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

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

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

JAWL BUNDON LLP
Barristers & Solicitors
4th Floor, 1007 Fort Street
Victoria BC V8V 3K5

File No.: 24206
Telephone No. 250-385-5787

Deduct LTSA Fees? Yes ☑

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]	[LEGAL DESCRIPTION]
027-278-972	**LOT A, SUBURBAN LOT 6, VICTORIA CITY, PLAN VIP83993**

STC? YES ☐

3. NATURE OF INTEREST — CHARGE NO. — ADDITIONAL INFORMATION

SEE SCHEDULE

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

5. TRANSFEROR(S):

SEE SCHEDULE

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

CAPITAL REGIONAL DISTRICT
625 FISGARD STREET
VICTORIA BRITISH COLUMBIA
V8W 1R7 CANADA

7. ADDITIONAL OR MODIFIED TERMS:

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

Officer Signature(s)	Execution Date Y	M	D	Transferor(s) Signature(s)
ROBERT G. MILNE Barrister & Solicitor 4TH Floor 1997 Fort Street Victoria, B.C., V8V 3K5	19	05		TODD PATRICK DOHERTY

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.

Officer Signature(s)	Execution Date Y	M	D	Transferor / Borrower / Party Signature(s)
				CAPITAL REGIONAL DISTRICT by its authorized signatory(ies) [print name] [print name]
				COAST CAPITAL SAVINGS FEDERAL CREDIT UNION formerly Coast Capital Savings Credit Union by its authorized signatory(ies) [print name] [print name]
				[print name] [print 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.

LAND TITLE ACT
FORM E

SCHEDULE PAGE 3 OF _ PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		
Rent Charge		
Option to Purchase		
Priority Agreement		Granting Covenant, Rent Charge and Option to Purchase herein priority over Mortgage CA4396851 & Assignment of Rents CA4396852

LAND TITLE ACT
FORM E

SCHEDULE PAGE 4 OF [illegible] PAGES

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

5. Transferor(s)

TODD PATRICK DOHERTY (COVENANT, RENT CHARGE and OPTION TO PURCHASE)

COAST CAPITAL SAVINGS FEDERAL CREDIT UNION formerly Coast Capital Savings Credit Union (PRIORITY)

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT AND HOUSING AGREEMENT

WHEREAS:

A. TODD PATRICK DOHERTY (the "**Developer**") is the registered owner of the Lands described in Item 2 of Part 1 of this General Instrument and the Developer intends to complete a 12 unit strata development on the Lands (the "**Strata Development**") and shall designate 1 of the strata lots to be created by the strata plan for the Strata Development as the Affordable Unit to which this Agreement will apply.

B. The Developer intends to build the Affordable Unit to ensure the availability of affordable housing in Victoria, British Columbia.

C. To ensure that the Affordable Unit continues to be available as affordable housing, the Developer has agreed to grant the Capital Regional District ("**CRD**"):

(a) a covenant under Section 219 of the *Land Title Act* (the "**Covenant**") and a housing agreement under Section 483 of the Local Government Act setting out, amongst other things, the procedure to be followed in connection with any sale of an Affordable Unit as well as restrictions on the sale price on use and rental of the Affordable Unit;

(b) an option to purchase the Affordable Unit if it is sold, rented or used in breach of the Covenant; and

(c) Notice of Housing Agreement:

For clarity, the Owner acknowledges and agrees that:

(i) this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement entered into under Section 482 of the *Local Government Act*;

(ii) the CRD is required to file a notice of housing agreement in the Land Title Office against title to the Land; and

(iii) once such notice is filed, this Agreement binds all persons who acquire an interest in the Land as a housing agreement under Section 438 of the *Local Government Act.*

NOW THEREFORE in consideration of the mutual covenants set out below and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each of the parties), the parties agree as follows:

SECTION 1.
INTERPRETATION

1.1 **Definitions**. In this Agreement:

1.1.1 "Affordable Unit" or "Affordable Units" shall mean the 1 strata lot to be designated by the Developer within the Strata Development as the strata lot to which this Agreement shall apply;

1.1.2 "Affordable Rate" means a rate determined from time-to-time by the NPO in its sole discretion with reference to BC Government guidelines, if any;

1.1.3 "Agreement" means Parts 1 and 2 of this General Instrument;

1.1.4 "Appraisal" has the meaning stated in Section 2.2;

1.1.5 "Appraisal Review Period" has the meaning stated in Section 2.2.4.1;

1.1.6 "Appraiser" means an appraiser accredited by the Appraisal Institute of Canada and duly qualified to appraise an Affordable Unit and on an approved list maintained by the NPO, if any;

1.1.7 "Approved Lender" means an "approved lender" (as defined in the *National Housing Act*, R.S.C. 1985, c. N-11) which holds an Insured Mortgage of an Affordable Unit;

