

THE BRITANNIA COMMUNITY SERVICES DEVELOPMENT FUND TRUST

THIS AGREEMENT made this ● day of ●, 2002.

BETWEEN:

The Britannia Community Services Centre Society, of the City of
Vancouver, in the Province of British Columbia, Canada
(the "Settlor")

AND:

The Britannia Community Services Foundation, of the City of
Vancouver, in the Province of British Columbia, Canada
(the "Original Trustee")

WHEREAS:

A. The Settlor wishes to establish an irrevocable trust for the benefit of the Purposes referred to in this Agreement, to be known as the "Britannia Community Services Development Fund Trust" (the "Trust"); and

B. The Trustee has agreed to hold and stand seized and possessed of the Trust Fund upon the terms and conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT THE PARTIES HERETO HAVE AGREED AS FOLLOWS:

1. SETTLEMENT OF TRUST FUND

1.1 Settlement of Trust Fund

The Trustee acknowledges receipt of the Settlement Amount from the Settlor.

1.2 Trust Irrevocable

This Agreement is intended by the parties and is hereby declared to be irrevocable.

2. DEFINITIONS

2.1 Definitions

In this Agreement, including, without limitation, this section, unless the context otherwise requires or it is otherwise specifically provided:

- (a) "Agreement" means this Trust Agreement and any amendment to it and any instrument supplemental or ancillary to it and any amendment to any such instrument;

- (b) “**Termination Date**” means a future date chosen at any time by the Trustee;
- (c) “**Person**” includes individuals, trusts, estates, firms, corporations, companies, partnerships, syndicates, unincorporated associations, foundations, organizations, or entities;
- (d) “**Purposes**” means the development of [insert formal legal description], acquisitions of real or other property for the benefit of the Settlor, and the funding of undertakings initiated by the Settlor deemed by the Trustee to be of special benefit to the community served by the Settlor; and
- (e) “**Relevant Jurisdiction**” means the Province of British Columbia, Canada;
- (f) “**Settlement Amount**” means the sum of \$ in Canadian currency paid by the Settlor to the Trustee;
- (g) “**Trustee**” means the Original Trustee and includes appointed or substituted trustees and includes, without limitation, more than one trustee; and
- (h) “**Trust Fund**” means:
 - (i) the Settlement Amount paid to the Original Trustee;
 - (ii) all other property which is acquired at any time by the Trustee; and
 - (iii) all capital accretions and income arising from all property referred to in paragraphs (i) and (ii) above.

3. DISPOSITIVE PROVISIONS

3.1 Acceptance of Trusts

The Trustee shall hold and stand possessed of the Trust Fund in accordance with the provisions of this Agreement.

3.2 Distributions of Income and Capital Before Termination Date

Subject to the terms and conditions of this Agreement, until the Termination Date the Trustee may:

- (a) invest the capital of the Trust Fund;
- (b) pay or apply the income of the Trust Fund, net of administration expenses, to the Britannia Community Services Centre Society; and
- (c) pay or apply from time to time all or any part of the capital of the Trust Fund for the Purposes as the Trustee in its discretion considers appropriate.

3.3 Distribution on Termination Date

On the Termination Date, the Trustee will distribute the Trust Fund then remaining to the Britannia Community Services Centre Society, or its successor. In the event the Britannia Community Services Centre Society does not exist on the Termination Date, then the Trustee will distribute the Trust Fund then remaining to such charity or charities carrying on work of a similar nature in the Lower Mainland of British Columbia as are "qualified donees" under the *Income Tax Act*, as the Trustee in its discretion shall decide.

3.4 Distributions or Transfers from Trust Fund

Any distributions or transfers to be made from the Trust Fund shall be made subject to and after paying or providing for the payment of the debts and liabilities properly chargeable to the Trust Fund.

3.5 No Reversion to Settlor

Further, notwithstanding any other provision of this Agreement, no part of the Trust Fund shall, in any event, revert to the Settlor or to any person from whom it or property for which it was substituted within the meaning of subsections 75(2) and 248(5) of the *Income Tax Act* (Canada) was directly or indirectly received.

