

EXPLANATION**A By-law to amend the
Ticket Offences By-law No. 9360
regarding Exploding Animal Deterrents**

On July 21, 2020, Council resolved to amend the Ticket Offences By-law by adding the offence of the sale, offer for sale, or discharge of exploding animal deterrents to Table 8.2. Also on July 21, 2020, and enacted second, Council resolved to amend Table 8.2 of the Ticket Offences By-law to ban the sale of fireworks, and the amendment regarding exploding animal deterrents was inadvertently left out of the Table. Enactment of this by-law will correct that oversight.

Director of Legal Services
October 5, 2021

BY-LAW NO. _____

**A By-law to amend the
Ticket Offences By-law No. 9360
regarding Exploding Animal Deterrents**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions and schedules of By-law No. 9360.
2. In Table 8.2, Council adds a new row in the appropriate numerical order as follows:

“

	Sell, offer for sale or discharge exploding animal deterrents	5.7.2.4.(1) Division B	\$1,000.00
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”

3. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this by-law.
4. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk

EXPLANATION**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area to CD-1**

Following the Public Hearing on December 6, 2017, Council gave conditional approval to the rezoning of the site at 177 West Pender Street. The Director of Legal Services has advised that all prior to conditions have been met, and enactment of the attached By-law will implement Council's resolutions.

Director of Legal Services
October 5, 2021

177 West Pender Street

BY-LAW NO. _____

**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area to CD-1**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

Zoning District Plan Amendment

1. This By-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-729 (a) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D, to By-law No. 3575.

Uses

2.1 The description of the area shown within the heavy black outline on Schedule A is CD-1 (789).

2.2 Subject to approval by Council of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in the By-law or in a development permit, the only uses permitted and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling, and Micro Dwelling, subject to the provisions of section 11.27 of this By-law; and
- (b) Accessory Use customarily ancillary to any use permitted by this section.

Density

3.1 Computation of floor space ratio must assume that the site consists of 557.7 m², being the site size at the time of the application for the rezoning evidenced by this By-law, prior to any dedications.

3.2 The floor space ratio for all uses combined must not exceed 6.98.

3.3 Computation of floor area must include all floors having a minimum ceiling height of 1.2 m, including earthen floor, both above and below ground level, measured to the extreme outer limits of the building.

3.4 Computation of floor area must exclude:

- (a) open residential balconies or sun decks and any other appurtenances which, in the opinion of the Director of Planning, are similar to the foregoing, except that:
 - (i) the total area of all such exclusions must not exceed 12% of the residential floor area, and

- (ii) the balconies must not be enclosed for the life of the building.
- (b) patios and roof gardens if the Director of Planning first approves the design of sunroofs and walls;
- (c) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing; those floors or portions thereof so used, which are at or below the base surface, except that the exclusion for a parking space must not exceed 7.3 m in length; and
- (d) all residential storage area above or below base surface, except that if the residential storage area above base surface exceeds 3.7 m² for a dwelling unit there will be no exclusion for any of the residential storage area above base surface for that unit.

3.5 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board:

- (a) amenity areas, except that the exclusion must not exceed, in aggregate, the lesser of 20% of the permitted floor area or 929 m².

3.6 The use of floor area excluded under section 3.4 or 3.5 must not include any use other than that which justified the exclusion.

Building height

4.1 Building height, measured from base surface, must not exceed 33.3 m.

Horizontal angle of daylight

5.1 Each habitable room must have at least one window on an exterior wall of a building.

5.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

5.3 Measurement of the plane or planes referred to in section 5.2 must be horizontally from the centre of the bottom of each window.

5.4 If:

- (a) the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council; and
- (b) the minimum distance of the unobstructed view is not less than 3.7 m;

the Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement.

5.5 An obstruction referred to in section 5.2 means:

- (a) any part of the same building including permitted projections; or
- (b) the largest building permitted under the zoning on any site adjoining CD-1 (789).

5.6 A habitable room referred to in section 5.1 does not include:

- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
 - (i) 10% or less of the total floor area of the dwelling unit, or
 - (ii) 9.3 m².

Acoustics

6. A development permit application for dwelling uses must include an acoustical report prepared by a licensed professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45

Severability

7. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

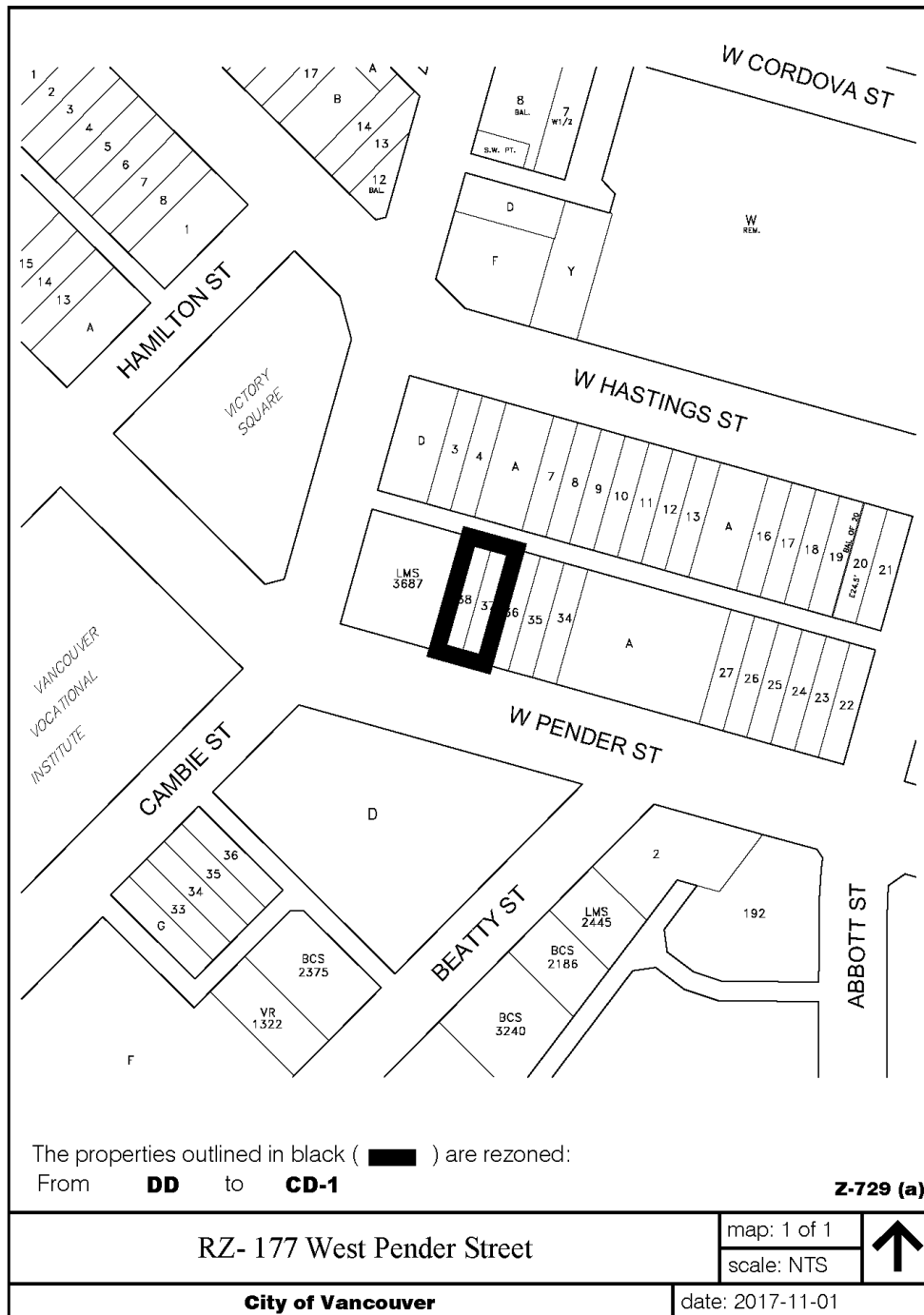
8. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk

Schedule A



EXPLANATION**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area from RS-1 to RM-8AN**

Following the Public Hearing on March 9, 2021, Council gave conditional approval to the rezoning of the site at 183 West King Edward Avenue and 4088 Columbia Street. The Director of Legal Services has advised that all prior to conditions have been met, and enactment of the attached By-law will implement Council's resolutions.

Director of Legal Services
October 5, 2021

183 West King Edward Avenue
and 4088 Columbia Street

BY-LAW NO.

**A By-law to amend
Zoning and Development By-law No. 3575
to rezone an area from RS-1 to RM-8AN**

1. This By-law amends the indicated provisions of the Zoning and Development By-law No. 3575.
2. This By-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan marginally numbered Z-887 (a) attached as Schedule A to this By-law, and incorporates Schedule A into Schedule D of By-law No. 3575.
3. The area shown within the heavy black outline on Schedule A is rezoned and moved from the RS-1 District Schedule to the RM-8AN District Schedule.
4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
5. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk

<p>W 26TH AV</p>	<p>W 23RD AV</p>	<p>MANITOBA ST</p>
	<p>W KING EDWARD AV</p>	

The properties outlined in black () are rezoned:

From **RS-1** to **RM-8AN**

Z-887 (a)

RZ - 183 W King Edward Avenue & 4088 Columbia Street	map: 1 of 1	↑
	scale: NTS	
City of Vancouver	date: 2021-02-16	

From **RS-1** to **RM-8AN**

Z-887 (a)

RZ - 183 W King Edward Avenue & 4088 Columbia Street

map: 1 of 1

scale: NTS



City of Vancouver

date: 2021-02-16

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 445 Kingsway and 2935 St. George Street**

After a public hearing on June 23, 2020 Council approved in principle the land owner's application to rezone the above noted property from C-2 (Commercial) to a new CD-1 (Comprehensive Development) District, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services. The Housing Agreement was accepted and executed by the applicant, and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services
October 5, 2021

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 445 Kingsway and 2935 St. George Street**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into a Housing Agreement with the owner of certain lands described as:

031-468-110

Lot 1 Block 132 District Lot 264A Group 1 New
Westminster District Plan EPP113645

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

NORTON ROSE FULBRIGHT CANADA LLP
Norton Rose Fulbright Canada LLP
1800-510 WEST GEORGIA STREET
VANCOUVER BC V6B 0M3
16046876575

File 1001131446
Housing Agreement

2. Description of Land

PID/Plan Number Legal Description

031-468-110 LOT 1 BLOCK 132 DISTRICT LOT 264A GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP113645

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

RAZGUL HOLDINGS LTD., NO.BC0689424

AZIZAMALCO HOLDINGS CANADA LTD., NO.BC1124915

6. Transferee(s)

CITY OF VANCOUVER
453 WEST 12TH AVENUE
VANCOUVER BC V5Y 1V4

7. Additional or Modified Terms



Land Title Act
Charge
General Instrument – Part 1

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.