1.1.8 "Below Market Value" means 85% of the Fair Market Value of the Affordable Unit from time to time;

1.1.9 "Business Day" means any day other than Saturday, Sunday or a statutory holiday in the Province of British Columbia;

1.1.10 "Closing Date" means the 30th day after the Notice Date, or the first Business Day thereafter that the LTO is open for business to the public;

1.1.11 "CMHC" means Canada Mortgage and Housing Corporation or any successor thereto;

1.1.12 "Covenant" has the meaning stated in Recital C and is the covenant set out in Section 2.1;

1.1.13 "CRD" has the meaning stated in Recital C;

1.1.14 "Developer" has the meaning stated in Recital A;

1.1.15 "Environmental Law" means any applicable federal, provincial or municipal laws pertaining to the presence, handling, release or removal of Hazardous Substances;

1.1.16 "Fair Market Value" of an Affordable Unit means the purchase price from time to time which a willing purchaser would pay to a willing vendor, dealing at arm's length from

each other, for an Affordable Unit, unencumbered with the exception of Permitted Encumbrances and without the benefit of a parking stall or other parking entitlement;

1.1.17 "General Instrument - Part 1" means the General Instrument - Part 1 to which this Terms of Instrument - Part 2 is attached;

1.1.18 "Hazardous Substances" collectively means contaminants, pollutants or other substances which are hazardous or dangerous to the health of humans, animals or plants or to the environment and includes substances defined as hazardous substances or special waste under any law, regulation or order of a Statutory Authority;

1.1.19 "Immediate Family" means grandparent, parent, sibling, spouse, common-law partner, son or daughter;

1.1.20 "Insured Mortgage" means a mortgage insured pursuant to the *National Housing Act*, R.S.C. 1985, c. N-11;

1.1.21 "LTO" means the Land Title Office for the jurisdiction in which an Affordable Unit is located;

1.1.22 "Notice" means any written notice which CRD may deliver to the Owner under Section 3.3, exercising the Option;

1.1.23 "Notice Date" means the day on which the Owner is deemed by Section 6.2 to have received the Notice;

1.1.24 "NPO" means the Capital Region Housing Corporation or other non-profit housing organization or Person retained by CRD from time to time to administer the sale of the Affordable Units and to manage the rental of the Affordable Units;

1.1.25 "NPO Appraisal" has the meaning stated in Section 2.2.4.1;

1.1.26 "Offer" has the meaning stated in Section 2.2;

1.1.27 "Option" means the option to purchase granted by the Developer and the Owner to CRD under Section 3.1;

1.1.28 "Option Purchase Price" means:

(1) 95% of the Below Market Value; or

(2) if the Owner has granted a bona fide arm's length mortgage or mortgages of the Affordable Unit to an Approved Lender which, as at the Closing Date, secures in aggregate an amount which exceeds 95% of the Below Market Value, the amount owing under and required to discharge the mortgage or mortgages to the Approved Lender as at the Closing Date;

1.1.29 "Owner" means the registered owner of an Affordable Unit from time to time and includes the Developer in its capacity as developer of the Affordable Units until the first

conveyance to a Qualified Buyer, and their respective heirs, legal representatives, successors and assigns;

1.1.30 "Permitted Encumbrances" means those charges or encumbrances stated in Schedule "A" and any other encumbrances approved as required by the City of Victoria or Developer from time to time to complete the Strata Development or as in writing by CRD but shall not include any mortgage or other financial encumbrance and shall not include this Agreement;

1.1.31 "Person" means any individual, society, corporation, partnership, trustee, administrator, legal representative, Statutory Authority or other legal entity;

1.1.32 "Personal Property" means all lighting fixtures, appliances, equipment, cabinetry, affixed carpeting, drapes and blinds located within an Affordable Unit (except to the extent otherwise agreed in writing by CRD) but does not include an Owner's personal effects;

1.1.33 "Proceeding" has the meaning stated in Section 2.3.1;

1.1.34 "Project" means the Strata Development of which the Affordable Units will be a part and comprises all of the Lands referred to in Item 2 of the General Instrument - Part 1;

1.1.35 "Property" means the Affordable Unit and all Personal Property within the Affordable Unit;

1.1.36 "Qualified Buyer" means an individual who meets the criteria stated in Schedule "B";

1.1.37 "Statutory Authority" means any federal, provincial or municipal governmental authority which has jurisdiction over any matter referred to in this Agreement;

1.1.38 "Term" means the period commencing on the date of registration of this Agreement in the LTO and ending on the earlier of (a) the date which is ninety- nine (99) years thereafter, and (b) the date of any destruction or statutorily deemed destruction of the Project;

1.1.39 "Transaction" means the transfer of an Affordable Unit from the Owner to CRD;

1.1.40 "Transfer" means an instrument in a statutorily prescribed form by which the Owner transfers title to the Affordable Unit to CRD.

