it will do so in a proper, efficient and timely manner as would a prudent owner/operator of similar property and that its purpose in managing and operating the Lands and the Building is to benefit the public interest.
- 2. **Corporate Organization.** The Operator will remain in good standing as a registered non-profit society under all applicable provincial and federal legislation, and, in particular, will:
 - a. conduct business in accordance with its constituting documents and in a manner that does not permit personal gain, directly or indirectly, by any director, officer, member or employee of the Operator or any of their associates or family members; and
 - b. maintain accurate and complete records of all aspects of its operations under this Agreement.
- 3. **Leases.** The Operator acknowledges that its rights and obligations hereunder are subject to the Leases.
- 4. **Leasehold Mortgage.** The Operator will strictly comply with its obligations in any Leasehold Mortgage and not effect or agree to any amendment of a Leasehold Mortgage without the prior written consent of the City.

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5. **Operator Restrictions.** During the Term, the Operator will remain in good standing under all applicable legislation in British Columbia and Canada and will use substantially all its income, gains and accretions to promote its main purposes and activities.
6. **Restrictions on Authority.** The Operator must not commit or otherwise obligate the City in any manner whatsoever, except to the extent specifically provided in this Agreement or the Leases, or as specifically authorized in writing by the City and in particular, without limiting the generality of the foregoing, the Operator must not take any action, expend any sum, make any decision, give any consent, approval or authorization or incur any obligation which would commit or otherwise obligate the City with respect to any of the following matters except with the prior written approval of the City:
- charging or allowing any encumbrance to charge title to all or any part of the Lands and the Buildings; and
 - executing any lease or any other arrangement involving the rental, use or occupancy of all or part of the Lands and the Buildings other than an Occupancy Agreement in accordance with this Agreement or as permitted in this Agreement or in the applicable Lease.

For greater certainty, the foregoing restriction does not prohibit the Operator from entering into any contracts or arrangements that do not commit or otherwise obligate the City.

7. **Agency.** This Agreement shall not be construed as creating any partnership or agency between the City and the Operator, and no party shall be deemed to be the legal representative of any other party for the purposes of this Agreement. Neither the City nor the Operator shall have, and shall not represent itself as having, any authority to act for or to undertake any obligation on behalf of any other party, except as expressly provided in this Agreement or the Leases.
8. **Use of Lands and the Buildings.** The Operator will not use the Lands and the Buildings for any purpose that is not authorized by this Agreement.
9. **Occasional Third Party Use.** The Operator may license, or may permit the Arts and Culture Non-Profit to license the Occasional Use Plaza to third parties in accordance with the Occasional Third Party Use Policy attached hereto as Schedule H.
10. **Conflict of Interest.** The Operator will not perform a service for or provide advice to any person or entity where the performance of such service or the provisions of the advice may, in the reasonable opinion of the City, give rise to a conflict of interest between the obligations of the Operator to the City under this Agreement or the Leases, as applicable, and the obligations of the Operator to such other person or entity. In addition, the Operator covenants with the City that:
- it will not pay directly or indirectly to any of its directors or their relatives by blood or marriage (including common-law marriage) any money obtained from the operation of the Lands and the Buildings, or from the operation of other premises leased from the City, or otherwise received from the City, without the express written consent of the City;
 - it will not, by contract or otherwise, pay to any of its former directors or their relatives by blood or marriage (including common-law marriage), pursuant to any contract or arrangement made when the former director was a director of the Operator, money obtained from the operation of the Lands and the Buildings, or from the operation of other premises leased from the City, or otherwise received from the City, without the express written consent of the City;
 - subject to sub-paragraphs (a) and (b) immediately above, the Operator may enter into bona fide arm's length contracts with occupants of the Lands and the Buildings for the provision of services in furtherance of the good management of the Lands and the Buildings; and

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- d. notwithstanding the foregoing, the Operator may reimburse its directors or occupants of the Lands and the Buildings for out-of-pocket expenses incurred for the proper management of the Lands and the Buildings but only upon the proof of such expenditure by the production of bona fide receipts.
11. **Constating Documents.** The Operator will not alter its constating documents in any way that would render the Operator unable to fulfill its obligations under this Agreement or the Leases, as applicable.
12. **Management of the Lands and the Buildings.** The Operator will manage and operate the Lands and the Buildings in accordance with this Agreement and in a proper, efficient and timely manner as would a prudent owner/operator of similar property and will:
- a. meet all statutory and corporate obligations applicable to the Operator in performing its obligations under this Agreement, including but not limited to, the requirements of the *Personal Information Protection Act*, *Freedom of Information and Protection of Privacy Act* (Canada), *Workers Compensation Act* (British Columbia), *Tobacco Control Act* (British Columbia), *Human Rights Code* (British Columbia), and associated regulations, and obligations under all contracts the Operator enters into in connection with the Lands and the Building and the requirements of any insurer of the Lands and the Buildings;
 - b. ensure that the Lands and the Buildings and the systems and equipment therein are managed and maintained in all material respects in accordance with all applicable statutory health and safety standards;
 - c. abide by the terms and conditions of all Schedules hereto;
 - d. require that employees and contractors who carry out repairs and maintenance on behalf of the Operator do so in compliance with all WorkSafeBC and other statutory requirements, acquiring environmental or other building assessments by accessing known inventories or through hazmat surveys prior to renovation/repair work;
 - e. conduct risk assessments prior to commencing work and make reasonable efforts to ensure that employees and/ or contractors follow safe work procedures which control any hazards to the health and safety of persons at the Lands and the Buildings;
 - f. use its reasonable efforts to maintain full occupancy of the Buildings and to select Occupants as set out in Schedule D;
 - g. subject to Section B.19 and Section B.21 of Schedule A, not enter into a contract with a value of greater than \$10,000 for the management of all or part of the Lands and the Buildings by any person or organization, unless the contractor is an affiliate of the Operator, or the contract is approved by the City acting reasonably.
13. **Communication with the City.** The Operator as soon as reasonably possible will:
- a. provide the City with details on all incidents that are significant enough to threaten the continuous operation of the Lands and the Buildings as contemplated by this Agreement and the Leases, including but not limited to, fire, flood, outbreaks of infectious diseases and/ or the death of Occupants and staff on site (but only if such deaths are directly related to the operation of the Buildings);
 - b. notify the City before making any changes that could diminish the Operator's ability to fulfill its obligations under this Agreement, the Leases or the Leasehold Mortgages;
 - c. submit for review by the City all material policy changes related to the Lands and the Buildings; and
 - d. submit the reports called for by Schedule C.
14. **Maintenance and Capital Repair and Replacement.** The Operator, utilizing qualified professionals, will meet the Performance Standards, and will:
- a. implement a program of regular inspections, repair and maintenance to the

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- Lands and the Buildings and the systems and equipment therein in accordance with the Maintenance Plan and the Operating Budget;
- b. implement the recapitalization/life cycle replacement of building systems, including equipment, structures, surfaces or fixtures installed in the Lands and the Buildings, in accordance with the Capital Asset Plan, the Operating Budget and the Replacement Reserve pre-approved by the City;
 - c. prepare and deliver to the City the first Maintenance Plan by not later than one year after the First Lease Commencement Date and the second Maintenance Plan by not later than the third anniversary of the First Lease Commencement Date, and thereafter prepare and deliver to the City a Maintenance Plan by not later than the first day of every third Fiscal Year of the Operator during the Term, unless the City and the Operator otherwise agree;
 - d. prepare and deliver to the City the first Capital Asset Plan by not later than one year after the First Lease Commencement Date and the second Capital Asset Plan by not later than the first anniversary of the First Lease Commencement Date, and thereafter prepare and deliver to the City a revised and updated Capital Asset Plan by not later than the first day of every sixth Fiscal Year of the Operator during the Term, unless the City and the Operator otherwise agree;
 - e. establish a Replacement Reserve that must be maintained and used only for the purposes identified in the Capital Asset Plan and Replacement Reserve Study or otherwise approved in writing by the City;
 - f. advise the City immediately if it becomes aware of any structural deficiency in the Lands and the Buildings, which requires the intervention of the City;
 - g. ensure that all work and services provided by third parties is competitively priced and represents best value for the Lands and the Buildings, and the City as the owner of the reversionary interest therein, including, where appropriate as determined by the Operator, acting reasonably, using requests for proposals or invitations to tender to obtain multiple competitive proposals or bids for comparison purposes where considered appropriate. Written records of proposals and bids so obtained must be retained for not less than seven years and made available to the City upon reasonable request;
 - h. provide the City with the reports contemplated by Schedule C; and
 - i. comply with the requirements of the Service Level Agreements.
15. **Preservation of Assets.** The Operator will ensure that all grounds, landscaping, buildings, Lands and Buildings related equipment and other Lands and Buildings related chattels belonging to the City, or acquired by the Operator on behalf of the City during the Term, are maintained in good repair throughout the Term in accordance with the Operating Budget. At the end of the Term, the Operator will return all Lands and Buildings related equipment and other Lands and Buildings related chattels to the City in the same condition as at the start of this Agreement, normal wear and tear excepted.
16. **Promotion of Smoke-Free Housing.** Noting the social, environmental and general health benefits of smoke-free housing, the Operator is encouraged to manage the Lands and the Buildings throughout the Term in a manner which includes "smoke-free and offensive odor-free housing" areas within the Lands and the Buildings, though eligible Occupants may, at the option of the Operator, include both smokers and non-smokers and the City acknowledges and agrees that some of the Occupants are likely to be smokers notwithstanding the Operator's encouragements.
17. **Pet-Friendly Buildings.** The Operator may permit Occupants to keep pets in Residential Units, within reasonable limits and provided the Operator ensures the applicable Occupant is liable for any and damage to the Residential Unit resulting from the pet.
18. **Replacement Reserve Study.** Concurrent with the preparation and delivery of each Capital Asset Plan the Operator will prepare and deliver to the City a

