

TERMS OF THE INSTRUMENT - PART 2

THIS AGREEMENT dated this XXX day of XXX, 20XX.

BETWEEN

(*) NAME OF OWNER
(address, including postal code)
(hereinafter called the "Grantor")

AND

FRASER VALLEY REGIONAL DISTRICT, a
body corporate duly incorporated under the laws of
the Province of British Columbia, and having its
offices at 1-45950 Cheam Avenue, Chilliwack,
B.C., V2P 1N6

(hereinafter called the "Regional District")

WHEREAS The Grantor is the registered owner of ALL AND SINGULAR that certain parcel or tract of land and premises situated in the Fraser Valley Regional District in the Province of British Columbia, and legally described as:

Parcel Identifier: *
Legal Description: *

AND WHEREAS the Grantor has applied to the Regional District for a building permit for a single family dwelling on a lot that existed prior to the adoption of the Fraser Valley Regional District Floodplain Management Bylaw 0681, 2005 in an area that is subject to flooding and protected by the Dewdney Dike;

AND WHEREAS the Floodplain Management Bylaw permits the construction of a single family dwelling on the Lands at an elevation that does not comply with the flood construction level requirements of the Bylaw, subject to certain conditions including the granting of a covenant to the Regional District;

AND WHEREAS Section 219 of the *Land Title Act* provides that there may be registered as a charge against the title to any lands a covenant in favour of a local government including provisions in respect of the use of a building on or to be erected on land, and that land is to be built on in accordance with the covenant, or is not to be built on except in accordance with the covenant;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of ONE (\$1.00) DOLLAR of lawful money of Canada and other good and valuable consideration provided by the Regional District to the Grantor, the receipt of which is hereby acknowledged, the Grantor does hereby covenant and agree with the Regional District under Section 219 of the *Land Title Act* as follows:

1. In this Agreement:

"Building" means the single family dwelling, the construction of which is authorized by the Building Permit;

"Building Permit" means Fraser Valley Regional District Building Permit No. (* - insert number), issued for the construction of the Building;

"Habitable Area" means any enclosed space within a building with headroom greater than 1.5 metres and includes any room or space within a building or structure that is or can be used for dwelling purposes, human occupancy, or storage of goods, but does not include an entrance foyer up to 12 square metres, or an attached garage with no interior partitioning walls and not exceeding 110 square metres of floor area;

"Natural Boundary" has the meaning prescribed by the *Land Act*; and

"Standard Dike" has the meaning prescribed by the Fraser Valley Regional District Floodplain Management Bylaw 1669, 2022.

2. The Grantor agrees and covenants that hereafter,

- a. No part of the Building shall be constructed, reconstructed, moved, extended or located within ___ metres, measured horizontally, of the Natural Boundary of ___ (name of watercourse) ;
- b. No Habitable Area in the Building shall be located at an elevation such that the underside of the floor system or top of concrete slab supporting the area is less than 3.3 metres above the highest ground elevation measured at the perimeter of the Building (the "Required Elevation) nor less than 5.2 metres GSC.
- c. The Required Elevation may be achieved by structural elevation of the Habitable Area, or by adequately compacted landfill on which the Building is to be constructed or located or by a combination of both structural elevation and landfill. Where landfill is used to raise the natural ground elevation to the Required Elevation, the face of the landfill slope shall be adequately protected against erosion from flood flows; and

