

**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)

Michael Walker, Miller Thomson LLP
400, 725 Granville Street

604.687.2242
Client No: 010437 File No: 73616.0001
Helen's Court / 25064376

Vancouver BC V7Y 1G5

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID] [LEGAL DESCRIPTION]
007-130-546 LOT D BLOCK 204 DISTRICT LOT 526 PLAN 18606

STC? YES

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Lease

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

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

(b) Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

CITY OF VANCOUVER

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

HELEN'S COURT CO-OPERATIVE HOUSING ASSOCIATION

25, 2137 WEST 1ST AVENUE
VANCOUVER

BRITISH COLUMBIA
CANADA

Incorporation No
CP0001362

V6K 1E7

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

JEFFREY M. GREENBERG
453 WEST 12th AVENUE
VANCOUVER, B.C. V5Y 1V4
BARRISTER AND SOLICITOR

Execution Date

Y	M	D
17	08	24

Transferor(s) Signature(s)

CITY OF VANCOUVER, by its authorized signatory(ies):

Name:

FRANCES J. CONNELL

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 D

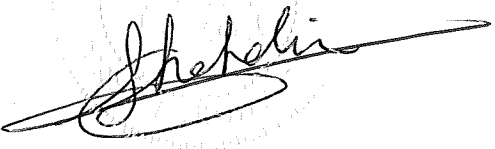
EXECUTIONS CONTINUED

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
17	07	14




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

HELEN'S COURT CO-OPERATIVE
HOUSING ASSOCIATION, by its
authorized signatory(ies):


Name: _____


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.

LEASE

BETWEEN

CITY OF VANCOUVER

("Landlord")

AND

HELEN'S COURT CO-OPERATIVE HOUSING ASSOCIATION

("Tenant")

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LEASE

THIS LEASE dated _____, 2017

BETWEEN

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

("Landlord");

AND

HELEN'S COURT CO-OPERATIVE HOUSING ASSOCIATION,
(Inc. No. 1362-CP) a company duly incorporated under the laws of
the Province of British Columbia of #25 – 2137 West 1st Avenue,
Vancouver, B.C. V6K 1 E7

("Tenant");

WHEREAS the Landlord is the owner of the Lands (herein defined), together with all buildings and other improvements presently standing thereon;

AND WHEREAS the Landlord has agreed to lease unto the Tenant the Lands for the Term of twenty years (20) years upon the terms and conditions and subject to the provisos herein contained so that the Tenant may use, occupy and enjoy the Lands and the buildings erected thereon;

AND WHEREAS the Tenant has agreed with the Landlord to lease the Lands upon the terms and conditions and subject to the provisos herein contained;

NOW THIS INDENTURE WITNESSES that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord has demised and leased and by these presents does demise and lease unto the Tenant and the Tenant doer hereby take and rent upon and subject to the terms, conditions and provisos hereinafter expressed the Lands.

ARTICLE 1 DEFINITIONS

1.1 Definitions

The terms defined in this Section 1.1 for all purposes of this Lease, unless otherwise specifically provided herein, have the meanings hereinafter specified. The terms here defined are:

- (a) "**Additional Rent**" means the amounts, if any, payable by the Tenant to the Landlord pursuant to Sections 4.1, 4.2, 4.3, 4.4, 4.5 7.10, 7.13, 8.3, 8.4, and 26.1;
- (b) "**Annual Income**" means Taxable Income pursuant to the *Income Tax Act* or successor legislation, plus, in the case of a person with self-employment income, the amount of any deduction from income for "business use of home" claimed by that person;

- (c) “**Architect**” means the architect qualified as such pursuant to the laws of the Province of British Columbia who is supervising the design, construction, repair, renovation and reconstruction of the Buildings as the case may be;
- (d) “**Basic Rent**” as of any particular time means the net basic rental provided for in this Lease as specified in Section 3.1 of this Lease during the Term, together with any other and additional amounts which are herein expressed to be added to and make part of Basic Rent, other than Additional Rent;
- (e) “**Buildings**” means all structures and buildings constructed upon the Lands or any part thereof by or for the Tenant and its sub-tenants pursuant to the provisions of this Lease, together with all replacements, alterations, additions, changes, substitutions, improvements or repairs thereto and all improvements from time to time constructed upon or affixed or appurtenant to the Lands;
- (f) “**Commencement Date**” means June 2, 2024;
- (g) “**Core Need Household**” means a Household whose aggregate Annual Income as disclosed by the current Income Statement(s) of the members of the Household is less than the Core Need Threshold for the particular type of Dwelling Unit;
- (h) “**Core Need Threshold**” means the annual income level for a category of Dwelling Unit determined by estimating the average monthly market rental value for accommodation of that type of Dwelling Unit for Greater Vancouver, dividing that average by 0.30, and multiplying the quotient by 12;
- (i) “**Corporation**” means the Canada Mortgage and Housing Corporation;
- (j) “**Development Permit**” means the development permit issued by the City of Vancouver under number 94930;
- (k) “**Dwelling Unit**” means a residential unit in any of the Buildings;
- (l) “**Gap Household**” means a Household whose annual income levels are above the Core Need Threshold but are not sufficient to pay Standard Occupancy Charges according to the housing charge scale set out in Section 17.4(g);
- (m) “**Household**” means one or more persons who occupy a Dwelling Unit;
- (n) “**Income Statement**” means a written statement certifying a person’s Annual Income for the preceding calendar year, in the form of a solemn declaration if the person did not file an income tax return for that year, and if the person filed an income tax return, including a true copy of such return as well as Canada Revenue Agency’s assessment of such return;
- (o) “**Lands**” means those lands in the City of Vancouver in the Province of British Columbia, more particularly known and described as Lot “D”, Block 204, District Lot 526, Plan 18606
- (p) “**Mortgage**” means a mortgage or mortgages upon or in respect of the interest of the Tenant in the Lands and the Buildings or any part thereof and includes any deed of trust and mortgage to secure any bonds or debentures issued thereunder;

- (q) “**Mortgagee**” means a mortgagee or mortgagees under a Mortgage and includes any trustee for bondholders or debenture holders under a deed of trust and mortgage to secure any bonds or debentures issued thereunder;
- (r) “**Prospective Core Need Household**” means a household not currently resident in a Dwelling Unit, one or more of whose members have applied to reside in a Dwelling Unit, which would be a Core Need Household if accepted;
- (s) “**Standard Occupancy Charge**” means the maximum monthly occupancy charge for a Dwelling Unit set by the Lessee from time to time, being no less than 70% of the average rent charged for comparable market housing in Kitsilano;
- (t) “**Term**” means the period of twenty (20) years less one day commencing on the Commencement Date and ending on May 31, 2044;
- (u) “**Trustee**” means a trust company duly authorized to carry on business in the Province of British Columbia and appointed by the Canada Mortgage and Housing Corporation or the Landlord if Canada Mortgage and Housing Corporation has no interest in the Lands and the Buildings for the purposes of Section 7.7;

1.2 Deemed Covenants

All the provisions of this Lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

1.3 Interpretation

The words “herein”, “hereby”, “hereunder” and words of similar import refer to this Lease as a whole and not to any particular article, section or subsection hereof.

ARTICLE 2 DEMISE

2.1 Demise

In consideration of the rents, covenants and agreements reserved and contained in this Lease which are to be paid, observed and performed by the Tenant, the Landlord hereby demises and leases to the Tenant the Lands to have and to hold for and during the Term from the Commencement Date unless earlier terminated as provided in this Lease.

ARTICLE 3 PAYMENT OF RENT

3.1 Basic Rent

Subject to Section 17.3(b) the Tenant covenants and agrees with the Landlord to pay the Landlord as rent, the Basic Rent during the Term, the following amounts:

- (a) The annual Basic Rent for the first ten (10) years of the Term shall be fifty percent (50%) of the appraised freehold market value of the Lands (at or about June 2, 2024) multiplied by the cost (at or about June 2, 2024) to the Landlord of borrowing ten (10) year funds.

- (b) The annual Basic Rent for the last ten (10) years of the Term shall be fifty percent (50%) of the appraised freehold market value of the Lands (at or about June 2, 2034) multiplied by the cost (at or about June 2, 2034) to the Landlord of borrowing ten (10) year funds.

3.2 Determination of Freehold Market Value

For the purposes of the determination of the freehold market value of the Lands under Section 3.1 at June 1, 2024 or June 1, 2034, as the case may be, the parties agree that it shall be assumed that:

- (a) the conditions, restrictions and limitations set out in Section 17.2, 17.3 and 17.4 of this Lease shall be disregarded for the purposes of this Section 3.2 only;
- (b) the Lands are vacant, serviced, wholly unimproved and in a neat level and tidy condition; and available for redevelopment to its economic highest and best use under the zoning in place at the time;
- (c) there are no local improvement taxes assessed against the Land and otherwise taxes are not in arrears; and
- (d) the Lands are free of all charges and encumbrances.

3.3 Net Lease

All rent required to be paid by the Tenant hereunder shall be paid without any deduction, abatement or set-off whatsoever, it being the intention of this Lease that all expenses, costs, payments and outgoings incurred in respect of the Lands, the Buildings and any other improvements on the Lands or for any other matter or thing affecting the Lands, shall (unless otherwise expressly stipulated herein to the contrary) be borne by the Tenant, that the rent herein provided shall be absolutely net to the Landlord and free of all abatements, set-off or deduction of real property taxes, charges, rates, assessments, expenses, costs, payments or outgoings of every nature arising from or related to the Lands, the Buildings, or any other improvements on the Lands, and that the Tenant shall pay or cause to be paid all such taxes, charges, rates, assessments, expenses, costs, payments and outgoings.

3.4 Collection of Other Amounts Due

Any sums, costs, expenses or other amounts from time to time due and payable by the Tenant to the Landlord under the provisions of this Lease, including sums payable by way of indemnity, and whether expressed to be rent or not in this Lease, may at the option of the Landlord be treated as and deemed to be Basic Rent, in which event the Landlord shall have all remedies for the collection of such sums, costs, expenses or other amounts, when in arrears, as are available to the Landlord for the collection of rent in arrears.

3.5 Interest on Amounts in Arrears

When the Basic Rent, Additional Rent or any other amounts payable hereunder by the Tenant to the Landlord shall be in arrears, such amount shall bear interest at the rate of three per centum (3%) per annum above the highest prime commercial lending rate of the main branch of the Bank of Montreal carrying on business in the City of Vancouver until paid, and the Landlord shall have all the remedies for the collection of such interest, if unpaid after demand, as in the case of rent in arrears, but this stipulation for interest shall not prejudice or affect any other remedy of the Landlord under this Lease.