Replacement Reserve Study. The cost of preparing the Replacement Reserve Study will be included in the Operating Budget for the Fiscal Year in which it is prepared. If that Study indicates a likely shortfall in funding required to cover the costs for which the Replacement Reserve has been created, then the parties will promptly meet and work together in good faith and will discuss possible mutually satisfactory solutions and funding options, and will implement the same in a timely manner.

19. **Cultural Amenity Space.** The City acknowledges and agrees that the Operator will enter into an agreement (the “Arts and Culture Non-Profit Agreement”) developed in consultation with the Managing Director of Cultural Services with an Arts and Culture Non-Profit approved by the Managing Director of Cultural Services, for the operation and tenancing of the Cultural Amenity Space and the 30 Residential Units in the Building located on the Main Street Lands with Professional Artists. The City confirms that BC Artscape is acceptable to the Managing Director of Cultural Services. Regardless of any Arts and Culture Non-Profit Agreement in effect from time to time, the Operator will:
- a. prepare an operating plan (including budget and rental rates) and tenancing plan for the Cultural Amenity Space and tenancing plan for the Residential in consultation with the Managing Director of Cultural Services that, in addition to meeting the eligibility requirements for tenants set out in Schedule D, includes Professional Artist eligibility criteria and a process for selecting Professional Artists, including those from Indigenous communities and diverse or historically underrepresented communities;
 - b. submit an annual report to the Managing Director of Cultural Services including information reasonably required by Cultural Services, including in any event the following:
 - i. the name and contact information of the key persons of the Arts and Culture Non-Profit;
 - ii. a current list of Board of Directors of the Arts and Culture Non-Profit;
 - iii. independently prepared financial statements (review engagement or audit) of the Arts and Culture Non-Profit for the previous year;
 - iv. an annual budget for the Cultural Amenity Space including an estimate of all revenues and expenditures, including maintenance, sufficient to meet the obligations set out in the Arts and Culture Non-Profit Agreement, in a form acceptable to the City;
 - v. a summary of activities for the past fiscal year for the Cultural Amenity Space and Occasional Use Plaza in relation to its intended use and outlined public benefits;
 - vi. a summary of activities planned for the coming fiscal year in the Cultural Amenity Space and Occasional Use Plaza;
 - i. a summary (including users, dates, rental fees, and MOUs or other agreements if any) of third party and community uses and rental rates charged for the Cultural Amenity Space and Occasional Use Plaza; and
 - ii. a summary of stakeholder participation, if any, in the management of programs.

The Operator will ensure the Cultural Amenity Space will be used as shared artist production space for artists tenanted in the Building on the Main Street Lands as well as supporting shared artistic practice and production in Mount Pleasant and City-wide, for cultural uses in line with the applicable zoning district bylaws. Parts of the Cultural Amenity Space may occasionally be used for social uses by the building tenants. The Arts and Culture Non-Profit may occasionally organize, sponsor, programme, promote and/or attend public events in the Occasional Use Plaza for arts and culture uses, subject to notification to the Occasional Use Plaza owner.

Changes to the outlined Arts and Culture Agreement between the Arts and Culture Non-Profit and the Operator at any time during the Term for any reason, must be done in consultation with the Managing Director of Cultural Services. Should the Arts and Culture Non-Profit cease to manage the Cultural Amenity Space, the Operator shall ensure that an alternative Arts and Culture Non-Profit is secured within a 6 month period, in consultation, and approved in

advance, with the Managing Director of Cultural Services to perform the same services. Such entity must be required to comply with all of the obligations related to the Arts and Culture Non-Profit and the Cultural Amenity Space set out herein.

20. **Facility Reserve Fund for Cultural Amenity Space.** The City will make available to the Operator the Facility Reserve Fund for the purpose of certain capital maintenance costs (exclusive of operating expenses) in connection with the Cultural Amenity Space as further detailed in the 1st Avenue SLA. To access such funds, the Operator shall submit to the City in writing a detailed plan for any such capital maintenance, including budget, schedules and drawings and specification, which must be approved by the City in its sole discretion prior to the commencement of any work and transfer of any funds from the reserve.
21. **Management of Residential Units.** The City acknowledges and agrees that the Operator may from time to time enter into an agreement with a 1st Avenue Non-Profit approved in advance by the City, acting reasonably, with respect to one or more aspects of the operation and tenanting of the Residential Units in the Building located on the 1st Avenue Lands. The City hereby acknowledges and agrees that Railway Housing Cooperative will be the initial 1st Avenue Non-Profit.

C. RIGHTS AND RESPONSIBILITIES OF THE CITY

1. **Responsibilities.** The City will:
 - a. assign a person to act as liaison with the Operator;
 - b. provide advice and guidance to the Operator in managing the Lands and the Buildings to meet the objectives and provisions in this Agreement;
 - c. monitor the operation of the Lands and the Buildings and the use by the Operator of the Replacement Reserve and the Operating Reserve in accordance with this Agreement, to ensure that the standards, objectives and expectations in this Agreement are met;
 - d. provide timely responses to issues raised by the Operator to ensure the Operator receives adequate support;
 - e. in every case where this Agreement requires the Operator to obtain the approval of the City, including without limitation the approval of the City of:
 - i. the Maintenance Plan;
 - ii. the Capital Asset Plan;
 - iii. the Operating Budget;
 - iv. the Replacement Reserve Study and the use of the Replacement Reserve; and
 - v. the Operator's proposed policies and procedures for establishing rent and asset calculations as set out in Schedule F, Clause 1,the City will allocate the necessary resources to ensure that the Operator's submissions to the City are reviewed and considered expeditiously and will provide the City's written approval, or detailed written reasons for its disapproval, as the case may be, as soon as possible and, in any event, within 30 days (or within 60 days, if the approval of Council is required) of receiving the Operator's submission, and if the City fails to respond within such periods, it will be deemed to have approved the submission of the Operator; and
 - f. comply with the requirements of the Service Level Agreements.
2. **Naming Rights.** The City and the Operator shall jointly agree, each party acting reasonably, on the naming the Buildings or any portion(s) thereof, and the placing of plaques, signs or other means of displaying such names or other means of recognition, provided however that the Operator may place modest signage at the Buildings indicating their management of the Building.

D. FINANCIAL MANAGEMENT

1. **Finances.** The Operator will establish written policies and procedures for effective control of finances for the Lands and the Buildings and, in particular, will:

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- a. establish and maintain books of account and retain invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the City, to be used as the basis for the calculation of the payment as set out in Schedule B;
 - b. prepare an Operating Budget in advance of each Fiscal Year and regularly review the financial affairs in accordance with Schedule B;
 - c. ensure that sound written financial operating policies and procedures are in place, including record keeping and financial statements in accordance with Generally Accepted Accounting Principles (GAAP); and
 - d. provide annual financial statements, including the applicable management letter, indicating that the Operator has properly funded and maintained the Replacement Reserve and other reserves, as applicable, and that all interest accruing to the Replacement Reserve and other reserves, as applicable, has been recorded.
2. **Auditor.** The Operator will appoint an auditor of the Operator in compliance with the *Society Act* (British Columbia) who will be in good standing in accordance with the laws of the Province of British Columbia and will not be a member of the Operator. The Operator will cause the auditor to audit the financial statements of the Operator.
 3. **Audited Financial Statements to be submitted.** The Operator will submit audited financial statements to the City within six months after the end of each Fiscal Year. The audited financial statements will include a project-specific "budget versus actual" expense and income review and a summary of all reserves and surpluses.

