

TERMS OF INSTRUMENT – PART 2
SUBDIVISION and DEVELOPMENT COVENANT

THIS AGREEMENT is dated for reference the 1st day of October, 2012,

BETWEEN:

0869189 BC LTD. (Inc. No. BC0869189), 200 – 848 Courtney Street, Victoria, BC V8W 1C4

(the “Owner”)

OF THE FIRST PART

AND:

DISTRICT OF HIGHLANDS, 1980 Millstream Road, Victoria, BC V9B 6H1

(the “District”)

OF THE SECOND PART

WHEREAS:

- A. The Owner is the registered owner in fee simple of the following properties located within District of Highlands:

Parcel Identifier: 026-808-412

Strata Lot 1, Section 4, Range 3 West and Sections 4 and 5, Range 4 West, Highland District, Strata Plan VIS6103

together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V

and

Parcel Identifier: 026-808-439

Strata Lot 2, Section 4, Range 3 West and Sections 4 and 5, Range 4 West, Highland District, Strata Plan VIS6103

together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V

and

No Parcel Identifier
Common Property, Strata Plan VIS6103

(collectively the “Strata Lands”);

- B. The Owner is also the owner in fee simple of that adjoining property legally described as:

Parcel Identifier: 025-824-708
Lot D, Section 4, Range 3 West and Sections 4 and 5,
Range 4 West, Highland District, Plan VIP76077,
Except Part in Strata Plan VIS6103 (Phase 1)

(“Lot D”);

- C. The Strata Lands and Lot D are together referred to as the “Development Lands”;
- D. Section 219 of the *Land Title Act*, R.S.B.C. 1996, c.250, as amended, permits the registration of a covenant, of a negative or positive nature, in favour of the District:
- (a) respecting the use of land or buildings,
 - (b) respecting the building on land,
 - (c) that land is not to be subdivided, or that land is not to be subdivided except in accordance with the covenant,
 - (d) that land or a specified amenity in relation to it be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state,
 - (e) that parcels of land designated in the covenant and registered under one or more indefeasible titles are not to be sold or otherwise transferred separately;
- E. The District has received an application to rezone the Development Lands in accordance with “Highlands Zoning Bylaw, 1998, Amendment No. 32 (Comprehensive Development 2 (CD2) Zone – 1150 Bear Mountain Parkway) Bylaw No. 344, 2012” (the “Rezoning Bylaw”);
- F. Council of the District established that certain conditions must be met before Council would consider, in its sole discretion, adoption of the Rezoning Bylaw, and this Covenant documents the rezoning conditions established by Council;

NOW THEREFORE in consideration of the premises and promises of this Covenant and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the District covenant and agree, pursuant to section 219 of the *Land Title Act*, as follows:

PART ONE – THREE-LOT SUBDIVISION

Invasive Species Management Plan

2. The Owner shall not subdivide the Development Lands unless the Owner has caused to be prepared, by a qualified professional satisfactory to the District, an invasive species management plan which establishes measures and strategies to be followed to prevent the introduction, spread or establishment of invasive species and to remove invasive species during servicing of the Development Lands and during construction on the Development Lands.

LANDECA Native Plan Species Overview Assessment

3. The invasive species management plan is to be in substantial compliance with, “River’s Crossing, Native Plant Species Overview Assessment,” by LANDECA Services Inc., dated June 27, 2012 and attached as Schedule “A”.

Definition of Invasive Species

4. For the purposes of section 2, the term “invasive species” includes Scotch broom (*Cytisus scoparius*) and Himalayan blackberry (*Rubus armeniacus* (syn. *Rubus discolor*)) and other species identified as invasive by the qualified professional.

Invasive Species Covenant

5. Once the invasive species management plan is acceptable to the District, the Owner must grant to the District a *Land Title Act*, section 219 covenant requiring the Owner to implement the measures and strategies recommended in the plan (the “Invasive Species Covenant”).

Tree Protection Plan

6. The Owner shall not subdivide the Development Lands unless the Owner has caused to be prepared, by a qualified professional satisfactory to the District, a tree protection plan that includes a wind-throw and hazard tree assessment for proposed individual building lots.

