

**BY-LAW NO.**

**A By-law to authorize Council entering into a  
Heritage Revitalization Agreement with the Owner of Heritage Property**

PREAMBLE

Council has authority under the *Vancouver Charter* to enter into a Heritage Revitalization Agreement with the owner of heritage property, including terms and conditions to which Council and the owner may agree.

Certain property bearing the civic address of 998 Thurlow Street, and the following legal description:

PID: 002-420-601  
LOT 10  
BLOCK 7  
DISTRICT LOT 185  
PLAN 92

Contains a heritage building.

Council is of the opinion that the building has sufficient heritage value to justify its conservation, and Council and the owner of the property have agreed to facilitate such conservation, by agreeing to the terms and conditions set out in the attached Heritage Revitalization Agreement.

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

1. Council authorizes the City to enter into a Heritage Revitalization Agreement with the owner, in substantially the form and substance of the Heritage Revitalization 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 \_\_\_\_\_, 2024

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Land Title Act

**Charge**

General Instrument – Part 1

1. Application

Gowling WLG (Canada) LLP  
550 Burrard Street  
Suite 2300, Bentall 5  
Vancouver BC V6C 2B5  
604.683.6498

V52460 / MAB/JM  
Heritage Revitalization Agreement

2. Description of Land

PID/Plan Number	Legal Description
002-420-601	LOT 10 BLOCK 7 DISTRICT LOT 185 PLAN 92

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Article 2
STATUTORY RIGHT OF WAY		Article 4
EQUITABLE CHARGE		Article 6

4. Terms

Part 2 of this instrument consists of:  
**(b) Express Charge Terms Annexed as Part 2**

5. Transferor(s)

**LUCKY ZA INVESTMENTS LTD., NO.BC0884727**

6. Transferee(s)

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

7. Additional or Modified Terms



8. Execution(s)

This instrument creates, assigns, modifies, enlarges 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.

<p style="text-align: center;">Witnessing Officer Signature</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 20px;"> </div> <p style="margin-top: 10px;"> <b>JESSICA MA</b>        GOWLING WLG (CANADA) LLP        Barrister and Solicitor        550 Burrard Street - Suite 2300        Bentall 5, Vancouver BC V6C 2B5        Telephone: (604)443-7634     </p>	<p style="text-align: center;">Execution Date</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 20px; display: flex; align-items: center; justify-content: center;"> <p>YYYY-MM-DD  2024-03-19</p> </div>	<p style="text-align: center;">Transferor / Transferee / Party Signature(s)</p> <p style="margin-top: 20px;"><b>LUCKY ZA INVESTMENTS LTD.</b> by its authorized signatory(ies):</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 10px;"> </div> <p style="margin-top: 5px;"><b>Name:</b> LINLIN ZHANG</p>
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**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.

<p style="text-align: center;">Witnessing Officer Signature</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 20px;"> <p style="text-align: center;">_____</p> </div> <p style="margin-top: 10px;">(as to the signature of _____ only)</p>	<p style="text-align: center;">Execution Date</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 20px; display: flex; align-items: center; justify-content: center;"> <p>YYYY-MM-DD</p> </div>	<p style="text-align: center;">Transferor / Transferee / Party Signature(s)</p> <p style="margin-top: 20px;"><b>CITY OF VANCOUVER</b> by its authorized signatory(ies):</p> <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 10px;"> <p style="text-align: center;">_____</p> </div> <p style="margin-top: 5px;"><b>Name:</b></p>  <div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 10px;"> <p style="text-align: center;">_____</p> </div> <p style="margin-top: 5px;"><b>Name:</b></p>
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<p><b>Electronic Signature</b></p> <p>Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the <i>Land Title Act</i>, 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.</p>	<div style="border: 1px solid black; width: 100%; height: 100%; margin-top: 20px;"> <p style="text-align: center;">_____</p> </div>
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TERMS OF INSTRUMENT - PART 2  
HERITAGE REVITALIZATION AGREEMENT

WHEREAS:

- A. The Owner (as herein defined) is the legal and beneficial owner of the parcel of land at 998 Thurlow Street in the City of Vancouver (the "Lands") which has the legal description shown in Item 2 of the General Instrument Form C - Part 1 of this document.
- B. There is a 5 storey building situated on the Lands, known as "Washington Court", which is considered to be of heritage value (the "Heritage Building").
- C. The Owner wishes to develop the Lands by:
- (i) replicating as an addition a previously lost sixth storey and adding a seventh, eighth and ninth storey to the Heritage Building;
  - (ii) rehabilitating the exterior facades of the Heritage Building;
  - (iii) replacing the interior, fire-damaged structure of the Heritage Building, including installation of a new elevator to allow for accessibility;
  - (iv) designating the exterior facades of the Heritage Building as protected heritage property; and
  - (v) increasing the number of Dwelling Units to 85 units,
- and under development permit application No. DP-2023-00336 (the "DP Application") has applied to the City for a development permit for that purpose.
- D. The Owner proposes that, in exchange for a number of variances to the City's *Zoning & Development By-law* needed for the proposed project as contemplated under the DP Application, the Owner will enter into this heritage revitalization agreement with the City to be registered on title to the Lands, for the restoration, rehabilitation and conservation of the Heritage Building, accept the adding of the Heritage Building to the Vancouver Heritage Register, in the 'B' evaluation category therein, and accept the designation of the exterior facades of the Heritage Building as protected heritage property under the provisions of the *Vancouver Charter*.

THEREFORE, pursuant to Section 592 of the *Vancouver Charter*, and in consideration of the payment ten dollars (\$10.00) by the City to the Owner, the mutual obligations and benefits given herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
DEFINITIONS**

1.1 **Definitions.** In this agreement, unless explicitly used differently elsewhere herein, the terms defined in this section have the meanings given to them here:

- (a) **"City"** means the municipality of the City of Vancouver continued under the *Vancouver Charter* and **"City of Vancouver"** means its geographic location and area;
- (b) **"Conservation Plan"** means a written plan and guidelines prepared by and/or under the supervision of a Heritage Consultant and explicitly accepted by the City for the rehabilitation and conservation of the Heritage Building as provided for hereunder;
- (c) **"Development"** means the proposed development project as described above in the introductory paragraphs hereto to rehabilitate the Heritage Building on the Lands pursuant to the DP Application;
- (d) **"Development Permit"** means any development permit(s) issued by the City under the DP Application in respect of the Development, as such permit(s) may be modified or amended from time to time, including, without limitation, all final reports, plans, drawings and specifications relating thereto and any amendments thereof;
- (e) **"DP Application"** has the meaning given above in the introductory paragraphs hereto;
- (f) **"Dwelling Unit"** has the meaning given under the *Zoning & Development By-law*;
- (g) **"General Manager of Planning, Urban Design, and Sustainability"** means the City's General Manager of Planning, Urban Design, and Sustainability appointed under the provisions of the *Vancouver Charter*;
- (h) **"Heritage Building"** has the meaning given above in the introductory paragraphs herein;
- (i) **"Heritage Consultant"** means an independent, heritage building rehabilitation and conservation expert, knowledgeable and experienced in and duly qualified for planning and supervising rehabilitation and conservation work for heritage buildings;
- (j) **"Heritage Designation"** means the City's designation of the structure and exterior envelope and exterior building materials of the Heritage Building as protected heritage property pursuant to section 593 of the *Vancouver Charter*;

- (k) "Lands" has the meaning given above in the introductory paragraphs hereto and includes any other parcels of land into which the Lands may at any time in any way be consolidated or subdivided;
- (l) "*Land Title Act*" means the *Land Title Act*, R.S.B.C. 1996, c.250, as amended from time to time, and any and all replacements thereof or any statute enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;
- (m) "Owner" means the registered owner or owners of the Lands and the successors and assigns thereof and, without limitation, if the Lands are subdivided by way of a strata plan under the *Strata Property Act* of British Columbia, then "Owner" includes the strata corporation thereby created;
- (n) "rehabilitate" and "rehabilitation" mean the planning and carrying out of restoration, rehabilitation, construction and conservation work to restore, upgrade, improve and conserve the structure, support and heritage characteristics and features of a heritage building or real property heritage feature so as to revitalize it and extend its life and use as such;
- (o) "Rehabilitation Work" has the meaning given below herein;
- (p) "*Strata Property Act*" means the *Strata Property Act*, S.B.C. 1998, c.43, as amended from time to time, and any and all replacements thereof or any statute enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;
- (q) "Subdivision By-law" means the City's Subdivision By-law No. 5208 and any amendments thereto and replacements thereof;
- (r) "*Vancouver Charter*" means the *Vancouver Charter*, S.B.C. 1953, c.55, as amended from time to time, and any and all replacements thereof or any statute enacted in substitution thereof and all regulations applicable thereto and any amendments, replacements and substitutions thereof;
- (s) "*Zoning & Development By-law*" means the City's *Zoning & Development By-law No. 3575* and any amendments thereto and replacements thereof.