3.6 Inspection of Tenant's Business Records

The Tenant shall preserve and maintain in a proper and businesslike fashion all receipts, invoices, records and accounts relating to all revenue derived from and all expenses incurred in the operation of the Lands and the Buildings. The Tenant shall allow the Landlord's Director of Finance or his or her nominee to inspect all invoices, receipts, records and accounts relating to the operation of the Lands and the Buildings, including, without limitation, rent rolls and Income Statements.

3.7 Payment of Basic Rent

- (a) Basic Rent during the Term shall be paid in equal monthly instalments and shall continue to be paid on the first of each and every month during the whole of the Term. The parties may, by agreement in writing signed by the parties or their agents, determine the Basic Rent (in the manner calculated above) and such determination shall be the Basic Rent payable by the Tenant. There shall be a recalculation of Basic Rent to be paid ten (10) years into the Term [in 2034] on the same basis. If the Basic Rent has not been determined in the manner aforesaid on or before the date that is six (6) months prior to the Commencement Date of the Term or prior to the commencement date of the second ten (10) year term (June 2, 2034), as the case may be, then either party may elect to have the issue determined by arbitration by notifying the other in writing of such election. Further, until such determination is made, the Tenant shall pay, in advance, Basic Rent on a monthly basis as determined in the *bona fide* opinion of the Landlord according to Section 3.1 (a) or (b) as the case may be; provided, however, that when the Basic Rent has been determined as aforesaid, the parties shall make such adjustment as may be necessary so that the Tenant has then paid the same amount that it would have paid if such rent review had been determined on the first day of the period, subject always to Section 3.5. Interest shall accrue on the amount of any adjustment at the Landlord's cost of borrowing ten (10) year funds.
- (b) If the Tenant wishes that the Basic Rent payable by the Tenant to the Landlord for the Term be fully prepaid on lump sum basis, the Tenant shall provide to the Landlord such request, in writing, at least six (6) months prior to the Commencement Date or the expiration of the first ten (10) years of the Term, as the case may be. Thereafter, the Landlord and the Tenant shall have three (3) months in which to determine the Basic Rent for the first ten (10) years of Term or the second ten (10) years of the Term, as the case may be. In the event that the Landlord and Tenant have not, in writing, agreed to an amount of Basic Rent for the Term, then the Basic Rent shall be paid in monthly instalments in the manner set out above.

3.8 Additional Rent

In addition to the Basic Rent calculated and payable pursuant to this Article 3, the Tenant shall pay Additional Rent for the entire Term on the terms and conditions set out in this Lease.

3.9 Arbitration

If either party elects that an issue be determined with respect to Sections 3.1, 3.2, 3.7 and 3.8 by arbitration by so notifying the other in writing pursuant to this Section 3.9 of such election, then unless the parties agree, each acting reasonably, to appoint a sole arbitrator approved by

both parties, each party shall forthwith appoint one arbitrator and the two arbitrators so appointed shall appoint a third arbitrator and the three arbitrators shall determine the issue, subject always to the following agreement on the costs and expenses of preparing for and conducting the arbitration:

- (a) each party shall bear alone the expense of preparing and presenting its case to the arbitrator(s), irrespective of whether any such expense was incurred or contracted for prior to the election for arbitration, including the expenses of appraisals, witnesses and legal representations; and
- (b) the fees of the arbitrator(s) shall be paid 80% by the Landlord and 20% by the Tenant.

Save as aforesaid, the *Arbitration Act*, R.S.B.C. 1996, c. 55 of British Columbia and any statutory modification or re-enactment thereof shall apply to the selection of the arbitrators and the arbitration shall take place in Vancouver.

ARTICLE 4 PAYMENT OF TAXES

4.1 Payment of Taxes if Landlord is not Exempt Therefrom

Save as otherwise provided in Section 4.2, the Tenant will in each and every year during the Term not later than the day immediately preceding the date or dates on which real-property taxes and other charges imposed upon real property within the City of Vancouver become due and payable whether monthly, quarterly, twice-yearly or otherwise, pay and discharge or cause to be paid and discharged all taxes, rates, duties, charges and assessments, including school taxes, local improvement rates and other charges which, now are or shall or may be levied, rated, charged or assessed against the Lands, the Buildings, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, whether such taxes, rates, duties, charges and assessments are charged by any municipal, parliamentary, legislative, regional, school or other authority during the Term and will indemnify and keep indemnified the Landlord from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such taxes, rates, duties, charges and assessments; and any such losses, costs, charges and expenses suffered by the Landlord may be collected by the Landlord as Additional Rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears. The Tenant further covenants and agrees that during the Term, it will deliver to the Landlord for inspection receipts for payments of all taxes, rates, duties, charges, assessments, including school taxes, local improvement rates and other charges in respect of the Lands, the Buildings, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein which were due and payable during the Term within fourteen (14) days following receipt by the Tenant of each of such receipts for payment. The Landlord shall, not later than ten (10) days following receipt of any notice including all assessment notices delivered to the Landlord by any taxing authority, relating to the Lands, the Buildings, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, deliver a copy thereof to the Tenant. The Tenant shall have the right from time to time to appeal any assessment of the Lands or the Buildings, or any other tax, rate, duty, charge or amount referred to in this Section 4.1, provided that such appeal shall be at the sole cost and expense of the Tenant. If in the future, the Tenant is unable to appeal any assessment of the Lands, or the Buildings, or any other tax, rate, duty, charge or amount referred to in this Section 4.1 except in the name of the Landlord, then the Tenant shall have the right to appeal in the name of the Landlord.

4.2 Payment of Taxes if Landlord is Exempt Therefrom

The Tenant covenants and agrees with the Landlord that if during the Term, the Lands, the Buildings, all other structures, all machinery, equipment and facilities thereon and therein and any other property of any nature whatsoever thereon and therein are by the provisions of the *Vancouver Charter*, S.B.C. 1953, Chapter 55, as amended from time to time, or any other municipal, parliamentary, legislative or regional enactment exempt from taxation in whole or in part by reason of the Landlord's ownership of the Lands and they would otherwise have been subject to taxation, then the Tenant shall in each and every year during the Term that such exemption occurs pay to the Landlord as Additional Rent, in like manner and time as taxes are to be paid pursuant to Section 4.1, an amount equal to the amount that but for such exemption would have been paid by the Tenant pursuant to Section 4.1 for taxes, rates, duties, charges, assessments, including school taxes and local improvement rates, and other charges. For such purpose in each year during the Term the following provisions shall apply:

- (a) if the City of Vancouver or any municipal, parliamentary, legislative, regional or other authority having the authority so to do passes a by-law or by-laws in advance of the passing of a rating by-law or preparation of the real-property tax roll for the current year providing for the payment of real-property taxes and other charges imposed or to be imposed upon real property within the City of Vancouver by monthly, quarterly or twice-yearly instalments shall be a percentage of the amount of real-property taxes payable on the real-property roll for the immediately preceding year, the Landlord shall deliver to the Tenant an advance tax statement or statements of the amount or amounts owing under such by-law or by-laws from time to time in respect of the Lands, the Buildings and all other structures, all machinery and equipment and facilities and other property of any nature whatsoever thereon and therein; and
- (b) after the passing of a rating by-law or rating by-laws (as the case may be) by the City of Vancouver or any municipal, parliamentary, legislative, regional or other authority having the authority so to do, establishing the rate or rates to be levied on real property within the City of Vancouver, for the current year, the Landlord shall determine the Additional Rent by applying the rate or rates of levy established by such rating by-law or rating by-laws (as the case may be) to all, or such portion of the assessed value of the Lands, the Buildings and all other structures, all machinery, equipment and facilities and other property of any nature whatsoever thereon and therein as the said rate or rates of levy are applied to other taxpayers in the City of Vancouver in like case, and the Landlord shall deliver to the Tenant a statement of the amount payable under this Section 4.2 after deducting all real-property taxes and other charges paid in advance for the current year.

The Tenant shall have the right from time to time to appeal any assessment of the Lands or the Buildings or any other tax, rate, duty, charge or amount referred to in this Section 4.2, provided that such appeal shall be at the sole cost and expense of the Tenant. If in the future, the Tenant is unable to appeal any assessment of the Lands or the Buildings, or any other tax, rate, duty, charge or amount referred to in this Section 4.2, except in the name of the Landlord, then the Tenant shall have the right to appeal in the name of the Landlord.

Notwithstanding anything herein contained, the Tenant shall be responsible only for the payments referred to in this Section 4.2 as and from the forty-fifth day after the day upon which Canada Mortgage and Housing Corporation committed itself to insure a Mortgage of this Lease.

4.3 Delinquent Taxes

If the Tenant shall in any year during the Term fail to pay the taxes under Section 4.1 when due, the Tenant shall pay interest on such overdue taxes at the percentage rate or rates lawfully established and payable by all other landowners in the City of Vancouver not exempt from real property taxes for the whole of the time that such taxes or any portion thereof remain overdue.

4.4 Payment for Utility Services

The Tenant covenants with the Landlord to pay for or cause to be paid when due all charges for gas, electricity, light, heat, power, telephone, water and other utilities and services used in or supplied to the Lands and the Buildings throughout the Term and will indemnify and keep indemnified the Landlord from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges, and any such loss, costs, charges and expenses which relate to such charges suffered by the Landlord may be collected by the Landlord as Additional Rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

4.5 Business Tax and License Fees

The Tenant covenants with the Landlord to pay for or cause to be paid when due every tax and permit and license fee in respect of any and every business carried on, upon or in the Lands, and the Buildings, in respect of the use or occupancy thereof by the Tenant (and any and every subtenant, permittee and licensee) other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Tenant (or such subtenant, permittee and licensee) whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority during the Term and will indemnify and keep indemnified the Landlord from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges, and any such loss, costs, charges and expenses which relate to such charges suffered by the Landlord may be collected by the Landlord as Additional Rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

ARTICLE 5 USE OF BUILDINGS

5.1 Only Residential Use

The Tenant covenants and agrees with the Landlord that neither the Lands nor the Buildings nor any part of the Lands or the Buildings shall be used for any purposes except that of self-contained residential accommodation, together with other facilities ancillary thereto and connected therewith as set forth in the Development Permit, subject always to By-law No. 3575, being the Zoning and Development By-law of the City of Vancouver, and any and all subsequent amendments to such by-law and any development permits, building permits and other permits issued in respect of the Lands and Buildings from time to time pursuant to the Vancouver Charter or any other statutory authority or any by-laws, resolutions or regulations of the City of Vancouver. Neither the Lands nor the Buildings nor any part of the Lands or the Buildings shall be used for business, trade or manufacture without the approval of the Landlord, which approval the Landlord may arbitrarily withhold.