Witnessing Officer Signature

NICHOLAS SHON
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 641-4902

Execution Date

YYYY-MM-DD

2021-09-17

Transferor Signature(s)

RAZGUL HOLDINGS LTD.
By their Authorized Signatory

Name: **Azizdin Ahanov**

(as to both signatures)

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.

Witnessing Officer Signature

NICHOLAS SHON
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 641-4902

Execution Date

YYYY-MM-DD

2021-09-17

Transferor Signature(s)

AZIZAMALCO HOLDINGS CANADA LTD.
By their Authorized Signatory

Name: **Azizdin Ahanov**

(as to both signatures)



Land Title Act
Charge
General Instrument – Part 1

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

YYYY-MM-DD

CITY OF VANCOUVER
By their Authorized Signatory

Name:

(as to both signatures)

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.

Electronic Signature

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

TERMS OF INSTRUMENT - PART 2

HOUSING AGREEMENT AND BUILDING USE COVENANT SECURED RENTAL AND MODERATE INCOME RENTAL HOUSING

445 KINGSWAY AND 2935 ST. GEORGE STREET

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- (i) the Transferor, Razgul Holdings Ltd. and Azizamalco Holdings Canada Ltd., are collectively called the "**Owner**", as more particularly defined in Section 1.1; and
 - (ii) the Transferee, City of Vancouver, is called the "**City**" or the "**City of Vancouver**" when referring to corporate entity continued under the *Vancouver Charter*, and "**Vancouver**" when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application to rezone the Lands (the "**Rezoning Application**") from C-2 (Commercial) District to CD-1 (Comprehensive Development) District, and after a public hearing to consider the rezoning application, the rezoning application was approved by City Council in principle, subject to, among other things, fulfilment of the condition that, prior to enactment of the rezoning by-law (upon enactment, the "**Rezoning By-law**"), the Owner make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement by by-law enacted pursuant to Section 565.2 of the *Vancouver Charter* securing all of the residential units as secured rental housing units with at least 20 percent of the residential floor areas counted in the calculation of the Floor Space Ratio of the New Building secured as Moderate Income Rental Housing Units pursuant to Section 3.1A of the Vancouver DCL Bylaw, for the longer of 60 years and life of the New Building, and subject to other conditions set forth in the minutes of the public hearing (collectively, the "**Housing Condition**"); and
- D. The Owner is entering into this Agreement to satisfy the Housing Condition.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, in satisfaction of the requirements of Section 3.1A of the Vancouver DCL By-law and pursuant to Section 565.2 of the *Vancouver Charter* and Section 219 of the *Land Title Act*, agree as follows, in respect of the use of the Lands and the New Building:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

- 1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:
- (a) "**Agreement**" means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;

- (b) **"Building Permit"** means any building permit issued by the City authorizing the building of a New Building as contemplated by the Rezoning By-law and the Development Permit;
- (c) **"City"** and **"City of Vancouver"** have the meaning ascribed to those terms in Recital A(ii);
- (d) **"City Manager"** means the chief administrator from time to time of the City and his or her successors in function and their respective nominees;
- (e) **"City Personnel"** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) **"Development Permit"** means any development permit issued by the City authorizing the development of the Lands contemplated by the Rezoning By-law;
- (g) **"Director of Legal Services"** means the chief administrator from time to time of the City's Legal Services Department and her/his successors in function and their respective nominees;
- (h) **"Discharge"** has the meaning ascribed to that term in Section 9.1(b);
- (i) **"Discharge Date"** means the date upon which the Owner files the Discharge with the Land Title Office;
- (j) **"Dwelling Unit"** has the meaning set out in the City's Zoning and Development By-law No. 3575, as amended or replaced from time to time;
- (k) **"Effective Date"** means the date as of which this Agreement has been executed by all parties to it;
- (l) **"Eligible Person"** means a person who:
 - (i) at the beginning of such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to four (4) times the annual rent of such Moderate Income Rental Housing Unit;
 - (ii) thereafter throughout such person's tenancy of a Moderate Income Rental Housing Unit, together with all other Occupants of such Moderate Income Rental Housing Unit, have an aggregate annual household Income that is less than or equal to five (5) times the annual rent of such Moderate Income Rental Housing Unit; and
 - (iii) throughout such person's tenancy of a Moderate Income Rental Housing Unit, will:
 - (A) not permit such Moderate Income Rental Housing Unit to be occupied by a person or persons other than those persons identified in the

Tenancy Agreement for more than 60 consecutive days or more than 90 days in total in any calendar year, without the prior written consent of the Owner;

- (B) not permit such Moderate Income Rental Housing Unit to be occupied by a total number of Occupants less than the total number of bedrooms therein;
 - (C) occupy such Moderate Income Rental Housing Unit as his or her Principal Residence and not permit any Occupant to occupy such Moderate Income Rental Housing Unit unless such Moderate Income Rental Housing Unit is the Occupant's Principal Residence;
 - (D) not permit such Moderate Income Rental Housing Unit to be vacant for a period of six months or longer, cumulatively within a calendar year, without the prior written consent of the Owner; and
 - (E) not sublet such Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part;
- (m) **"Floor Space Ratio"** means the figure obtained when the area of the floors of a building is divided by the area of the legal parcel on which such building is constructed;
- (n) **"For-Profit Affordable Rental Housing"** means multiple Dwelling Units within a building for use as Rental Housing which meets the requirements of Section 3.1A of the Vancouver DCL By-law to be "for-profit affordable rental housing" (as defined therein), but does not include alterations of or extensions to those Dwelling Units;
- (o) **"For-Profit Affordable Rental Housing Parcel"** has the meaning ascribed to that term in Section 9.1(a);
- (p) **"For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"For-Profit Affordable Rental Housing Unit"** means any one of such units;
- (q) **"General Manager of Planning, Urban Design and Sustainability"** means the person appointed from time to time as the City's General Manager of Planning, Urban Design and Sustainability and his/her successors in function and delegates and their respective nominees;
- (r) **"Income"** of an Occupant means the total annual world-wide income before income tax from all sources of the Occupant and includes without limitation, the following income sources:
- (i) income assistance;
 - (ii) employment, including regular overtime, vacation pay and gratuities;
 - (iii) self-employment, including commission sales;

- (iv) seasonal employment;
- (v) Employment Insurance and WorkSafe BC insurance;
- (vi) training allowances;
- (vii) income from the Resettlement Assistance Program;
- (viii) child support, maintenance payments or support from family/friends/community;
- (ix) 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
- (x) pension incomes including:
 - (A) old Age Security, Guaranteed Income Supplement, Allowance, and Allowance for the Survivor (formerly Spousal Allowance);
 - (B) senior's supplement;
 - (C) private pension plans including Registered Retirement Income Funds;
 - (D) Canada Pension Plan, including retirement, disability, orphans, widows, disability for child, etc.
 - (E) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada (included for calculations with an effective date prior to January, 2013); and
 - (F) foreign pensions,

but does not include:

- (xi) earnings of dependent children aged 18 and under (regardless of student status);
- (xii) student loans, equalization payments, student grants and scholarships;
- (xiii) taxable benefits, including living out or travel allowances, medical coverage, uniform allowance, etc.;
- (xiv) Shelter Aid for Elderly Renters and Rental Assistance Program payments;
- (xv) Canada Child Tax Benefits, including the National Child Benefit Supplement, Child Disability Benefit, BC Family Bonus, and BC Earned Income Benefit;
- (xvi) Universal Child Care Benefits;
- (xvii) BC Childcare Subsidy;

- (xviii) income from foster parenting;
- (xix) Child in Home of Relative and Extended Family Program;
- (xx) income from approved live-in care givers;
- (xxi) GST and Income Tax rebates; and
- (xxii) War Veteran's Allowance and Disability Pension from Veteran's Affairs Canada;
- (s) "**Land Title Act**" means the *Land Title Act*, R.S.B.C. 1996, c. 250, and all amendments thereto and re-enactments thereof;
- (t) "**Lands**" means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the Form C - General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (u) "**Losses**" means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (v) "**Moderate Income Rental Housing**" means a portion of the For-Profit Affordable Rental Housing in a building that is comprised of at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such building consisting of Dwelling Units with average rents per unit type that meet the requirements of Section 2.1(q) of this Agreement, are made available for rent only to Eligible Persons in accordance with this Agreement and comply with the Moderate Income Rental Housing Pilot Program;
- (w) "**Moderate Income Rental Housing Rent Roll**" means a rent roll report providing information regarding each of the Moderate Income Rental Housing Units, including the unit number, unit type, unit size and rent;
- (x) "**Moderate Income Rental Housing Pilot Program**" means the pilot program adopted by City Council on November 28, 2017, as amended on December 5, 2017, May 4, 2018 and November 26, 2019, which pilot program provides for, *inter alia*, the process, project requirements and available incentives for the development of new buildings where 100% of the residential floor area is secured rental housing and at least 20% of the residential floor area that is counted in the calculation of the Floor Space Ratio for such buildings is made available to moderate income households;
- (y) "**Moderate Income Rental Housing Report**" means a notarized annual report prepared by the Owner and delivered to the City providing information regarding each of the Moderate Income Rental Housing Units, including but not limited to the following:

- (i) unit number for the Moderate Income Rental Housing Unit;
- (ii) monthly rent rate;
- (iii) aggregate household Income of the Occupants;
- (iv) number of Occupants residing therein;
- (v) number of bedrooms contained therein;
- (vi) length of occupancy of the current Tenant; and
- (vii) the results of the verification conducted by the Owner pursuant to Section 2.1(h); and

such report shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (z) **“Moderate Income Rental Housing Units”** has the meaning ascribed to that term in Section 2.1(d) and **“Moderate Income Rental Housing Unit”** means any one of such units;
- (aa) **“New Building”** means any new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (bb) **“Occupancy Permit”** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (cc) **“Occupants”** means persons for whom a Rental Housing Unit serves as their Principal Residence and an **“Occupant”** means any one of them, as the context requires;
- (dd) **“Owner”** means the registered owner of the Lands as of the Effective Date, namely, Razgul Holdings Ltd. and Azizamalco Holdings Canada Ltd., and their successors and permitted assigns;
- (ee) **“Personal Information Protection Act”** means the *Personal Information Protection Act*, S.B.C. 2003, c.63, and all amendments thereto and re-enactments thereof;
- (ff) **“Principal Residence”** means the usual place where an individual lives, makes his or her home and conducts his or her daily affairs, including, without limitation, paying bills and receiving mail, and is generally the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver’s licenses, personal identification, vehicle registration and utility bills and, for the purposes of this Agreement, a person may only have one principal residence;