1.2 **Time**. Time will be of the essence of this Agreement. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. If a time is specified in this Agreement for observing or performing any obligation, such time will be local time in Victoria, British Columbia.

1.3 **Governing Law**. This Agreement will be governed by and construed and enforced in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia.

1.4 **References**. In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.

1.5 **Construction**. The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit or aid in the interpretation of this Agreement. The wording of this Agreement will be construed simply, according to its fair meaning, and not strictly for or against any party.

1.6 **Validity of Provisions**. If a Court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal or unenforceable, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement which will be construed as if such invalid, illegal or unenforceable provision had never existed and such other provisions will be enforceable to the fullest extent permitted at law.

1.7 **No Waiver**. Failure by either party to exercise any of its rights, powers or remedies hereunder or its delay to do so, will not be interpreted as a waiver of those rights, powers or remedies except in the case of a written waiver. No waiver of a particular right will be deemed to be a waiver of that right in any other instance or a waiver of any other right.

1.8 **Statutes**. Any reference to a statute and to any regulations under that statute means the statute and regulations as amended or replaced from time to time.

1.9 **Remedies**. Any party to this Agreement, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement. No reference to or exercise of any specific right or remedy under this Agreement or at law or in equity by any party will prejudice or preclude that party from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but any party, from time to time, may exercise any one or more of such rights or remedies independently, successively or in combination. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

1.10 **Schedules**. The following Schedules are attached to and form integral parts of this Agreement:

Schedule "A" Permitted Encumbrances
Schedule "B" Qualified Buyer Criteria

SECTION 2.
SECTION 219 COVENANT

2.1 **Covenant**. The Owner hereby covenants with CRD that:

(a) the Affordable Unit will not be sold, assigned or otherwise transferred otherwise than:

(i) to a Qualified Buyer;

(ii) for a selling price not greater than the Below Market Value;

(iii) subject to the Covenant and the Option; and

(iv) in a way which complies with Section 2.2, or to CRD under Section 3;

(b) the Affordable Unit will not at any time be subject to a conventional high ratio mortgage or mortgages which, in total, secure an amount which exceeds 95% of the Below Market Value; and

(c) the Owner shall not permit (whether by renting or otherwise) any person other than the Owner and members of the owner's Immediate Family to occupy the Affordable Unit, and shall not use or permit the premises to be used solely for conducting a business or profession,

and the Owner and CRD agree that, subject to Section 2.3 the covenant set out above will be registered as a charge against the Affordable Unit and run with the Affordable Unit for the Term.

2.2 **Procedure for Sale of Affordable Unit.**

2.2.1 **Owner Notifies NPO of Intention to Sell.**

If at any time after the first conveyance of an Affordable Unit by the Developer, the Owner wishes to sell, assign or otherwise transfer the Affordable Unit, the Owner will do so in accordance with a bona fide arm's length agreement of purchase and sale (or as a court may order in a proceeding to enforce a mortgage of the Affordable Unit) and the Owner will, prior to:

(a) listing or offering the Affordable Unit for sale; or

(b) accepting an offer to purchase the Affordable Unit,

deliver to the NPO written notice of their intention to sell an Affordable Unit, such notice to be in the form required by the NPO.

2.2.2 **Owner Retains Appraiser.**

Within 7 days after the Owner notifies the NPO of their intention to sell an Affordable Unit, the Owner will select an Appraiser to be retained by the Owner to undertake an appraisal (the "Owner Appraisal") of the Fair Market Value of the Affordable Unit. The Owner will deliver a copy of the Owner Appraisal to the NPO within 7 days after the Owner receives the Owner Appraisal.

2.2.3 **Owner and NPO Agree on Maximum Selling Price.**

If the Owner and the NPO agree within 7 days after the Owner Appraisal is delivered to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the Fair Market Value stated in the Owner Appraisal, less 15%, will be the

maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.4 **Owner and NPO Do Not Agree on Maximum Selling Price.**

2.2.4.1 If the Owner and the NPO do not agree within 7 days (the "Appraisal Review Period") after the Owner Appraisal is delivered to the NPO that the Fair Market Value of the Affordable Unit is as stated in the Owner Appraisal, the NPO will retain its own Appraiser to undertake an appraisal (the "NPO Appraisal") of the Fair Market Value of the Affordable Unit in which case the average of the Fair Market Value stated in the Owner Appraisal and the NPO Appraisal, less 15%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the NPO Appraisal.

2.2.4.2 The NPO will deliver a copy of the NPO Appraisal to the Owner within 7 days after the NPO receives the NPO Appraisal.