7. The tree protection plan required under section 6 must be prepared in substantial compliance with:
 - (i) “River’s Crossing Significant Tree Overview Assessment,” by LANDECA Services Inc., dated June 18, 2012 and attached as Schedule “B”;
 - (ii) “River’s Crossing Native Plant Species Overview Assessment,” by LANDECA Services Inc., dated June 27, 2012 and attached as Schedule “A”;
 - (iii) “Rendering Cottages and Gardens Area,” by Neilson Digital, dated June 2012 and attached as Schedule “C”; and
 - (iv) “Full Extent of Site, River’s Crossing,” by Tinney and Associates and JE Anderson and Associates, dated June 2012 and attached as Schedule “D”;

Tree Protection Survey Covenant

8. Once the tree protection plan is acceptable to the District, the Owner must grant to the District a *Land Title Act*, section 219 covenant requiring the Owner to implement the recommendations and guidelines in the plan (the “Tree Protection Covenant”).

Tree Protection Plan

9. The Owner shall cause a BC land surveyor to prepare a survey plan (the “Tree Protection Survey Plan”) of the areas of the Development Lands to be protected according to the tree protection plan.

Subdivision into Lots A, B and C

10. The Owner shall not subdivide the Development Lands, or construct on them, unless the Development Lands are subdivided into three lots, shown as Lots A, B and C on the draft plan of subdivision entitled, “Initial 3-Lot Subdivision Plan,” by JE Anderson and Associates, dated July 31, 2012 attached as Schedule “E”.

Concurrent Covenants

11. The Owner must not apply to deposit the Subdivision Plan unless it concurrently applies to register the Invasive Species Covenant and the Tree Protection Covenant, together with the Tree Protection Survey Plan.

Ordinary Subdivision Requirements

12. The Owner acknowledges that the subdivision of Lots A, B and C will be subject to all the ordinary and usual subdivision requirements, including approval of the Subdivision Plan

by the District's Approving Officer, and including installation of all required services prior to approval of the Subdivision Plan unless the Owner enters into a subdivision servicing agreement with the District under section 940 of the *Local Government Act* and provides security for the installation of the services.

Water Supply

13. Without limiting section 12, the Owner shall provide, both off-site and on-site, a water supply to Lots B and C, which must be supplied through the Capital Regional District's Integrated Water Services.

Sewage Disposal

14. Without limiting section 12, the Owner shall provide, both off-site and on-site, a sewage disposal system for Lots B and C which does not involve the use of septic fields or other on-site disposal. The owner shall make satisfactory arrangements for the provision of sewer services to the Land through the establishment of a sewer specified area or an alternative means satisfactory to all authorities having jurisdiction.

No District Obligations

15. The Owner acknowledges that the provision of a sewage disposal system meeting the requirements of section 14 may require the District to enter into an intermunicipal agreement with the City of Langford or an agreement with Westshore Environmental Services or to adopt a bylaw to establish a local service area or to take other steps, and the Owner acknowledges and agrees that neither the entering into this Covenant by the District nor adoption of the Rezoning Bylaw by the District nor anything else contractually or otherwise obligates the District to enter into any agreement, to adopt any bylaw, or to take any other steps to facilitate the owner's sewage disposal system.

Elevation Grading

16. The Owner shall not install roads or utility services or otherwise construct upon, or alter Lot A, B or C unless all work is in substantial compliance with the elevation grades shown on:
 - (i) Schedule "F" entitled "River's Crossing Tentative Plan of Final Subdivision," by JE Anderson and Associates, dated May 23, 2012:
 - (ii) Schedule "G" entitled, "Preliminary Cut and Fill Road A and B," by JE Anderson and Associates, dated June 4, 2012; and
 - (iii) Schedule "H" entitled, "Preliminary Cut and Fill Road D and E," by JE Anderson and Associates, dated June 7, 2012.

Servicing – Lighting Restrictions

17. The Owner acknowledges that the servicing of the Development Lands must be done in accordance with the artificial lighting restrictions in section 35.