5.2 Landscaping

The Tenant shall keep and maintain the landscaping of the Lands to a standard acceptable to a skilled gardener.

5.3 No Strata Title Subdivision

The Tenant covenants that it shall refrain from subdividing the Lands pursuant to the *Strata Property Act*, Chapter 43 R.S.B.C. 1998, and amendments thereto and re-enactments thereof.

ARTICLE 6

6.1 Management of Buildings

The Tenant shall operate, manage and maintain the Buildings or shall cause the Buildings to be operated, managed and maintained in a good, efficient and businesslike manner and (in addition to performing all its other covenants under this Lease) shall properly and adequately supervise the Buildings, shall supply or cause to be supplied heat and other necessary building services to Tenants and occupants whenever reasonably required, shall keep the Buildings and the adjacent landscaping and all other improvements upon the Lands neat and clean, shall impose and enforce regulations relating to the use and occupancy of space in the Buildings, shall generally manage the Buildings as would a prudent owner, and shall provide all necessary security services.

6.2 Tenant's Rental Policy

The Tenant covenants and agrees that, subject to Sections 5.1 and 6.1, at no time shall it charge for the rental housing accommodation rentals in excess of what is necessary:

- (a) to recover the Tenants costs and expenses to operate and manage the Lands and the Buildings;
- (b) to repay all principal monies and interest thereon borrowed or to be borrowed by the Tenant to pay Basic Rent, Additional Rent and all other sums payable under this Lease;
- (c) to repay all principal monies and interest thereon borrowed or to be borrowed by the Tenant to pay for the construction of the Buildings and all expenses necessarily incidental thereto;
- (d) to pay for all costs, charges and expenses related to the borrowings referred to in this Section 6.2; and
- (e) to make adequate provision for subsidizing or financially assisting any or all of the Tenant's existing or future non-profit residential projects situate upon land owned by the Landlord.

ARTICLE 7 INSURANCE

7.1 Insurance

At all times during the Term the Tenant shall at its own cost and expense insure and keep insured or cause to be insured and kept insured the Buildings in one or more companies entitled

to do business in the Province of British Columbia against loss or damage by fire and other perils now or hereafter from time to time embraced by or defined in the commercial building form of insurance coverage applicable to similar properties as the Lands and the Buildings in effect in the Province of British Columbia by prudent owners from time to time during the Term including, without restricting the generality of the foregoing, the hazards of lightning, earthquake, explosions, wind storm, cyclone, tornado, hail, riot, civil commotion, malicious damage, aircraft, smoke and vehicle damage to the extent that insurance against such risk or peril or any of them may be obtained in an amount equal to the full replacement value thereof.

7.2 Pressure Vessel Insurance

At all times during the Term the Tenant shall at its own cost and expense maintain in respect of the Buildings pressure vessel insurance with one or more companies entitled to do business in the Province of British Columbia protecting the Landlord and the Tenant in respect of all boilers and such other pressure vessels as the Tenant may from time to time deem it necessary to insure in amounts to be designated by the Tenant and approved by the Landlord, such approval not to be unreasonably withheld; such insurance shall also cover loss or damage caused by rupture of steam pipes.

7.3 Deductible Amounts

Any of the policies of insurance referred to in Section 7.1 hereof may, with the approval of the Landlord, which approval shall not be unreasonably withheld, provide that the amount payable in the event of any loss shall be reduced by a deductible amount, such amount to be designated by the Tenant and approved by the Landlord, such approval not to be unreasonably or arbitrarily withheld, and the Tenant shall be a co-insurer to the extent of the amount so deducted from the insurance monies paid in the event of any loss, and the said amount shall, for the purposes of Section 7.7 hereof, be included as part of the insurance monies payable and paid.

7.4 Co-insurance Clauses

If any of the policies of insurance referred to in Section 7.1 or 7.2 hereof shall contain any co-insurance clauses the Tenant shall maintain at all times a sufficient amount of insurance to meet the requirements of such co-insurance clauses so as to prevent the Landlord or the Tenant from becoming a co-insurer under the terms of such policy or policies and to permit full recovery in the event of loss.

7.5 Indemnity of Insured

Any and all policies of insurance referred to in Section 7.1 and 7.2 hereof shall be written in the name of the Tenant and the Landlord as the insured with loss payable to the Landlord, the Tenant and the Mortgagee as their respective interests may appear, subject to the provisions of Section 7.7 hereof, and shall contain a waiver of subrogation clause to the effect that any release from liability entered into by the Tenant prior to any loss, shall not affect the right of the Tenant or the Landlord to recover. Each policy of insurance referred to in Sections 7.1 and 7.2 hereof shall contain a provision or shall bear an endorsement that the insurer will not cancel such policy without first giving the Landlord at least fifteen (15) days notice in writing of its intention to cancel.

7.6 Release of Landlord from Liability for Insured Loss or Damage

The Tenant hereby releases the Landlord, its servants, agents, successors and assigns, from any and all liability for loss or damage caused by any of the perils against which the Tenant

shall have insured or pursuant to the terms of this Lease is obligated to insure the Buildings; or any part thereof, unless such loss or damage may have arisen out of the negligence of the Landlord or its servants or agents and the Tenant hereby covenants to indemnify and save harmless the Landlord and its servants and agents from and against all manner of actions, causes of action, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to such insured loss or damage.

7.7 Payment of Loss under the Insurance Policies Referred to in Sections 7.1 and 7.2

The insurance monies payable under any or all of the policies of insurance referred to in Sections 7.1 or 7.2 hereof, shall, notwithstanding the terms of the policy or policies, be paid to the Trustee on behalf of the Landlord, the Tenant and the Mortgagee. The Landlord and the Tenant agree that the Trustee shall, subject to Section 9.5, pay for all restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies were paid to the Trustee, out of the insurance monies against certificates of the Architect engaged by the Tenant or such other person as the Landlord and the Tenant may agree upon who is in charge of such restoration, reconstruction or replacement, and after receiving such other certificates, evidence or opinions as the Trustee shall require for the purpose of being satisfied that such restoration, reconstruction or replacement is being properly carried out.

Should the Tenant fail to effect the restoration, reconstruction or replacement of the loss or damage in respect of which the insurance monies were paid to the Trustee, without unreasonable delay, the Landlord shall be entitled to effect such restoration, reconstruction or replacement and the Trustee shall pay such insurance monies to the Landlord in the same manner the Trustee would have done had the Tenant effected such restoration, reconstruction or replacement.

7.8 Workers Compensation Coverage

At all times during the Term, the Tenant shall at its own expense procure and carry or cause to be procured and carried and paid for full workers' compensation coverage in respect of all workers, employees, servants others engaged in or upon any work, non-payment of which would create a lien on the Lands or the Buildings.

7.9 Comprehensive General Liability

At all times during the Term, the Tenant shall at the Tenant's expense maintain in one or more companies authorized to carry on business within the Province of British Columbia, comprehensive general liability insurance against claims for bodily injury, death or property damage or loss arising out of all operations of the Tenant, indemnifying and protecting the Landlord, the Landlord's servants and agents and the Tenant to limits from time to time on a reasonable basis which is approved by the Landlord, such approval not to be unreasonably or arbitrarily withheld.

7.10 Payment of Insurance Premiums

The Tenant shall pay all the premiums under the policies of insurance referred to in this Article 7 as they become due and payable and in default of payment by the Tenant, the Landlord may pay the same and add the amount so paid to the Additional Rent with all rights of distress and otherwise as reserved to the Landlord in respect of Additional Rent as rent in arrears.

7.11 Copies of Insurance Policies

Certified copies of all policies of insurance referred to in this Article 7 shall be delivered to the Landlord accompanied by evidence satisfactory to the Landlord that the premiums thereon have been paid.

7.12 Obligation of Canada Mortgage and Housing Corporation or an Approved Lender under the *National Housing Act* Respecting Insurance

Notwithstanding anything contained in this Lease, if the Tenant assigns or sublets this Lease or the leasehold interest of the Tenant in the Lands or the Buildings or any portion of the Lands or Buildings by way of Mortgage as provided in Section 9.4 hereof, and the Mortgage in whose favour the Mortgage is made either the Canada Mortgage and Housing Corporation or an approved lender who, under the provisions of the *National Housing Act*, 1979, R.S.C., Chapter N-10, has made an insured loan to the Tenant and if the Landlord has given to such Mortgagee notice of default or contingency or notice of the bankruptcy or insolvency of the Tenant entitling the Landlord to re-enter or terminate or forfeit this Lease, and such mortgagee commences to cure the default or contingency, then upon such Mortgagee curing the default or contingency and if such Mortgagee attorns as tenant to the Landlord, then during the period that such Mortgagee is the tenant of the Landlord hereunder pursuant to Article 21, such Mortgagee shall not be under any obligation to take out and keep in force any of the insurance required to be taken out and kept in force under Sections 7.1, 7.2 or 7.9; provided however that the provisions of this Section 7.12 shall not relieve such Mortgagee from any of the other covenants, conditions or agreements under this Lease.

7.13 Insurance may be Maintained by Landlord

The Landlord and the Tenant agree that should the Tenant at any time during the Term fail to insure or keep insured the Buildings against loss or damage by fire and other perils as required under Section 7.1 or fail to maintain in respect of the Buildings, pressure vessel insurance as required under Section 7.2, or fail to maintain insurance against claims for personal injury, death or property damage or loss as required under Section 7.9, then in any of such events, the Landlord, although not obliged to do so, may obtain and maintain such insurance in such amount or amounts with such deductible amounts and for such period or periods of time as the Landlord deems advisable, and the Tenant shall pay to the Landlord as Additional Rent upon the Landlord obtaining any of such insurance and thereafter annually during the Term within thirty (30) days after receipt of any invoice from the Landlord the amount equal to the premiums charged to the Landlord by the insurance companies with whom the Landlord has placed such insurance. The Landlord shall submit to the Tenant annually a statement of the amount or amounts payable by the Tenant under this Section 7.13 as the cost of such insurance for the next ensuing year and upon receipt of payment therefor shall apply the same on account of the premiums of such insurance with the loss, if any, thereunder payable to the Landlord, the Tenant and any Mortgagee as their interests may appear.