2.2.4.3 If the NPO Appraisal is not delivered to the Owner within 30 days after the end of the Appraisal Review Period, the Fair Market Value stated in the Owner Appraisal, less 15%, will be the maximum price at which the Owner will be permitted to sell the Affordable Unit during a period of 6 months commencing on the effective date of the Owner Appraisal.

2.2.5 **Owner Responsible for Appraisal Costs.**

The Owner will be responsible for the cost of both the Owner Appraisal and the NPO Appraisal. If the cost of the NPO Appraisal is initially paid by the NPO, the Owner will reimburse the NPO for the cost of the NPO Appraisal within 30 days after demand by the NPO. If any amount owed by the Owner to the NPO with respect to the NPO Appraisal is not paid prior to the completion of the sale of the Affordable Unit by the Owner, a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.2.6 **NPO Notifies Owner of Maximum Selling Price.**

Within 7 days after the Fair Market Value of the Affordable Unit has been determined under Section 2.2.3 or 2.2.4, the NPO will notify the Owner of the maximum price, determined under Section 2.2.3 or 2.2.4, at which time the Owner will be permitted to offer to sell the Affordable Unit, which price shall be deemed to be its Below Market Value.

2.2.7 **Owner to Deliver True Copy of Sale Contract to NPO.**

The Owner will immediately deliver a true copy of any contract of purchase and sale which the Owner may enter into with respect to the sale of the Affordable Unit or any interest therein (the "Sale Contract"). The Owner will deliver to the NPO with the Sale Contract, or upon the request of the NPO, such information with respect to the buyer named in the Sale Contract as the NPO may reasonably require to determine whether

the buyer is a Qualified Buyer.

2.2.8 Terms to be Included in Sale Contract.

The Sale Contract will be in writing and will:

(a) be for a selling price not greater than the Below Market Value of the Affordable Unit;

(b) be subject to the NPO determining and notifying the Owner in writing (within a period of 10 Business Days after the NPO receives a true copy of the Sale Contract) that (1) the Owner has complied with the requirements of this Section 2.2, and (2) the buyer is a Qualified Buyer, failing which the Sale Contract will be null and void; and

(c) include a statement that the buyer agrees to purchase the Affordable Unit subject to the Covenant, the Option and all other terms of this Agreement.

2.2.9 No Sale after 6 Months Without New Appraisal.

The NPO will not be obligated to review or make any determination with respect to a Sale Contract as stated in subsection 2.2.8(b) above if the date of receipt by the NPO of a true copy of the Sale Contract and any other information required by the NPO under Section 2.2.7 is after the expiry of the 6 month period during which the Owner is permitted to sell the Affordable Unit. If the 6 month period has expired, the process under Section 2.2 will begin again, with the Owner giving fresh notice to the NPO of their intention to sell the Affordable Unit.

2.2.10 CRD Will Notify Owner of Change in NPO.

CRD will notify the Owner in writing of any appointment or replacement of an NPO and of the address to which notices to the NPO will be sent.

2.2.11 Fee to NPO

The NPO will be entitled to payment of a fee equal to 0.5% of the gross selling price of an Affordable Unit, such fee to be paid on closing of the sale of such Affordable Unit by the Owner and a portion of the sale proceeds equal to the amount owing to the NPO will be deemed to have been irrevocably assigned by the Owner to the NPO.

2.3 Procedure for Foreclosure.

2.3.1 **CRD Right to Market and Sell.**

If the Approved Lender or CMHC commences a foreclosure proceeding (the "Proceeding") under an Insured Mortgage of the Affordable Unit the Owner covenants and agrees with CRD that:

(a) the Owner shall notify CRD of the Proceeding;

(b) at the time which is the midpoint of any redemption period (the "Redemption Period") ordered in the Proceeding, CRD shall have the right and may apply for an order in the Proceeding, unopposed by the Owner, to market and sell the Affordable Unit in accordance with Section 2.1(a)(i), (ii), (iii) and (iv);

(c) on receipt of the order in the Proceeding under Section 2.3.1(b) CRD shall have the right to enter into an agreement with a licensed realtor to market and sell the Affordable Unit at the prevailing commission or fee; and

(d) the Owner shall provide reasonable access to the Affordable Unit by CRD, the licensed realtor and any prospective purchaser of the Affordable Unit for the purpose of repairing, cleaning, appraising, marketing and selling the Affordable Unit.

2.3.2 **CMHC Notice to CRD.**

In the event that CRD does not sell the Affordable Unit pursuant to Section 2.3.1, CMHC or the Approved Lender may, 120 days after expiry of the Redemption Period ordered in the Proceeding, issue a 30 day notice (the "Notice Period") to CRD to redeem the Insured Mortgage. In the event that CRD does not redeem the Insured Mortgage within the Notice Period, CRD shall cause this Agreement to be discharged from title to the Affordable Unit at the LTO within 7 days of expiry of the Notice Period.