E. BOOKS AND ACCOUNTS

1. **Fiscal Year.** The Operator will provide notice of its fiscal year end date to the City and will provide the City notice of any subsequent changes.
2. **Operating Income.** All Operating Income received by the Operator from whatever source with respect to the Lands and the Building will be collected by the Operator, held by the Operator and used by the Operator solely for the purpose of and to the extent authorized by this Agreement.
3. **City Audit.** The City reserves the right to audit the books, records and accounts of the Operator pertaining to its operation of the Lands and Buildings or otherwise pertaining to this Agreement at any reasonable time.

F. RECORDS

1. **Records, Retention and Access.** The Operator will maintain adequate operational records for the Lands and the Buildings and the following apply:
 - a. the Operator will retain all documents, vouchers, records and accounts that pertain to the Lands and the Buildings for not less than seven (7) years following the date of receipt or production of those records;
 - b. the City and its agents may inspect all records maintained by the Operator for the Lands and the Buildings at the time of the operational review, and may make extracts from and take photocopies of those records; and
 - c. upon reasonable notice, in accordance with the City's obligations pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia), the Operator will, upon request:
 - i. disclose to an Occupant the Operator's file for the Occupant, if and to the extent required by applicable laws; and
 - ii. cooperate with the City if the City has a request to disclose third party information under the *Freedom of Information and Protection of Privacy Act* (British Columbia), subject to the Operator's compliance with its obligations under that Act and any other applicable legislation.
2. **Information Management.** The Operator will:

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- a. collect information and, if applicable, create and retain records in relation to Occupants during the Term of this Agreement, as required by this Agreement, all in accordance with the requirements of the *Personal Information Protection Act* (British Columbia) as applicable;
 - b. notify the City immediately upon becoming aware of any breach of security involving the unauthorized collection, use, disclosure or destruction of information relating to the Lands and the Buildings;
 - c. treat as confidential all information or material provided to the Operator by the City, by Occupants, or by third parties if the information concerns Occupants and is relevant to this Agreement;
 - d. keep all documents and records produced or received by the Operator in relation to this Agreement segregated from other documents to the extent it is practical to do so; and
 - e. safeguard records and not permit their disposition or destruction for 7 years from the date on which they were created, except as required by applicable law, including the *Document Disposal Act* (British Columbia).

G. LIABILITY

1. **Release.** The Operator now releases the City and the City's Personnel from and against all costs, losses, claims, damages, actions and causes of action ("Claims") including those caused by personal injury, death, property damage or loss, and economic loss, arising out of, suffered or experienced by the Operator or the Operator's Personnel in connection with this Agreement.
2. **Indemnity.** The Operator now agrees to indemnify and save harmless the City and the City's Personnel (in each case, an "Indemnified Party") from and against any and all Claims that an Indemnified Party may sustain, incur, suffer or be put to at any time that arise out of any act or omission of the Operator or the Operator's Personnel in connection with this Agreement.
3. **Survival.** The release set out in Schedule A, Clause G.1 and the indemnity set out in Schedule A, Clause G.2 shall survive termination or expiry of this Agreement.
4. **Assignment and Subcontracting.**
 - a. The Operator will not assign, either directly or indirectly, this Agreement or any right or obligation of the Operator, respectively, under this Agreement, without the prior written consent of the City.
 - b. The Parties acknowledge their mutual intention that the Cultural Amenity Space and the Residential Units in the Building located on the Main Street Lands will be managed in whole or in part by an Arts and Culture Non-Profit pursuant to Section B.19 of Schedule A, and that the Residential Units in the Building located on the 1st Avenue Lands will be managed in whole or in part by the 1st Avenue Non-Profit pursuant to Section B.21 of Schedule A.
 - c. No subcontract entered into by the Operator will relieve the Operator of any of its obligations under this Agreement or impose upon the City any obligation or liability arising from any such subcontract. The Operator must ensure that any subcontractor, including without limitation the Arts and Culture Non-Profit and the 1st Avenue Non-Profit, fully complies with this Agreement in performing the subcontracted services.
 - d. This Agreement will be binding upon the City and its assigns and the Operator and its successors, and permitted assigns.
 - e. The City will provide 90 days' notice of intent to assign or subcontract its responsibilities under this Agreement.

H. GENERAL PROVISIONS AND INTERPRETATION

1. **Reasonableness.** Wherever in any provision of this Agreement the City is required or empowered to give its consent or approval or exercise its discretion, the City agrees to proceed expeditiously and not to unreasonably or arbitrarily withhold or

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- delay such consent or approval nor exercise such discretion unreasonably or arbitrarily, unless the contrary intent is specifically expressed in such provision.
2. **Determination by the City.** Wherever in this Agreement the City's approval is required for a decision or action of the Operator, the City's determination, designation or decision, acting reasonably, with regard to that approval shall be in writing and delivered to the Operator.
 3. **Notices.** All notices, demands and requests which may or are required to be given pursuant to this Agreement will be in writing and will be sufficiently given if served personally upon the party for which it is intended, or mailed prepaid and double registered:

If to the Operator, addressed to:

Community Land Trust Foundation of BC
Attention: Executive Director

If to the City, addressed to:

The City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia V5Y 1V4
Attention: City Clerk
cc: Director of Legal Services
And: Director of Real Estate Services
And: General Manager of Arts, Culture and Community Services

or at such other address as the parties may from time to time advise by notice in writing. The date of receipt of any such notice, approval or request will be deemed to be the date of delivery of such notice, approval or request if served personally or, on the fifth business day (being any day other than a Saturday, a Sunday or a statutory holiday in the province of British Columbia) next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request will only be effected if actually delivered.

4. **Enuring Effect.** This Agreement enures to the benefit of and binds each of the City and the Operator and their respective successors and permitted assigns.
5. **Time.** Time is of the essence of this Agreement. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other parties. Any time specified in this Agreement for observing or performing an obligation is local time in Vancouver, British Columbia.
6. **Governing Law.** This Agreement is to be governed by and construed and enforced in accordance with the laws of the Province of British Columbia.
7. **References.** If the singular, masculine, feminine or neutral is used in this Agreement, the reference is to the plural, masculine, feminine or body corporate according to the context in which it is used.
8. **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. In all cases, the language in this Agreement is to be construed simply, according to its fair meaning and not strictly for or against any party.
9. **No Limitation.** The word "including" when following any general statement, term or matter is not to be construed to limit that general statement, term or matter to the specific items set forth immediately following that word or to similar items. That 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 that general statement, term or matter.

10. **Document Written in Present Tense.** The word "will", where the subject is either or both of the parties, denotes a present obligation.
11. **Validity of Provisions.** If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that invalidity, illegality or unenforceability does not affect any other provisions of this Agreement. The balance of the Agreement is to be construed as if that invalid, illegal or unenforceable provision had never been included and is enforceable to the fullest extent permitted at law or at equity.
12. **Waiver.** No consent or waiver, expressed or implied, by a party of any default by another party in observing or performing its obligations under this Agreement is effective unless given in writing, nor is it a consent or waiver of any other default. Failure on the part of any party to complain of any act or failure to act by another party or to declare such other party in default, irrespective of how long that failure continues, is not a waiver by that party of its rights under this Agreement or at law or at equity.
13. **Consents and Approvals.** Except as otherwise expressly set out in this Agreement, where this Agreement provides for any approval, consent or Agreement with respect to any matter:
 - a. it will be obtained before any action is taken on it;
 - b. it will be requested and responded to in writing; and
 - c. it will not be unreasonably withheld, except if this Agreement otherwise expressly stipulates, or delayed.
14. **Extent of Obligations and Costs.** Every obligation of each party in this Agreement extends throughout the Term. To the extent an obligation ought to have been observed or performed before or upon the expiry or earlier termination of the Term, that obligation survives the expiry or earlier termination of the Term until it has been observed or performed.
15. **Financial Terms.** All accounting terms not otherwise defined in this Agreement have the meanings assigned to them, and all calculations to be made under this Agreement are to be made in accordance with Canadian Generally Accepted Accounting Principles consistently applied.
16. **Statutes.** Any reference in this Agreement to a provincial or federal statute includes the statute as it exists on the reference date of this Agreement and any subsequent amendments or replacements.