PART TWO – BARE LAND STRATA SUBDIVISION OF LOT C

Lot C Restrictions

18. The Owner shall not undertake or permit any construction on Lot C until such time as Lot C has been subdivided by a 38-lot bare land strata plan under the *Strata Property Act*, in general conformance with the proposed strata plan attached as Schedule “I” entitled, “38-lot Bare Land Strata Plan,” by JE Anderson and Associates, dated July 31, 2012.

Conversion Approval

19. Because one of the strata lots on the Bare Land Strata Plan will contain an existing six-sided building, the Owner acknowledges and agrees that he will not be entitled to approval by the Bare Land Strata Plan by the District’s Approving Officer unless and until the District, by its Council, approves the subdivision as a conversion of previously-occupied property under section 242 of the *Strata Property Act*.

No District Obligation

20. The Owner acknowledges and agrees that neither the entering into this Covenant by the District nor adoption of the Rezoning Bylaw by the District nor anything else contractually or otherwise obligates the District to grant the conversion approval referred to in section 19.

Building Scheme

21. The Owner shall not subdivide Lot C by the Bare Land Strata Plan unless the Owner concurrently registers a Declaration of Building Scheme, pursuant to section 220 of the *Land Title Act*, substantially in the form attached as Schedule “J”.

Provision of Zoning Amenities

22. The Owner acknowledges and agrees that it shall not be entitled to subdivide Lot C by the Bare Land Strata Plan unless the Owner has provided to the District the zoning amenities under section 15.2.2 of the Rezoning Bylaw.
23. Without limiting section 22, the Owner acknowledges and agrees that it will not be entitled to subdivide Lot C by the Bare Land Strata Plan unless the Owner has provided

to the District the zoning amenity under section 15.2.2(2)(a) of the Rezoning Bylaw within 30 days of adoption of the Rezoning Bylaw.

24. Without limiting section 22, the amenity referred to in section 15.2.2(2)(c) of the Rezoning Bylaw shall also be in substantial compliance with the attached Schedule “K”, entitled, “Sketch of Land Exchange,” by JE Anderson and Associates, dated July 31, 2012.

Ordinary Subdivision Requirements

25. The Owner acknowledges that the subdivision of Lot C by the Bare Land Strata Plan will be subject to all the ordinary and usual subdivision requirements, including approval of the Bare Land Strata Plan by the District’s Approving Officer, and including installation of all required services prior to approval of the Bare Land Strata Plan unless the Owner enters into a subdivision servicing agreement with the District under the Bare Land Strata Regulations and provides security for the installation of the services.

PART THREE – BUILDING STRATA ON LOT B

Lot C Before Lot B

26. The Owner shall not subdivide or construct upon Lot B until such time as the Bare Land Strata Plan of Lot C has been deposited in the Land Title Office.

Restriction on Subdivision and Construction

27. The Owner must not subdivide Lot B or construct on Lot B except for the construction of seven (7) cottages generally as shown on the plan attached as Schedule “L” entitled, “7-Cottage Building Strata Plan,” by JE Anderson, dated July 31, 2012, and the strata subdivision of those cottages under the *Strata Property Act* such that each is a separate strata lot and all surrounding roadways and land are common property.

Servicing of Lot B

28. If Lot B has not already been fully serviced, the Owner shall not construct the cottages on Lot B or apply for building permits until Lot B has been fully serviced or the Owner enters into a servicing agreement with the District and provides security for installation of the services.

PART FOUR – CONSTRUCTION REQUIREMENTS

Sprinkler Requirement

29. The Owner shall not construct any residential building or principal building capable of housing a residential occupancy on the Development Land unless it is equipped with sprinklers which meet National Fire Protection Association standards for such buildings,

and the Owner will not apply for a building permit for such building unless the permit application includes the sprinkler system.