2.3.3 **CMHC Sale.**

In the event that the Affordable Unit is sold by the Approved Lender or CMHC after discharge of this Agreement from title to the Affordable Unit and such sale generates funds in excess of the balance owing under the Insured Mortgage and related costs, including charges, taxes, commissions and utilities regarding the Affordable Unit, such excess funds shall forthwith be paid to CRD, for its own use absolutely. This Section 2.3.3 shall bind the Owner, the Approved Lender, CMHC (where CMHC has a mortgage loan insurance policy in force for the Affordable Unit) and CRD both before and after discharge of this Agreement from title to the Affordable Unit.

2.4 <u>Procedure for Rental and Recovery of Rent Charges</u>.

2.4.1 **Rental Prohibited**.

2.4.1.1 All rentals of the Affordable Units are prohibited, except:

(a) In the case of hardship, as decided by the NPO in its sole discretion, and on making an application to the NPO in the form provided by the NPO, if any, an Affordable Unit may be rented at an Affordable Rate for a period no shorter than six months; or

(b) If a qualified buyer cannot be located, as decided by the NPO in its sole discretion, and on making an application to the NPO in the form provided by the NPO, if any, an Affordable Unit may be rented at an

Affordable Rate for a period no shorter than six months.

2.4.1.2 The maximum term of any rental shall be two years, at which point the Affordable Unit must be listed for sale in accordance with section 2.2. Rental may continue at an Affordable Rate at the discretion of the NPO. If hardship continues or a qualified buyer cannot be located after this listing, additional sales listings may be required at any time at intervals decided by the NPO at its discretion.

2.4.1.3 Any tenancy shall be governed by an agreement under the *Residential Tenancy Act* (BC) which shall include the following provisions:

(a) permitting the Owner to terminate the tenancy agreement in accordance with the *Residential Tenancy Act* if the tenant uses or occupies, or allows use or occupation of, the Affordable Unit in breach of the use or occupancy restrictions contained in this Agreement;

(b) explicitly prohibiting the assignability, sub-letting, and use of the Affordable Unit for short term vacation rentals;

(c) explicitly specifying that only persons named in the tenancy agreement may occupy the Affordable Unit;

(d) providing that the Owner will have the right, at its option, to terminate the tenancy agreement should the tenant remain absent from the Affordable Unit for three consecutive months or longer, notwithstanding the timely payment of rent;

(e) prohibiting guests residing in the Affordable Unit for more than 30 days, whether or not consecutive, in any 12 month period without the prior written consent of the Owner; and

(f) prohibiting use of the Affordable Unit for non-residential rentals, assignments, sub- lets, licenses and uses, such as vacation rentals, including such services as AirBNB or Vacation Rental By Owner, short term licenses, or short-stay use of any kind, and business-only premises.

2.4.1.4 The Owner will terminate the tenancy if the tenant uses or occupies, or allows use or occupancy in breach of the use and occupancy restrictions in this Agreement.

2.4.2 Rent Charge and Acknowledgement.

2.4.2.1 The Owner acknowledges that the CRD requires affordable housing to ensure prosperity and economic growth for the residents of the Capital Region. The

Owner acknowledges the purpose of the Affordable Unit is to provide affordable housing to residents of the Capital Region, and it is not to be used for a short term vacation rental or left as a vacant home. The Owner therefore agrees that for each day an Affordable Unit is occupied in breach of this Agreement, the Owner will pay to the CRD $150 for each day on which the breach has occurred and continues to occur, as liquidated damages and not as a penalty, due and payable at the offices of the CRD on the last day of the calendar month in which the breach occurred. The $150 per day amount will increase on January 1 of each year by the amount calculated by multiplying the amount per day payable on the previous January 1 by the percentage increase between that previous January 1 and the immediately preceding December 31 in the CPI.

2.4.2.2 The Owner hereby grants to the CRD a rent charge under s. 219 of the *Land Title Act* (British Columbia), and at common law, securing payment by the Owner to the CRD of the amount payable by the Owner pursuant to section 2.4.2 of this Agreement. The Owner agrees that the CRD, at its option, may enforce payment of such outstanding amount in a court of competent jurisdiction as a contract debt, by an action for and order for sale, by proceedings for the appointment of a receiver, or in any other method available to the CRD in law or in equity.

SECTION 3.
OPTION TO PURCHASE

3.1 **Option to Purchase**. The Owner hereby grants CRD an exclusive and irrevocable option to purchase the Affordable Unit during the Term at the Option Purchase Price in accordance with Sections 3 and 4.