ARTICLE 8 REPAIRS AND MAINTENANCE

8.1 Landlord not Obligated to Repair

The Landlord shall not be obliged to furnish any services or facilities or to make repairs or alterations in or to the Lands or the Buildings, the Tenant hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Buildings.

8.2 Repairs by the Tenant

The Tenant at the Tenant's cost and expense shall during the Term, put and keep in good order and condition or shall cause to be put and kept in good order and condition the Lands and the Buildings (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings), and the appurtenances and equipment thereof, both inside and outside, including, but not limited to fixtures, walls, foundations, roofs, vaults, elevators (if any) and similar devices, heating and air conditioning equipment, sidewalks, yards and other like areas, water and sewer mains and connections, water, steam, gas and electric pipes and conduits, and all other fixtures in appurtenances to the Lands and the Buildings and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and shall, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacements, alterations, additions, changes, substitutions and improvements, ordinary or extra-ordinary, foreseen or unforeseen, structural or otherwise, and keep the Buildings and aforesaid fixtures, appurtenances and equipment fully usable for all the purposes for which the Buildings were erected and constructed and the aforesaid fixtures, appurtenances and equipment were supplied and installed. Such repairs shall be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Buildings. The Tenant shall not commit or suffer waste or injury to the Lands or the Buildings or any part thereof (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) and shall not use or occupy or permit to be used or occupied the Lands or the Buildings or any part thereof for any illegal or unlawful purpose or in any manner which will result in the cancellation of any insurance, or in the refusal of any insurer to issue any insurance as requested. The Tenant shall not injure or disfigure the Lands or the Buildings or permit the same to be injured or disfigured in any way; and at the expiration or other termination of this Lease, the Tenant shall, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Buildings, and the aforesaid fixtures, appurtenances and equipment thereof, or any replacements thereof or substitution therefor, in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings). The Tenant accepts the Lands "as is" knowing the condition thereof, and agreeing that the Landlord has made no representation, warranty or agreement with respect thereto, except as otherwise expressly provided herein.

8.3 Repairs by Landlord

The Tenant covenants and agrees with the Landlord that if the Tenant does not put and keep in good order and condition or cause to be put and kept in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) the Lands and the Buildings and the appurtenances and equipment thereof, both inside and outside, all as more particularly required by the provisions of Section 8.2, the Landlord, through its agents, servants, contractors and subcontractors, may but shall not be obliged to enter (without hindrance by the Tenant) upon those parts of the Lands and the Buildings required for the purpose of making the necessary repairs required to put the Lands and the Buildings in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings); provided that the Landlord will make such repairs, only after giving the Tenant sixty (60) days' written notice of its intention so to do, except in the case of an emergency when no notice shall be required. Any amount paid by the Landlord in making such repairs, to the Lands and Buildings or any part or parts thereof, together with all costs and

expenses of the Landlord shall be reimbursed to the Landlord by the Tenant on demand, together with interest at the rate of three (3%) per cent per annum above the average prime lending rate of the main branches of the chartered banks of Canada carrying on business in the City of Vancouver, from the date incurred until paid and may be recovered by the Landlord as Additional Rent.

8.4 Removal of Ice and Snow from Sidewalks

The Tenant covenants and agrees with the Landlord that if the Tenant at any time during the Term fails to keep the public sidewalk adjacent to the Lands reasonably clean from ice and snow during the times and to the extent required of an owner under the provisions of the City of Vancouver Street and Traffic By-law and amendments thereto, the Landlord through its agents, servants, contractors and subcontractors may remove such ice and snow and the Landlord shall not be required to give the Tenant any notice of its intention so to do. Any costs and expenses incurred by the Landlord in removing such ice and snow shall be reimbursed to the Landlord by the Tenant on demand, together with interest at the rate of three (3%) per cent per annum above the average prime lending rate of the main branches of the chartered banks of Canada carrying on business in the City of Vancouver, from the date incurred until paid and may be recovered by the Landlord as Additional Rent.

ARTICLE 9 DAMAGE OR DESTRUCTION

9.1 Rent Not to Abate

Subject to the provisions of Sections 9.5 and 9.6, the partial destruction or damage or complete destruction by fire or other casualty of the Buildings shall not terminate this Lease or entitle the Tenant to surrender possession of the Lands or the Buildings or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

9.2 Tenant's Obligations when Buildings Damaged or Partially Destroyed

Subject to the provisions of Section 9.5 and 9.6, the Tenant covenants and agrees with the Landlord that in the event of damage to or partial destruction of the Buildings, the Tenant shall either (a) replace any part of the Buildings destroyed with a new structure in accordance with any agreement which may be made by the Tenant with the Landlord, or (b) in the absence of any such agreement, repair or replace such damage or destruction to a standard comparable to the structure being repaired or replaced (as the case may be).

9.3 Tenant's Obligations when Buildings Completely or Substantially Destroyed

Subject to the provisions of Sections 9.5 and 9.6, the Tenant covenants and agrees with the Landlord that in the event of complete or substantially complete destruction of the Buildings, the Tenant shall either (a) reconstruct or replace the Buildings with a new structure or structures in accordance with any agreement which may be made by the Tenant with the Landlord, or (b) in the absence of any such agreement, replace the Buildings with a new structure or structures comparable to the structure or structures being replaced.

9.4 Replacement, Repair or Reconstruction under Section 9.2 or 9.3 to be Carried out in Compliance with Sections 8.2 and 10.1

Any replacement, repair or reconstruction of the Buildings or any part thereof pursuant to the provisions of Section 9.2 or 9.3 hereof shall be made or done in compliance with the provisions of Sections 8.2 and 10.1 hereof.

9.5 Special provisions where Canada Mortgage and Housing Corporation or an Approved Lender under the *National Housing Act* is the Mortgagee and the Buildings are Damaged or Destroyed

- (a) If, during the Term, the Buildings are damaged or destroyed to the extent of at least twenty-five (25%) per cent of the full replacement cost of the Buildings, and at the time of such damage or destruction the Mortgagee in whose favour the Mortgage is made is either Canada Mortgage and Housing Corporation or an approved lender under the provisions of the *National Housing Act*, 1970, R.S.C., Chapter N-10, and such Mortgagee notifies the parties that the insurance monies made available by reason of a casualty causing such damage or destruction shall not be applied in repairing, reconstructing or replacing the Buildings, and the right to give such notice is reserved to the Mortgagee under the terms of the Mortgage, then the Tenant may decline to repair, reconstruct or replace the Buildings and instead elect to terminate this Lease, and such election shall be made to terminate this Lease within two (2) months of the date of the Buildings being damaged or destroyed to the extent of at least twenty-five (25%) per cent of the full replacement cost of the Buildings and the Tenant shall notify the Landlord of its election forthwith after making the same. If the Tenant does not elect to terminate this Lease within the time limited in this Section 9.5(a) for making such election then the Tenant shall repair, reconstruct or replace the Buildings or any part thereof damaged or destroyed in accordance with Section 9.2 or Section 9.3 (as the case may be).
- (b) If the Mortgagee in whose favour the Mortgage is made is either Canada Mortgage and Housing Corporation or an approved lender under the provisions of the *National Housing Act*, 1970, R.S.C., Chapter N-10, and such Mortgagee either becomes the Tenant hereof by way of assignment or acquire the Tenant's leasehold interest in the Lands and the Buildings through foreclosure proceedings or other action under the Mortgage and attorns to the Landlord as tenant and undertakes to be bound by and perform the covenants and agreements of the Lease, and subsequently during the Term the Buildings are damaged or destroyed to the extent of at least twenty-five (25%) per cent of the full replacement cost of the Buildings, the Tenant may at its option either repair, reconstruct or replace the Buildings so damaged or destroyed or decline to repair, reconstruct or replace the Buildings and instead elect to terminate this Lease and such election shall be made to terminate this Lease within two (2) months of the date of Buildings being damaged or destroyed to the extent of at least twenty-five (25%) per cent of the full replacement cost of the Buildings and the Tenant shall notify the Landlord of its election forthwith after making the same. If the Tenant does not elect to terminate this Lease within the time limited in this Section 9.5(b) for making such election then the Tenant shall repair, reconstruct or repair the Buildings or any part thereof damaged or destroyed in accordance with Section 9.2 or Section 9.3 (as the case may be). The provisions of this Section 9.5(b) shall be applicable to the said Canada Mortgage and Housing Corporation or an approved lender only whenever and so long as one of

them, Canada Mortgage and Housing Corporation or the approved lender, is the Tenant.

- (c) As soon as reasonably possible but not later than six (6) months following the date of termination of this Lease by the Tenant under Section 9.5(a) or Section 9.5(b), the Tenant shall demolish and completely remove all buildings, structures, foundations and debris from the Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction shall notwithstanding the provisions of Article 7, be distributed as follows:
- (i) firstly, to pay and satisfy the Mortgage if any;
 - (ii) secondly, to reimburse the Tenant for all costs and expenses necessarily incurred by the Tenant in the demolition and removal of all buildings, structures, foundations and debris from the Lands and the restoration of the Lands as aforesaid;
 - (iii) thirdly, to pay the balance of the insurance monies if any, as follows that is to say,
 - to the Landlord a sum which bears to such balance the same ratio as the expired Term bears to the whole Term,
 - to the Tenant a sum which bears to such balance the same ratio as the unexpired Term bears to the whole Term.
- (d) Notwithstanding anything contained herein, in the event the Tenant terminates this Lease in accordance with this Section, this Section shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns, so long as the obligation of the Tenant under Section 9.5(c) or any part thereof remains unperformed.
- (e) The Tenant shall not be entitled to a refund, abatement or reduction of Basic Rent or Additional Rent or other amounts paid or payable hereunder up to the date upon which this Lease is terminated under the provisions of this Section.
- (f) The provisions of this Section 9.5 are subject always to the provisions of Section 9.6.