4. TRUSTEE POWERS

4.1 Power to Sell

The Trustee may sell, exchange, lease, grant any option, or otherwise alienate or dispose of any property of the Trust Fund for such consideration and upon such terms and conditions as it thinks fit and it may execute and deliver all deeds or other instruments to make good and sufficient title thereto and to give full and valid discharges therefor.

4.2 Power to Retain

The Trustee may retain any property forming part of the Trust Fund in the actual state or condition in which the same is received by the Trustee for so long as the Trustee thinks fit.

4.3 Power to Invest

The Trustee shall have absolute discretion in the investment, reinvestment and management of the Trust Fund with respect to any particular investment or any scheme of investment, including investments in mutual funds, common trust funds, unit trusts and other similar investments, notwithstanding that any such investment may not be authorized by law for trustees.

4.4 Power to Retain Experts

The Trustee may engage such Persons as it considers advisable to assist in the management of the Trust Fund including, without limitation, an agent, lawyer, accountant, financial or investment advisor or manager, broker, real estate agent, auctioneer, surveyor, valuer, appraiser

or insurance advisor. The Trustee may delegate to and rely upon such Persons as the Trustee deems advisable from time to time and pay to such Persons out of the Trust Fund, charged first to income and any balance to capital, any fees or charges thereby incurred.

4.5 Power to Borrow

The Trustee may borrow on behalf of the Trust Fund sums of money for any purpose whatsoever, which moneys may be repayable with such interest or without interest as the Trustee determines and the Trustee may mortgage, pledge or charge the income and/or capital of the Trust Fund (both present and future) to secure the payment of any money so borrowed. The Trustee may execute and deliver under seal or otherwise such instruments evidencing the indebtedness and the security so given which they consider necessary or desirable.

4.6 Power to Hold Trust Fund in Names of Nominee or in Bearer Form

The Trustee may hold the whole or any part of the Trust Fund in the name or names of any nominees of the Trustee or in bearer form and deposit with any such nominee or any custodian any property or documents of title in respect of any property forming part of the Trust Fund.

4.7 Power to Deal with Securities

The Trustee may vote upon or in respect of any shares, securities, bonds, notes or other evidence of interest in or obligations of any corporation, company or other entity (and issue proxies in respect thereof), whether or not affecting the security or the apparent security of the Trust Fund.

4.8 Power to Determine Capital and Income

Unless otherwise expressly provided or required by applicable law, the Trustee shall determine whether any property received by it as Trustee shall be treated as income or capital and whether any outgoings or liabilities shall be charged against income or capital for the purposes of any one or more of the trusts, powers, and provisions contained in this Agreement or implied by law.

4.9 Power to Allocate Assets in Specie

In setting aside any fund, or making any division or distribution of the Trust Fund either wholly or in part, the Trustee may:

- (a) fix the value of the Trust Fund or any share thereof; and
- (b) divide, set aside or pay over in specie any asset forming part of the Trust Fund at the time of such division or payment as it sees fit, at such valuation as the Trustee shall fix, taking into account any deduction or accretion which it judges appropriate having in mind future contingencies, expectations, liabilities or credits relevant to such asset including, without limitation, any tax liability or credit.

4.10 Power to Institute or Defend Proceedings at Law

The Trustee may institute and defend proceedings at law in any way relating to or arising out of the affairs of the Trust, the Trust Fund, and this Agreement and proceed to the final determination thereof or compromise the same as they consider advisable.

4.11 Banking Arrangements

The Trustee may appoint from time to time any bank, trust company or other company inside the Relevant Jurisdiction to be the banker or one of the bankers for the purposes of the Trust Fund and from time to time may revoke any such appointment.

4.12 Power to Indemnify

The Trustee may indemnify and enter into any indemnity in favour of any former Trustee or other Person in respect of any actual, contingent or prospective liability arising in respect of the Trust Fund or otherwise pursuant to this Agreement. The Trustee may apply the whole or any part of the Trust Fund by way of mortgage, pledge or otherwise as security for such indemnity.

4.13 Exercise of Powers and Discretion

In addition, all of the powers and discretions conferred upon the Trustee by this Agreement and by law shall be exercised by it in its absolute discretion.