I. DEFAULT, INTERVENTION AND REMEDIES

1. **Event of Default by the Operator.** Any of the following events will constitute an Event of Default by the Operator under this Agreement:
 - a. the Operator is in breach of any Lease or Leasehold Mortgage;
 - b. failure to materially meet the Performance Standards or any other provision of this Agreement;
 - c. the Operator fails to remain in good standing under the *Society Act* (British Columbia) or becomes insolvent or otherwise acknowledges its insolvency, or commits an act of bankruptcy, or makes an assignment for the benefit of its creditors, or an order is made or a resolution is passed, or a petition is filed for the liquidation or winding up of the Operator, or a receiver is appointed to manage any of the assets of the Operator, or the Operator ceases, in the opinion of the City, to operate;
 - d. the Operator is in breach of or fails to comply with any law, by-law or regulation applicable to the performance of its obligations hereunder;
 - e. the Operator permits any sum which is not disputed to be due by it to the City or pursuant to a Leasehold Mortgage, to remain unpaid after legal proceedings have been commenced to enforce payment thereof; or

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- f. if the Operator knew or ought to have known any significant information, statement, certificate, report or other document furnished or submitted by, or on behalf of, the Operator pursuant to, or as a result of, this Agreement is materially untrue or materially incorrect.
2. **Event of Default by the City.** Any of the following events will constitute an Event of Default by the City under this Agreement:
- a. failure to materially perform the provisions of this Agreement that are the responsibility of the City and such failure continues for forty-five (45) days following notice by the Operator identifying such failure in reasonable detail and requiring the City to cure such failure or in the case of a failure which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the City does not commence the rectification of such failure within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceeds to cure such failure.
3. **Procedure for Intervention.** Subject to Clause J.1 below, the following is the procedure for intervention by the City upon the occurrence of an Event of Default by the Operator (subject to the provisions of a Lease or the Leasehold Mortgage, as applicable, where the Event of Default arises from a breach of any of those agreements):
- a. **Communication.** The City will give the Operator written notice of the Event of Default, which notice will provide for a reasonable time for the Operator to respond to the notice of Event of Default by providing further information concerning the Event of Default.
- b. **Action Plan.** The City and the Operator will agree on an action plan to cure the Event of Default, including a schedule for implementation of the action plan, identification of the resources available to the Operator to implement the action plan, and the dates on which the City will review progress on implementation of the action plan.
- c. **On Watch.** If the Operator does not cure the Event of Default within a reasonable time, the City may place the Operator "On Watch", which means that:
- i. this is a warning that the City will intervene further if the Event of Default is not cured;
- ii. the City will monitor the operation of the Lands and the Building and the performance of obligations under this Agreement by the Operator more often and in more depth, including a management audit before the end of a Review Period; and
- iii. if the Operator makes progress in curing the Event of Default, the City will lessen its monitoring and the On Watch status may be withdrawn.
- d. **Co-management.** The City may appoint a manager to work with and supervise the Operator, in operating the Lands and the Buildings and in curing the Event of Default, in order to:
- i. improve the Operator's management of the Lands and the Buildings and return operation of the Lands and the Buildings to the Operator, as applicable, at some future date; and
- ii. provide education, training and other necessary resources to the Operator to cure the Event of Default.
4. **Non-Default Disputes.** If either the Operator or City has significant concerns relating to the management or operation of the Buildings at any time during the Term, the parties agree that, promptly following notice of such concerns to the other party, they will meet and work together in good faith to identify mutually satisfactory solutions and a timeframe to implement same, provided always that the foregoing shall not relieve the Operator of its obligations pursuant to this Agreement unless agreed in writing by the City in its sole discretion and that if an Event of Default has occurred, Section I.3 above shall apply.

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5. **Mediation.** If the parties have a dispute arising out of or in connection with this Agreement, or in respect of any defined legal relationship associated with it or from it (other than a Lease or Leasehold Mortgage), the parties agree to try to resolve the dispute by participating in a structured negotiation conference with a mediator agreed upon by the parties or, failing agreement, under the Commercial Mediation Rules of the British Columbia International Commercial Arbitration Centre, in which case the appointing authority is the British Columbia International Commercial Arbitration Centre.
 6. **Dispute Resolution.** If the process of mediation above fails, the parties agree that the following dispute resolution process will be used:
 - a. a meeting will be held promptly between the parties, attended by individuals with decision making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute;
 - b. if, within fourteen (14) days after such meeting or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties will submit the dispute to arbitration; and
 - c. the remaining issues in dispute will be determined by arbitration under the *Commercial Arbitration Act* (British Columbia), and the decision of the Arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

J. TERMINATION

1. **Early Termination by the City.** Notwithstanding anything stated to the contrary in this Agreement, the parties agree that the City will have the right at any time, by giving seven (7) business days written notice to the Operator, to terminate this Agreement in any of the following events, unless the parties otherwise agree in writing:
 - a. upon the bankruptcy and/or receivership of the Operator;
 - b. upon termination of a Lease except upon the City's default;
 - c. upon the Operator failing to cure an Event of Default in the manner or in accordance with the schedule set out in an Action Plan approved by the City;
 - d. upon the Operator ceasing to carry out its operations without profit to itself or its members;
 - e. upon the failure by the Operator to maintain its corporate status and remain in good standing under the applicable laws of the Province of British Columbia;
 - f. upon the failure by the Operator to restrict its activities and undertakings to those authorized or permitted under its constating documents; or
 - g. upon the failure of the Operator without adequate justification, to comply with the requirements of any applicable law, regulations, bylaw or other directive having the force of law and enacted or promulgated by or under the authority of the Government of Canada and/or the Province of British Columbia.
2. **Early Termination by the Operator.** Notwithstanding anything stated to the contrary in this Agreement, the parties agree that the Operator will have the right at any time:
 - a. by giving twenty-four (24) hours written notice to the City, to terminate this Agreement in any of the following events, unless the parties otherwise agree in writing:
 - i. if either Loan is not obtained by the Operator for any reason;
 - ii. upon termination of a Lease, except upon the Operator's default;
 - iii. upon an Event of Default by the City having occurred without the Event of Default being cured within the applicable cure period set out in Clause I.3 and I.2 above, respectively; or
 - iv. upon the failure of the City, without adequate justification, to comply with the requirements of any applicable law, regulations by-law or other directive having the force of law and enacted or promulgated by or under the authority of the Government of Canada and/or the

Province of British Columbia and such failure continues for forty-five (45) days following notice by the Operator identifying such failure in reasonable detail and requiring the City to cure such failure or in the case of a failure which cannot with due diligence be cured within the period of forty-five (45) days aforesaid, if the City does not commence the rectification of such failure within the said forty-five (45) day notice period and thereafter promptly and diligently and continuously proceeds to cure such failure.

3. **Adjustments on Termination.** Upon the termination of this Agreement, however effected, the parties will forthwith complete all necessary accounting and adjustments between them to effectively reconcile and finalize their obligations pursuant to this Agreement and the Lease. Such adjustments will include, without limitation:
 - a. the delivery or transfer by the Operator to the City, effective as of the termination date, of the Replacement Reserve and the Operating Reserve, in each case including all accumulated interest, after payment of any Operator expenses or liabilities contemplated by this Agreement;
 - b. use or division of any unexpended or allocated accrued surplus, including all accumulated interest, in accordance with Schedule B, as applicable; and
 - c. any adjustments required by the Lease, including without limitation a prorata refund by the City to the Operator of the prepaid Basic Rent attributable to the portion of the Term remaining after the date of termination of this Agreement, if required by the Lease.
4. **Non-Disturbance of Occupants.** All Occupants in residence at the Lands and the Buildings at the time of any termination of this Agreement shall be permitted to remain in residence notwithstanding the termination of this Agreement or the Lease, unless alternate arrangements are agreed to by any such Occupant, and the City shall honour all occupancy agreements in place at the time of such termination, in accordance with the *Residential Tenancy Act* (British Columbia) or the *Co-operative Association Act* (British Columbia), as the case may be.