9.6 Destruction or Damage During Last Two (2) Years of Term

- (a) In the event of complete or substantially complete destruction of the Buildings during the last two (2) years of the Term the Tenant may at the option of the Tenant either reconstruct or replace the Buildings so destroyed or damaged in accordance with Section 9.3 hereof or decline to do so and instead elect to terminate this Lease. Such option shall be exercised within two (2) months of the date of the complete or substantially complete destruction of the Buildings and the Tenant shall notify the Landlord of its election as soon as reasonably possible after making the same.
- (b) As soon as reasonably possible but not later than six (6) months following the date of termination of this Lease by the Tenant, the Tenant shall demolish and completely remove all buildings, structures, foundations and debris from the

Lands and restore the Lands to a neat and level condition in a good and workmanlike manner. Any insurance money payable by reason of any fire or other casualty causing such destruction shall notwithstanding the provisions of Article 7, be distributed as follows:

- (i) firstly, to pay and satisfy the Mortgage, if any;
 - (ii) secondly, to reimburse the Tenant for all costs and expenses necessarily incurred by the Tenant in one demolition and removal of all buildings, structures, foundations and debris from the Lands and the restoration of the Lands as aforesaid;
 - (iii) thirdly, to pay the balance of the insurance monies, if any, as follows, that is to say, to the Landlord a sum which bears to such balance the same ratio as the expired Term bears to the whole Term, to the Tenant a sum which bears to such balance the same ratio as the unexpired Term bears to the whole Term.
- (c) Notwithstanding anything contained herein, in the event the Tenant terminates this Lease in accordance with this Section, this Section shall nevertheless survive such termination and remain in full force and effect and be binding upon the parties and their respective successors and assigns, so long as the obligations of the Tenant under Section 9.6(b) remain unperformed.
- (d) The Tenant shall not be entitled to a refund, abatement or reduction of Basic Rent or Additional Rent or other amounts paid or payable hereunder up to the date upon which this Lease is terminated under the provisions of this Section.

ARTICLE 10 REPLACEMENT, CHANGES, ALTERATIONS AND SUBSTITUTIONS

10.1 Replacement, Changes, Alterations and Substitutions

The Tenant shall not make or permit to be made any changes, alterations, replacements, substitutions or additions affecting the structure of the Buildings or the exterior appearance of the Buildings without the written approval of the Landlord thereto, which approval the Landlord shall not withhold unreasonably. No changes, alterations, replacements, substitutions or additions involving an estimated cost of more than Fifty Thousand (\$50,000.00) Dollars shall be undertaken until the Tenant shall have submitted or caused to be submitted to the Landlord drawings, elevations (where applicable), specifications (including the materials to be used), locations (where applicable) and exterior decoration and design of the proposed changes, alterations, or additions and until the same have been approved in writing by the Landlord, which approval the Landlord agrees not to unreasonably withhold.

The Tenant covenants and agrees with the Landlord that, subject to Article 28, all changes, alterations, replacements, substitutions and additions undertaken by or for the Tenant once begun shall be prosecuted with due diligence to completion.

ARTICLE 11 ARBITRATION

11.1 Arbitration

Except as set out in Section 3.9, if the Landlord and the Tenant do not agree as to any of the matters which, if no agreement is reached upon them, are by the provisions hereof to be determined by arbitration, and unless the parties agree, each acting reasonably, to appoint a sole arbitrator approved by both parties, any such disagreement shall be referred to three arbitrators, one of whom shall be chosen by the Landlord, one by the Tenant, and the third by the two so chosen and the third arbitrator so chosen shall be the chairman. The award may be made by the majority of the arbitrators appointed. If within fifteen (15) days of such extended time as the parties may agree upon, a party who has been notified of a dispute fails to appoint an arbitrator or the two arbitrators appointed by the parties do not agree upon a third arbitrator, then the party or parties not in default may apply to the Supreme Court of British Columbia for the appointment by the Supreme Court of British Columbia of an arbitrator to represent the party or parties in default or a third arbitrator, or both of such arbitrators. The costs of the reference and award shall be in the discretion of the arbitrators who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be paid or any part thereof and may award costs to be paid as between solicitor and client. Except as to matters otherwise provided herein, the provisions of the *Arbitration Act* of British Columbia, R.S.B.C. 1996, Chapter 55 as amended from time to time, shall apply.

If the Canada Mortgage and Housing Corporation or an approved lender who, under the provisions of the *National Housing Act*, 1970, R.S.C., Chapter N-10, has made an insured loan to the Tenant holds a Mortgage of the Tenants leasehold interest in the said Lands and Buildings, any notice of a dispute given under this section by one of the parties to the other shall be given at the same time to such Mortgagee if it has specified an address for notice under Article 27 and such Mortgagee so notified shall be given a reasonable opportunity by the parties to participate in the Arbitration proceedings if it considers such proceedings may affect the Mortgage security.

ARTICLE 12 BUILDERS' LIENS

12.1 Builders' Liens

The Tenant shall, throughout the Term at its own cost and expense, cause any and all builders' liens and other liens for labour, services or materials alleged to have been furnished with respect to the Lands or the Buildings, which may be registered against or otherwise affect the Lands or the Buildings, to be paid, satisfied, released or vacated within forty-two (42) days after the Landlord shall send to the Tenant and the Mortgagee written notice by registered mail of any claim for any such lien, PROVIDED HOWEVER, that in the event of a *bona fide* dispute by the Tenant of the validity or correctness of any claim for any such lien, the Tenant shall not be bound by the foregoing, but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into Court the amount claimed or sufficient security therefor, and such costs as the Court may direct, and registering all such documents as may be necessary to cancel such lien, or providing such other security in respect of such claim as the Landlord may in writing approve.

**ARTICLE 13
INSPECTION AND EXHIBITION BY LANDLORD**

13.1 Inspection by Landlord

The Landlord and the Tenant agree that it shall be lawful for a representative of the Landlord at all reasonable times during the Term to enter the Lands and the Buildings, or any of them and to examine the condition thereof; and, further, that all wants of reparation as required by Section 8.2 which upon such views shall be found, and for the amendment of which notice shall be delivered or given by the Landlord to the Tenant, the Tenant shall within sixty (60) days after every such notice or such longer period as provided in Section 20.2(b), well and sufficiently repair and make good accordingly.

13.2 Exhibition by Landlord

During the final twelve (12) months of the Term, the Landlord shall be entitled to display upon the Lands the usual signs advertising the Lands and Buildings as being available for purchase or letting, provided such signs are displayed in such a manner as not to interfere unreasonably with the Tenants use and enjoyment of the Lands and the Buildings.

**ARTICLE 14
OBSERVANCE OF GOVERNMENTAL REGULATIONS, ETC.**

14.1 Observance of Governmental Regulations, etc.

The Tenant covenants with the Landlord that throughout the Term the Tenant will comply with all provisions of law including without limitation, municipal, regional, provincial and federal legislative enactments, zoning and building by-laws, and any municipal, regional, provincial, federal or other governmental regulations which relate to the maintenance, operation and use of the Buildings, and to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Buildings or any part thereof. The Tenant covenants to comply with all police, fire and sanitary regulations imposed by any municipal, regional, provincial, federal or other governmental authorities and to observe and obey all municipal, regional, provincial, federal and other governmental regulations and other requirements governing the use and occupation of the Lands or the Buildings.

**ARTICLE 15
RIGHTS OF LANDLORD AND TENANT**

15.1 As Landlord and Tenant

All rights and benefits and all obligations of the Landlord and the Tenant under this Lease shall be rights, benefits and obligations of the Landlord and the Tenant respectively in their capacities as Landlord and Tenant respectively under this Lease.

**ARTICLE 16
INDEMNITY**

16.1 Breach, Violation or Non-performance of covenants by Tenant

The Tenant shall indemnify and save harmless the Landlord from any and all manner of actions, causes of action, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to and arising during the Term out of any breach, violation or non-performance of any

covenant, condition or agreement in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed.

16.2 Injury, Damage or loss of Property

Notwithstanding the provisions of Article 7 hereof, the Tenant shall indemnify and save harmless the Landlord from any and all manner of actions, causes of action, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to and arising during the Term out of:

- (a) any injury to person or persons, including death resulting at any time therefrom, occurring in or about the Lands or the Buildings; and
- (b) any damage to or loss of property occasioned by the use and occupation of the Lands or the Buildings.

PROVIDED HOWEVER, that except as otherwise provided in Section 7.6 nothing contained herein shall require the Tenant to indemnify the Landlord against any action, causes of action, suits, claims or demands for damages arising out of the negligent acts of the Landlord, its servants, agents or contractors.

16.3 Indemnification Survives Termination of Lease

The obligations of the Tenant to indemnify the Landlord under the provisions of Sections 4.1, 4.4, 4.5, 7.6, 16.1 and 16.2 hereof with respect to liability by reason of any matter arising during the Term shall survive any termination of this Lease, anything in this Lease to the contrary notwithstanding.

ARTICLE 17 SUBLETTING AND ASSIGNING

17.1 Assignment by Tenant

Save as expressly provided in Section 17.2 and 17.3, the Tenant shall not, nor will not during the Term, assign, transfer or sell or otherwise, by any act or deed, procure the Lands or Buildings, or any of them, or this Lease, to be assigned, transferred or sold to any person, persons or corporation whatsoever without the consent in writing of the Landlord first had and obtained, which consent the Landlord may arbitrarily withhold.

17.2 Mortgaging by Tenant

Subject to Article 18, the Tenant may mortgage its leasehold interest in the Lands and the Buildings (for which purpose the Tenant may assign or sublet by way of Mortgage) without the consent of the Landlord, for the purpose of financing and refinancing the cost of repairing or replacing the Buildings, but not otherwise; provided however that until and unless the Tenant has paid the Additional Rent provided for in Section 17.3(b) the total amount of all Mortgages shall not exceed the total amount shown on the "Statement of Final Capital Costs" as approved by Canada Mortgage and Housing Corporation which statement shall be delivered to the Tenant within six (6) months of the date of substantial completion of the Buildings as certified by the Architect..