30. The sprinkler systems required in section 29 shall be maintained.

Fire Resistant Building Materials

31. The Owner shall only construct any residential building or principal building capable of housing a residential occupancy on the Development Land if the roofing and insulation material complies with the Class “B” fire rating requirements contained within the current B.C. Building Code.
32. The Owner shall only construct any residential building or principal building capable of housing a residential occupancy on the Development Land if:
- (a) The building design and construction are substantially consistent with the standards in the National Fire Protection Association Standard 299 (Standard for Protection of Life and Property from Wildfire) as amended from time to time, with the exception that 10% – 15% wood cladding may be used providing that it is 3m (10 feet) from a horizontal surface;
 - (b) All eaves, attics, decks, and openings under floors are screened to prevent the accumulation of combustible material;
 - (c) All wood burning appliances are installed with approved spark arresters; or
 - (d) All buildings within 30m of a high or extreme wildfire risk area as identified by an appropriately qualified professional (e.g. Registered Professional Forester) include fire resistant construction materials for exterior cladding and roofing.

Summer Construction

33. If the Owner will be undertaking construction between May 1 and September 30th, the Owner must first give at least 10 days prior notice to the District’s Fire Chief and the Owner must provide a commitment, satisfactory to the Fire Chief, of the Wildfire Response Plan that the Owner will follow while the construction is ongoing.

Grading Restrictions

34. The Owner acknowledges that construction of residential and other buildings on the Development Lands must be done in accordance with the grading restrictions in section 16.

Artificial Lighting

35. The Owner acknowledges the potential health risks of unwanted artificial light, and the District's desire to preserve the night sky environment, and the Owner shall comply with the following requirements for outdoor lighting systems, which for the purposes of this Covenant includes roadway lighting systems, exterior building lighting systems and internally and externally illuminated signs:
- (a) Outdoor lighting systems must be shielded or recessed so that direct glare and reflection are contained within the boundaries of the parcel on which the lighting is installed, and directed downwards and away from adjoining parcels and walkways and roadways;
 - (b) Light fixtures on externally illuminated signs, including home-based business signs permitted by the District's bylaws and building identification signs, shall be either top mounted and fully shielded, or if top mounting is not feasible for the application in question, equipped with visors or other directional control devices keeping spill of light to an absolute minimum;
 - (c) Roadway luminaries shall be designed and installed to cast light exclusively downwards and shall not be equipped with metal halide, mercury vapour or quartz lamps;
 - (d) The mounting height of outdoor light sources shall not exceed 229 metres geodetic datum; and
 - (e) The average illumination provided by any light source shall not exceed the lowest level meeting any health or safety requirement of the user, and shall in no case exceed 16.5 lux.

PART FIVE – GENERAL CLAUSES

Scope of Subdivision

36. Everywhere that this Covenant restricts subdivision, subdivision is restricted whether by way of a subdivision, reference or dedication plan under the *Land Title Act*, or by the deposit of a strata plan to create a bare land, or building or leasehold strata under the *Strata Property Act*, and no matter how many or few lots are created by the subdivision.

Restriction on Subdivision

37. Where this Covenant restricts the subdivision of land, the Owner agrees that it shall not apply for that restricted subdivision and that it is not entitled to approval of that restricted subdivision, nor any development permit or associated permission.

Restriction on Construction

38. Where this Covenant restricts the construction on land, the Owner agrees that it shall not apply for any building permit for that restricted construction and that it is not entitled to issuance of a building permit for that restricted construction, nor any development permit or associated permission.

Costs Payable By Owner

39. All costs of fulfilling the Owner's obligations under this Covenant must be borne by the Owner.

Costs of Agreements

40. The Owner agrees that all costs associated with the further agreements which may be granted by the Owner to the District and others pursuant to this Covenant must be borne by the Owner, including without limitation survey costs, registration costs, the costs of studies and investigations, the Owner's own legal and other consultant fees, and the District's and other consultant legal fees (including taxes and disbursements). Costs payable to the District must be paid, to the extent incurred plus an estimate (subject to adjustment) for the District's remaining costs, prior to the Owner being entitled to subdivision under this Covenant.