**ARTICLE 2**  
**SECTION 219 COVENANT**  
**REHABILITATION AND CONSERVATION OF HERITAGE BUILDING**

2.1 Pursuant to Section 219 of the *Land Title Act*, the Owner covenants and agrees, as a covenant and agreement running with, charging and binding the Lands, that:

- (a) the Owner, at the Owner's expense, and to the satisfaction of the General Manager of Planning, Urban Design, and Sustainability:

- (i) within forty five (45) months after the date upon which the Development Permit is issued, plus any additional time by which the date of expiry of the Development Permit may be extended under the provisions of the *Zoning & Development By-law*, but in any event by no later than forty eight (48) months after the date upon which this covenant is registered on title to the Lands, shall rehabilitate or cause the rehabilitation of the Heritage Building and shall do so in accordance with this agreement, the Development Permit and the Conservation Plan (the “Rehabilitation Work”);
  - (ii) shall ensure that a Heritage Consultant supervises the Rehabilitation Work;
  - (iii) shall ensure that, at all times during the carrying out of the Rehabilitation Work, the Heritage Building is secure from vandalism and occupation by squatters; and
  - (iv) on completion of the Rehabilitation Work as required by this agreement, shall cause a Heritage Consultant to submit to the General Manager of Planning, Urban Design, and Sustainability, a signed comprehensive completion status report, detailing the completion of the Rehabilitation Work and stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan and the Development Permit (including any amendments thereto);
- (b) nobody will in any way use or occupy the Heritage Building or any part thereof and nobody will apply for or take any other action to compel the City, and, notwithstanding that the Heritage Building may be ready for occupancy, the City will be under no obligation to issue any occupancy permit for the Heritage Building or any part thereof at any time after this agreement is registered on title to the Lands, until:
- (i) the Rehabilitation Work has been completed in accordance herewith;
  - (ii) the Owner, as required above herein, has submitted or caused to be submitted to the General Manager of Planning, Urban Design, and Sustainability a signed comprehensive completion status report, detailing the completion of the Rehabilitation Work and stating explicitly that the Rehabilitation Work has been completed in accordance with the Conservation Plan and the Development Permit (including any amendments thereto); and
  - (iii) the City has given the Owner a written notice or confirmation by which the City explicitly accepts or confirms its acceptance that the Rehabilitation Work has been completed in accordance herewith;
- (c) the City may revoke at any time any occupancy permit(s) issued for the Heritage Building prior to completion of the Rehabilitation Work, unless such occupancy permit(s) was obtained in accordance with this agreement, and in such

- circumstances the Owner, on reasonable notice from the City, will ensure that anyone occupying any part of any such building vacates it immediately on such revocation of occupancy permit(s), and if anyone continues to occupy any portion of any part of the Heritage Building in contravention of such revocation, this agreement and any applicable City bylaws, the City, at the Owner's expense, may pursue all remedies available to it, including, without limitation, injunctive relief, to ensure that the Heritage Building is vacated and unoccupied in accordance with this agreement;
- (d) after completion of the Rehabilitation Work in accordance herewith, the Owner, at the Owner's expense, will do all things reasonably necessary to conserve the Heritage Building as rehabilitated and, in any event, keep it in good condition in all respects at all times;
  - (e) at all times after and while this agreement is registered on title to the Lands, the Owner, at the Owner's expense, shall keep the Heritage Building insured to full replacement value against all perils, including, without limitation, damage or destruction by earthquake;
  - (f) except for maintenance and repair work, the Owner will not and will not suffer or permit anyone else to do anything at any time to renovate, alter, modify or reconfigure or that will result in any alteration, modification or reconfiguration of the Heritage Building in any way except as may be permitted or required by this agreement, the Conservation Plan and/or any development and/or heritage alteration permits issued by the City;
  - (g) the Owner shall not at any time and shall not suffer or permit anyone else to at any time do anything that will obscure, deface or remove in any way any heritage related commemorative plaque the City, at its expense, may attach to the Heritage Building or the Lands pursuant to the statutory right of way granted to pursuant to Article 4 hereof;
  - (h) if at any time for any reason the Heritage Building is damaged in any way or destroyed, the Owner, at the Owner's expense, and to the City's satisfaction, shall repair it or replace it with a replica building, except that if the Owner *bona fide* believes that to do so would be uneconomical, in which case, and if for that reason the Owner wishes to demolish it as damaged or wishes not to replicate it, as the case may be, the Owner, at the Owner's expense, and in consultation with and to the satisfaction of the City, will prepare an economic analysis therefor, but taking into consideration only land related economic factors, such as, for example, but without limitation, the estimated cost to repair or replicate the Heritage Building, as the case may be, the anticipated market value of the repaired or replicated building, the incentives given by the City for this agreement and the Heritage Designation, the estimated value of the Lands under the zoning otherwise applicable thereto, after which the City and the Owner, together, on the basis of that analysis, will determine whether in the circumstances it would be uneconomical to repair or replicate the Heritage Building, failing which the matter