SCHEDULE B - FINANCIAL

A. OPERATING BUDGET

1. **Operating Budget:** The Operator and the City acknowledge and agree that the Operator has submitted to the City, in a format that was pre-approved by the City and that had regard to the Performance Standards set out in Schedule G, the Operating Budget for the period of time commencing on the First Lease Commencement Date and ending on the Operator's Fiscal Year End in 2018, and that such Operating Budget was approved by the City. At least two (2) months prior to the end of each Fiscal Year thereafter, the Operator will submit to the City for review, having regard to the Performance Standards set out in Schedule G, an Operating Budget for the upcoming Fiscal Year, in a similar format, showing the anticipated gross Operating Income for the Lands and the Buildings together with all anticipated Operating Expenses. The City will endeavour to review and comment on each such Operating Budget not more than thirty (30) days after receipt of the same from the Operator, with the intention and expectation that an Operating Budget will be mutually agreed to and settled as of the beginning of each such Fiscal Year. The Operating Budget submission will follow the format of the first Operating Budget and may be amended by mutual consent. The City and the Operator acknowledge and agree that the mutual target Operating Expenses for the first year after the Lease Commencement Date is \$650.21 per Residential Unit per month. The City and the Operator will review the actual Operating Expenses in accordance with the reporting requirements in Schedule C and will use such information to inform discussions for the next year's budget.
2. **Budget Deviations:** The Operator will make reasonable efforts not to exceed the total approved Operating Budget without the prior authorization of the City. The City acknowledges and agrees that the Operator is and will be relying entirely on the Loans to pay for the Basic Rent, will be relying entirely on the Replacement Reserve to pay for capital replacements, and will be relying entirely on the Operating Income, the Operating Reserve and the Operating Surplus to pay for the Operating Expenses, the payments to be made by the Operator under the Loans, and all other costs and expenses which the Operator is required to incur or pay for under or pursuant to the terms of this Agreement, and accordingly the City agrees that, notwithstanding anything in this Agreement to the contrary, the Operating Expenses, the payments to be made by the Operator under the Loans, and all other costs and expenses which the Operator is required to incur or pay for under or pursuant to the terms of this Agreement will be paid out of the Operating Income, the Operating Reserve, the Operating Surplus and the Replacement Reserve, unless the City and the Operator agree otherwise in writing or this Agreement otherwise provides.
3. **Income and Expenses.**
 - a. The Operator will be responsible for the collection of all Operating Income for the Lands and the Buildings, and for the payment out of such Operating Income all Operating Expenses.
 - b. The Operator will ensure payments are made to contracted service providers within pre-established payment periods. Any fines, penalties, surcharges, incurred by the Operator or by the City as an expense related to Operator error or negligence will be the responsibility of the Operator.
 - c. The Operator may generate revenue from sources such as vending machines and laundry machines. Income generating opportunities will be reflected in the annual Operating Budget. The City reserves the right to review income

generating opportunities in terms of impact on resident service, feasibility of the physical plant etc.

B. OPERATING INCOME FUNDED REPLACEMENT AND OPERATING RESERVES

1. **Replacement Reserve.** The Operator will create a reserve (the "Replacement Reserve") out of the Operating Income for capital replacements to the Lands and the Buildings and their systems, equipment and surfaces, based on the items and life in years as set out in the Capital Asset Plan, and subject to the Replacement Reserve Study, the following will apply:
 - a. for the period of time commencing on the Lease Commencement Date and ending on date of the expiry or early termination of this Agreement, the Operator will deposit in the Replacement Reserve \$72.00 per Residential Unit per month from the Operating Income. For each subsequent Fiscal Year, this amount will be increased by 5% per annum; and
 - b. the Operator will use or dispose of the Replacement Reserve only for capital replacements to the Lands and the Buildings and their systems, equipment and surfaces in accordance with the Capital Asset Plan, or to pay for other payments as may be approved by the City.
2. **Operating Reserve.** The Operator will also fund from the Operating Surplus, as contemplated by Clause C.1.a below, and manage the Operating Reserve.
3. **Transfer of Reserves Upon Termination.** At the termination of this Agreement, regardless of cause, all funds in the Replacement Reserve and the Operating Reserve, in each case including all accumulated interest, but after payment of any Operator expenses or liabilities contemplated by this Agreement, will be transferred to the City, together with a reconciliation of the balances in those Reserves.

C. OPERATING SURPLUS

1. Once the Replacement Reserve has been funded in accordance with the requirements of this Agreement, any remaining Operating Surplus will be used as follows:
 - a. first, to fund the Operating Reserve, to a maximum of an amount equivalent:
 - i. in the first year of the Term, to the annual Operating Budget for that year (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions); and
 - ii. thereafter, to the total operating costs for the Fiscal Year most recently completed based on the Operator's audited statements (exclusive of Leasehold Mortgage costs and Replacement Reserve contributions);
 - b. second:
 - i. for Operating Surplus generated prior to the 10th anniversary of the Second Lease Commencement Date, the remaining balance of the Operating Surplus shall be put towards the Replacement Reserve; and
 - ii. for Operating Surplus generated on or after the 10th anniversary of the Second Lease Commencement Date, to top up the Replacement Reserve by 50% of the remaining Operating Surplus; and
 - c. third, if there is an Operating Surplus balance remaining, the City and the Operator may agree to put such balance towards:
 - i. increasing the percentage of HILs Units and/or Shelter Rate Units in the Buildings above the percentages set out in Schedule D, Clause A.1 or by subsidizing the Housing Charge payable in respect of Low-End of Market Units for eligible Occupants who cannot afford to pay the Low-End of Market Housing Charge;
 - ii. the Operator or the Foundation creating or acquiring net new, affordable housing within the City of Vancouver;
 - iii. the payment of identified capital maintenance or replacement costs; or

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- iv. deepen affordability of other non-market buildings for which the Operator or the Foundation has a lease with the City.
- If the City and Operator do not come to an agreement on the use of the balance of the Operating Surplus, any such amount shall be shared equally between the Operator and the City.

D. INCOME AND HOUSING CHARGE

1. **Parking.** The Operator may rent, or impose other usage charges for the use of, the parking spaces within the Lands and the Buildings, other than those that are required by the City's Parking By-law to be set aside for visitors, handicapped persons or reserved for use as loading bays, to such third parties and at such rates as the Operator may in its sole discretion decide.
2. **Application of Housing Charges.** The Operator will collect Housing Charges, parking usage fees and other fees and amounts payable by Occupants or third parties for use of the Lands and the Buildings, and will apply this income to the cost of operating the Lands and the Buildings.

E. INVESTMENT OF FUNDS

1. The Operator will deposit and keep the Replacement Reserve and the Operating Reserve and accumulated interest in a separate bank account or in accounts or instruments as follow:
 - a. in an account insured by the Canadian Deposit Insurance Corporation or by the Credit Union Deposit Insurance Corporation;
 - b. in an investment in accordance with the *Society Act* (British Columbia) or the Vancouver Charter;
 - c. in an investment guaranteed by a Canadian government; or
 - d. in other investment instruments the City first approves in writing.

F. UNAUTHORIZED EXPENDITURES AND ACTS

1. With regard to its occupation and operation of the Lands and the Buildings, the Operator will not, without the prior written approval of the City:
 - a. borrow money other than pursuant to a Leasehold Mortgage, if it encumbers the Operator's leasehold interest in the Lands and the Buildings, it creates any liability for the City or, in the reasonable opinion of the City, it compromises the Operator's ability to strictly fulfill and perform its obligations under the Leasehold Mortgages; provided, however, that the City acknowledges that financing may be needed by the Operator in future to pay for building code updates and/or major repairs, which borrowing the Operator agrees will only be committed to with the prior written approval of the City;
 - b. guarantee or underwrite the repayment of any obligation assumed by a third party;
 - c. pay to a person or organization any amount for the purpose of supporting activities the objective of which is to make representations to any government body on any subject matter not directly related to the operation of the Lands and the Buildings. This provision does not apply to annual membership fees to sector organizations;
 - d. release, compromise, assign or transfer any claim, right or benefit of the City in connection with or arising out of the City's interest in the Lands and the Buildings; or
 - e. confess a judgement against it.

G. EXTRAORDINARY EXPENSES

1. In the event that:
 - a. there are insufficient funds in the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as the case may be, to

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- pay for the cost of any work that is the responsibility of the Operator pursuant to this Agreement;
- b. such work is an Extraordinary Expense; and
 - c. the shortfall exists despite the Operator having managed the Buildings and the Lands as contemplated by this Agreement and the Leases.
- the following process shall apply:
- d. the parties shall meet and work together to review the Operating Budget to identify whether the Extraordinary Expense can be funded through Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as applicable. If the parties agree that the Extraordinary Expense can be funded through the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as applicable, then the Operator shall pay for the Extraordinary Expense accordingly;
 - e. if both parties agree that the Extraordinary Expense cannot be funded through the Replacement Reserve, the Operating Income, the Operating Reserve and/or the Operating Surplus, as applicable, the parties shall jointly review and assess the following alternative funding options, and all other potential alternative funding options, to identify and agree upon an alternate source or sources of funding:
 - i. the proceeds of any insurance policy carried by the Operator;
 - ii. any warranty applicable to the Building element that gave rise to the Extraordinary Expense;
 - iii. refinancing of the applicable Loan;
 - iv. additional debt financing by the Operator;
 - v. funding by the Operator from the proceeds of other projects operated by the Operator;
 - vi. fund raising by the Operator;
 - vii. funding or grants available to the Operator through the Provincial or Federal governments or other government or public entities;
 - viii. restructuring the Operating Budget; and
 - ix. the application of cost savings from operating efficiencies identified by the parties.
 - f. if the parties have exhausted all of the options for alternative sources of funding for an Extraordinary Expense set out in (e) above and have determined, acting reasonably, that the Extraordinary Expense cannot be funded in whole or in part from such sources, then the City will facilitate access to the necessary funds to enable the Operator to pay such costs, subject to City Council approval. Any funds provided by the City to the Operator as a result would be advanced subject to the condition that the Operator reimburses the City from any Operating Surplus that would otherwise be retained by the Operator pursuant to Schedule B, C.1.c. The City may, in its sole discretion, elect to forego any such reimbursement, in whole or in part, subject to the Building's funding capacity and the Operator's ability to meet its financial obligations under this Agreement for the remaining term of the applicable Lease and this Agreement.