Registration, With Priority

41. All agreements which may be granted by the Owner to the District and others pursuant to this Covenant must be registered and in priority to all financial charges and other charges except those approved by the District before the Owner is entitled under this Covenant to any subdivision or construction approval.

Indemnities and Standard Terms

42. All agreements which may be granted by the Owner to the District pursuant to this Covenant must contain indemnities and standard clauses acceptable to the District, and the District confirms that if the indemnities and standard clauses are at least as complete and onerous on the Owner as those in this Covenant, that will be acceptable for the future agreements.

Other Terms

43. All agreements which may be granted by the Owner to the District pursuant to this Covenant may contain other terms which the District considers necessary or desirable at the time of preparation of those agreements to more clearly reflect the intent of this Covenant.

Powers of Approving Officer

44. Nothing contained or implied in this Covenant shall impair, limit or affect or be deemed to impair, limit or affect the District's Approving Officer's rights, powers and discretion under any enactment, including the Approving Officer's assessment of the public interest, and all such rights, powers and discretion may be exercised by the Approving Officer in relation to the Development Lands as if this Covenant had not been granted. The Owner expressly acknowledges that satisfaction of the requirements in this Covenant alone does not entitle to the Owner to an approval of a subdivision nor bind the Approving Officer to approve any subdivision of any or all of the Development Lands.

No Obligations on District

45. The rights given to the District by this Covenant are permissive only and nothing in this Covenant:
- (a) imposes any duty of care or other legal duty of any kind on the District to the Owner or to anyone else;
 - (b) obliges the District to enforce this Covenant, which is a policy matter within the sole discretion of the District; or
 - (c) obliges the District to perform any act, or to incur any expense for any of the purposes set out in this Covenant.

No Effect on District Laws or Powers

46. This Covenant does not,
- (a) affect or limit the discretion, rights or powers of the District under any enactment or at common law, including in relation to the use or subdivision of any of the Development Lands, all of which may be fully and effectively exercised in relation to the Development Lands as if this Covenant had not been executed and delivered by the Owner;
 - (b) affect or limit any law or enactment relating to the use or subdivision of any of the Development Lands; or
 - (c) relieve the Owner from complying with any law or enactment, including in relation to the use or subdivision of the Development Lands.

Fees, Charges and Municipal Requirements

47. Without limiting section 46, the Owner acknowledges that any subdivision of the Development Lands will require the payment of all applicable fees and charges, including development cost charges, and will require compliance with all statutory and

municipal requirements, such as issuance of development permits prior to subdivision approval and updates to site profiles.

Compliance With Laws

48. In fulfilling this Covenant, the Owner must fully and strictly comply with all applicable laws, bylaws, regulations, codes, standards and other enactments, whether federal, provincial or municipal.

Further Assurances

49. The parties shall do and cause to be done all things and execute or cause to be executed all documents which may be necessary to give proper effect to the intention of this Covenant.

Release

50. The Owner hereby releases and forever discharges the District, and its elected and appointed officials, officers and employees (the “District Representatives”) of and from any and all actions, causes of action, suits, claims, liabilities, demands, losses (including economic loss), damages, expenses (including actual fees and disbursements of professional advisors), fines and penalties, whatsoever which the Owner can or may have against the District or any of the District Representatives, whether or not involving negligence on their part, arising out of the granting or existence of this Covenant or the restrictions or obligations contained in this Covenant or the performance or non-performance of this Covenant by the Owner.

Indemnity

51. The Owner covenants and agrees to indemnify and save harmless the District and each of the District Representatives from and against any and all actions, causes of action, suits, claims, liabilities, demands, losses (including economic loss), damages, expenses (including actual fees and disbursements of professional advisors), fines and penalties, whatsoever suffered or incurred by the District or any of the District Representatives, whether or not involving negligence on their part, arising out of or in any way due or relating to the granting or existence of this Covenant, the restrictions or obligations contained in this Covenant, the performance or non-performance by the Owner of this Covenant, or any wrongful act, omission or negligence of the Owner or those for whom he is responsible in law.

No Representations

52. It is understood, acknowledged and agreed by the Owner that the District has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) to the Owner.