in all respects will be determined by arbitration by a single arbitrator in Vancouver, British Columbia, in accordance with the provisions of the *Arbitration Act*, RSBC 1996 c. 55, and if the Owner and the City agree or if in arbitration it is determined that it would be uneconomical for the Owner to be required to repair or replicate the Heritage Building, then, by explicit written notification, the City will consent to the Owner's wish to not repair or replicate the Heritage Building and will discharge this agreement from title to the Lands and the Owner may request of the City's Mayor and Council that the Heritage Designation be cancelled;

- (i) if at any time, in default under this agreement, the Owner, in the City's opinion, fails to perform its obligations as required hereby to rehabilitate and conserve the Heritage Building and fails to rectify any such default within thirty (30) days, or within such other longer time as the City may explicitly permit, after notice from the City to so rectify such default, the City, on the Owner's behalf and at the Owner's expense, may, but will be under not be obligated to, rectify the Owner's default; and
- (j) the Owner acknowledges and agrees that, notwithstanding that this agreement and the Heritage Designation will result in restrictions with respect to the future use and development and therefore may affect the value of the Lands, the Owner has received full and fair compensation therefor and the Owner hereby waives and renounces any and all claims for any further or other compensation by reason of this agreement and/or the Heritage Designation and acknowledges and agrees that the requirements of Section 595(1) of the *Vancouver Charter* have been fully satisfied, and the Owner hereby releases the City and its officials, officers, employees and agents from any liability for any loss, injury, damage or expense of any kind the Owner may suffer, incur or experience and the Owner will indemnify the City for any loss, injury, damage or expense the City may incur, suffer or experience and for any complaint, demand, claim, action, suit or judgment for any loss, injury, damage or expense anyone else may suffer, incur or experience arising out of or in any way connected this agreement and/or the Heritage Designation. The release and promise of indemnification contained in this paragraph will survive discharge and termination of this agreement.

### ARTICLE 3 LETTER OF CREDIT

3.1 Notwithstanding the occupancy restrictions set out above in respect of the Heritage Building, the City, in its discretion, may issue occupancy permits therefor and, on that basis the Heritage Building, may be occupied prior to the time that the Rehabilitation Work is completed in accordance herewith, provided:

- (a) the Owner duly applies to the City for any and all occupancy permits required therefor and pays all fees required therefor;
- (b) this agreement has been fully registered in the Land Title Office to the City's satisfaction;

- (c) the City has issued a building permit and/or heritage alteration permit in respect of the Rehabilitation Work;
- (d) all legal requirements for occupancy of the Heritage Building have been fulfilled;
- (e) the Owner has delivered to the City, in all respects to the City's satisfaction, a letter of credit in the amount equal to the estimated hard costs to complete the Rehabilitation Work plus thirty percent (30%) for soft costs, multiplied by two (2), with such estimate to be made in writing by the Consultant and explicitly accepted in writing by the City;
- (f) the Owner, at the time of application for any such occupancy permits, is not, in the City's opinion, in breach of any of its obligations under this agreement or any other agreement between the City and the Owner with respect to the Heritage Building and/or the Lands; and
- (g) the City, in its opinion, is satisfied that the Rehabilitation Work is being carried out diligently.