- (gg) **"Related Person"** means, where the registered or beneficial owner of the Rental Housing Units is:
- (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c.57), then a Related Person is:
 - (A) an officer, director or shareholder of such Owner or of another entity which is a shareholder of such Owner; or
 - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder; and
 - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (hh) **"Rental Housing"** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm's length, for use as rental accommodation on a month-to-month basis or longer in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (ii) **"Replacement For-Profit Affordable Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement For-Profit Affordable Rental Housing Unit"** means one such unit;
- (jj) **"Replacement Moderate Income Rental Housing Units"** has the meaning ascribed to that term in Section 2.1(d) and **"Replacement Moderate Income Rental Housing Unit"** means one such unit;
- (kk) **"Residential Tenancy Act"** means the *Residential Tenancy Act* S.B.C. 2002, c. 78 and all amendments thereto and re-enactments thereof;
- (ll) **"Residential Tenancy Regulation"** means the *Residential Tenancy Regulation*, B.C. Reg. 477/2003 and all amendments thereto and re-enactments thereof;
- (mm) **"Rezoning Application"** has the meaning ascribed to that term in Recital C;
- (nn) **"Rezoning By-law"** has the meaning ascribed to that term in Recital C;
- (oo) **"Statement of Moderate Income Rental Housing Unit Eligibility"** means a notarized statement, prepared by the Owner and delivered to the City, that states the following in respect of a Moderate Income Rental Housing Unit:
- (i) confirmation that, to the best of the Owner's knowledge, the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person;

- (ii) description of all of the actions and procedures that the Owner has undertaken to verify that the Tenant of such Moderate Income Rental Housing Unit is an Eligible Person; and
- (iii) such other information regarding such Moderate Income Rental Housing Unit and its Occupants as the General Manager of Planning, Urban Design and Sustainability may otherwise require;

provided that such statement shall not include the names or information of any Tenants or Occupants and shall otherwise be satisfactory to the General Manager of Planning, Urban Design and Sustainability in form and substance;

- (pp) **"Tenancy Agreement"** means a residential tenancy agreement, lease, licence or other agreement prepared in accordance with the *Residential Tenancy Act*, granting one or more Occupants the right to occupy a Moderate Income Rental Housing Unit;
- (qq) **"Tenant"** means an Eligible Person who is a tenant of a Moderate Income Rental Housing Unit by way of a Tenancy Agreement;
- (rr) **"Term"** means the term of this Agreement, which will commence on the Effective Date and will end on the later of:
 - (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
 - (ii) the date as of which the New Building is demolished or substantially destroyed;
- (ss) **"Vancouver"** has the meaning ascribed to that term in Recital A(ii);
- (tt) **"Vancouver Charter"** means the *Vancouver Charter* S.B.C. 1953, c. 55, and all amendments thereto and re-enactments thereof; and
- (uu) **"Vancouver DCL By-law"** means the City's Vancouver Development Cost Levy By-law No. 9755, and all amendments thereto and re-enactments thereof.

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.

- (d) References. References to the or this "**Agreement**" and the words "**hereof**" "**herein**" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.
- (e) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia.
- (f) Legislation. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto in force on the Effective Date, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) Time. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.

ARTICLE 2 RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

- 2.1 The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that throughout the Term:
 - (a) prior to the Discharge Date, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
 - (b) after the Discharge Date, the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) and the For-Profit Affordable Rental Housing Parcel will not be used in any way that is inconsistent with the terms of this Agreement;
 - (c) at its sole cost and expense, it will construct, fit and finish the New Building, including the For-Profit Affordable Rental Housing Units (including the Moderate Income Rental Housing Units) any amenities and parking spaces, to the satisfaction of the City and in accordance with this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies;
 - (d) all of the Dwelling Units in the New Building will be used only for the purpose of providing For-Profit Affordable Rental Housing (the "**For-Profit Affordable Rental Housing Units**"), provided that the For-Profit Affordable Rental Housing Units comprising not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing (the "**Moderate**

Income Rental Housing Units”), all in accordance with the terms of this Agreement, the Rezoning By-law, the Development Permit, the Building Permit and all applicable City by-laws and policies and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) built on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than the same number and type of replacement Dwelling Units as the New Building formerly contained, which replacement Dwelling Units during the remainder of the Term, will also be used only for the purpose of providing For-Profit Affordable Rental Housing (such replacement Dwelling Units hereinafter referred to as a **“Replacement For-Profit Affordable Rental Housing Units”**) and Moderate Income Rental Housing (such replacement Dwelling Units hereinafter referred to as a **“Replacement Moderate Income Rental Housing Units”**) respectively, in the same percentages as set out in this Section and in accordance with the terms of this Agreement and the applicable by-laws of the City and such Replacement For-Profit Affordable Rental Housing Units and Replacement Moderate Income Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restrictions, respectively, as the For-Profit Affordable Rental Housing Units, the Moderate Income Rental Housing Units and the For-Profit Affordable Rental Housing Parcel are pursuant to this Agreement;

- (e) not less than:
 - (i) 35% of the For-Profit Affordable Rental Housing Units; and
 - (ii) 35% of the Moderate Income Rental Housing Units;
 will have two or more bedrooms;
- (f) each of the Moderate Income Rental Housing Units shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person and except in accordance with the following conditions:
 - (i) each Moderate Income Rental Housing Unit shall be rented only pursuant to a Tenancy Agreement, which Tenancy Agreement shall include a copy of this Agreement;
 - (ii) each Moderate Income Rental Housing Unit shall be rented for a monthly rent not exceeding the rent permitted to that type of Moderate Income Housing Unit, as described in Section 2.1(q);
 - (iii) each Moderate Income Rental Housing Unit shall be occupied only by an Eligible Person who is occupying such Moderate Income Rental Housing Unit as his or her Principal Residence and the Principal Residence of such other Occupants of the Eligible Person’s household as specified in the Tenancy Agreement between the Owner and the Eligible Person for the rental thereof;

- (iv) each Moderate Income Rental Housing Unit shall have at least one Occupant per bedroom thereof;
- (v) each Tenancy Agreement shall include:
 - (A) a clause requiring the Tenant and each permitted Occupant of the respective Moderate Income Rental Housing Unit to comply with this Agreement;
 - (B) the names of all Occupants of the respective Moderate Income Rental Housing Unit;
 - (C) a term that is either on a month-to-month basis or for a fixed term of less than six (6) months;
 - (D) one or more clauses providing that the Tenant acknowledges and agrees that, among other terms, the following are material terms of the Tenancy Agreement:
 - I. the Tenant is and remains an Eligible Person at all times during the term of the Tenancy Agreement;
 - II. any person not identified in the Tenancy Agreement shall not reside at the Moderate Income Rental Housing Unit for more than 60 consecutive days or more than 90 days total in any calendar year, unless the Tenant receives prior written consent from the Owner;
 - III. the Moderate Income Rental Housing Unit will have at least one Occupant per bedroom thereof;
 - IV. the Moderate Income Rental Housing Unit will not be vacant for six months or longer, cumulatively, within a calendar year, without the prior written consent of the Owner;
 - V. the Moderate Income Rental Housing Unit will at all times during the term of the Tenancy Agreement be the Principal Residence of the Tenant and the other Occupants in the Tenant's household as specified in the Tenancy Agreement; and
 - VI. the Tenant will not sublease the Moderate Income Rental Housing Unit or assign the Tenancy Agreement in whole or in part; and
 - (E) a clause:
 - I. wherein the Tenant consents to the collection, use and retention by the Owner and disclosure to the City of information, documentation and evidence described in Section 2.1(h); and

- II. requiring the Tenant to deliver to the Owner the information, documentation and evidence described in Section 2.1(h)(ii) every five (5) years following the date on which the Tenant first occupies the Moderate Income Rental Housing Unit,

unless otherwise permitted by the General Manager of Planning, Urban Design and Sustainability in his or her sole discretion; and

- (vi) subject to any contrary provisions in the *Residential Tenancy Act*, as determined to be contrary by a ruling or decision of any judicial body having jurisdiction, if the Tenant is in breach of any of the material terms described in Section 2.1(f)(v)(D), the Owner will take all necessary steps to end the tenancy of the Tenant in the respective Moderate Income Rental Housing Unit, which steps will include:
 - (A) providing the Tenant with a written notice specifying the breach forthwith upon the Owner becoming aware of any breach;
 - (B) providing the Tenant with a reasonable time to remedy the breach after such written notice has been provided;
 - (C) if the Tenant does not remedy the breach within the time specified in Section 2.1(f)(vi)(B), providing the Tenant with a written notice of termination of the Tenancy Agreement that will be effective two (2) months, except in respect of a breach of the material terms specified in Sections 2.1(f)(v)(D)I to 2.1(f)(v)(D)III in which case the termination will be effective six (6) months, following the date that the Owner has delivered such written termination notice to the Tenant; and
 - (D) causing all Occupants of the respective Moderate Income Rental Housing Unit to vacate the Moderate Income Rental Housing Unit upon the effective date of termination;
- (g) if the Owner has terminated a Tenancy Agreement for the reasons specified in Sections 2.1(f)(v)(D)I to 2.1(f)(v)(D)III, the Owner shall offer another For-Profit Affordable Rental Housing Unit for rent to the former Tenant, subject to availability for rental of For-Profit Affordable Rental Housing Units and eligibility of the former Tenant in respect of other Moderate Income Rental Housing Units;
- (h) in connection with Section 2.1(f), throughout the Term, the Owner shall:
 - (i) prior to renting a Moderate Income Rental Housing Unit to a prospective tenant, or upon the change of any Occupants residing within a Moderate Income Rental Housing Unit from the Occupants listed in the Tenancy Agreement, verify, by obtaining all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that there

will be at least one Occupant per bedroom for such Moderate Income Rental Housing Unit upon occupancy; and