5. INDEMNITIES

5.1 Liability of Trustee

A Trustee shall only be liable, answerable and accountable for its own actual fraud, wilful default or gross negligence. Subject to the foregoing, no Trustee shall be liable for any loss or damage which may occur to the Trust Fund or any part thereof (including any company, corporation, partnership or other entity whose shares or ownership interests are comprised directly or indirectly in the Trust Fund) or the income thereof at any time from any cause whatsoever, including:

- (a) the exercise or failure to exercise of a discretion or power, or the refusal or failure to concur in the exercise of a discretion or power;
- (b) the failure to attend to, interfere with, or inquire into the management of corporations, companies and other entities, the shares or other ownership interests of which form part of the Trust Fund, including without limitation;
 - (i) the reliance on information given at meetings or otherwise by the management of such corporations, companies and other entities;
 - (ii) the failure to act upon any information received from inquiring into the management of such corporations, companies, or other entities, or otherwise; and

- (iii) the failure to require the management of any such corporations, companies or other entities to consult and inform the Trustee so that the Trustee may intervene if necessary to safeguard the interests of the Trust Fund;
- (c) the reliance in good faith upon the opinion or advice of counsel as to the interpretation of this Agreement in any respect, or as to any other issue that may arise; or
- (d) the reliance in good faith upon the opinion or advice of any other professional Person in a matter apparently falling within his professional expertise.

Every Trustee shall be entitled, in the purported exercise of its duties and discretions hereunder (including without limitation the management or administration of or the performance of other services to any company, corporation, partnership or other entity whose shares or ownership interests are comprised directly or indirectly in the Trust Fund), to be indemnified out of the Trust Fund against all expenses and liabilities notwithstanding that:

- (i) such exercise constituted a breach of such Trustee's duties; or
- (ii) proceedings are brought by any Person in respect of an alleged breach of duty by such Trustee,

unless it is established that such breach of duty was brought about by such Trustee's own actual fraud, wilful default or gross negligence.

All indemnities, protections and exculpations granted by this Agreement shall extend to each current and former director, officer or employee of any Trustee and shall be in addition to all rights to indemnity granted or implied by law.

5.2 Corporate Trustee's Exercise of Discretion

Any Trustee who is a corporation may exercise or concur in the exercise of any discretion or power conferred in this Agreement or conferred by law on the Trustees by a resolution of such corporation, by its board of directors, or by its governing body. Such Trustees may delegate the right and power to exercise or concur in the exercise of any such discretion or power to any one or more of its directors, officers or employees or to such other Person or Persons as such Trustee shall think proper.

6. TRUSTEES' ACCOUNTS

6.1 Accounts

The Trustee shall keep such books, records and accounts as are necessary and appropriate to document the assets and transactions of the Trust Fund.

7. GOVERNING LAW

7.1 Governing Law

Subject to any express provision to the contrary in this Agreement, this Agreement shall be construed and take effect in accordance with the laws of the Relevant Jurisdiction, the courts of which shall be the forum for the administration hereof.

7.2 Severability

If any provision or part of this Agreement is invalid or unenforceable for any reason, this shall not affect the validity or enforceability of any other provision or part. Each and every provision and part of this Agreement shall be severable from every other provision or part and shall be valid and enforceable and shall be given effect to the extent permitted by law.

8. NOTICE AND DISCLOSURE

8.1 Notice

Any notice under the terms and conditions of this Agreement may be given to a Person by any of the following methods and, in respect of the following methods, shall be deemed to be duly given as follows:

- (a) upon receipt, if delivered personally;
- (b) on the seventh day after the date of sending, if sent by regular mail to the last known address of the Person entitled to receive such notice as shown in the records of the Trustee and whether or not actually received; or
- (c) at the time when the appropriate confirmation is received, if sent by telecopier or facsimile sending machine or by electronic mail; to the last known telecopier number or facsimile number or electronic mail address of the Person entitled to receive such notice as shown in the records of the Trustee.

8.2 Notice to Trustees

Notwithstanding section 8.1, a notice hereunder to a Trustee shall only be effective as and when actually received by such Trustee.