3.2 All letters of credit required under this Article will be issued by a Schedule I Canadian chartered bank or other financial institution acceptable to the City's Director of Legal Services and will be unconditional, irrevocable and self-renewing and otherwise in a form and content which is acceptable to the City and will be provided for a period of one (1) year with a provision for an automatic renewal or extension without amendment from year to year.

3.3 The City may call upon the letter or letters of credit provided to it pursuant to the preceding paragraphs herein and apply the proceeds therefrom for any purpose and in any manner it may choose in connection with the Rehabilitation Work, if:

- (a) the bank issuing the letter of credit refuses to extend or renew the expiry date of the letter of credit;
- (b) the Owner becomes insolvent or commits any act of bankruptcy or becomes bankrupt or takes the benefit of any act or legislation that may be enforced for bankrupt or insolvent debtors;
- (c) the Owner, in the City's opinion, has not been diligently carrying out the Rehabilitation Work; or
- (d) the City in any way undertakes all or any part of the Rehabilitation Work pursuant to this agreement.

3.4 Within a reasonable time of the Owner's request after completion of the Rehabilitation Work in accordance with this agreement, the City will, as the case may be, return to its issuer any letter of credit provided to the City hereunder or, if the City has called upon the letter of credit, deliver to the Owner any remaining balance therefrom.

**ARTICLE 4  
STATUTORY RIGHT OF WAY**

4.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the City, effective at all times from and after the date upon which the City issues the Development Permit, a statutory right of way to enter, be and move about on the Lands:

- (a) to install, maintain, repair and replace on the exterior of the Heritage Building or at the perimeter of the Lands, at the City's expense, and in consultation with the Owner as to location, a commemorative plaque; and
- (b) in the event the Owner, in the City's opinion, is in default of any of its obligations under this agreement to rehabilitate and conserve the Heritage Building, to carry out any such obligations of the Owner hereunder as the City may choose.

4.2 The statutory right of way granted in the preceding paragraph is necessary for the operation and maintenance of the City's undertaking.

4.3 Notwithstanding any other provision of this agreement, nothing herein obligates the City to exercise any of the rights granted to it by way of the statutory right of way contained herein.

**ARTICLE 5  
DEBTS OWED TO CITY**

5.1 If the City, pursuant to this agreement, enters upon the Lands or any of them to perform any of the Owner's obligations hereunder to carry out the Rehabilitation Work or to conserve, repair or replace or replicate the Heritage Building:

- (a) there will be no express or implied warranties as to the quality of any work the City may so carry out or the suitability of the materials for the purposes for which they are put; and
- (b) the Owner will pay to the City, forthwith on demand, to the extent the City has not taken payment for such costs from any letters of credit provided to the City hereunder, as reimbursement for expenses incurred, the full amount of all costs the City incurs to carry out work to rehabilitate, conserve, repair or replace the Heritage Building, plus twenty percent (20%) of such costs as fair compensation for the City's overhead, and any such amounts the Owner does not pay or fails to pay to the City forthwith on demand will bear interest, until paid in full, at the prime lending rate at the Bank of Montreal's main branch in the City of Vancouver, plus three percent (3%), calculated monthly and not in advance.

**ARTICLE 6  
EQUITABLE CHARGE**

6.1 The Owner hereby grants to the City an Equitable Charge over the Lands, which charge will run with, charge and bind the Lands, for the payment of all sums (including all interest

thereon) which may at any time be payable by the Owner to the City under the terms of this agreement or otherwise at law.

6.2 The Equitable Charge the Owner has granted to the City herein may be enforced by the appointment of a receiver for the sale of the Lands.

#### ARTICLE 7 BY-LAW VARIATIONS

7.1 The RM-5B District Schedule of the *Zoning & Development By-law* is hereby varied as follows for the Lands, for purposes of the Development:

- (a) Section 3.1.1.1 is varied to increase the maximum permitted floor space ratio to 7.24.