- (ii) not less than once every five (5) years after the date on which a Moderate Income Rental Housing Unit was rented to a Tenant, verify, by all information, documentation or evidence necessary or such other information, documentation or evidence that the General Manager of Planning, Urban Design and Sustainability may deem necessary, that such prospective tenant is an Eligible Person and that such Moderate Income Rental Housing Unit continues to have at least one Occupant per bedroom;
- (i) the Owner will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any For-Profit Affordable Rental Housing Unit for a term of less than one month at a time;
- (j) except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any For-Profit Affordable Rental Housing Unit to be sold or otherwise transferred unless title to every one of the For-Profit Affordable Rental Housing Unit is sold or otherwise transferred together and as a block to the same legal and beneficial owner, as applicable, and subject to Section 11.9;
- (k) the Owner will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld, subject to ARTICLE 9;
- (l) any sale of any For-Profit Affordable Rental Housing Unit in contravention of the covenant in Section 2.1(j), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(k), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (m) the Owner will:
 - (i) prior to the Discharge Date, keep and maintain the New Building and all parts thereof; and
 - (ii) after to the Discharge Date, keep and maintain the For-Profit Affordable Rental Housing Units and the For-Profit Affordable Rental Housing Parcel and all parts thereof,in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (n) if:
 - (i) prior to the Discharge Date, the New Building or any part thereof, is damaged; and

- (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units or any part thereof are damaged,

it will promptly restore and repair the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred reasonable wear and tear excepted;

- (o) the Owner will insure, or cause to be insured:

- (i) prior to the Discharge Date, the New Building; and

- (ii) after the Discharge Date, the For-Profit Affordable Rental Housing Units and the For-Profit Affordable Rental Housing Parcel,

to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands;

- (p) the average size of the For-Profit Affordable Rental Housing Units will be at or below the following sizes:

<u>UNIT TYPE</u>	<u>AVERAGE SIZE (APARTMENT)</u>	<u>AVERAGE SIZE (TOWNHOUSE)</u>
Studio	42 square metres	N/A
1 Bedroom	56 square metres	56 square metres
2 Bedrooms	77 square metres	90 square metres
3 Bedrooms	97 square metres	112 square metres
4 Bedrooms	N/A	125 square metres

except that the floor area used for stairways within the townhouse units of two or more storeys is excluded from the calculation of maximum unit size;

- (q) with respect to the Moderate Income Rental Housing Units:

- (i) the average initial starting monthly rents for each unit type will be at or below the following amounts:

<u>UNIT TYPE</u>	<u>AVERAGE MONTHLY STARTING RENTS</u>
Studio	\$950
1 Bedroom	\$1,200
2 Bedrooms	\$1,600
3 Bedrooms	\$2,000

- (ii) the unit numbers, unit type, unit size and rents to be charged by the Owner to the first Tenants of each of the Moderate Income Rental Housing Units in the New Building following issuance of the Occupancy Permit will be set out in a Moderate Income Rental Housing Rent Roll and delivered by the Owner to the City for approval by the General Manager of Planning, Urban Design and Sustainability, in his or her sole discretion, prior to the issuance of each of the Development Permit, the Building Permit and the Occupancy Permit;
- (iii) following the issuance of the Occupancy Permit, subject to the terms of this Agreement, including, without limitation, that not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing and provided the Owner has received approval in writing from the General Manager of Planning, Urban Design and Sustainability, in his or her sole discretion, if a Moderate Income Rental Housing Unit is occupied by a Tenant who was formerly an Eligible Person but no longer meets the eligibility requirements therefor, the Owner may substitute and re-assign the designation of such Dwelling Unit as a Moderate Income Housing Rental Unit to another Dwelling Unit in the New Building, which is the same unit type and is equal to or greater in size to the Dwelling Unit being substituted, on a one-for-one basis, such that the unit type mix and number of Moderate Income Housing Rental Units in the New Building remain unchanged and the initial rent for the newly assigned Moderate Income Rental Housing Unit will be the same as the rent for the former Moderate Income Housing Rental Unit; and
- (iv) the Owner shall not increase the rents for any of the Moderate Income Rental Housing Units, except for annual increases in rent following the issuance of an Occupancy Permit by an amount not to exceed the annual allowable increase in rent permitted under the provisions of the *Residential Tenancy Act* and the *Residential Tenancy Regulation*, which as of the date of this Agreement, are Section 43(1) (a) of the *Residential Tenancy Act* and Section 22 of the *Residential Tenancy Regulation*, respectively (as each such section may be amended or replaced from time to time) and for clarity, the Owner shall not increase the rent for a Moderate Income Rental Housing Unit in any other circumstance, including but not limited to, any change in tenancy or occupancy of a Moderate Income Rental Housing Unit.

**ARTICLE 3
DEVELOPMENT PERMIT RESTRICTION ON THE LANDS**

- 3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Development Permit, and will take no action, directly or indirectly, to compel the issuance of any Development Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement; and
 - (ii) the City will be under no obligation to issue any Development Permit until such time as the Owner has complied with Section 3.1(a)(i); and
 - (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 3.

**ARTICLE 4
BUILDING RESTRICTION ON THE LANDS**

- 4.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:
- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Building Permit, and will take no action, directly or indirectly, to compel the issuance of any Building Permit, until such time as the Owner has delivered a Moderate Income Rental Housing Rent Roll to, and to the satisfaction of, the General Manager of Planning, Urban Design and Sustainability confirming the rents proposed to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit, and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (ii) the City will be under no obligation to issue any Building Permit until such time as the Owner has complied with Section 4.1(a)(i); and

- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of a Development Permit until there is compliance with the provisions of this ARTICLE 4.

ARTICLE 5 OCCUPANCY RESTRICTION ON THE LANDS

5.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
 - (i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the satisfaction of the General Manager of Planning, Urban Design and Sustainability:
 - (A) a final Moderate Income Rental Housing Rent Roll confirming the rents to be charged to the first tenants of the Moderate Income Rental Housing Units following issuance of the Occupancy Permit and the unit type mix and size, which rents, unit type mix and size shall comply with those applicable to the Moderate Income Rental Housing Units in accordance with this Agreement and the Development Permit; and
 - (B) proof of the insurance, consistent with the requirements of Section 2.1(o), is in force and effect, in form and substance satisfactory to the City;
 - (ii) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 5.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 8, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 5.

ARTICLE 6 RECORD KEEPING

6.1 The Owner will keep accurate records pertaining to the use, occupancy and rental rates charged off/for the Moderate Income Rental Housing Units, such records to be to the satisfaction of the General Manager of Planning, Urban Design and Sustainability. The Owner will:

- (a) on each anniversary of the date of issuance of the first Occupancy Permit for any portion of the For-Profit Affordable Rental Housing Parcel or at the request of the

City, provide an updated Moderate Income Rental Housing Report to the General Manager of Planning, Urban Design and Sustainability;

- (b) within ninety (90) days of:
 - (i) a change in any Occupant of a Moderate Income Rental Housing Unit;
 - (ii) the date that is the fifth anniversary of the date on which a Moderate Income Rental Housing Unit was rented to a Tenant and every five (5) years thereafter; and
 - (iii) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time,complete and deliver to the City a Statement of Moderate Income Rental Housing Unit Eligibility in respect of such Moderate Income Rental Housing Unit;
- (c) at the request of the General Manager of Planning, Urban Design and Sustainability, from time to time:
 - (i) make such records available for audit, inspection and copying by City staff, subject to applicable restrictions in any tenancy, privacy and other laws which place limitations on such disclosure; and
 - (ii) provide evidence of the insurance required to be taken out pursuant to Section 2.1(o); and
- (d) comply with the *Personal Information Protection Act* in collecting, using, retaining and disclosing the information of any person, Tenant or Occupant pursuant to its obligations under this Agreement and any Tenancy Agreement.

ARTICLE 7 ENFORCEMENT

- 7.1 This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it shall be entitled to court costs on a solicitor and own client basis.

ARTICLE 8 RELEASE AND INDEMNITY

- 8.1 Release and Indemnity. Subject to Section 8.2, the Owner hereby:
- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
 - (i) by reason of the City or City Personnel:

- A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement
 - C. withholding any permit pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
- (ii) that otherwise arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except in each case to the extent attributable to the wrongful intentional acts of the City or the City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained “but for” any of the following:
- (i) this Agreement;
 - (ii) the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. withholding any permit pursuant to this Agreement;
 - C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant, *Vancouver Charter* Section 562.2 housing agreement or other right granted to the City pursuant to this Agreement; or
 - (iii) any negligent act or omission or wilful misconduct of the Owner or any of the Owner’s Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or

- (iv) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel.

The indemnities in this Article 6 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

8.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 8.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 8.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 8.2(a) in the following circumstances:
 - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
 - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
 - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 8.2(b); and

- (c) Regardless of whether the claim is being defended under Section 8.2(a) or Section 8.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

8.3 Survival of Release and Indemnities. The release and indemnities in this Article 6 will remain effective, and survive any modification of, or partial release or release of the

covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

ARTICLE 9 SUBDIVISION OF THE LANDS

9.1 By Air Space Subdivision Plan. Notwithstanding Section 2.1(k):

- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the City will not unreasonably withhold its consent to a subdivision of the Lands and the New Building by the deposit of an air space subdivision plan, provided that all the For-Profit Affordable Rental Housing Units will thereafter be contained within a single air space parcel (the "**For-Profit Affordable Rental Housing Parcel**"); and
- (b) following such a subdivision and the issuance of a final occupancy permit for the For-Profit Affordable Rental Housing Parcel, the Owner may apply to the City for a partial discharge of this Agreement (the "**Discharge**") with respect to any parcel other than the For-Profit Affordable Rental Housing Parcel, and the City will on request of the Owner execute and deliver a registrable Discharge in respect of such other parcel(s) provided, that:
 - (i) the Director of Legal Services is satisfied that the Discharge will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the For-Profit Affordable Rental Housing Units, including, for clarity, the Moderate Income Rental Housing Units or in respect of the For-Profit Affordable Rental Housing Parcel, pursuant to this Agreement;
 - (ii) the Discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iii) the City will have a reasonable amount of time to execute and return the Discharge; and
 - (iv) the preparation and registration of the Discharge will be without cost to the City.

ARTICLE 10 NOTICES

10.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

- (a) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service

disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and

- (b) if personally delivered, on the date when delivered.