Priority

53. This Covenant shall be registered as a charge in priority to all financial charges against the Development Lands.

Enurement

54. This Covenant binds the parties to it and their respective corporate successors, heirs, executors, administrators and personal representatives.

Interpretation

55. Reference in this Covenant to the singular includes a reference to the plural, and reference to the plural includes a reference to the singular, unless the context requires otherwise. Reference to the masculine includes the feminine and body corporate.

Headings

56. In this Covenant section headings have been inserted for reference and convenience only.

Covenant Runs With The Land

57. Every obligation and covenant of the Owner in this Covenant constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act* in respect of the Development Lands and this Covenant burdens the Development Lands and runs with them and binds the successors in title to the Development Lands. For certainty, unless the context expressly requires otherwise, the term “Owner” refers to the current and each future owner of the Development Lands. This Covenant burdens and charges all of the Development Lands and any parcel into which they are subdivided by any means and any parcel into which the Development Lands are consolidated.

Inspections

58. The District and any of its officers and employees may inspect any or all of the Development Lands for the purpose of ascertaining compliance with this Covenant.

Severance

59. If any part of this Covenant is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Covenant and the rest of this Covenant remains in force unaffected by that holding or by the severance of that part.

Notice

60. Any notice to be given pursuant to this Covenant must be in writing and must be delivered by hand or sent by prepaid mail. The addresses of the parties for the purpose of notice are the addresses on the first page of Part 2 of this Covenant and in the case of any subsequent owner, the address will be the address shown on the title in the Land Title Office.
61. Notices to the District must be marked to the attention of the “Corporate Officer”.
62. If notice is delivered by hand, it may be left at the relevant address in the same manner as ordinary mail is left by Canada Post and is to be deemed given when delivered. If notice is sent by mail, it is to be deemed given 3 days after mailing by deposit at a Canada Post mailing point or office. In the case of any strike or other event causing disruption of ordinary Canada Post operations, a party giving notice for the purposes of this Covenant must do so by delivery by hand as provided in this section.
63. Any party may at any time give notice in writing to the other of any change of address and from and after the receipt of notice the new address is deemed to be the address of such party for giving notice.

Waiver

64. An alleged waiver of any breach of this Covenant is effective only if it is an express waiver in writing of the breach in respect of which the waiver is asserted. A waiver of a breach of this Covenant does not operate as a waiver of any other breach of this Covenant.

No Other Agreements

65. This Covenant is the entire agreement between the parties regarding its subject-matter.

District’s Representative

66. Any opinion, decision, act or expression of satisfaction provided for in this Covenant may be taken or made by the Planner for the District of Highlands or his or her delegate authorized as such in writing.

Time

67. Time is of the essence of this Covenant

Bylaw to the Contrary

68. This Covenant shall restrict use and subdivision of land in the manner provided herein notwithstanding any right or permission to the contrary contained in any law or any bylaw of the District.

Specific Relief

69. Because of the public interest in ensuring that all of the matters described in this Covenant, and the provisions of all applicable laws, are complied with, the public interest strongly favours the award of a prohibitory or mandatory injunction, or an order for specific performance or other specific relief, by the Supreme Court of British Columbia at the instance of the District, in the event of an actual or threatened breach of this Covenant.

Joint and Several

70. If at any time the Owner should be comprised of more than one person (as defined in the *Interpretation Act* (British Columbia), then each of those persons will be jointly and severally liable for all of the obligations of the Owner under this Covenant.

Deed and Contract

71. By executing and delivering this Covenant each of the parties intends to create both a contract and a deed executed and delivered under seal.