8.3 Change in Notice Period

Notwithstanding any other provision of this Agreement, any notice period required to be given under the terms of this Agreement may be reduced or dispensed with by agreement between the Person(s) required to give such notice and the Person(s) entitled to receive it.

9. APPOINTMENT, REMOVAL AND RESIGNATION OF TRUSTEES

9.1 Appointment of Trustees

The power of appointment of:

- (a) one or more new Trustees, and
- (b) one or more Trustees in the place of any removed Trustee or any Trustee resigning or vacating his trusteeship,

shall be exercised in writing by the Trustee. Any Trustee appointed under this power must be within the Relevant Jurisdiction. For the purposes of this section, the jurisdiction of an individual who is a Trustee shall be the jurisdiction where such individual Trustee resides and the jurisdiction of a Trustee who is a corporation shall be the jurisdiction where such corporate Trustee maintains its place of business, or if it maintains more than one place of business, then where it maintains the place of business through which it carries out its duties as a corporate Trustee in respect of the Trust. Upon appointing a successor Trustee, the office of the Trustee being so replaced shall be deemed to be automatically determined and vacated and such Trustee shall be discharged from the trusts hereof. Such appointment shall be deemed to operate so as to vest all of the property forming the Trust Fund in the successor Trustee(s) jointly with the remaining Trustee(s), if any.

9.2 Resignation of Trustees

Any Trustee may at any time resign the trusteeship on giving not less than thirty (30) days written notice addressed to the Person(s) at the relevant time entitled to appoint new Trustees pursuant to section 9.1. Upon the expiration of the said notice period, a retiring Trustee shall have no responsibility for the trusts hereof except to do what is reasonably necessary to transfer the Trust Fund into the name(s) of or under the control of the successor Trustee(s) and shall not be liable for any acts of the Trustee which take place after the expiration of the notice period. Notwithstanding the foregoing, prior to the resignation of a sole Trustee, a new Trustee must be appointed in accordance with section 9.1.

9.3 Removal of Trustees

Any Trustee may be removed for any reason whatsoever by the Persons(s) entitled at the relevant time to appoint new Trustees pursuant to section 9.1. The removal and replacement of a Trustee shall be effective upon fifteen (15) days written notice to the Trustee being removed.

9.4 Indemnification of Retiring or Removed Trustee

A retiring or removed Trustee shall be entitled to require and receive from each continuing Trustee or new Trustee an indemnity in the terms described in section 4.12 of this Agreement.

Any Trustee shall have the right on retirement or removal or upon otherwise ceasing to be a Trustee or upon distribution or withdrawal of assets forming part or all of the Trust Fund, unless otherwise indemnified to the Trustee's satisfaction, to withhold such assets as the Trustee shall in

good faith consider necessary on account of liabilities whether vested, contingent or otherwise to which he or it may as Trustee be subject or otherwise in order to satisfy his or its rights of indemnification granted by this Agreement or by law.

9.5 Notice of Changes in Trusteeship

Notices of all changes in the trusteeship shall be attached to this Agreement as Schedule "A" and shall be signed by the surviving, continuing and new Trustees. Every such notice shall be sufficient evidence as to the identity of the Trustees for the time being to any Person having dealings with the Trustees.

10. AMENDMENTS TO TRUST AGREEMENT

10.1 Amendments

This Agreement may be amended in any manner whatsoever from time to time by [•] provided further that no such amendment shall:

- (a) increase or extend the obligations, liabilities or responsibilities of the Trustee without the consent of the Trustee;
- (b) take effect if it would be regarded as having the effect of revoking this Agreement; or
- (c) amend or delete the Purposes.

11. EXECUTION OF TRUST AGREEMENT

11.1 Execution

This Agreement may be executed in counterparts, each of which when executed shall be deemed to be an original, and all of which together shall constitute the same Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

THE CORPORATE SEAL of THE)
 BRITANNIA COMMUNITY)
 SERVICES CENTRE SOCIETY was)
 hereunto affixed in the presence of:)
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C/S

THE CORPORATE SEAL of THE)
BRITANNIA COMMUNITY)
SERVICES FOUNDATION was)
hereunto affixed in the presence of:)
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