If to the City, addressed to:

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

Attention: General Manager of Planning, Urban Design and Sustainability with a concurrent copy to the Director of Legal Services

If to the Owner, addressed to:

Razgul Holdings Ltd. and Azizamalco Holdings Canada Ltd.
1500 - 1055 West Georgia Street
Vancouver, British Columbia V6E 4N7

Attention: President

or to such other address in Canada as either party may specify in writing to the other party in the manner described above, provided that if and when the owner of the Land or any part thereof should change, in the absence of any such specification, then to the address as set out in the State of Title Certificate for that particular parcel of land.

ARTICLE 11 MISCELLANEOUS

- 11.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto. Upon the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof in accordance with the provisions of Section 11.9, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership.
- 11.2 Agreement to be a First Charge. The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any rezoning or any Development Permit; and

- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

11.3 Application of Residential Tenancy Act to Termination Notice. The City agrees that, in the event the Owner delivers a termination notice to a Tenant pursuant to Section 2.1(f)(vi), and such termination notice is found to be ineffective by a ruling or decision of any judicial body having jurisdiction in connection with the *Residential Tenancy Act*, provided that the termination notice was not found to be ineffective by reason of an error by or the negligence of the Owner, including any error by the Owner in delivering the termination notice in accordance with, or complying with the applicable time limits in, the *Residential Tenancy Act*, or the *Residential Tenancy Regulation*, the Owner shall not be in breach of its obligation to ensure that:

- (a) not less than twenty (20) percent of the residential floor areas that are counted in the calculation of the Floor Space Ratio of the New Building will be used only for the purpose of providing Moderate Income Rental Housing, as set out in Section 2.1(d) as a result of such termination notice being ineffective and for clarity, the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall continue to count towards the aforementioned twenty (20) percent of the residential floor areas, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant; and
- (b) the Moderate Income Rental Housing Unit to which such ineffective termination notice relates shall not be rented, leased, licenced, used or otherwise permitted to be occupied unless it is rented, leased, licenced, used to or occupied by an Eligible Person, for the remainder of the period that such Moderate Income Rental Housing Unit is rented to the applicable Tenant.

For additional certainty, the Owner shall not have liability to the City under this Agreement (or otherwise) with respect to such termination notice being deemed ineffective, and shall not be required to perform any additional acts in connection therewith.

11.4 Enforcement. This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.

11.5 Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable; the balance of the obligations and covenants will remain and be binding.

11.6 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

- 11.7 Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 11.8 Further Assurances. The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter*.
- 11.9 Sale of Lands and New Building or Part Thereof. Prior to the sale or transfer of any legal or beneficial interest (other than the transfer of an interest by way of mortgage, where the mortgagee has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage), and subject always to Sections 2.1(j) and 2.1(k):
- (a) prior to the Discharge Date, the Owner of the Lands and the New Building; or
 - (b) after the Discharge Date, the Owner of the For-Profit Affordable Rental Housing Parcel;
- will cause the purchaser/ transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of such Owner under this Agreement. The provisions in this Section 11.9 will apply equally to all subsequent purchasers/transferees (other than a mortgagee that has first granted the Section 219 Covenant contained herein priority, in form and substance satisfactory to the City, over its mortgage).
- 11.10 Owner's Representations. The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual

or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.

11.11 Liability. Notwithstanding anything to the contrary contained herein, the Owner shall not be liable under any of the covenants and agreements contained herein where such liability arises by reason of an act or omission occurring after the Owner ceases to have any further interest in the Lands.

11.12 Enurement. This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

IN WITNESS WHEREOF the parties have executed this Agreement on the Forms C or D which are a part hereof.

END OF DOCUMENT

EXPLANATION**Authorization to enter into a Housing Agreement
Re: 320 East Hastings Street**

On January 25, 2021, the Director of Planning approved in principle a development on the above noted property, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Arts, Culture and Community Services and the Director of Legal Services, prior to the issuance of a Development Permit.

A Housing Agreement has been accepted and signed by the applicant land owner. Enactment of the attached By-law, as required by section 565.2 of the Vancouver Charter, will authorize the City to enter into such Housing Agreement with the land owner and complete the process to implement Council's condition regarding a Housing Agreement.

Director of Legal Services
October 5, 2021

BY-LAW NO.

**A By-law to enact a Housing Agreement
for 320 East Hastings Street**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. Council authorizes the City to enter into a Housing Agreement with the owner of certain lands described as:

031-308-236

Lot A Block 71 District Lot 196 Group 1 New Westminster
District Plan EPP107810

in substantially the form and substance of the Housing Agreement attached to this By-law, and also authorizes the Director of Legal Services to execute the agreement on behalf of the City, and to deliver it to the owner on such terms and conditions as the Director of Legal Services deems fit.

2. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk



Land Title Act

Charge

General Instrument – Part 1

1. Application

NORTON ROSE FULBRIGHT CANADA LLP
Barristers and Solicitors
1800 - 510 West Georgia Street
Vancouver BC V6B 0M3
604.687.6575

File No.: 1001089882
Attention: Mario Rubio / Kelly Boreham
Housing Agreement

2. Description of Land

PID/Plan Number Legal Description

031-308-236 LOT A BLOCK 71 DISTRICT LOT 196 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP107810

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Entire Instrument

4. Terms

Part 2 of this instrument consists of:

(b) Express Charge Terms Annexed as Part 2

5. Transferor(s)

FIRST UNITED CHURCH COMMUNITY MINISTRY SOCIETY, NO.S0060909

6. Transferee(s)

CITY OF VANCOUVER
453 WEST 12TH AVENUE
VANCOUVER BC V5Y 1V4

7. Additional or Modified Terms



Land Title Act

Charge

General Instrument - Part 1

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

MARIO RUBIO
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 641-4843

YYYY-MM-DD

2021-09-21

**FIRST UNITED CHURCH
COMMUNITY MINISTRY SOCIETY**
By its Authorized Signatory(ies):

Name: Carmen Laroche

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

MARIO RUBIO
BARRISTER & SOLICITOR
NORTON ROSE FULBRIGHT CANADA LLP
SUITE 1800 - 510 WEST GEORGIA STREET
VANCOUVER, B.C. V6B 0M3
(604) 641-4843

YYYY-MM-DD

2021-09-24

**FIRST UNITED CHURCH
COMMUNITY MINISTRY SOCIETY**
By their Authorized Signatory

Name: John Christie

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.

Witnessing Officer Signature

Execution Date

Transferor Signature(s)

YYYY-MM-DD

CITY OF VANCOUVER
By their Authorized Signatory

Name: _____



Land Title Act

Charge

General Instrument – Part 1

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.

Electronic Signature

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

TERMS OF INSTRUMENT - PART 2
HOUSING AGREEMENT AND BUILDING USE COVENANT
(Social Housing)

320 EAST HASTINGS STREET

WHEREAS:

A. It is understood and agreed that this instrument and Agreement shall be read as follows:

- (i) the Transferor, FIRST UNITED CHURCH COMMUNITY MINISTRY SOCIETY, is called the "Owner" as more particularly defined in Section 1.1; and
- (ii) the Transferee, CITY OF VANCOUVER, is called the "City" or the "City of Vancouver" when referring to corporate entity and "Vancouver" when referring to geographic location;

B. The Owner is the registered and beneficial owner of the Lands;

C. The Owner made an application to develop the Lands pursuant to Development Application DP-2020-00721 (the "Development Application") to permit the development of an 11 storey mixed-use building containing Social Service Centre and Social Housing, containing a total of one hundred and three (103) dwelling units, all over one level of underground parking, having vehicular access from the lane (the "Development"), which Development Application was approved by the Development Permit Board in principle, subject to, among other things, fulfilment of the condition that, prior to issuance of a Development Permit, the Owner will ensure that:

- "1.5 arrangements shall be made to the satisfaction of the General Manager of Arts, Culture and Community Services (or successor in function) and the Director of Legal Services to enter into a Housing Agreement and Section 219 Covenant securing all dwelling units to be used for social housing for a term of 60 years or the life of the building, whichever is greater, subject to the following terms and conditions:*
- i. a no separate sales covenant;*
 - ii. a no stratification covenant;*
 - iii. a provision that none of the dwelling units in the building be rented for less than one month at a time;*
 - iv. a requirement that at least one third (35 dwelling units) are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance; and that the target rents for half of the remaining dwelling units (35 dwelling units)*

are to be no more than 30% of household income for rent to households with incomes below the housing income limits as set out in the current "Housing Income Limits" (HILs) table published by the British Columbia Housing Management Commission or equivalent publication; and the remaining units (35 dwelling units) to be rented at affordable market rents as defined by CMHC for the local area;

- v. *a requirement that all units comply with the definition of "social housing" in Vancouver Development Cost Levy By-law No. 9755; and*
- vi. *such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may in their sole discretion require.*

Note to Applicant: This condition will be secured by a Section 219 Covenant and a Housing Agreement to be entered into with the City by by-law enacted pursuant to Section 565.2 of the Vancouver Charter."