17.3 Special Provisions Respecting the Assignment of this Lease where the Canada Mortgage and Housing Corporation or an Approved Lender under the *National Housing Act* becomes the Tenant

If the Mortgagee in whose favour a Mortgage is made is either the Canada Mortgage and Housing Corporation or an approved lender (hereinafter in this section referred to as the "approved lender") who, under the provisions of the *National Housing Act*, 1970, R.S.C., Chapter N-10, has made an insured loan to the Tenant and such Mortgagee becomes the Tenant by way of assignment or acquires the Tenant's leasehold interest in the said Lands and the Buildings through foreclosure proceedings or other action under the Mortgage, and attorns to the Landlord as tenant and undertakes to be bound by and perform the covenants and agreements of this lease, then the following provisions shall apply:

- (a) The Tenant shall not assign, transfer or sell its leasehold interest in the said Lands and the Buildings without the consent of the Landlord, but the Landlord shall not arbitrarily withhold such consent. Upon the assignment, transfer or sale by the Tenant of its leasehold interest in the said Lands and Buildings with the consent of the Landlord the Landlord shall release and discharge the Tenant from observance and performance of the covenants and agreements contained in this lease and from any liability arising thereunder save and except liability for any default by the Tenant in the performance or observance of any of its covenants or agreement contained in this lease occurring or arising during the time the Tenant did attorn to the Landlord as tenant under this lease notwithstanding that such default comes to the notice of the Landlord subsequent to any release or discharge hereunder.
- (b) If the Tenant assigns its leasehold interest in the said Lands and Buildings to any person, persons or corporation for the purpose of carrying on thereon or therein any activity, business, trade, industry or profession for profit or gain, then in addition to the Basic Rent paid or payable by the Tenant under Section 3.1, such Tenant shall pay to the Landlord as Additional Rent from the proceeds of such assignment a sum equivalent to fifty (50%) per cent of the market rental value of the said Lands for the unexpired portion of the Term as may be agreed upon in writing by and between the Landlord and the Tenant, calculated from the date of the assignment. If the Landlord and the Tenant cannot agree in writing upon the Additional Rent to be paid under this Section 17.3, then such Additional Rent shall be the market rental value of the said Lands for the remainder of the Term as determined by arbitration. The proceeds received by the Tenant from the assignment of its leasehold interest in the said Lands and Buildings to any person, persons or corporation for the purpose of carrying on therein or thereon any activity, business, trade, industry or profession for profit or gain shall be applied firstly in payment of the Mortgage together with the Mortgagee's taxed costs of foreclosure and any payment for real property taxes, insurance premiums or other similar expenses incurred by the Mortgagee pursuant to its Mortgage and secondly in payment of the Additional Rent calculated as aforesaid, and should the proceeds be insufficient to pay the Additional Rent after payment of the Mortgage, the Tenant shall be relieved from the payment of the unpaid balance of the Additional Rent. Any assignment made by the Tenant of its leasehold interest in the said Lands and Buildings to any person, persons or corporation for the purpose of carrying on therein or thereon any activity, business, trade, industry or profession for profit or gain must be a *bona fide* transaction for the full market value of the Tenant's leasehold interest in the said Lands and Buildings;

- (c) The Tenant shall not assign, transfer or sell its leasehold interest in the said Lands and Buildings to any person, persons or corporation for the purpose of carrying on therein or thereon any business, trade, industry or profession for profit or gain unless:
- (i) the Tenant shall first deliver a written *bona fide* offer to assign its leasehold interest in the said Lands and Buildings to the Landlord on such terms and conditions as the Tenant is willing to accept from such person, persons or corporation;
 - (ii) the Landlord shall have sixty (60) days from delivery of the offer within which to advise the Tenant whether or not the Landlord wishes to take an assignment of the Tenants leasehold interest in the said Lands and Buildings upon the same terms and conditions as those contained in such offer;
 - (iii) if the Landlord gives notice to the Tenant that the Landlord wishes to take an assignment of the Tenant's leasehold interest in the said Lands and Buildings upon the terms and conditions contained in the offer, such notice shall constitute a binding agreement to assign the Tenant's leasehold interest in the said Lands and Buildings by the Tenant to the Landlord. The agreement to assign shall be completed at such time as may be agreed upon between the Landlord and Tenant, and in default of agreement on the sixtieth (60) day following the acceptance of the offer by the Landlord;
 - (iv) if the Landlord does not give notice to the Tenant within the said period of sixty (60) days, the Tenant shall be free to assign its leasehold interest in the said Lands and Buildings upon the same terms and conditions as set forth in the offer or on terms and conditions not more favourable to the assignee;
 - (v) if an assignment is not concluded under the terms of the offer, the Tenant shall be obliged to submit any further offer to the Landlord by giving written notice thereof to the Landlord in the manner in this Section 17.3 provided.

The provisions of this section 17.3 apply only to the Canada Mortgage and Housing Corporation or an approved lender which has become the Tenant under this section but not to any assigns of the Corporation or of an approved lender.

17.4 Occupancy Charges

- (a) During the Term, at least fifty percent (50%) of the Dwelling Units in the Building must be occupied by Core Need Households (which, for certainty, may pay less than the Standard Occupancy Charges), except that if the Tenant at any time fails to satisfy the requirement in this Section 17.4(a) only because one or more Core Need Households ceased to be Core Need Households while occupying Dwelling Units, the Lessee will be considered to be in compliance with the requirement in this paragraph provided that every vacancy occurring while the Tenant is out of compliance is filled by a Core Need Household.

- (b) It is the general intention of this Lease that Gap Households will occupy Dwelling Units only to the extent that it is economically feasible for them to pay less than Standard Occupancy Charge pursuant to Section 17.4(g). Therefore, a vacancy may be filled by a Gap Household only if the Tenant is not required pursuant to Section 17.4(d) to fill the vacancy with a Core Need Household, and if such occupancy will not otherwise compromise the Tenant's ability to fulfill its covenants hereunder. In the case of every Gap Household, the occupancy charge must be adjusted upward should the Annual Income of the Gap Household increase.
- (c) Any operating surplus that accumulates from occupancy charges in excess of those amounts required for replacement reserve in the discretion of the Tenant will be placed in a separate fund which will be used for capital upgrades if this Lease is renewed or extended at the end of the Term or for investment in affordable housing as the Landlord and the Tenant mutually agree if this Lease is not so renewed or extended.
- (d) The Tenant shall maintain a waiting list of Prospective Core Need Households and if at the time of any vacancy fewer than 50% of the Dwelling Units are occupied by Core Need Households, that vacancy shall be filled from the waiting list of Prospective Core Need Households and otherwise in compliance with the Tenant's usual selection criteria.
- (e) The Tenant shall require an Income Statement from all adult members of Prospective Core Need Households. If the Income Statement (or the sum of the Income Statement(s) as the case may be) of a Prospective Core Need Household discloses that it will not qualify as a Core Need Household, such prospective Household shall not be added to the Prospective Core Need Households waiting list.
- (f) Not later than June 30th of each year of the Term, the Tenant shall demand and receive, from each adult occupying a Dwelling Unit for which the monthly occupancy charge is then less than the Standard Occupancy Charge for that Dwelling Unit, an Income Statement for the preceding calendar year. If such statement discloses that those occupying that Dwelling Unit have an Annual Income in excess of the Annual Income required to qualify as a Core Need Household, then forthwith such Household shall not be treated as a Core Need Household.
- (g) The Tenant agrees with the Landlord that:
 - (i) occupancy charges shall only be charged and payable monthly; and
 - (ii) the monthly occupancy charge for each Household shall be the greater of:
 - (A) thirty (30%) percent of one-twelfth of the aggregate Annual Income of the Household; and
 - (B) the maximum shelter component of income assistance as may be set from time to time pursuant to the *Employment and Assistance Act*, SBC 2002, c. 40, s. 51 (together with all amendments thereto and replacement thereof) for that Household;

provided, however, that in no event shall the monthly occupancy charge for any Dwelling Unit exceed the Standard Occupancy Charge for that Dwelling Unit or be less than the minimum occupancy charge for that Dwelling Unit established by the Tenant from time to time.

- (h) All tenancy or occupancy agreements shall expressly be made subject to this Agreement and the Tenant's obligations herein.
- (i) The Tenant shall prepare, maintain and keep a rent roll showing the unit number of each Household, the names of all adult members of the Household, and the monthly occupancy charges paid by such Household. The rent roll shall include the latest Income Statements for each Core Need Household and Gap Household. The Tenant shall, at the Landlord's request, deliver a certified true copy of the current rent roll (including all latest Income Statements) covering the previous 12 months.
- (j) The Tenant shall keep all financial records concerning the operation of the Lands and Buildings in accordance with good accounting practise.
- (k) Not later than July 31 of each year the Tenant shall provide the Landlord with an audited statement of its revenues and expenses for the operation of the Lands and the Buildings for its preceding fiscal year and a letter from the auditor confirming the number of Core Need Households and the occupancy charges for those residents not receiving subsidy. The audited statements and the letter shall be prepared by a Chartered Accountant licensed to practice such profession pursuant to the laws of the Province of British Columbia.
- (l) The Tenant may not sublease, license, set over or part with possession of the Lands or the Buildings in whole or in part without the consent in writing of the Tenant except for the subletting of Dwelling Units on the terms and conditions set out in this Agreement.
- (m) If it is not possible for the Tenant to operate without a deficit during the Term while complying with the requirements set out herein, the Tenant may adjust the percentage of required Core Need Households, the percentage of Annual Income the Households must pay, and/or seek a restructuring of the Basic Rent paid for the Term, subject to the approval of the Landlord, such approval not to be unreasonably withheld.

ARTICLE 18 MORTGAGE

18.1 Tenant shall be Liable for Rent and Taxes Notwithstanding Mortgage

Nothing herein contained shall be construed to prevent or prohibit the assignment or subletting by the Tenant of this Lease or the leasehold interest of the Tenant in any portion of the Lands and the Buildings by way of Mortgage as provided in Section 17.2 hereof, provided however that in the event of and notwithstanding any such assignment or subletting, the Tenant shall be and remain liable for the payment of all Basic Rent, Additional Rent and taxes and the performance of all the terms, covenants and conditions of this Lease.

18.2 Mortgage subject to Landlord's Rights under Lease

Subject to the provisions of Section 21.2, every Mortgage shall be made expressly subject to the rights of the Landlord under this Lease.

ARTICLE 19 BANKRUPTCY OF TENANT

19.1 Bankruptcy of Tenant

Subject to the provisions of Section 20.2(c), if the Term shall at any time be seized or taken in execution by any creditor of the Tenant, or if the Tenant shall make a general assignment for the benefit of creditors, or if it shall institute proceedings to subject itself to the *Winding-Up Act* or to be adjudicated a bankrupt or insolvent, or shall consent to the institution of bankruptcy or insolvency proceedings against it, or shall file an application or petition or answer or consent, seeking re-organization or re-adjustment of the Tenant under the *Bankruptcy Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency, or shall consent to the filing of any such application or petition, or shall consent to the appointment of a receiver, or if the Tenant or its directors shall pass any resolution authorizing the dissolution or winding-up of the Tenant, or if a receiver, interim receiver, trustee or liquidator of all or any part of the property of the Tenant shall be appointed or applied for by the Tenant, or if a judgment, decree or order shall be entered by a court of competent jurisdiction adjudging the Tenant a bankrupt or insolvent or subject to the provisions of the *Winding-Up Act* or *Bankruptcy Act* or determining the proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted, then this Lease shall at the option of the Landlord immediately become terminated.