3.2 **Exercise of Option**. CRD may exercise the Option only if the Owner:

(a) defaults in its obligations under Sections 2.1 or 2.2; or

(b) acquired the Affordable Unit from a previous Owner for a price which was, as of the date of closing of that transaction, greater than the Below Market Value or if the Owner was not, as of that date, a Qualified Buyer; or

(c) defaults in its obligations under any mortgage of the Affordable Unit.

3.3 **Method of Exercise of Option**. CRD may exercise the Option by delivering Notice of exercise of the Option to the Owner.

3.4 **Effect of Exercise of Option**. From and after the Notice Date, this Agreement and the Notice will together constitute a binding and enforceable contract between the Owner and CRD for the purchase and sale of the Affordable Unit in accordance with the terms and conditions of Section 4.

SECTION 4.
PURCHASE AND SALE

4.1 **Purchase and Sale**. Subject to the terms and conditions of this Section 4 and relying on the warranties and representations herein set out, the Owner agrees to sell and CRD agrees to purchase the Affordable Unit on the Closing Date for the Option Purchase Price, and the Owner agrees that, at the request of CRD, it will transfer registered title to the Affordable Unit to CRD or such other Person as CRD may designate.

4.2 **Option Purchase Price**. CRD will pay the Option Purchase Price, subject to adjustment pursuant to Section 4.10, to the Owner on the Closing Date.

4.3 **Repair and Maintenance**. From and after the Notice Date to the Closing Date, the Owner will take good care of the Property, will carry out all necessary repairs, maintenance, and replacements, will take reasonable care to protect and safeguard the Property and will in all other respects deal with the Property so that the warranties and representations of the Owner set out in this Agreement remain true and correct.

4.4 **Insurance**. From and after the Notice Date to the Closing Date, the Owner will ensure that all policies of insurance with respect to the Property remain in full force and effect.

4.5 **Risk**. The Property will be at the risk of the Owner up to the time the Transfer is submitted for registration at the LTO on the Closing Date and will be at the risk of CRD after the time the Transfer is submitted for registration at the LTO on the Closing Date.

4.6 **Damage**. If, prior to the time the Transfer is submitted for registration at the LTO, any damage occurs to the Property or any of the assets comprising the Property, CRD, by notice to the Owner, may elect to postpone the Closing Date for a period of not more than 30 days and may also elect:

(a) not to acquire the Affordable Unit, in which case neither party will have any further obligation to the other under this Section 4 pertaining to that particular Notice; or

(b) that the Owner assign to CRD the Owner's right to receive any and all insurance proceeds payable with respect to the damage, subject to any bona fide loss payee designation, in which case the Owner will execute and deliver to CRD an assignment satisfactory to CRD.

4.7 **Construction Warranties**. From and after the Closing Date, the Owner will assign to CRD all the Owner's rights under all warranties, guarantees or contractual obligations against any contractor or supplier who was engaged in the construction, renovation, or repair of all or any part of the Affordable Unit or any improvement to the Affordable Unit. CRD's acceptance of this assignment will not represent a waiver by CRD of the Owner's covenants, agreements, representations and warranties set out in this Agreement.

4.8 **Owner's Covenants**. The Owner will:

(a) take all proper actions and proceedings on its part to enable the Owner to transfer a good and marketable title to the Affordable Unit to CRD or such Person as CRD may designate, free and clear of all encumbrances other than Permitted Encumbrances;

(b) deliver vacant possession of the Property to CRD or such Person as CRD may

designate on the Closing Date, subject to prior receipt of the Option Purchase Price by the Owner;

(c) not, from and after the Notice Date to the Closing Date, sell, transfer, dispose of or remove from the Affordable Unit any Personal Property; and

(d) both before and after the Closing Date do such other things as CRD may reasonably require for transferring to and vesting in CRD or such Person as CRD may designate title to the Affordable Unit as contemplated by this Section 4.

4.9 **Documents**. CRD will prepare the documents necessary to complete the Transaction which will be in a form and substance reasonably satisfactory to CRD and its lawyers.

4.10 **Adjustments and Credits**. The Owner and CRD will adjust, as at the Closing Date, all usual adjustments for a property similar to the Property including taxes, utility rates and any moneys owing to the strata corporation formed in respect of the Project.

4.11 **Closing**. The Owner and CRD will complete the Transaction on the Closing Date at the offices of CRD or its lawyers.