(the "Social Housing Condition"); and

D. The Owner and the City are now entering into this Agreement to satisfy the Social Housing Condition.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

1.1 Definitions. In this Agreement the following terms have the definitions now given:

- (a) **"Affordable Market Rents"** means the average market rent based on the most recent, applicable Canada Mortgage and Housing Corporation rental market or housing report, or if such report is not available, such other report or publication as mutually agreed upon between the General Manager of Planning, Urban Design and Sustainability and the Owner and, during the term of the PRHC Lease, the Operator Agreement, and the Operating Agreement, the Commission;
- (b) **"Agreement"** means this housing agreement and building use covenant, including the foregoing Recitals;
- (c) **"Approving Officer"** means the person appointed pursuant to the provisions of the *Land Title Act* as the approving officer for land within the City of Vancouver and includes the deputy to the Approving Officer and any employee

of the City acting, or who has acted, as the nominee, delegate or agent of that person;

- (d) **"CHF ASP"** means means the Social Housing Air Space Parcel that will, following the Subdivision, contain the CHF Units;
- (e) **"CHF ASP Housing Agreement"** means the housing agreement to be registered against title to the CHF ASP following the Subdivision as more particularly set out in Sections 7.1(b) and 7.1(c) so as to ensure that that portion of this Agreement set out in Section 2.1(d)(ii) and that the other obligations and covenants in this Agreement (save and except for that portion of the Agreement set out in Section 2.1(d)(i)) charge the CHF ASP;
- (f) **"CHF Eligible Occupant"** means a person who, during the time that such person is an occupant in the CHF Units, meets the criteria prescribed in this Agreement and an Operating Agreement or prescribed in a separate document provided by the Commission and delivered to the CHF Operator from time to time;
- (g) **"CHF Operator"** means a non-profit organization that has entered into an Operating Agreement with the Commission for the operation and management of the CHF Units;
- (h) **"CHF Units"** means the Social Housing Units more particularly described in Section 2.1(d)(ii) to be managed and operated by the CHF Operator pursuant to the terms of the Operating Agreement and, following the Subdivision, to be located within the CHF ASP;
- (i) **"City"** and **"City of Vancouver"** are defined in Recital A(ii);
- (j) **"City Manager"** means the chief administrator from time to time of the City and his/her successors in function and their respective nominees;
- (k) **"City Personnel"** means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (l) **"Commencement Date"** means the date as of which this Agreement has been submitted to the Land Title Office;
- (m) **"Commission"** means British Columbia Housing Management Commission or its successor(s) in function;
- (n) **"Development"** means the development on the Lands described in Recital C as contemplated by the Development Application;
- (o) **"Development Application"** has the meaning set out in Recital C;
- (p) **"Development Permit"** means a development permit issued by the City authorizing development on the Lands or any portion of the Lands as

contemplated by the Development Application at any time following the date this Agreement is fully executed by the parties;

- (q) **"Director of Legal Services"** means the chief administrator from time to time of the Legal Services Department of the City and her/his successors in function and their respective nominees;
- (r) **"Dwelling Unit"** means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (s) **"General Manager of Planning, Urban Design and Sustainability"** means the chief administrator from time to time of the Planning, Urban Design and Sustainability Department of the City and his/her successors in function and their respective nominees;
- (t) **"Guaranteed Income Supplement"** means an additional benefit that may be added to the Old Age Security pension received by a person aged 65 and older if he/she has a low income and meets other specified criteria, which is administered and paid by the Government of Canada;
- (u) **"Housing Income Limit" or "HIL"** means the gross household income required to afford appropriate accommodation in the local community without spending more than 30 percent of income towards rent, as published by the Commission or its successors in function, or if such publication is not available, an equivalent publication (as mutually agreed upon between the General Manager of Planning, Urban Design and Sustainability) and the Owner, and, during the term of the PRHC Lease, the Operator Agreement, and the Operating Agreement, the Commission;
- (v) **"Income Assistance"** means financial assistance for a person in financial need who has no other resources and meets other specified criteria, which is administered and paid by the Government of British Columbia;
- (w) **"Land Title Act"** means the Land Title Act, R.S.B.C. 1996, c. 250, and amendments thereto and re-enactments thereof;
- (x) **"Lands"** means the lands described in Item 2 in the Form C attached hereto; provided, however, that if the Lands are at any time subdivided by air space parcel subdivision, and this Agreement is thereafter discharged from one or more of the resulting legal parcels, then **"Lands"** will thereafter mean only the part of the Lands within the legal parcel(s) against which it remains registered;
- (y) **"Losses"** means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;
- (z) **"New Building"** means each new building or structure to be built on the Lands as contemplated by the Development Permit, and includes any portion of any

such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;

- (aa) **"Occupancy Permit"** means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands;
- (bb) **"Old Age Security"** means a monthly pension payment available to certain persons aged 65 and older who meet specified legal status, residence and other requirements, which is administered and paid by the Government of Canada;
- (cc) **"Operating Agreement"** means the Community Housing Fund operating agreement entered into or to be entered into between the CHF Operator and the Commission that relates to the operation and management of the CHF Units and the provision of housing to CHF Eligible Occupants;
- (dd) **"Operator Agreement"** means the Supportive Housing Fund operator agreement entered into or to be entered into between the SHF Operator and the Commission that relates to the operation and management of the SHF Units and the provision of housing to SHF Eligible Occupants;
- (ee) **"Owner"** means the Transferor, FIRST UNITED CHURCH COMMUNITY MINISTRY SOCIETY, and any successors in title to the Lands or a portion of the Lands;
- (ff) **"Owner's Personnel"** means Owner's officers, employees, agents, contractors, subcontractors, licencees, invitees, permittees and lessees;
- (gg) **"PRHC"** means Provincial Rental Housing Corporation;
- (hh) **"PRHC Lease"** means the sixty (60) year lease to be entered into between the Owner, as lessor, and PRHC, as lessee, for the SHF Units, and following the Subdivision, the SHF ASP;
- (ii) **"Rental Housing"** means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm's length, for use as rental accommodation on a month to month basis or longer in accordance with this Agreement, reasonably prudent landlord tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (jj) **"Replacement Agreements"** means, together, the CHF ASP Housing Agreement and the SHF ASP Housing Agreement, and all replacements, modifications and amendments to the CHF ASP Housing Agreement and the SHF ASP Housing Agreement;
- (kk) **"Replacement Social Housing Unit"** has the meaning ascribed to that term in section 2.1(b) and **"Replacement Social Housing Units"** means all of such units;

- (ll) **"Residential Tenancy Act"** means the Residential Tenancy Act S.B.C. 2002, c. 78, and amendments thereto and re-enactments thereof;
- (mm) **"SHF ASP"** means the Social Housing Air Space Parcel that will, following the Subdivision, contain the SHF Units;
- (nn) **"SHF ASP Housing Agreement"** means the housing agreement to be registered against title to the SHF ASP following the Subdivision, as more particularly set out in Sections 7.1(b) and 7.1(c), so as to ensure that that portion of this Agreement set out in Section 2.1(d)(i) and that the other obligations and covenants in this Agreement (save and except for that portion of the Agreement set out in Section 2.1(d)(ii)) charge the SHF ASP;
- (oo) **"SHF Eligible Occupant"** means a person who, during the time that such person is an occupant in the SHF Units, meets the criteria prescribed in this Agreement and an Operator Agreement or prescribed in a separate document provided by the Commission and delivered to the SHF Operator from time to time,
- (pp) **"SHF Operator"** means a non-profit organization that has entered into an Operator Agreement with the Commission for the operation and management of the SHF Units,
- (qq) **"SHF Units"** means the Social Housing Units more particularly described in Section 2.1(d)(i), which SFH Units will be managed and operated by the SHF Operator pursuant to terms of the Operator Agreement, demised to PRHC pursuant to the PRHC Lease and, following the Subdivision, located within the SHF ASP;
- (rr) **"Social Housing"** has the meaning ascribed to that term in the Vancouver Development Cost Levy By-law No. 9755, namely Rental Housing:
 - (i) in which at least one third of the dwelling units are occupied by persons eligible for either Income Assistance or a combination of basic Old Age Security pension and Guaranteed Income Supplement and are rented at rates no higher than the shelter component of Income Assistance;
 - (ii) which is owned by a non-profit corporation, by a non-profit co-operative association, or by or on behalf of the City, the Province of British Columbia or Canada; and
 - (iii) in respect of which the registered owner or ground lessee of the freehold or leasehold title to the land on which the housing is situate has granted to the City a Section 219 covenant, housing agreement, or other security for the housing commitments required by the City, registered against the freehold or leasehold title, with such priority of registration as the City may require;

- (ss) "Social Housing Air Space Parcels" means, together, the CHF ASP and SHF ASP, and "Social Housing Air Space Parcel" means either one of such Social Housing Air Space Parcels;
- (tt) "Social Housing Condition" has the meaning ascribed to that term in Recital C;
- (uu) "Social Housing Units" has the meaning ascribed to that term in Section 2.1(b), and "Social Housing Unit" means any one of such Social Housing Units;
- (vv) "Subdivision" means the subdivision of the Lands by the deposit of an air space subdivision plan to enable all of the Social Housing Units to be contained within the Social Housing Air Space Parcels;
- (ww) "Term" means the term of this Agreement, which will commence on the Commencement Date and will end on the later of:
 - (i) the date as of which the New Building is demolished or substantially destroyed; and
 - (ii) 60 years from the date when the final Occupancy Permit is issued for the portion(s) of the New Building containing the Social Housing Units; and
- (xx) "*Vancouver Charter*" means the Vancouver Charter S.B.C. 1953, c. 55, and amendments thereto and re-enactments thereof.

1.2 Interpretation. In this Agreement:

- (a) Party. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) Singular; Gender. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) Captions and Headings. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) References. References to the or this "Agreement" and the words "hereof" "herein" and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.

- (e) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Any reference to a statute is to the statute and its regulations in force on the date the Form C General Instrument - Part 1 is fully executed and to subsequent amendments to or replacements of the statute or regulations.
- (f) Legislation. Any reference to a statute includes and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute and regulations that may be passed which have the effect of supplementing or superseding such statutes and regulations.
- (g) Time. Time shall be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time shall be local Vancouver, British Columbia time.

ARTICLE 2

RESTRICTIONS ON USE AND SUBDIVISION

2.1 The Owner covenants and agrees that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) it will design, construct, equip and finish within the New Building not less than 103 Dwelling Units, all of which will be for use only as Social Housing (the "**Social Housing Units**") in accordance with the Development Permit], any building permit issued pursuant thereto and the requirements of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit, then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired New Building or replacement building(s) will contain not less than the same number and type of replacement Social Housing Units as the New Building formerly contained (each such replacement Social Housing Unit hereinafter referred to as a "**Replacement Social Housing Unit**") and will be subject, for the duration of the Term, to the same use restrictions as the Social Housing Units and the New Building are pursuant to this Agreement;
- (c) throughout the Term the New Building will be used only in a manner that ensures its continued compliance with the definition of Social Housing, it being understood and agreed by the City that the construction of the New Building containing the Social Housing Units will not be completed until after the Commencement Date;
- (d) throughout the Term:

- (i) the SHF Units, being not less than one-third of the Social Housing Units, will be occupied only by persons eligible for either Income Assistance or a combination of Old Age Security pension and the Guaranteed Income Supplement and rented at rental rates no higher than the shelter component of Income Assistance, and for greater certainty, the obligations contained in this Section 2.1(d)(i) shall apply solely to the SHF Units and will not, at any time during the terms of the PRHC Lease, the Operator Agreement, or the Operating Agreement, be required to be fulfilled by the CHF Units;
- (ii) the CHF Units will be rented as follows:
 - A. not less than one-third of all Social Housing Units will be occupied only by households with incomes below the then current applicable HIL and each rented at a rate no higher than 30% of the aggregate household income of the members of the household occupying such Social Housing Unit; and
 - B. the remaining Social Housing Units to be rented at a rate no higher than Affordable Market Rents;

and for greater certainty, the obligations contained in this Section 2.1(d)(ii) shall apply solely to the CHF Units and will not, at any time during the terms of the PRHC Lease, the Operator Agreement, or the Operating Agreement, be required to be fulfilled by the SHF Units;
- (e) throughout the Term, the Social Housing Units will only be used for the purpose of providing Rental Housing;
- (f) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Social Housing Unit in a Social Housing Air Space Parcel to be sold or otherwise transferred unless:
 - (i) every Social Housing Unit in such Social Housing Air Space Parcel is sold or otherwise transferred together and as a block to the same legal and beneficial owner or to a beneficial owner who elects to have the legal title to such Social Housing Air Space Parcel held in trust for it by another person, provided always that both beneficial owner and legal owner are entities that qualify as owners under Section 1.1(rr)(ii), it being understood and agreed by the City that the Owner may sell or otherwise transfer each Social Housing Air Space Parcel independently of the other Social Housing Air Space Parcel; and
 - (ii) the sale or transfer is to the City or it otherwise obtains the express written consent of the City;
- (g) throughout the Term, subject to Section 7.1(a), it will not suffer, cause or permit the Lands, or any part thereof, to be subdivided by strata plan or air

space plan without the prior written consent of the City, which consent may be arbitrarily withheld;

- (h) throughout the Term, any sale or other transfer of title to a Social Housing Unit in contravention of the covenant in Section 2.1(f), and any subdivision of the Lands in contravention of Section 2.1(g), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (i) throughout the Term, the Social Housing Units will only be rented on a month-to-month or longer basis and in no case for less than one month;
- (j) throughout the Term, it will insure, or cause to be insured, the Lands and the New Building and all parts thereof to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands; and
- (k) throughout the Term, it will keep and maintain or cause to be kept and maintained the Lands and the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition. If the Lands or the New Building or any part thereof is damaged, the Owner will promptly restore and repair or cause to be restored or repaired the same whenever and as often as damage occurs, to at least as good a state and condition as existed before such damage occurred.

ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

3.1 The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building, and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit for the New Building, until such time as the Owner has delivered, to the General Manager of Planning, Urban Design and Sustainability, in form and substance satisfactory to the General Manager of Planning, Urban Design and Sustainability:
 - (i) proof of the insurance, consistent with the requirements of Section 2.1(j), is in force and effect; and
 - (ii) one or more final rent roll(s) confirming the rents to be charged to the first occupants of the Social Housing Units following issuance of the Occupancy Permit, the unit type mix and size, which rents, unit type mix and size will comply with those applicable to the Social Housing Units; and

- (b) the City will be under no obligation to issue any Occupancy Permit for the New Building or any part thereof, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 3.1(a).
- 3.2 Without limiting the general scope of ARTICLE 6, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit for the New Building until there is compliance with the provisions of this ARTICLE 3.

ARTICLE 4 RECORD KEEPING

- 4.1 The Owner will keep or will cause the operator of any Social Housing Units to keep accurate records pertaining to the use and occupancy of the Social Housing Units. Such records will be to the satisfaction of the City. At the request of the City, from time to time, the Owner will make or will cause the operator of any Social Housing Units to make such records available for inspection and copying by the City. The City will comply with the Owner's and, as applicable, such operators' statutory obligations with respect to privacy of such information.

ARTICLE 5 ENFORCEMENT

- 5.1 This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it shall be entitled to court costs on a solicitor and own client basis.

ARTICLE 6 RELEASE AND INDEMNITY

- 6.1 Release and Indemnity. Subject to Section 6.2, the Owner hereby:
 - (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
 - (i) by reason of the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement;
 - C. withholding any permit pursuant to this Agreement; or

- D. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
- (ii) that arise out of, or would not have been incurred but for this Agreement;

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except to the extent such Losses are attributable to the wrongful intentional acts or omissions on the part of the City or the City Personnel; and

- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:
 - (i) this Agreement;
 - (ii) the release by the City or any or all of the City's rights under this Agreement or the loss of any rights purported to be granted hereby;
 - (iii) the City or City Personnel:
 - A. reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
 - B. withholding any permit pursuant to this Agreement;
 - C. performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
 - D. exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement;
 - (iv) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
 - (v) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except to the extent such Losses are attributable to the wrongful intentional acts or omissions on the part of the City or the City Personnel.

The indemnities in this ARTICLE 6 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

6.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 6.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 6.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 6.2(a) in the following circumstances:
 - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
 - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
 - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 6.2(b); and

- (c) Regardless of whether the claim is being defended under Section 6.2(a) or Section 6.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

- 6.3 Survival of Release and Indemnities. The release and indemnities in this Article 5 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

**ARTICLE 7
SUBDIVISION OF THE LANDS**

7.1 Subdivision of the Lands: Notwithstanding Section 2.1(g):

- (a) subject to compliance by the Owner with all applicable requirements of the City's Approving Officer and the City's elected Council, this Agreement and all applicable laws and by-laws, the City will not unreasonably withhold its consent to the Subdivision; and
- (b) following the Subdivision and the issuance of an occupancy permit for the Social Housing Air Space Parcels, the Owner may apply to the City for a discharge and replacement of this Agreement with the Replacement Agreements, and the City will on request of the Owner execute and deliver a registrable discharge of this Agreement and will execute and deliver registrable copies of the Replacement Agreements, provided that:
 - (i) pursuant to Section 565.2 of the *Vancouver Charter*, prior to the execution and delivery of the discharge of this Agreement and the Replacement Agreements by the City, the Council of the City of Vancouver, in its sole and unfettered discretion, will have approved the Replacement Agreements and the discharge of this Agreement by way of enactments of applicable bylaws therefor;
 - (ii) the Director of Legal Services is satisfied that such discharge and replacements will not unreasonably alter, restrict or limit the City's rights and the Owner's agreements and obligations in respect of the Social Housing Units or in respect of the Social Housing Air Space Parcels pursuant to this Agreement;
 - (iii) the Replacement Agreements and any such discharge will be in form and substance acceptable to the Director of Legal Services and will be prepared by the Owner at its cost;
 - (iv) the City will have a reasonable amount of time to execute and return any such discharge and to review and provide comments on the Replacement Agreements;
 - (v) the preparation and registration of the Replacement Agreements and any such discharge will be without cost to the City; and
 - (vi) following the execution and delivery by the City, the discharge of the Agreement will only be filed after the Replacement Agreements have been fully registered on title to their respective Social Housing Air Space Parcels; and
- (c) the Owner and the City acknowledge and agree that if the application by the Owner for the replacement of this Agreement with the Replacement Agreements described in Section 7.1(b) occurs during the term of the PRHC Lease, the Operator Agreement, and the Operating Agreement then:

- (i) the Commission will have a reasonable amount of time to review and provide comments on the Replacement Agreements; and
- (ii) the Replacement Agreements will be in a form satisfactory to the Commission, acting reasonably.

ARTICLE 8 NOTICES

8.1 All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, shall be in writing and shall be given by registered mail or personal delivery, addressed as follows:

(a) If to the City:

City of Vancouver
453 West 12th Avenue
Vancouver, British Columbia
V5Y 1V4

Attention: City Clerk, with concurrent copies to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services

(b) If to the Owner:

First United Church Community Ministry Society
320 East Hastings Street
Vancouver, British Columbia
V6A 1P4

Attention: Executive Director

with a copy to:

Norton Rose Fulbright Canada LLP
1800 - 510 West Georgia Street
Vancouver, British Columbia
V6B 0M3

and any such notice, demand or request will be deemed given:

- (c) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and

(d) if personally delivered, on the date when delivered,

or to such other address in Canada as either party may specify in writing to the other party in the manner described above, provided that if and when the owner of the Land or any part thereof should change, in the absence of any such specification, then to the address as set out in the State of Title Certificate for that particular parcel of land.

ARTICLE 9 MISCELLANEOUS

- 9.1 Agreement Runs With the Lands. The covenants and agreements set forth herein on the part of the Owner shall be covenants the burden of which shall run with and shall bind the Lands and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated. Upon the sale or transfer of the legal or beneficial interest in the Lands, the parties agree that the covenants and agreements herein contained shall only be binding upon the transferring party in respect of a breach or acts or omissions occurring during its ownership of the Lands, and the transferring party shall otherwise be released from all covenants and agreements herein contained following such sale or transfer of the legal or beneficial interest in the Lands.
- 9.2 Agreement to be a First Charge. The Owner agrees to cause the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:
- (a) contained in any grant from Her Majesty the Queen in Right of the Province of British Columbia respecting the Lands;
 - (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of the Development Permit; and
 - (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.
- 9.3 Severability. All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable; the balance of the obligations and covenants will remain and be binding.
- 9.4 Vancouver Charter. Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

- 9.5 Waiver. The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.
- 9.6 Further Assurances. The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter*.
- 9.7 Perfection of Intention. The Owner shall, after execution hereof, do or cause to be done at its own cost and expense all things and acts necessary to ensure that this Agreement is noted on title to the Lands as a housing agreement pursuant to Section 565.2 of the *Vancouver Charter* and also registered as a charge against title to the Lands with priority over all other encumbrances except those in favour of the City.
- 9.8 Owner's Representations and Warranties. The Owner represents and warrants to and covenants and agrees with the City that:
- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all current legal and beneficial interests in the title to the Lands with the interests in land created hereby;
 - (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all current legal and beneficial interests in the title to the Lands;
 - (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
 - (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.
- 9.9 Enurement. This Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement shall enure to the benefit of and be binding upon the Owner and its successors and assigns.

IN WITNESS WHEREOF the parties have executed this Agreement on Form C or D which is a part hereof.

END OF DOCUMENT

CAN_DMS: \139663941\9
{01376234v1}

GENERAL/25000.795/10685028.2

Housing Agreement (Social Housing)
320 East Hastings Street

EXPLANATION**A By-law to amend the Procedure By-law No. 12577
regarding electronic meeting and other amendments**

The attached By-law is to be enacted at a regular Council meeting on October 5, 2021. The By-law will revise procedures of Council, and allow for electronic special, regular and committee meetings of Council.