ARTICLE 20 DEFAULT BY TENANT

20.1 Re-entry on Certain Defaults by Tenant

The Landlord and the Tenant agree that subject to the provisions of Section 20.2, if

- (a) the Tenant shall default in payment of Basic Rent or Additional Rent or taxes or any other sums required to be paid to the Landlord by any provision of this Lease, and such default shall continue for a period of thirty (30) days after notice thereof given by the Landlord to the Tenant; or
- (b) the Tenant shall default in performing or observing any of its other covenants or obligations under this Lease, or any contingency shall occur which by the terms of this Lease constitutes a breach hereof or confers upon the Landlord the right to re-enter or forfeit or terminate this Lease, but not termination of this Lease pursuant to the provisions of Section 9.5 and the Landlord shall have given to the Tenant notice of such default or the happening of such contingency, and at the expiration of sixty (60) days after the giving of such notice the default or contingency shall continue to exist, or in the case of a default or contingency which cannot with due diligence be cured within the period of sixty (60) days aforesaid, the Tenant fails to proceed promptly after the giving of such notice to cure such default or contingency; or

- (c) this Lease shall expire or be forfeited or be terminated by any other provision in it contained, including without restricting the generality of the foregoing the termination of this Lease pursuant to the provisions of Section 9.5 herein.

The Landlord or the Landlord's agents or employees authorized by the Landlord may immediately or at any time thereafter re-enter the Lands and the Buildings without being liable to any prosecution or damages therefor and may repossess and enjoy the Lands, the Buildings and all fixtures and Improvements on the Lands except fixtures and improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Buildings or the Lands, as liquidated damages, without such re-entry and repossession working a forfeiture or waiver of the rents to be paid and the covenants to be performed by the Tenant up to the date of such re-entry and repossession.

20.2 Notice to and Remedies of Mortgagee

- (a) No re-entry, termination or forfeiture of this Lease by the Landlord shall be valid against the Mortgagee who has filed with the Landlord notice of Mortgage in favour of the Mortgagee and specified an address for notice under Article 27, unless the Landlord shall first have given to the Mortgagee notice of the default or contingency entitling the Landlord to re-enter, terminate or forfeit this Lease, specifying the nature of that default or contingency, and stating the Landlord's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default or contingency specified in the notice within a period of sixty (60) days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default or contingency is other than the failure to pay Basic Rent or Additional Rent or taxes or any other sums required to be paid to the Landlord by any provision of this Lease, and if the default or contingency cannot reasonably be cured within such sixty (60) day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency,

and the Landlord hereby grants the Mortgagee access to the Lands and the Buildings for that purpose. If the default or contingency is cured within the period specified, the Mortgagee shall be entitled to continue as tenant for the balance of the Term remaining at the date of the notice of default or contingency providing that the Mortgagee attorns as tenant to the Landlord and undertakes to be bound by and to perform the covenants and agreements of this Lease: provided however that in the event the Mortgagee consists of more than one mortgagee each having a separate charge upon the Tenant's interest in this Lease, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Landlord hereby agrees to permit curing of the default or contingency specified as aforesaid, by that mortgagee which is willing to cure and assume as aforesaid and whose charge ranks in priority over the charge or charges held by the other mortgagee or mortgagees willing to cure and assume as aforesaid except that in the event any Mortgagee has commenced a foreclosure action, the provisions of Section 20.2(b) shall apply.

- (b) In the event the Mortgagee commences foreclosure proceedings against the Tenant, whether or not the Tenant is in default of the performance of its covenants and agreements with the Landlord under this Lease at the time such foreclosure proceedings are commenced, the Landlord shall not re-enter, terminate or forfeit this Lease after the commencement of foreclosure

proceedings on the ground of any default or contingency entitling the Landlord to re-enter, terminate or forfeit this Lease if the Mortgagee:

- (i) shall first have given to the Landlord notice of the foreclosure proceedings;
- (ii) is actively prosecuting the foreclosure proceedings;
- (iii) cures the default within a period of sixty (60) days from the date of receipt of notice from the Landlord specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Basic Rent or Additional Rent or taxes or any other sums required to be paid to the Landlord by any provision of this Lease and if such default or contingency cannot reasonably be cured within such sixty (60) day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency;
- (iv) performs and observes all of the Tenant's covenants and agreements under this Lease and without undue delay diligently prosecute to a conclusion the foreclosure proceedings commenced by the Mortgagee.

In the event that the Mortgagee acquires title to the Tenant's interest in the Lands and Buildings pursuant to the foreclosure proceedings, the Mortgagee shall thereupon become subrogated to the rights of the Tenant under this Lease, provided it attorns to the Landlord as tenant and undertakes to be bound by and perform the covenants and agreements of this Lease. Provided however that in the event the Mortgagee consists of more than one mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this Section 20.2(b) to a foreclosing mortgagee shall be deemed granted to them in the order of priority of the charges held by the foreclosing mortgagees.

- (c) If this Lease shall be subject to termination or forfeiture pursuant to Article 19 by reason of the bankruptcy or insolvency of the Tenant and the Mortgagee has filed with the Landlord a notice of Mortgage in favour of the Mortgagee and specified an address for notice under Article 27, the Landlord shall give to the Mortgagee notice of the bankruptcy or insolvency of the Tenant entitling the Landlord to terminate or forfeit this Lease and stating the Landlord's intention to take such proceedings and requiring the Mortgagee to cure the Tenant's default and the Tenant's default shall be deemed to have been sufficiently cured if the Mortgagee shall:
 - (i) take possession and control of the Lands and Buildings, or cause a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, who takes possession and control of the Lands and Buildings, and the Landlord hereby grants the Mortgagee or such receiver access to the Lands and Buildings for that purpose;
 - (ii) cure every default within a period of sixty (60) days from the date of receipt by the Mortgagee of the notice from the Landlord of the bankruptcy or insolvency of the Tenant, or if such default or defaults are other than the failure to pay Basic Rent or Additional Rent or taxes or any

other sums required to be paid to the Landlord by any provision of this Lease and if such default or defaults cannot reasonably be cured within such sixty (60) day period, immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or defaults;

- (iii) attorn as tenant to the Landlord and undertake to be bound by and to perform the covenants and agreements of this Lease.

PROVIDED HOWEVER that in the event the Mortgagee consists of more than one mortgagee, the right to take possession and control, to cure any default and to assume the Lease as aforesaid shall be deemed granted to them in the order of the priority of their respective charges.

- (d) Any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Tenant shall be valid and effectual against the Tenant even though made subject to the rights of any Mortgagee to cure any default of the Tenant and to continue as tenant under this Lease.
- (e) No entry upon the Lands or into the Buildings by the Mortgagee pursuant to this Section 20.2 for the purpose of curing any default or defaults of the Tenant shall release or impair the continuing obligations of the Tenant.

20.3 Remedies of Landlord are Cumulative

The remedies of the Landlord specified in this Lease are cumulative and are in addition to any remedies of the Landlord at law or equity. No remedy shall be deemed to be exclusive, and the Landlord may from time to time have recourse to one or more or all of the available remedies specified herein, or at law or equity. In addition to any other remedies provided in this Lease, the Landlord shall be entitled to restrain by injunction any violation or attempted or threatened violation by the Tenant of any of the covenants or agreements hereof.

20.4 Waiver by Landlord

The failure of the Landlord to insist upon the strict performance of any covenant or agreement of this Lease shall not waive such covenant or agreement, and the waiver by the Landlord of any breach of any covenant or agreement of this Lease shall not waive such covenant or agreement in respect of any other breach. The receipt and acceptance by the Landlord of rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Tenant shall not waive such breach. No waiver by the Landlord shall be effective unless made in writing.

20.5 Where the Canada Mortgage and Housing Corporation or an Approved Lender under the *National Housing Act* is the Mortgagee it may Permit the Tenant to Continue as Tenant

Notwithstanding Section 20.2(a), if Canada Mortgage and Housing Corporation or an approved lender who, under the provisions of the *National Housing Act*, 1970, R.S.C., Chapter N-10, has made an insured loan to the Tenant and holds a Mortgage of the Tenants leasehold interest in the Lands and the Buildings and has cured all defaults and contingencies of which the said Corporation or approved lender has received notice from the Landlord under Section 20.2(a), then the Landlord will permit the said Corporation or the approved lender to allow the Tenant to

continue as tenant unless the said Corporation has commenced foreclosure proceedings under Section 20.2(b).

ARTICLE 21 COVENANTS OF LANDLORD

21.1 Covenant Respecting Charges and Encumbrances

The Landlord covenants with the Tenant that the Landlord has a good and marketable title in fee simple to the Lands and that the Landlord has not at any time heretobefore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Lands or any part thereof are charged or encumbered in title or estate, other than the subsisting exceptions and reservations contained in the original grant of the Lands from the Crown.

21.2 Covenant Respecting Authority to Lease

The Landlord covenants with the Tenant that the Lands are not required by the Landlord for municipal purposes and it now has in itself good right, full power and absolute authority to lease the Lands to the Tenant in the manner and according to the true intent of this Lease.

ARTICLE 22 ENVIRONMENTAL

22.1 Definitions – For purposes of this Article:

- (a) **“Contaminants”** means any pollutants, contaminants, deleterious substances, underground or aboveground tanks, asbestos materials, urea formaldehyde, dangerous substances or goods, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance which is now or hereafter prohibited, controlled or under Environmental Laws; and
- (b) **“Environmental Laws”** means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any governmental authority having jurisdiction over the SAID LANDS now or hereafter in force relating in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, including the principles of common law and equity.