Schedules

Schedule "A" – "River's Crossing Native Plant Species Overview Assessment," by LANDECA Services Inc., dated June 27, 2012

Schedule "B" – "River's Crossing Significant Tree Overview Assessment," by LANDECA Services Inc., dated June 18, 2012

Schedule "C" – "Rendering Cottages and Gardens Area," by Neilson Digital, dated June 2012

Schedule "D" – "Full Extent of Site, River's Crossing," by Tinney and Associates and JE Anderson and Associates, dated June 2012

Schedule "E" – "Initial 3-Lot Subdivision Plan," by JE Anderson and Associates, dated July 31, 2012

Schedule "F" – "River's Crossing Tentative Plan of Final Subdivision," by JE Anderson and Associates, dated May 23, 2012

Schedule "G" – "Preliminary Cut and Fill Road A and B," by JE Anderson and Associates, dated June 4, 2012

Schedule "H" – "Preliminary Cut and Fill Road D and E," by JE Anderson and Associates, dated June 7, 2012

Schedule "I" – "38-Lot Bare Land Strata Plan," by JE Anderson and Associates, dated July 31, 2012

Schedule "J" – Building Scheme Requirements, 1150 Bear Mountain Parkway, June 2012

Schedule "K" – "Sketch of Land Exchange," by JE Anderson and Associates, dated July 31, 2012

Schedule "L" – "7-Cottage Building Strata Plan," by JE Anderson and Associates, dated July 31, 2012

As evidence of its agreement to be bound by the above terms of this Covenant, the parties have executed and delivered Part 1 of *Land Title Act* Form C and Form D which is attached hereto and forms part of this Covenant.

CONSENT AND PRIORITY

RECITALS:

- A. 0869189 B.C. Ltd. (the "Owner") is the registered owner of the following lands:

Parcel Identifier: 026-808-412

Strata Lot 1, Section 4, Range 3 West and Sections 4 and 5,

Range 4 West, Highland District, Strata Plan VIS6103

together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V

and

Parcel Identifier: 025-824-708

Lot D, Section 4, Range 3 West and Sections 4 and 5,

Range 4 West, Highland District, Plan VIP76077,

Except Part in Strata Plan VIS6103 (Phase 1)

(collectively, the "Lands");

- B. The Owner granted Bancorp Balanced Mortgage Fund Ltd. (Inc. No. BC0567642 (the "Prior Chargeholder") a mortgage which was registered against the titles to the Lands in the Victoria Land Title Office under number CA1637092, as modified by CA2374112 and as extended by CA2392040 and an assignment of rents which was registered against the titles to the Lands in the Victoria Land Title Office under number CA1637093, as modified by CA2374113 and as extended by CA2392041 (collectively, the "Prior Charges");

- C. The Owner granted to the District of Highlands (the "Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and

- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged), the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charges and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Lands with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the titles to the Lands before registration of the Prior Charges.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C and Form D which is attached hereto and forms part of this Agreement.

DRAFT

CONSENT AND PRIORITY

RECITALS:

- A. 0869189 B.C. Ltd. (the "Owner") is the registered owner of the following land:

Parcel Identifier: 026-808-439

Strata Lot 2, Section 4, Range 3 West and Sections 4 and 5,

Range 4 West, Highland District, Strata Plan VIS6103

together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V

(the "Land");

- B. The Owner granted Bancorp Balanced Mortgage Fund Ltd. (Inc. No. BC0567642 (the "Prior Chargeholder") a mortgage and as assignment of rents which were registered against the title to the Land in the Victoria Land Title Office under numbers CA2392040 (extension of CA1637092) and CA2392041 (extension of CA1637093) respectively (collectively, the "Prior Charges");

- C. The Owner granted to the District of Highlands (the "Subsequent Chargeholder") a Section 219 Covenant to which this Priority is attached ("Subsequent Charge"); and

- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

This Priority Agreement is evidence that in consideration of \$1.00 paid by the Subsequent Chargeholder to the Prior Chargeholder (the receipt and sufficiency of which is hereby acknowledged), the Prior Chargeholder grants to the Subsequent Chargeholder priority over the Prior Charges and the Prior Chargeholder covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interests of the Subsequent Chargeholder in and under the Subsequent Charge are the same as if the Subsequent Charge had been executed, delivered and registered against the title to the Land before registration of the Prior Charges.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C and Form D which is attached hereto and forms part of this Agreement.

[Schedules "A" to "L" are to be attached]

END OF DOCUMENT

DRAFT