Director of Legal Services
October 5, 2021

BY-LAW NO. _____

**A By-law to amend the Procedure By-law No. 12577
regarding electronic meeting and other amendments**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the Procedure By-law.
2. Council strikes the definition of “electronic meeting” in section 1.2, which reads:

““electronic meeting” means a special Council meeting at which some or all of the Council members participate by means of electronic or other communication facilities;”,

and replaces it with:

““electronic meeting” means a special Council meeting, regular Council meeting or standing committee meeting at which some or all of the Council members participate by means of electronic or other communication facilities;”.
3. Council strikes the definition of “interested person” in section 1.2, which reads:

““interested person” means a person who has a right to a hearing with regard to:
 - (a) the refusal of that person’s application for a business license under the License By-law or a chauffeur’s permit or vehicle for hire license under the Vehicles for Hire By-law; or
 - (b) the suspension, revocation, or cancellation of that person’s business license, chauffeur’s permit, or vehicle for hire license;”,
and replaces it with:

““interested person” means a person who has a right to a hearing with regard to:
 - (a) the refusal of that person’s application for a business license under the License By-law or vehicle for hire license under the Vehicles for Hire By-law; or
 - (b) the suspension, revocation, or cancellation of that person’s business license, or vehicle for hire license;”
4. Council strikes section 2.1(1), which reads:

“(1) Council meetings must be held in Council Chamber at City Hall, unless Council resolves to hold the meeting elsewhere.”,

and replaces it with:

“(1) Council meetings must be held at City Hall, unless Council resolves to hold the meeting elsewhere.”

5. Council strikes section 2.9, which reads:

“Meetings in general local election year

2.9 In the year of a general local election, no Council meeting, public hearing, standing committee meeting, business licence hearing or chauffeur’s permit appeal shall be held between the last day of the nomination period and general voting day.”,

and replaces it with:

“Meetings in general local election year

2.9 In the year of a general local election, no Council meeting other than a special Council meeting, and no public hearing, standing committee meeting, or business licence hearing shall be held between the last day of the nomination period and general voting day.”.

6. Council strikes section 3.9, which reads:

“Minutes

3.9 The City Clerk must:

- (a) prepare the minutes of every Council, standing committee, and special Council meeting, business licence hearing, public hearing, chauffeur’s permit appeal, and Court of Revision; and
- (b) circulate a copy of the minutes to Council members prior to the Council meeting at which they are to be adopted as provided in section 3.3.”,

and replaces it with:

“Minutes

3.9 The City Clerk must:

- (a) prepare the minutes of every Council, standing committee, and special Council meeting, business licence hearing, public hearing and Court of Revision; and
- (b) circulate a copy of the minutes to Council members prior to the Council meeting at which they are to be adopted as provided in section 3.3.”.

7. Council adds a new section 7.4A, as follows:

“7.4A The Chair shall call speakers in the order of the list provided by the Clerk, and if a person is not present to speak at the time they are first called, the person shall be entitled to speak if they are present to speak after the Chair has gone through the

complete list and called for them a second time.”.

8. Council strikes subsection 8.5(b)(viii), which reads:

“(viii) receive for information, and take no further action; or”

9. Council strikes section 8.14(1), which reads:

“8.14 (1) A defeated motion may be brought back before Council by a motion to reconsider or rescind provided.”,

and replaces it with:

“8.14 (1) A defeated motion may be brought back before Council by a motion to reconsider provided.”.

10. Council strikes section 9.1, which reads:

“Notice of member’s motion at Council meeting for future meeting

9.1 In order to give notice at a Council meeting of the Council member’s intention to move a Council member’s motion at a future Council meeting:

- (a) the Council member must first deliver a notice of Council member’s motion in written or electronic form, by title, to the City Clerk at the meeting, which must be at least one Council meeting prior to which the Council member intends to move the motion;
- (b) the notice of the Council member’s motion must stipulate the date of the Council meeting, which must be a Council meeting that does not follow a standing committee meeting.”,

and replaces it with:

“Notice of member’s motion at Council meeting for future meeting

9.1 In order to give notice at a Council meeting of the Council member’s intention to move a Council member’s motion at a future Council meeting:

- (a) the Council member must first deliver a notice of Council member’s motion in written or electronic form, by specific title which should not later change, to the City Clerk at the meeting, which must be at least one Council meeting prior to which the Council member intends to move the motion;
- (b) the notice of the Council member’s motion must stipulate the date of the Council meeting, which must be a Council meeting that does not follow a standing committee meeting.”.

11. Council strikes the words **“AND CHAUFFEUR’S PERMITS”** from the heading to Part 12.

12. Council strikes sections 12.1 and 12.2, which read:

“Notice of intention to appeal

12.1 An interested person who wants a hearing by way of appeal must:

- (a) submit to the City Clerk, within 10 days after the date of the suspension or revocation of a business licence, or of the refusal, suspension or cancellation of a chauffeur’s permit, notice in writing of the person’s intention to appeal; and
- (b) state concisely, in the notice, the grounds upon which the interested person is basing the appeal.

Notice of hearing

12.2 At least 14 days before the date of a hearing, the City Clerk must give written notice of the date, time, and place of the hearing to the interested person:

- (a) by mailing it by registered post to the address set out in the most recent application for the business licence or chauffeur’s permit;
- (b) by handing it to the interested person; or
- (c) if the interested person is a corporation, by mailing it by registered post to the registered office of the corporation.”,

and replaces them with:

“Notice of intention to appeal

12.1 An interested person who wants a hearing by way of appeal must:

- (a) submit to the City Clerk, within 10 days after the date of the suspension or revocation of a business licence, notice in writing of the person’s intention to appeal; and
- (b) state concisely, in the notice, the grounds upon which the interested person is basing the appeal.

Notice of hearing

12.2 At least 14 days before the date of a hearing, the City Clerk must give written notice of the date, time, and place of the hearing to the interested person:

- (a) by mailing it by registered post to the address set out in the most recent application for the business licence;
- (b) by handing it to the interested person; or
- (c) if the interested person is a corporation, by mailing it by registered post to

the registered office of the corporation.”

13. Council strikes subsection 13.14(b), which reads:

“(b) may make a motion to recess for not more than 10 minutes during a public hearing, to provide a Council member an opportunity to receive a public hearing summary in accordance with section 13.25 or 13.26;”.

and replaces it with:

“(b) may make a motion to recess for not more than 10 minutes during a public hearing, to provide a Council member an opportunity to receive a public hearing summary in accordance with section 13.22 or 13.23;”.

14. Council strikes sections 13.18 and 13.19, which read:

“Time limit for individual speaker

13.18 A speaker who is speaking on their own behalf or on behalf of a corporation, society or other organization as an individual, the speaker must not speak at a public hearing for more than five minutes in total nor more than once.

Representative speaker

13.19 A representative speaker may only speak on behalf of other persons or corporations, societies or organizations if those represented are also present at the public hearing, either in person or by a representative of each corporation, society or organization represented by the speaker.”.

and replaces them with:

“Time limit for individual speaker

13.18 A speaker who is speaking on their own behalf or on behalf of a corporation, society or other organization as an individual, the speaker must not speak at a public hearing for more than five minutes in total nor more than once, unless the speaker requires and provides a translator, in which case they can speak once for ten minutes.

Representative speaker

13.19 A representative speaker may only speak on behalf of other persons or corporations, societies or organizations if those represented are also present at the public hearing, either in person or electronically, by a representative of each corporation, society or organization represented by the speaker.”.

15. Council strikes all of Part 14, including the heading, and replaces it as follows:

“PART 14 ELECTRONIC MEETINGS

Electronic meeting procedures

14.1 The definitions in this by-law and the relevant provisions of Parts 2, 3, 4, 5, 6, 7, 8, 9 and 10 apply to electronic meetings, except as otherwise provided in this Part 14.

Council meetings by electronic means

14.2 A special Council meeting, a regular Council meeting or a standing committee meeting may be conducted by electronic means.

Participation of Council member by electronic means

14.3 A Council member who is unable to attend a special Council meeting, a regular Council meeting or a standing committee meeting, which has been convened in accordance with this by-law, may participate by electronic means.

Communication at electronic meeting

14.4 Council members who participate in a regular Council meeting, special Council meeting or standing committee meeting conducted by electronic means must be able to hear, or to watch and hear, each other.

Convening electronic special Council meeting

14.5 The Mayor, or a person designated by Council to act in the capacity of the Mayor in the Mayor's absence, may convene a special Council meeting to be conducted by electronic means.

Public or in camera electronic meetings

14.6 A special Council meeting, standing committee meeting or a regular Council meeting which is conducted by electronic means may be open to the public or closed to the public.

Notice of public electronic special Council meeting

14.7 Notice of a special Council meeting, which is not closed to the public and is to be conducted wholly or in part by electronic means, may be given using a means of communication which the Mayor, or a person designated by Council members to act in the capacity of the Mayor in the Mayor's absence, considers most likely to reach the public, and should include a brief description of:

- (a) the nature of the business to be transacted;
- (b) the way the meeting is to be conducted by electronic or other communication facilities; and

- (c) the place the public may attend to hear, or watch and hear, the proceedings.

Notice of electronic regular Council meeting or standing committee meeting

14.8 Notice of a regular Council meeting or standing committee meeting to be conducted by electronic means must be given in the same manner as an in person regular Council meeting or an in person standing committee meeting, and must also include notice of:

- (a) the way the meeting is to be conducted; and
- (b) the place the public may attend to hear, or watch and hear, the proceedings.

Notice of in camera electronic meeting

14.9 Before holding an in camera special Council meeting by electronic means, Council must state by resolution, passed in a public meeting:

- (a) the fact that the meeting or part of the meeting is to be closed; and
- (b) the basis under the applicable subsection of section 165.2 of the Vancouver Charter for closing the meeting or part of the meeting.

Public meeting prior to in camera electronic meeting

14.10 The public meeting referred to in section 14.9 may be conducted by electronic means.

Public attendance at electronic meeting

14.11 If notice is given under this by-law that Council may attend a meeting by electronic means, then members of the public who are eligible to speak at the meeting may participate by electronic means.

Place public may attend

14.12 The place the public may attend to hear and participate in the proceedings in accordance with this section 14.7 or 14.8 must provide:

- (a) communication facilities which enable the public to hear, or watch and hear, the meeting and participating Council members; and
- (b) a staff person in attendance who is a designated city representative.

Quorum

14.13 The Clerk must confirm quorum at an electronic meeting, and each member must enable their video in order to allow for this.”

16. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

17. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2021

Mayor

City Clerk