22.2 Tenant Covenants and Indemnity

The Tenant covenants and agrees as follows:

- (a) not to use or permit to be used all or any part of the Lands for the sale, storage, manufacture, disposal, handling, treatment, use or any other dealing with any Contaminants, without the prior written consent of Landlord, which may be unreasonably withheld. Without limiting the generality of the foregoing, the Tenant shall in no event use, and does not plan or intend to use, the Contaminants in a manner that, in whole or in part, would cause the Lands, or any adjacent property to become a contaminated site under Environmental Laws;
- (b) to strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands;

- (c) to promptly provide to the Tenant a copy of any environmental site investigation, assessment, audit or report relating to the Lands conducted by or for the Tenant by or for the Tenant at any time before, during or after the term of this Lease (or any renewal thereof);
- (d) to maintain all environmental site investigations, assessments, audits and reports relating to the Lands in strict confidence and not to disclose their terms or existence to any third party (including without limitation, any governmental authority) except as required by law, to the Tenant's professional advisers and lenders on a need to know basis or with the prior written consent of the Tenant, which consent may not be unreasonably withheld;
- (e) to promptly provide to the Landlord on request such written authorizations as the Landlord may require from time to time to make inquiries of any governmental authorities regarding the Tenant's compliance with Environmental Laws;
- (f) to promptly notify the Landlord in writing of any release of a Contaminant or other or any other occurrence or condition at the Lands, or any adjacent property which could contaminate the Lands or subject the Landlord or the Tenant to any fines, penalties, orders, investigations or proceedings under Environmental Laws;
- (g) on the expiry or earlier termination of this Lease or at any time if requested by the Landlord or required by any governmental authority pursuant to Environmental Laws, to remove from the Lands all Contaminants, and to remediate any contamination of the Lands or any adjacent property resulting from Contaminants, in either case brought onto, used at or released from the Lands by the Tenant or any person for whom it is in law responsible. The Tenant shall perform these obligations promptly at its own cost and in accordance with Environmental Laws. All such Contaminants shall remain the property of the Tenant, notwithstanding any rule of law or other provision of this Lease to the contrary and notwithstanding the degree of their affixation to the Lands; and
- (h) to indemnify the Landlord and its employees, agents, successors and assigns, from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis and the cost of remediation of the Lands and any adjacent property) arising from or in connection with:
 - (i) any breach of or non-compliance with the provisions of this Article by the Tenant; or
 - (ii) any release or alleged release of any Contaminants at or from the Lands related to or as a result of the use an occupation of the Lands or any act or omission of the Tenant or any person for whom it is in law responsible.

The obligations of the Tenant under this Article shall survive the expiry or earlier termination of this Lease. The obligations of the Tenant under this Article are in addition to, and shall not limit, the obligations of the Tenant contained in other provisions of this Lease.

**ARTICLE 23
COVENANTS OF TENANT RESPECTING CONDUCT ON DEMISED PREMISES**

23.1 Conduct on Demised Premises

The Tenant covenants and agrees with the Landlord that it will not carry on nor do, nor allow to be carried on or done upon the Lands or in the Buildings any work, business or occupation which may be a nuisance or which is contrary to any law or to any by-law of the City of Vancouver for the time being in force.

**ARTICLE 24
SURRENDER OF LEASE**

24.1 Surrender of Lease

At the end of the Term, either by forfeiture, default or lapse of time, the Tenant shall surrender the Lands and the Buildings to the Landlord in the condition in which they were required to be kept by the Tenant under the provisions of this Lease including without restricting the generality of the foregoing the provisions of Sections 9.5(c) and 9.6(b), except as herein otherwise expressly provided.

**ARTICLE 25
QUIET ENJOYMENT, OWNERSHIP OF TENANT'S FIXTURES
AND OWNERSHIP OF THE BUILDINGS**

25.1 Covenant for Quiet Enjoyment

If the Tenant pays the rent hereby reserved and the other charges, and performs the covenants hereinbefore on the Tenant's part contained, the Tenant shall and may peaceably enjoy and possess the Lands for the Term, without any interruption or disturbance whatsoever from the Landlord or any other person, firm or corporation lawfully claiming from or under the Landlord, provided however that nothing in this Section 25.1 shall limit the rights of inspection conferred upon the Landlord by Section 13.1, the right to request information pursuant to Section 17.4(i) or (k), or the right of the Landlord to show the Lands and the Buildings and to post notices pursuant to Section 13.2. The Tenant further agrees to respond, within a reasonable time period, to requests from the Landlord to discuss potential development of the Lands provided that such discussions do not in any way limit the Tenant's rights under this Lease and that the basis for any discussions would be development which would allow the Tenant to remain in possession of all or a portion of the Lands with relocation only for the duration of construction.

25.2 Ownership of Tenant's Fixtures

The Tenant may confer upon tenants or occupants of the Buildings the right of property in, or the right to remove, fixtures or improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Buildings or the Lands. The Tenant shall make good, or shall cause such tenants to make good, any damage to the Buildings caused by any removal of the tenants' fixtures.

ARTICLE 26 OVERHOLDING

26.1 Overholding

The Tenant covenants and agrees with the Landlord that if the Tenant shall hold over and the Landlord shall accept rent after the expiration of the Term, the new tenancy thereby created shall be a tenancy from month to month and not a tenancy from year to year and shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month PROVIDED HOWEVER the monthly Basic Rent payable by the Tenant shall be the then market rental value of the Lands and the Buildings as determined from time to time in the *bona fide* opinion of the Landlord's Supervisor of Properties or his successor in function and such monthly Basic Rent shall be paid in advance. The Tenant shall also pay monthly as Additional Rent one-twelfth of the sum payable pursuant to Section 4.1 or 4.2 hereof, as the case may be.

ARTICLE 27 NOTICE

All notices, demands and requests which may or are required to be given pursuant to this Lease shall be in writing and shall be sufficiently given if served personally upon the party or an executive officer of the party for whom it is intended or mailed prepaid and registered, in the case of the Landlord addressed to:

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

and in the case of the Tenant addressed to:

Helen's Court Co-operative Housing Assoc.
#25 - 2137 West 1st Avenue,
Vancouver, B.C. V6K 1 E7

or at such other addresses as the parties may from time to time advise by notice in writing. Mortgagees hereof shall supply their respective mailing addresses to the Landlord and the Tenant. The date of receipt of any such notice, demand or request shall be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed as aforesaid on the second business day next following the date of such mailing. PROVIDED HOWEVER that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice shall be deemed to be received when actually delivered.

ARTICLE 28 UNAVOIDABLE DELAYS

28.1 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Tenant, fire or explosion, flood, wind, water, earthquake, act of God or other similar circumstances beyond the reasonable control of the Tenant and not avoidable by the exercise of reasonable effort or foresight by the Tenant, the Tenant is, in good faith and without default or neglect on its part, prevented or delayed in the construction or repair which under the

terms of this lease the Tenant is required to do within a specified time, the period of time within which the work was to have been completed shall be extended by the Landlord by a reasonable period of time at least equal to that of such delay or prevention and the Tenant shall not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Landlord and the Tenant. If the Landlord and the Tenant cannot agree as to whether or not there is a prevention or delay within the meaning of this section or they cannot agree as to the length of such prevention or delay, then such matter shall be determined by reference to arbitration in accordance with Article 11.

ARTICLE 29 MISCELLANEOUS

29.1 Statements by Landlord

The Landlord and the Tenant agree that at any time and from time to time upon not less than thirty (30) days' prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect or if there have been modifications that the same are in full force and effect as modified and identifying the modifications;
- (b) the dates to which the rent and other charges have been paid and the request shall specify the charges in respect of which such information is required; and
- (c) that, so far as the maker of the statement knows, the party who requests the statement is not in default under any provisions of this Lease, or, if in default, the particulars thereof.

29.2 Time of the Essence

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

29.3 Formality of Modifications

This Lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the Landlord and the Tenant or by the successors or assigns of the Landlord and the successors or permitted assigns of the Tenant.

29.4 Captions and Headings

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

29.5 Enurement

It is further agreed and declared by the Landlord and the Tenant that these presents shall extend to, be binding upon and enure to the benefit of the Landlord and the Tenant and the successors and assigns of the Landlord and the successors and permitted assigns of the Tenant.

29.6 Counterparts

This Lease may be executed in counterparts and each executed counterpart will be considered an original. All executed counterparts together will constitute this Lease. This Lease may be executed by the parties and transmitted by facsimile or other electronic format and if so executed and transmitted will be for all purposes as effective as if the parties had executed and delivered an original Lease.

IN WITNESS WHEREOF the Landlord and the Tenant have hereunto caused to be affixed their respective seals attested by the signatures of their respective proper officers duly authorized for such purpose.

) CITY OF VANCOUVER by its authorized
) signatory:
)
)
)
)
)
)
)

Per: Thomas J. Connell
Authorized Signatory

The Common Seal of HELEN'S COURT
CO-OPERATIVE HOUSING ASSOC. was
hereunto affixed in the presence of:



Per: [Signature]
Authorized Signatory

Per: D. Diamond
Authorized Signatory

[Signature]



HELEN'S COURT CO-OPERATIVE HOUSING ASSOCIATION

25-2137 WEST FIRST AVENUE VANCOUVER BC V6K 1E7

PHONE (604) 732-9971 email cwyse@telus.net

RESOLUTIONS OF THE BOARD OF DIRECTORS

We are all the directors of Helen's Court Co-operative Housing Association and consent to the following resolutions:

WHEREAS:

Helen's Court Co-operative Housing Association wishes to enter into a new lease with the City of Vancouver. Nettie Wild, Charlie Wyse and David Diamond are members in good standing of Helen's Court Co-operative Housing Association and members of the Lease Committee that has negotiated a new lease with the City of Vancouver.

BE IT RESOLVED THAT:

Helen's Court Co-operative Housing Association enter into a lease of 2137 West 1st Avenue, Vancouver with the City of Vancouver in substantially the form attached hereto as Schedule "A" (the "New Lease");

Helen's Court Co-operative Housing Association execute and deliver the New Lease to the City of Vancouver; and

Any two directors of Helen's Court Co-operative Housing Association, Nettie Wild, Charlie Wyse or David Diamond, or any combination thereof, are hereby authorized to execute and deliver under seal of Helen's Court Co-operative Housing Association, or otherwise, the New Lease and to do such acts and things in connection with the New Lease as they, in their discretion, may consider to be necessary or desirable for giving effect to this resolution.

DATED July 13, 2017.

Ruth Comfort

Catherine Barber

Christine Wyse

Sean O'Brien

Erik Ilves



HELEN'S COURT CO-OPERATIVE HOUSING ASSOCIATION

25-2137 WEST FIRST AVENUE VANCOUVER BC V6K 1E7

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