SCHEDULE C - MONITORING AND REPORTING

A. INCOME/RENT REPORTING

1. The Operator will, on an annual basis commencing at the end of the Operator's Fiscal Year ending 2018, make information related to its operation and management of the Lands and the Buildings available to the City, to assist the City in:
 - a. identifying occupancy and service trends;
 - b. monitoring income earned and expenses incurred; and
 - c. monitoring the Operator's compliance with the requirements of this Agreement and the Lease.
2. The City, acting reasonably, reserves the right to change the type of information required, with at least thirty (30) days' written notice to the Operator provided that, if there are additional costs to the Operator in complying with new requirements, the City and the Operator will adjust the Operating Budget to reflect the increased costs as agreed to by both parties.

B. OPERATIONAL REPORTING

1. Commencing at the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the Operator will submit an operator report to the City no later than three (3) months after the Operator's Fiscal Year end in form and contents to be pre-approved by the City. The Operator's report will include, in respect of the last three Fiscal Years (or partial Fiscal Years, if applicable, at the beginning and end of the Term or otherwise) just ended, unless otherwise indicated:
 - a. gas, electricity, and water consumption in the Lands and the Building;
 - b. copies of relevant licenses and inspection reports;
 - c. completed maintenance and improvement report as per the Maintenance Plan, summarizing the routine maintenance activities and costs, and, as per the Capital Asset Plan, any capital maintenance performed, or any renovations/modifications or improvements completed in the last three Fiscal Years (or partial Fiscal Years, if applicable);
 - d. completed checklists related to quality assurance;
 - e. explanation for any variance in expenditure greater than ten percent (10%) in completing the Maintenance Plan or the Capital Asset Plan in respect of the year or years in question;
 - f. a short report on current operational challenges, issues and successes; and
 - g. rental mix, broken down between Shelter Rate Unit Occupants, HILs Unit Occupants and Low-End of Market Unit Occupants and by unit type.
2. The Operator will also submit its Maintenance Plan as required by Schedule A, Clause B.14(c).
3. At the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the City may conduct an onsite operational review. The City will provide the Operator with reasonable notice of any such operational review.

C. CAPITAL REPORTING

1. In addition to the foregoing reporting requirements, the Operator will submit to the City for its review and approval an updated Capital Asset Plan every six years, together with a Replacement Reserve Study to be funded out of the Replacement Reserve.

D. OPERATIONAL REVIEW MEETING

1. At the end of the Operator's Fiscal Year in 2018, and at the end of every third Fiscal Year thereafter, the Operator will arrange for a meeting to review the Operator's compliance with statutory requirements and the terms of this Agreement.
2. The costs of such reviews are to be included in the Operating Budget for the year in which they are to be conducted.

E. MODIFIED REPORTING

1. From time to time, upon each reasonable request of the other, the City and the Operator will review the performance standards mandated by this Agreement. If through such review, the City or the Operator, each acting reasonably, identifies areas where performance of the Operator or the City under this Agreement could be materially improved, the City and the Operator will meet and attempt to agree upon a revised performance plan. Such revised plan may include changes to the reporting requirements and the reporting frequency stated herein. In these instances the City's concerns and proposed new reporting requirements and the Operator's concerns and proposed new reporting requirements will each be clearly communicated to the other and be given due consideration by the other.

F. SUMMARY

The following table is a summary of the reporting requirements stipulated in this Agreement and has been included for convenience of reference only. In the event of a conflict between this table and any specific provision in this Agreement, the specific provision in this Agreement shall prevail.

Information Type	First Report Required	Reporting Frequency thereafter	Description
Operating Budget	Initial operating budget to be agreed prior to lease commencement	Annual	Operating budget setting out the proposed budget for the upcoming year.
Independent Audit Report	At end of year 1	Annual	An audit firm carries out an assessment each year of- tenant files, financial processes, account record and produces a financial statement report (including info on replacement reserve and operating balances)
Income / Rent Information	At end of year 1	Annual	Rent roll, tenant income and vacancy information.
Operational Review	At end of year 1	Every 3 years	The operational review meeting will include a site visit with the City to review the general maintenance of the building and a discussion on performance in relation to the operating agreement.

Lifecycle Capital Maintenance Plan	The capital maintenance plan will be agreed within the first year of the lease term.	Every 6 years (to coincide with every other Operational Review)	Capital maintenance plan to be updated every 6 years and reviewed as part of operational review.
Maintenance Plan	By end of year 1 - agree maintenance plan with City	Every 3 years (to coincide with the Operational review)	Reviewed as part of operational review every 3 years.

SCHEDULE D - OCCUPANT ELIGIBILITY

A. OCCUPANT SELECTION AND OCCUPANCY AGREEMENTS

1. **Occupant Mix.** The Operator will at all times during the Term, use its reasonable efforts to ensure that, in respect of the Building located on the 1st Avenue Lands:
 - a. not more than 71 of the Residential Units in the Building are occupied by Low-End of Market Unit Occupants;
 - b. not less than 10 of the Residential Units in the Building are occupied by Shelter Rate Unit Occupants; and
 - c. not less than 54 of the Residential Units in the Building are occupied by HILs Unit Occupants;and in respect of the Building located on the Main Street Lands:
 - d. all of the Residential Units in the Building are occupied by HILs Unit Occupants with rents ranging from Income Assistance rates to a maximum of the HILs thresholds, with rents averaging approximately 70% of HILs;provided, however, that, as contemplated by Schedule B, Clause C.1.c., as the Buildings' financial viability allows over time, the Operator will act to enhance affordability either within the Buildings or elsewhere in the City of Vancouver.
2. **Low-End of Market Unit Occupants.** All Low-End of Market Units will be occupied only by Low-End of Market Unit Occupants.
3. **Shelter Rate Unit Occupants.** All Shelter Rate Units will be occupied only by Shelter Rate Unit Occupants, subject to paragraph A.9 of this Schedule. Unless otherwise agreed by the City, occupants to fill vacancies in the Shelter Rate Units will be selected in accordance with a tenancing process approved by the City.
4. **HILs Unit Occupants.** All HILs Units will be occupied only by HILs Unit Occupants, subject to paragraph A.9 of this Schedule. Unless otherwise agreed by the City, occupants to fill vacancies in the HILs Units will be selected in accordance with a tenancing process approved by the City.
5. **Occupancy Agreements.** An Occupancy Agreement in compliance with Schedule E will be entered into by each prospective Occupant.
6. **Occupant Selection.** The Operator will use its reasonable efforts to maintain full occupancy of the Buildings. The Operator will use its reasonable efforts to house within the Buildings a diverse mix of tenants including low-income singles, seniors, and families with children. As part of the Tenant Relocation Plan that was provided by the developer of the Main Street Lands, the Operator will be responsible for offering the first right of refusal in the new Building located on the Main Street Lands to former tenants of the site, provided that they meet all eligibility criteria set out in this Agreement. Those tenants that do not qualify to return Main Street Lands may be offered housing at the 1st Avenue Lands or another housing site managed by the Operator.
7. The Operator will use its reasonable efforts to house within the Building located on the 1st Avenue Lands:
 - a. 10 Residential Units rented at Income Assistance rates who are participating in the "STEP" pilot program;
 - b. Family Childcare: Two of the ground floor Residential Units are suitable for use as a family home childcare and the Operator agrees to use its reasonable best efforts to find Occupants qualified to operate a licensed family childcare for those units throughout the Term;
 - c. Wheelchair Accessible Units: Seven of the Residential Units are wheelchair accessible units, and the Operator agrees to use its reasonable best efforts to find Occupant households that include a person living with accessibility issues;

and in respect of the Building located on the Main Street Lands:

- d. All 30 Residential Units rented to Professional Artists is based upon Professional Artist eligibility criteria and that the calculation of Income of such Professional Artists used to determine eligibility is based on the average Income of the Professional Artists over the previous three years; and
 - e. Wheelchair Accessible Units: Two of the Residential Units are wheelchair accessible units, and the Operator agrees to use its reasonable best efforts to find Occupant households that include a Professional Artist living with accessibility issues.
8. **Household Size.** All Occupants must be placed in a Residential Unit appropriate to their household size in accordance with the Occupancy Guidelines. Exceptions may be made for persons designated by mutual agreement between the City and the Operator.
9. **Selection Intent.** Where the Operator is unable to find Occupants for all Shelter Rate Units or HILs Units, the Operator will work with the City to select Occupants in such a way as to maintain the intent of housing persons in need of such units.