4.12 **Owner's Closing Documents**. At the closing, the Owner will deliver to CRD the following duly executed documents:

(a) the Transfer;

(b) a vendor's statement of adjustments;

(c) a bill of sale for the Personal Property and all other deeds, transfers, assignments, resolutions, consents, estoppels and other certificates and assurances as CRD may reasonably require;

(d) a certificate in confirmation that the sale of the Affordable Unit to CRD is exempt from taxes under the *Excise Tax Act* (the "GST") or, alternately, a certified cheque or bank draft payable to CRD in an amount equal to the GST payable by CRD on the Option Purchase Price; and

(e) unless waived in writing by CRD, a certified cheque or bank draft payable to CRD in the amount, if any, by which the moneys owing under and required to discharge any mortgage or mortgages of the Affordable Unit exceed the Option Purchase Price (calculated in accordance with Section 1.1.28(2)), as adjusted under Section 4.10.

4.13 **CRD's Closing Documents**. At the closing, CRD will deliver to the Owner:

(a) a purchaser's statement of adjustments; and

(b) a cheque for the Option Purchase Price, as adjusted under Section 4.10.

4.14 **Tabling**. Except for the Transfer, all documents and cheques will be tabled at the closing. CRD will cause its lawyers, on the Closing Date, to conduct a pre-registration index search of

the Affordable Unit at the LTO. If that search indicates that no liens, charges or encumbrances have been registered or filed in respect of the Affordable Unit except for Permitted Encumbrances and encumbrances which the lawyers for the Owner have undertaken to discharge, the lawyers for CRD or their agents shall submit the Transfer for registration and then conduct a post-filing registration index search. If that search indicates that no liens, charges or encumbrances have been registered or filed in respect of the Affordable Unit since the pre-filing registration index search, all documents and payments will be released to each of the Owner and CRD according to the entitlement of each of them.

4.15 **Reimbursement**. If CRD waives payment on the Closing Date of the amount referred to in Section 4.12(e), the Owner shall pay such amount to CRD, on demand, with interest thereon at the rate of eighteen percent (18%) per annum, compounded monthly, from the Closing Date to the date of payment.

4.16 **Survival**. All the representations, warranties, covenants and agreements of the Owner and CRD contained in this Agreement will survive the Closing Date, registration of documents, and the payment of the Option Purchase Price.

SECTION 5.
RELEASE

5.1 **Release**. The Owner releases CRD and its officers, directors, employees and agents and their respective heirs, executors, administrators, personal representatives, successors and assigns absolutely and forever, from any claims the Owner may have against all or any of them for costs, expenses or damages the Owner may suffer, incur or be put to arising out of or in connection with this Agreement and from all claims arising out of advice or direction respecting the sale of the Affordable Unit or use of the Property given to the Owner by any of them or by the NPO.

SECTION 6.
GENERAL PROVISIONS

6.1 **Discharge of Covenant and Option to Purchase on Strata Lots not designated as Affordable Units**. The parties agree that this Agreement is intended to only apply to the two (2) strata lots to be designated by the Developer as the Affordable Units upon the filing of the strata plan for the Strata Development and concurrently with filing of the strata plan for the Strata Development this Covenant, the Rent Charge and the Option to Purchase shall be discharged from title to all of the strata lots and the common property except for the two (2) Affordable Units designated by the Developer, and this Agreement will only charge the Affordable Units. The parties will execute all such documents as may be required to complete the foregoing discharges.

6.2 **Notices**. Unless otherwise specified, each notice to the Owner must be given in writing and delivered personally or by courier to the Owner at its address shown on title to the Affordable Unit as registered in the LTO from time to time. Unless otherwise specified, each notice to CRD must be given in writing and delivered personally or by courier to CRD, Attention: Manager Real Estate Services, at the address shown on the General Instrument - Part 1 or to such other address or addresses or person or persons as CRD may designate. Notices will be deemed to have been received when delivered.

6.3 **Fees**. Each of the Owner and CRD will pay its own legal fees. CRD will pay all fees in connection with registration of the Transfer.

6.4 **Enuring Effect**. This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns as the case may be of the Owner and CRD, provided that the Owner shall not be liable for any breach of the covenant contained in Section 2.1 except as such liability relates to the period of ownership of an Affordable Unit by the Owner. If, by operation of statute or otherwise, the Option becomes or will within a period of three months become void or unenforceable as the result of the passage of time, the Owner or their heir, legal representative, successor or permitted assign, as the case may be, will, at the request of CRD, execute and deliver to CRD a replacement agreement substantially in the form of this Agreement.

6.5 **Registration**. This Agreement will be registered against title to the Lands initially and then shall be restricted to the titles to the Affordable Units upon filing of a strata plan of the Lands in the LTO subject only to Permitted Encumbrances.

6.6 **Discharge**. On expiry of the Term, the Owner may require that CRD execute and deliver to the Owner a release in registrable form of the Covenant and the Option.

6.7 **Amendment**. This Agreement may only be amended by written agreement of the parties.

6.8 **Counterparts**. This Agreement and any amendment, supplement, restatement or termination of any provision of this Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered is an original, but all of which taken together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have duly executed this Agreement by signing the General Instrument - Part 1.