#### ARTICLE 8 SUBDIVISION

8.1 **Subdivision.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act* or under other similar legislation enacted from time to time then upon the deposit of a plan of subdivision, strata plan, or similar plan as the case may be:

- (a) subject to Section 8.2 herein, the rights and benefits of this agreement herein granted will be annexed to and run with each of the new parcels, lots, or other subdivided parcels and areas so created; and
- (b) subject to Section 8.2 herein, the burdens, obligations, covenant, statutory right of way and Equitable Charge contained in this agreement will continue to charge each of the new parcels, lots, or other subdivided parcels and areas so created.

8.2 **Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a strata plan, this agreement will charge title to the strata lots and the common property comprising such strata plan and:

- (a) the Section 219 Covenant and obligations therein and the Statutory Right of Way and Equitable Charge granted herein will be registered against each individual strata lot and noted on the common property sheet;
- (b) the strata corporation or the strata corporations created will perform and observe the Owner's covenants in this agreement, solely at the expense of the strata lot owners; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the strata plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by strata plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore the strata corporation, responsible to perform and observe the Owner's covenants in this agreement.

#### ARTICLE 9 NOTICES

9.1 Any notice, request or communication required or permitted to be given hereunder will be in writing and will be deemed to have been duly given if delivered to the party or mailed in Canada by prepaid registered post addressed to the party as follows:

- (a) if to the Owner, to the Owner's address as shown in the Land Title Office records; and
- (b) if to the City:

City of Vancouver  
453 West 12<sup>th</sup> Avenue  
Vancouver, BC V5Y 1V4

*Attention: City Clerk and Director of Legal Services,*

or to such other address in Canada as any party may specify in writing to the other parties, provided that if and when the owner of the Lands or any part thereof should change, then to the address as set out in the State of Title Certificate for the Lands or such part thereof, and such notice will be deemed to have been received, if delivered, on the date of delivery, and if mailed as aforesaid within Canada then on the third (3<sup>rd</sup>) business day following its mailing, provided that if mailed, should there be between the time of the mailing and the actual receipt of the notice, a mail strike, slowdown or other labour dispute which might affect delivery of such notice, then such notice will only be effective if and when actually delivered.

#### ARTICLE 10 GENERAL

10.1 **Joint and Several Liability.** If the Owner is more than one party, such parties shall be jointly and severally liable to the City for the performance and observance of the Owner's obligations in this agreement.

10.2 **Priority of Registration.** The Owner, at his, her or its expense, after execution of this agreement, shall do or cause to be done all things and acts necessary to ensure that this agreement is registered against title to the Lands with priority over all other encumbrances on title to the Lands as the City may require.

10.3 **Perfection of Intention.** The parties hereto will do such things and execute such further and other documents and instruments and do such further and other acts as may be reasonably

necessary to implement and carry out the provisions and intent of this agreement and to ensure timely and effective registration in the Land Title Office.

**10.4 Waiver.** 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.

**10.5 Time of Essence.** Time will be of the essence in respect of this agreement.

**10.6 Enurement.** This agreement shall enure to the benefit of and be binding upon the Owner and its successors and trustees, and this agreement shall charge and run with the Lands and with any parcel, lot or part into which the Lands may be subdivided or consolidated and shall enure to the benefit of and be binding upon the Owner's successors in title and trustees and successors and all parties claiming through such owners.

**10.7 City's Other Rights and Obligations.** Nothing contained or implied in this agreement will derogate from the obligations of the Owner under any other agreement with the City or 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 other laws, 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.

**10.8 Headings.** The division of this agreement into articles, sections and paragraphs and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this agreement.

**10.9 Number.** Words contained herein importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

**10.10 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 therein.

**10.11 Severability.** All provisions of this agreement are severable in that if any court or other lawful authority having jurisdiction to decide the matter finds for any reason that one or more of them is void or unenforceable, then such void or unenforceable provisions will be severed from this agreement and all other provisions herein will continue to be binding and enforceable.

**10.12 City Approvals.** In this agreement, where City "approval", "acceptance", "consent" or similar authorization or agreement is required, unless provided for otherwise in this agreement, such "approval", "acceptance", "consent" or similar City agreement or authority must be provided in writing, by the City departments, employees, officers or designates, as the case may be, that are authorized to provide such "approval", "acceptance", "consent" or similar

authorization or agreement. Any purported "approval", "acceptance" "consent" or similar authorization or agreement provided by a City department, employee, officer or designate, as the case may be, that is not authorized to provide the same, shall be of no force or effect.

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