SCHEDULE E - OCCUPANCY AGREEMENT

A. OCCUPANCY AGREEMENTS

Each Occupancy Agreement in respect of occupancy of a Residential Unit by an Occupant will be subject to the requirements of the *Residential Tenancy Act* (British Columbia) or the *Co-operative Association Act* (British Columbia), and the following will also apply:

1. Occupants may be required to pay security deposits. All funds collected and held as a security deposit must be handled in accordance with applicable legislation.
2. Minor claims by Occupants and third parties are to be managed by the Operator or designate.
3. The tenancy will be on a month-to-month basis, if applicable, and not for a fixed term.
4. Subject to the rent controls mandated by the *Residential Tenancy Act* (British Columbia), if applicable, the rent will change if the Occupant's Income or Assets change.
5. Only the persons named in the Occupancy Agreement, together with other household members, have a right to occupy the Residential Unit.
6. The Income of any person occupying a Residential Unit as his or her principal residence will be included for the purpose of determining the Occupant's Income.
7. Assignment of the Occupancy Agreement or subletting or otherwise parting with possession of the whole or part of the Residential Unit for the whole or any part of the term of the Occupancy Agreement must not compromise the Operator in the performance of its obligations hereunder.
8. The Occupant will consent to the City verifying personal information, as defined in the *Freedom of Information and Protection of Privacy Act* (British Columbia), to the extent that such consent is required by that Act to enable the City to carry out its functions under this Agreement.
9. The Occupant will agree to provide such information as is requested by the Operator and/or the City for calculation of the Housing Charge and for auditing purposes. If the Occupant fails to disclose or misrepresents any information requested in the Declaration of Income and Assets, such failure to disclose or misrepresentation will be deemed to be a material breach of the Occupancy Agreement and the following will apply:
 - a. the Operator will be entitled to recover from the Occupant in contract or otherwise the difference between the Housing Charge charged and the amount of the Housing Charge that should have been charged had there been no failure to disclose or misrepresentation and this remedy is not exclusive and may be exercised by the Operator in addition to any other remedies available to the Operator in law or equity and in addition to any remedies of the Operator as set out in the Occupancy Agreement;
 - b. money owing by the Occupant to the Operator under the Occupancy Agreement pursuant to a court order or arbitrator's order or otherwise will bear interest at the Prime Rate from and including the time such money becomes payable, calculated and payable monthly until repayment both before and after judgment; and
 - c. such failure to disclose or misrepresentation of Income or Assets by an Occupant will entitle the Operator to end the Occupancy Agreement.
10. Such other matters as the City may reasonably request.

City Not Responsible. It is understood that the City will not be responsible to the Operator for any breach or failure of an Occupant to observe any of the terms of the Occupancy Agreement between the Occupant and the Operator, including the covenant to pay the Housing Charge. The same relationship will apply as between the Operator and renters/users of parking spaces

in the Lands and the Buildings, and as between the Operator and the City in respect of the same.

SCHEDULE F - HOUSING CHARGES

1. **Proof of Income and Assets.** The Operator will establish policies and procedures for establishing rent and asset calculations and submit these to the City for approval. At the time of initial occupancy, and annually thereafter except in the case of a Low-End of Market Unit Occupant, the Operator will obtain a declaration ("**Declaration of Income and Assets**") and supporting documentation from each Occupant, as evidence of the Income and Assets of each Occupant. The Declaration will be in a form approved by the City as may be amended from time to time. The Operator will maintain a copy of each Occupant's documentation in a file available to the City on request, subject to compliance with applicable privacy laws. The Income of any person occupying a Residential Unit as his or her principal residence will be included for the purpose of determining the Occupant's Income.

2. **Initial Housing Charges.** The initial Housing Charge for each Residential Unit at the 1st Avenue Lands payable by the first Occupants will reflect the amounts set forth below, unless otherwise agreed to in writing by the parties, or required by the terms and conditions of Schedule G.

Table 1: 1st Avenue Building

Unit Type	"Income Tested" or Shelter Rate Units Maximum	HILs Units Maximum	Low-End of Market Units Average
Studio Units	\$375	\$1,000	\$1,148
1- Bedroom Units	\$375	\$1,125	\$1,440
2- Bedroom Units	-	\$1,338	\$2,397
3- Bedroom Units	-	\$1,663	\$2,497

3. **Increases.** The Operator will increase the monthly Housing Charges, parking and other fees charged by such amounts and at such times as applicable law and market circumstances allow, both when occupancy changes and during the currency of an Occupancy Agreement, with the objective of maximizing the income generated by the Lands and the Buildings, but without compromising the overall objective of the parties to provide affordable housing in the Buildings. Changes to the Housing Charges payable should also be made to reflect changes in an Occupant's Income or Assets to the extent applicable legislation and the Occupancy Agreement allow.

1. Determination of Shelter Rate Unit Housing Charge. The Shelter Rate Unit Housing Charge for the applicable family size, which assumes that a Shelter Rate Unit Occupant is in receipt of Income Assistance, will be set at:

- a. the amount of the current maximum Provincial monthly shelter allowance calculated in accordance with Schedule A of the Employment and Assistance Regulation passed pursuant to the *Employment and Assistance Act* (British Columbia), as amended or replaced from time to time;

provided, however, that:

- b. only one allowance for utilities per Residential Unit can be used in calculation of the Shelter Rate Unit Housing Charge;
- c. if the Occupant is a single person, the Shelter Rate Unit Housing Charge will be based on the Income Assistance shelter component for a single person;
- d. if the Occupant consists of two related persons (e.g. married, common-law relationships), the Shelter Rate Unit Housing Charge will be based on the Income Assistance shelter component provided for two related persons;
- e. if the Occupant consists of two unrelated persons, the Shelter Rate Unit Housing Charge will be based on two times the Income Assistance shelter component for single persons;
- f. if the Occupant consists of more than two persons, the Shelter Rate Unit Housing Charge will be calculated based on the number of Occupants and their relationship as per Clauses 4.d and 4.e above; and
- g. if the maximum shelter component of Income Assistance changes, the Shelter Rate Unit Housing Charge will be changed at the same time after reasonable notice to the Occupant.

SCHEDULE G - PERFORMANCE STANDARDS

The Operator is required to operate the Lands and the Buildings in accordance with this Agreement. The City may request performance plans from the Operator from time to time as deemed necessary (but no more frequently than once per Fiscal Year), and at any time if an Event of Default occurs in respect of the Operator and the City elects to intervene as contemplated by this Agreement, rather than to terminate this Agreement. The management areas to be included in the performance plan will include, but are not limited, to:

A. RISK MANAGEMENT

1. Establish conflict of interest and standards of conduct policies.
2. Establish telecommunications with reliable message capabilities during office hours, and a 24-hour emergency line.
3. Ensure regular inspections are carried out to ensure safety hazards are identified and corrected.
4. Retain records on site pertaining to the annual inspection, testing or maintenance of fire protection systems including smoke alarms, and the review of the fire safety plan.
5. Maintain a fire safety plan which includes policies and procedures for:
 - a. control of combustibles around the perimeter of buildings;
 - b. protection of emergency equipment;
 - c. storage and housekeeping;
 - d. laundry lint trap, room and vent cleaning; and
 - e. staff assistance for Building residents who cannot self-rescue.

B. MANAGEMENT OF THE LANDS AND THE BUILDINGS

1. Manage and operate the Lands and the Buildings in a proper, efficient and timely manner as would a prudent operator of similar property.
2. Meet all statutory and corporate obligations applicable to the Operator in performing its obligations under this Agreement, including but not limited to, the requirements of these British Columbia Acts and the successor legislation: *Personal Information Protection Act*, *Freedom of Information and Protection of Privacy Act*, *Workers Compensation Act*, *Tobacco Control Act*, *Human Rights Code*, and associated regulations, and obligations under all contracts the Operator enters into in connection with the Lands and the Buildings and the requirements of any insurer of the Lands and the Buildings.
3. Ensure that the Lands and the Buildings comply with all applicable statutory health and safety standards to ensure the health and safety of persons at or near the workplace, including ensuring that fire inspections are carried out regularly by the appropriate authorities.
4. Use reasonable efforts to maintain full occupancy of the Residential Units and select Building residents as set out in Schedule D.
5. Administer annual and routine inspection of all Residential Units in compliance with the *Co-operative Association Act* or *Residential Tenancy Act* (British Columbia) as applicable, City and municipal bylaws, and cyclical requirements using standardized forms.
6. Maintain the level of staff presence in the Buildings appropriate to the needs of the Building residents and the Lands and the Buildings to:
 - a. provide safety and security; and
 - b. maintain staff presence at the main access point for the Buildings during the Operator's regular business hours and an on-call contact twenty-four (24) hours a day, seven days a week.
7. Administer a pest management program and respond to resident requirements for Residential Unit-specific applications in compliance with current legislation.
8. Landscaping:

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- a. Follow sound landscape management practices.
 - b. Maintain all site vegetation to landscaping standards and regional regulations.
 - c. Maintain hard surface areas.
 - d. Facilitate minor landscaping upgrades (e.g., retaining walls, fences, pathways/roadways/parking areas, and minor tree root removal).
 - e. Understand local and provincial requirements for weed and pest control, and modify practices to meet changing requirements. All pesticide use will comply with the safe pesticide application regulations and licensing in accordance with Workplace Hazardous Materials Information System (WHMIS).
 - f. Repair and maintain irrigation mechanical systems including seasonal and periodic maintenance.
 - g. Recommend landscaping improvements or modifications to the City for consideration for capital upgrades.
9. Snow and Ice Removal:
- a. Comply with City bylaws for snow removal and ice treatment.
 - b. Maintain common walkways and egresses to meet minimum safety and access requirements for Building residents and emergency services.
 - c. Maintain site surface drainage.
 - d. Manage ice and snow build-up on building envelope (e.g., roofs, overhangs, and icicle removal).
10. Building Maintenance:
- a. Maintain routine building maintenance and preventive maintenance programs for the Lands and the Buildings which will include:
 - i. exterior maintenance will include roof drain and gutter cleaning, cyclical window washing, care and maintenance of exterior finishes, re-lamp, graffiti removal and identification/elimination of hazards; and
 - ii. interior maintenance will include mechanical and electrical systems, HVAC, elevators, interior finishes, containment and identification/elimination of hazards, key storage systems, lock devices, enter-phone systems, fire annunciation and sprinkler systems, video surveillance systems, and alarm systems.
 - b. Comply with government-regulated waste management practices.
 - c. Provide routine waste removal service (e.g., litter pick-up, abandoned household goods, etc.).
11. Janitorial:
- a. Provide routine and cyclical cleaning to common areas.
 - b. Comply with legislated standards governing storage, usage of products and equipment, and personal protection equipment.
12. Energy Management:
- a. Repair and replace equipment with Energy Star rated products.
 - b. Maintain the Lands and the Buildings so as to minimize any increase in water and energy consumption. Recommend energy enhancements to the City.
 - c. Ensure regular inspections of work areas to ensure safety hazards are identified and corrected.
13. Building Services:
- a. Maintain laundry service contracts/equipment including ventilation systems.
14. Laundry:
- a. The Operator will provide pay-per-use self-service washers and dryers for use by Building residents.
 - b. Hot water is to be used to clean laundry and control infections.

C. MAINTENANCE CAPITAL REPAIR & REPLACEMENT

- 1. Maintain the Lands and the Buildings in a satisfactory state of repair fit for habitation and perform all maintenance and repair work described in, but not limited to, the Maintenance Plan and Capital Asset Plan.

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2. Establish procedures to maintain the value and prolong the life of the Capital Asset Plan, reduce replacement costs and eliminate/reduce safety hazards where reasonably practical to do so.
 3. Prepare and deliver a Replacement Reserve Study as and when required by this Agreement.
 4. Ensure that the necessary skills and tools are available to implement the Capital Asset Plan adequately and safely.
 5. Ensure that all tenders or bids that it calls for work on the Capital Asset Plan in the amount of \$50,000.00 or more are received in writing and records of all bids and tenders are maintained. Tenders and bids under the amount of \$50,000.00 may be called for verbally but written records of the quotations so obtained must be maintained and made available to the City upon reasonable request. Notwithstanding anything in this Agreement to the contrary, all work deemed by the Operator, acting reasonably, to be required on an emergency basis shall not require tenders or bids. The Operator shall make reasonable efforts to verify that successful bidders are appropriately qualified.
 6. Advise the City immediately if the Operator becomes aware of any structural deficiency in the Buildings, which requires the intervention of the City.
- D. HUMAN RESOURCES (where applicable)**
1. Comply with all employment standards Acts including provisions relating to the hiring of minors, the *Workers Compensation Act* (British Columbia), Human Rights Code (British Columbia) and other applicable Acts governing employment.
 2. Ensure the workforce maintains required licences to provide service as applicable (e.g., drivers license, FOODSAFE, pesticide licensing, first aid, CPR, WHMIS, and professional certification).
 3. Ensure that the staff undergo a criminal record check in accordance with provincial and federal requirements, and keep evidence on file that the criminal record check was completed. The Operator will have a written policy on the frequency of subsequent criminal record checks.
 4. At least one staff member certified in Standard First Aid and CPR Level A is on duty at all times.
 5. For all staff working with residents in the Buildings, whether part-time or full time, paid or voluntary, the Operator will:
 - a. have written policies on eligibility, selection, remuneration, training, safety and security. The safety and security policies and procedures must be in accordance with current Occupational Health and Safety Regulations contained under Section 3 of the *Workers Compensation Act* (British Columbia); and
 - b. ensure the staff has the appropriate skills, qualifications, instruction, training and supervision for the tasks that they perform and to work safely. This includes, but is not limited to, an orientation on the Operator's written policies, procedures and the standards related to the management of the Lands and the Buildings and any support services provided to the Occupants thereof, such as (where applicable):
 - i. training for crisis prevention and/or de-escalation, non-violent intervention;
 - ii. prevention of infections;
 - iii. exposure to blood and body fluids, and the safe handling of needles;
 - iv. Resident complaints and dispute resolution process;
 - v. security and confidentiality of resident data;
 - vi. workplace safety, including weapons possession and violent behaviour; and
 - vii. critical incident response: (1) threat or assault to staff and residents; (2) loss of essential services in the event of unforeseen interruption; (3) fire and other emergency evacuation; (4) containment of infectious outbreaks; (5) medical emergencies; and (6) resident death.

E. FINANCIAL MANAGEMENT AND ADMINISTRATION

1. The Operator will ensure that sound financial operating written policies and procedures are in place, as the requirements set out in Schedule B.

F. RESIDENT MANAGEMENT

- a. The Operator will comply with Schedules D and E.

SCHEDULE H - OCCASIONAL THIRD PARTY USE POLICY

1. Purpose of Policy

The purpose of this occasional third party use policy (the “**Policy**”) is to provide for occasional use of the Occasional Use Plaza by third parties at various times in order to generate earned revenues which will assist the Operator in supporting its operations.

2. Amendments

This Policy shall not be amended unless the City and the Operator agree to any amendment in writing.

3. Operator Liable for Actions of Third Parties

Without limiting anything else contained in the Agreement, the Operator shall at all times be fully responsible for the actions of any third party that the Operator permits to use the Premises. If those actions result in any damage or loss to the Premises or if the City sustains any loss of any kind due in whole or in part to such actions, the Operator shall repair the damage or loss to the City’s satisfaction and shall indemnify the City for any loss it might sustain due in whole or in part to such actions.

The Operator shall ensure that the Operator’s insurance is adequate to protect the Operator for the actions of third parties.

4. Use by Third Parties

Any use by third parties of all or any portion of the Premises shall:

- (a) not be a subletting but shall only be a license to use on the terms set out in the Rental Agreement (hereinafter defined); and
- (b) be no longer than thirty (30) consecutive days, except with the prior approval of the City.

5. Rental Agreement

Before the Operator permits a third party to use all or any portion of the Premises, the Operator shall enter into a written agreement with the third party (the “**Rental Agreement**”). At a minimum the Rental Agreement shall contain the following information and requirements:

- (a) the full and correct legal name, address, contact name and telephone number of the third party;
- (b) identification of which area(s) of the Premises is/are to be used by the third party;
- (c) the purpose for which the area(s) is/are to be used by the third party;
- (d) the amount of the fee being paid by the third party including the amount of the deposit, if any;

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- (e) the duration of the Rental Agreement;
 - (f) proposed additional janitorial and security arrangements if such additional arrangements seem reasonably necessary in view of the proposed use, and any extraordinary incremental cost of such services and utilities on a cost recovery basis; and
 - (g) an obligation on the third party to comply with all federal, provincial or civic statutes, by-laws, regulations and orders in force at the time of execution of the Rental Agreement or thereafter relating to the Premises and the third party's use of the Premises.

6. No Occupation by Third Party Until Certain Conditions Met

The Operator shall not permit any third party to occupy all or any portion of the Premises unless:

- (a) the third party has executed the Rental Agreement;
- (b) the third party has satisfied all the preconditions set out in the Rental Agreement; and
- (c) obtain the written consent of the City, which consent is in the sole discretion of the City.

7. Policy Part of Agreement

As this Policy forms part of the Agreement, default by the Operator in its obligations enumerated in this Policy is default under the Agreement.