

Approved as to form: **LS name and date**

SCHEDULE A

HOUSING AGREEMENT

(Pursuant to section 483 of the *Local Government Act*)

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA

#1 Centennial Square

Victoria, BC V8W 1P6

(the "City")

AND:

1248330 B.C. LTD.

8270 Thomson Place

Saanichton, BC V8M 1T6

(the "Owner")

AND:

THE TORONTO-DOMINION BANK

2nd Floor – 1070 Douglas Street

Victoria, BC V8W 2C4

(the "Existing Chargeholder")

WHEREAS:

- A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.
- B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*.
- C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 1042 Richardson Street, Victoria, B.C. and legally described as:

PID: 009-396-853
Lot 1663, Victoria City

(the "Lands").
- D. The Owner has applied to the City to rezone the Lands to permit twenty (20) housing units within the Development accordance with this Agreement.

- E. The City and the Owner wish to enter into this Agreement, as a housing agreement pursuant to section 483 of the *Local Government Act*, to secure the agreement of the Owner to provide median income rental housing, and that all Dwelling Units within the Development on the Lands will be used and held only as rental housing.

NOW THIS AGREEMENT WITNESSES that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

1.0 DEFINITIONS

1.1 In this Agreement:

"Business Day" means Monday to Friday, other than any such day which is a statutory holiday in Victoria, British Columbia;

"CMHC" means the Canada Mortgage and Housing Corporation;

"CPI" means the All-items Consumer Price Index for Victoria, B.C. published from time to time by Statistics Canada, or its successor in function;

"Development" means the new twenty (20) unit building consisting of residential housing and related facilities on the Lands;

"Dwelling Units" means any or all, as the context may require, of the twenty (20) self-contained residential dwelling units within the Development and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise, and **"Dwelling Unit"** means any of such residential dwelling units located on the Lands;

"Effective Date" means the date as of which the City executes this Agreement;

"Immediate Family" includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse;

"Income" means the total income before tax from all sources for each Non-owner;

"Median Market Rent" means CMHC's median rent for the same Unit Type for the City of Victoria, as identified in CMHC's most recent annual "Rental Market Survey" prior to the Effective Date;

"Median Household Income Limit" means the annual maximum Income threshold for median income affordability targets that are determined from time to time by the City and published in the Victoria Housing Reserve Fund Guidelines, as amended from time to time. The parties agree that for 2024, the Median Household Income Limit is \$69,999;

"Median Income Unit" means a Dwelling Unit that is designated as a Median Income Unit in accordance with Article 4.0 of this Agreement;

"Non-owner" means a person other than a Related Person or the Owner;

"Notice" has the meaning ascribed in section 7.1;

"Occupancy Permit" means a permit issued by the City authorizing the use and occupation of any new building, development or partial development on the Lands;

"Owner" includes a person who acquires an interest in the Lands or any part of the Lands or the Development and is thereby bound by this Agreement, as referred to in section 10.3;

"Related Person" includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

- (a) a corporation or society:
 - (i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or
 - (ii) an Immediate Family of a person to whom paragraph (i) applies, or
- (b) an individual, an Immediate Family of the registered or beneficial owner;

"Tenancy Agreement" means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act;

"Unit Type" refers to the total number of bedrooms contained in the Dwelling Unit.

2.0 TERM

2.1 Subject to section 2.2, the term of this Agreement shall begin from the Effective Date and continue in perpetuity.

2.2 The obligations in Article 4.0 shall be for a term beginning from the date that the City issues an Occupancy Permit for the Development and ending on the later of the following:

- (a) sixty (60) years from the date of Occupancy Permit issuance, or
- (b) the life of the building to be constructed pursuant to the Development

(the **"Median Income Term"**).

3.0 DWELLING UNITS TO BE USED AND OCCUPIED ONLY AS RENTAL UNITS

3.1 The Owner covenants and agrees that the Dwelling Units shall only be used as rental housing in perpetuity, and for that purpose shall only be occupied by a Non-owner under the terms of a Tenancy Agreement between the Owner and the Non-owner who occupies the Dwelling Unit.

3.2 The Owner covenants and agrees that the Owner shall not take any steps, or enter into any agreements, or impose any rules or regulations whatsoever, the effect of which would

be to prevent or restrict the Owner of a Dwelling Unit from renting that Dwelling Unit to a Non-owner under the terms of a Tenancy Agreement.