- d. In the case of a mobile, modular or manufactured home or unit, the ground level or top of concrete or asphalt pad on which it is located shall be no lower than the Required Elevation.
3. IT IS UNDERSTOOD AND DECLARED by the Grantor that:
 - a. There is a potential flood danger to the Lands;
 - b. The Required Elevation is lower than the level to which flooding could occur during a one-in-200 year flood in the area of the Lands; and
 - c. The Regional District has not represented to the Grantor, or any other person, that the Lands or any portion thereof, any building constructed or placed thereon or the contents thereof will not be damaged by flooding whether or not the provisions of this Covenant are complied with.
4. The covenants set forth herein shall charge the Lands pursuant to Section 219 of the Land Title Act and shall be covenants the burden of which shall run with the Lands. It is further expressly agreed that the benefit of all covenants made by the Grantor shall accrue solely to the Regional District and that this Covenant may be modified by agreement of the Regional District and the Grantor, or discharged by the Regional District, pursuant to the provisions of Section 219 (9) of the Land Title Act.
5. The Grantor on behalf of himself and his heirs, executors, administrators, successors and assigns, acknowledges that the Regional District does not represent to the Grantor, or any other person, that any building, mobile, modular or manufactured home or unit, improvement, chattel or other structure, including the contents or occupants of any of them, built, constructed or placed on the lands, will not be damaged or injured by flooding or erosion.
6. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, with full knowledge of the potential flood or erosion danger and in consideration of the approvals given by the Regional District, hereby:
 - a. agrees to indemnify and to save harmless the Regional District and its employees, officers, directors, servants or agents from all loss, damage, costs, actions, suits, debts, accounts, claims and demands which the Regional District or any of its employees, officers, directors, servants or agents, may suffer or incur or be put to arising out of or in connection with any breach of any covenant or agreement on the part of the Grantor or his heirs, executors, administrators, successors and assigns contained in this Agreement, or arising out of or in connection with any personal injury, death or loss or damage to any building, mobile, modular or manufactured home or unit, improvement, chattel or other structure, including the

contents of any of them, built, constructed or placed on the Lands caused by flooding, erosion or some such similar cause; and

- b. does remise, release and forever discharge the Regional District and its employees, officers, directors, servants or agents from all manner of actions, causes of action, suits, debts, accounts, covenants, contracts, claims and demands which the Grantor or any of his heirs, executors, administrators, successors and assigns may have against the Regional District and their employees, officers, directors, servants or agents for and by reason of any personal injury, death or loss or damage to the Lands or to any building, mobile, modular or manufactured home or unit, improvement, chattel or other structure, including the contents of any of them, built, constructed or placed on the lands caused by flooding, erosion or some such similar cause.
7. Subject to the provisions of Section 219 of the *Land Title Act*, the Grantor's covenants contained in this Agreement shall burden and run with the Lands and shall enure to the benefit of and be binding upon the Grantor, his heirs, executors, administrators, successors and assigns and the Regional District and their assigns.
8. Nothing in this Agreement shall prejudice or affect the rights, powers and remedies of the Regional District in relation to the Grantor, including his heirs, executors, administrators, successors and assigns, or the Lands, under any law, bylaw, order or regulation or in equity, all of which rights, powers and remedies may be fully and effectively exercised by the Regional District as if this Agreement had not been made by the parties.
9. The Grantor will do or cause to be done at his expense all acts reasonably necessary for the Regional District to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Regional District and those specifically approved in writing by the Regional District.
10. The Grantor shall do or cause to be done all things and execute or cause to be executed all documents and give such further and other assurance which may be reasonably necessary to give proper effect to the intent of this Agreement.
11. Whenever the singular or masculine or neuter is used herein, the same shall be construed as including the plural, feminine, body corporate or politic unless the context required otherwise.
12. If any section or any part of this Agreement is found to be illegal or unenforceable, then such sections or parts shall be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, shall be unaffected thereby and shall 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.

13. This agreement shall be interpreted according to the laws of the Province of British Columbia.
14. Where there is a reference to an enactment of the Regional District or the Province of British Columbia in this agreement, that reference shall include a reference to any subsequent enactment of the Province of British Columbia or the Regional District of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have executed this covenant by executing, and by causing their respective seals to be affixed personally or under the hands of their proper officers duly authorized in that behalf, on Form C which forms and constitutes a part hereof. (**or Forms C and D if more than one page***)

END OF DOCUMENT