CONSENT AND PRIORITY AGREEMENT

WHEREAS COAST CAPITAL SAVINGS FEDERAL CREDIT UNION, formerly Coast Capital Savings Credit Union (the "**Chargeholder**") is the holder of Mortgage and an Assignments of Rents (collectively called the "**Charge**") encumbering the lands (the "**Lands**") described in Item 2 of the Land Title Act Form C attached hereto, which were registered in the Victoria Land Title Office under numbers CA4396851 and CA4396852 respectively.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF $1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the S. 219 Covenant, Rent Charge and Option to Purchase attached hereto and the Chargeholder hereby agrees that the S. 219 Covenant, Rent Charge and Option to Purchase shall be binding upon its interest in and to the Lands.

2. The Chargeholder hereby grants to the Transferee described in Item 6 of the Land Title Act Form C attached hereto priority for the S. 219 Covenant, Rent Charge and Option to Purchase over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the S. 219 Covenant, Rent Charge and Option to Purchase as if the S. 219 Covenant, Rent Charge and Option to Purchase had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the Land Title Act Form C above which is attached hereto and forms part of this Agreement.

SCHEDULE "A"
PERMITTED ENCUMBRANCES

Legal Notations:

None

Charges, Liens and Interests:

None

SCHEDULE "B"
QUALIFIED BUYER CRITERIA

1. **Sale of an Affordable Unit by the Developer:**

In the case of the sale of an Affordable Unit by the Developer, a Qualified Buyer means:

(a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;

(b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;

(c) A person who provides Proof of Income that annual gross Income is between the range set from time-to-time by the NPO in its sole discretion (which shall not be appealed) for at least one year immediately prior to the date of purchase of an Affordable Unit; and

(d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind

it being understood and agreed that preferential consideration may be given to a person who meets all of the above criteria and all or some of the following criteria:

(a) a person who does not own a vehicle; and

(b) a person who satisfies such other criteria as may be applied by the NPO and CRD from time to time.

2. **Sale of an Affordable Unit by an Owner other than the Developer:**

In the case of the sale of an Affordable Unit by an Owner other than the Developer, a Qualified Buyer means:

(a) a first time home buyer, being a buyer who has not owned a principal residence for at least 5 years immediately prior to the date of purchase of an Affordable Unit;

(b) a resident of the Capital Regional District from time to time, for at least one year immediately prior to the date of purchase of an Affordable Unit;

(c) a person who provides Proof of Income that annual gross Income is between the range set from time-to-time by the NPO in its sole discretion (which shall not be appealed) for at least one year immediately prior to the date of purchase of an Affordable Unit, it being understood and agreed that the NPO may, from time to time, grant an exemption from or vary such requirement if, in the opinion of the NPO and having regard to prevailing market conditions, such exemption or variation is consistent with the

continued use and availability of the Affordable Unit as affordable housing; and

(d) a person who intends to immediately use and occupy the Affordable Unit as their principal residence and not rent or lease the Affordable Unit to any other person, nor leave the unit vacant, use it solely for a business or profession, or use it as a short-term vacation rental property of any kind.

For the purpose of Schedule B:

"Income" means the total income before income tax from all sources of all persons intending to live in an Affordable Unit including, without limitation:

(a) all income from earnings, including commissions and tips;

(b) all income from all public and private pension plans, old age security and guaranteed income supplement;

(c) all income received under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*;

(d) disabled veteran's allowance;

(e) alimony;

(f) child support;

(g) workers' compensation benefits;

(h) employment insurance; and

(i) Income from Assets,

but excluding the following:

(a) child tax benefit;

(b) capital gains, such as insurance settlement, inheritances, disability awards and sale of effects in the year they are received;

(c) the earnings of a person aged 18 and under;

(d) student loans, student loan equalization payments and student grants but excluding non-repayable training allowances, research fellowships or similar grants;

(e) shelter aid for elderly renters (SAFER) or rental assistance program (RAP) payments received prior to purchasing an Affordable Unit;

(f) GST rebates;

(g) taxable benefits received through employment;

(h) government provided daycare allowance; and

(i) payments for foster children, or child in home of relative (CIHR) income under the *Employment and Assistance Act*.

"Income from Assets" means computing income from assets of all persons intending to live in an Affordable Unit at a percentage per annum as determined by CRD, excluding the first $62,051.00 in assets of such persons, based on November 1, 2018 dollars, indexed over time by reference to changes from time to time in the consumer price index (all items, British Columbia) or if such consumer price index is no longer published, such substitute and comparable index as the NPO may designate.

"Proof of Income" means a tax return filed with Canada Revenue Agency or a notice of assessment from Canada Revenue Agency under the *Income Tax Act*.