4.0 MEDIAN INCOME HOUSING

4.1 The Owner covenants and agrees that during the Median Income Term:

- (a) a total of two (2) bachelor Dwelling Units shall be designated as Median Income Units and shall only be occupied and used as Median Income Units;
- (b) the combined annual household income for the occupants of each Median Income Unit shall be no greater than the Median Household Income Limit. In the event that the City ceases to determine a maximum income threshold for median income affordability targets in the Victoria Housing Reserve Fund Guidelines, and such determination is not replaced by a similar publication, then the income limit with respect to a Median Income Unit shall be determined by reference to the last published maximum income threshold for median income affordability targets which shall be increased annually by an amount equal to the increase in the CPI commencing January 1 following the year the City ceased determining such target;
- (c) each of the Median Income Units shall only be occupied by a Non-owner or Non-owners; and
- (d) subject to Article 5.0, monthly rent for each Median Income Unit shall not exceed 95% of Median Market Rent. For the purposes of this subsection, the parties agree that for 2024, 95% of Median Market Rent is \$1,235.

5.0 RENT ADJUSTMENTS

5.1 During the term of the tenancy, the monthly rent payable by the Non-owner(s) of the Dwelling Units may be increased only by the amount permitted under the *Residential Tenancy Act* and any other applicable legislation.

6.0 REPORTING

6.1 The Owner covenants and agrees to provide to the City's Director of Planning and Development, within thirty (30) days of the Director's written request, a report in writing confirming the following:

- (a) all Dwelling Units are being rented to Non-owners or are vacant, and
- (b) two (2) Median Income Units are being rented in accordance with Article 4.0,

along with such other information as may be requested by the Director from time to time.

6.2 The Owner hereby authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.

6.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications of this Agreement and that such consent may be withheld for any reason.

7.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE

- 7.1** Notice of this Agreement (the "**Notice**") will be registered in the Land Title Office by the City in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

8.0 LIABILITY

- 8.1** The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement, or otherwise that would not have arisen "but for" this Agreement.
- 8.2** The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement, or otherwise that would not have arisen "but for" this Agreement.

9.0 PRIORITY AGREEMENT

- 9.1** The Existing Chargeholder, as the registered holder of a charge by way of a mortgage against the Lands, which said charge is registered in the Land Title Office at Victoria, British Columbia, under number CA8266431, for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charge in the same manner and to the same effect as if Notice had been filed prior to the said charge.

10.0 GENERAL PROVISIONS

- 10.1 NOTICE.** If sent as follows, notice under this Agreement is considered to be received:

- (a) upon confirmation of delivery by Canada Post if sent by registered mail,
- (b) on the next Business Day if sent by facsimile or email with no notice of failure to deliver being received back by the sender, and
- (c) on the date of delivery if hand-delivered, and

in the case of the City, addressed to:

City of Victoria
#1 Centennial Square
Victoria, BC V8W 1P6

Attention: Director of Planning and Development
Fax: 250-361-0386
Email: khoese@victoria.ca

and in the case of the Owner, addressed to:

1248330 B.C. Ltd
8270 Thomson Place
Saanichton, BC V8M 1T6

Attention: Bart Johnson
Email: 1042richardson@gmail.com

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail, email or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (d) notice sent by the impaired service is considered to be received on the date of delivery, and
- (e) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

10.2 TIME. Time is of the essence of this Agreement.

10.3 BINDING EFFECT. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

10.4 WAIVER. The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

10.5 HEADINGS. The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

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

- 10.7 LEGISLATION.** Reference to any enactment includes any regulations, orders or directives made under the authority of that enactment, and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.
- 10.8 EQUITABLE REMEDIES.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 10.9 CUMULATIVE REMEDIES.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
- 10.10 ENTIRE AGREEMENT.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.
- 10.11 FURTHER ASSURANCES.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.
- 10.12 AMENDMENT.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.
- 10.13 LAW APPLICABLE.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 10.14 NO DEROGATION FROM STATUTORY AUTHORITY.** Nothing in this Agreement shall:
- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
 - (b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.
- 10.15 SEVERABILITY.** If any section, term or provision of this Agreement is found to be partially or wholly illegal or unenforceable, then such sections or parts will be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, will be unaffected thereby and will remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.
- 10.16 JOINT AND SEVERAL.** The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

10.18 EFFECTIVE DATE. This Agreement is effective as of the date of the signature of the last party to sign.

THE CORPORATION OF THE CITY OF)
VICTORIA by its authorized signatory:)

Karen Hoese, Director of Planning and Development

Date signed: _____

1248330 B.C. LTD.
by its authorized signatory:

Print Name: Bart Johnson

Date signed: March 31, 2025

THE TORONTO-DOMINION BANK
by its authorized signatory(ies):

Print Name Angela Brown-Thompson
Discharge Administrator

Print Name: Shivani Desoor
Discharge Administrator

Date signed: 03/18/2025.