

FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

1. **APPLICATION:** (Name, address, phone number and signature of applicant, applicant’s solicitor or agent)

2. **PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:**

(PID) (LEGAL DESCRIPTION)

[INSERT] [INSERT]

3. **NATURE OF INTEREST:**

<i>DESCRIPTION</i>	<i>DOCUMENT REFERENCE</i>	<i>PERSON ENTITLED TO INTEREST</i>
SEE SCHEDULE		

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

- | | | |
|---------------------------------|-------------------------------------|--|
| (a) Filed Standard Charge Terms | <input type="checkbox"/> | D.F. No. |
| (b) Express Charge Terms | <input checked="" type="checkbox"/> | Annexed as Part 2 |
| (c) Release | <input type="checkbox"/> | There is no Part 2 of this instrument. |

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. **TRANSFEROR(S):**

SEE SCHEDULE

6. **TRANSFeree(S):**

CORIX MULTI-UTILITY SERVICES INC. (Inc. No. BC0560353), 1160 – 1188 West Georgia Street, Vancouver, BC V6E 4A2

7. **ADDITIONAL OR MODIFIED TERMS:** N/A

8. **EXECUTIONS(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.

Execution Date

Officer Signature

Y	M	D
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Party(ies) Signature(s)

[DEVELOPER/TENANT]
by its authorized signatory(ies)

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.

Execution Date

Officer Signature

Y	M	D

Party(ies) Signature(s)

CORIX MULTI-UTILITY SERVICES INC.
(Inc. No. BC0560353)
by its authorized signatory(ies)

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.

Execution Date

Officer Signature

Officer Signature

Y	M	D

Party(ies) Signature(s)

As to Priority:
[DEVELOPER'S/TENANT'S BANK]
by its authorized signatory(ies)

Name:

As to Priority:
[Such other parties that need to grant priority, if any]
by its authorized signatory(ies)

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 E**

SCHEDULE

Page 4 of 16 pages

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

3. NATURE OF INTEREST:*

<i>DESCRIPTION</i>	<i>DOCUMENT REFERENCE (page and paragraph)</i>	<i>PERSON ENTITLED TO INTEREST</i>
Statutory Right of Way over leased premises (see Lease No. _____)	Entire Instrument	Transferee
Section 219 Covenant over leased premises (see Lease No. _____)	Page _____, Paragraph _____	Transferee
Priority Agreement granting priority over Mortgage ▼ and Assignment of Rents ▼	Page _____, Paragraph _____	Transferee
[Additional Priority Agreement, if necessary]	Page _____, Paragraph _____	Transferee

5. TRANSFEROR(S):*

[insert name of Developer/Tenant under the applicable ground lease] [address]

[insert name of Developer's/Tenant's Bank, and such other parties that need to grant priority, if any]
[address]
(as to Priority)

STATUTORY RIGHT OF WAY and SECTION 219 COVENANT

BETWEEN:

**[insert name/address of Developer/Tenant
under the applicable ground lease]**

(the “**Grantor**”)

AND:

CORIX MULTI-UTILITY SERVICES INC.

(Inc. No. BC0560353)

1160 – 1188 West Georgia Street

Vancouver, British Columbia

V6E 4A2

(the “**Grantee**”)

AND:

SIMON FRASER UNIVERSITY

8888 University Drive

Burnaby, British Columbia

V5A 1S6

(“**SFU**”)

WHEREAS:

- A. The Grantor as lessee has entered into a ground lease (the “Lease”) with SFU as lessor in respect of the Grantor’s development of the Lands (as herein defined) which ground lease is registered in the Lower Mainland Land Title Office under No. **[insert]**;
- B. The Lands are located within the UniverCity community (the “**Community**”) on Burnaby Mountain in Burnaby, British Columbia, which is adjacent to SFU’s Burnaby campus;
- C. The Grantee owns and operates a centralized neighbourhood utility service the “**NUS**”) to provide thermal energy for space heating and domestic hot water (“**Thermal Energy**”) in respect of, *inter alia*, the Grantor’s development on the Lands;
- D. The right of way granted under this Agreement is necessary for the operation and maintenance of the Infrastructure (as herein defined) and the provision of Energy Services (as herein defined) in respect of, *inter alia*, the Grantor’s development on the Lands; and

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Form]

Error! Unknown document property name.

[Developer

- E. The Grantor has agreed to grant the Grantee a covenant against the Grantor's leasehold interest in the Lands in respect of the provision of Energy Services (as herein defined) to the Grantor's development on the Lands under Section 219 of the *Land Title Act* (British Columbia).

THEREFORE in consideration of the premises, the terms and conditions herein contained, ONE DOLLAR (\$1.00) now paid by the Grantee to the Grantor and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by the Grantor, the parties agree as follows:

1. Definitions. In this Agreement:

- (a) **"Building"** means the building(s) developed or to be developed by the Grantor on the Lands.
- (b) **"Business Day"** means any day that is not a Saturday, Sunday or a statutory holiday in British Columbia.
- (c) **"Energy Services"** means the provision of Thermal Energy via the Infrastructure.
- (d) **"Fees and Charges"** means all fees and charges established by the Grantee in accordance with Section 4 hereof, as amended and in effect from time to time and approved by the British Columbia Utilities Commission.
- (e) **"Grantee's Representatives"** means any person who is a Related Person to the Grantee and includes any officer, director, employee, agent, contractor, subcontractor, consultant or advisor of either the Grantee or any person who is a Related Person to the Grantee.
- (f) **"Infrastructure"** means, collectively, the Distribution System, the Energy Transfer Station and the Service Connection, and for such purposes:
 - (i) **"Distribution System"** means, collectively, the system of water pipes, fittings and ancillary components connecting the Grantee's physical, central thermal energy plant for the Community and other areas (including without limitation, the Grantor's development on the Lands) to the Service Connection;
 - (ii) **"Energy Transfer Station"** means the separate heat exchangers for space heating and domestic hot water (excluding domestic hot water storage tanks), energy meter including temperature sensors and flow meter, control panel and all pipes, fittings and other associated equipment which control the transfer, and measure Thermal Energy from the Distribution System, on the one hand, to the system of water pipes and heat and hot water delivery and storage equipment installed or to be installed by the Grantor in the Building; and

- (iii) “**Service Connection**” means the system of water pipes and all ancillaries and fittings necessary to connect the Building to the Distribution System via the Energy Transfer Station.
- (g) “**Lands**” means those lands and premises defined in Item 2 of the Form C Instrument General Part 1 of which this Agreement forms part.
- (h) “**person**” means an individual, corporation, body corporate, partnership, joint venture, association, society or unincorporated organization or any trustee, executor, administrator or other legal representative.
- (i) “**Related Person**”, in respect of any person, means:
 - (i) any affiliate of such person, within the meaning of the *Business Corporations Act* (British Columbia) or the *Canada Business Corporations Act* (Canada);
 - (ii) any associate of such person, within the meaning of *Canada Business Corporations Act* (Canada) or the *Securities Act* (British Columbia); and
 - (iii) any partnership, including a limited partnership, in which such person is a partner.

2.0 Statutory Right of Way. Pursuant to Section 218 of the *Land Title Act*, the Grantor hereby grants to the Grantee, for and until the expiry of the term of the Lease, a full and free uninterrupted statutory right of way over the Grantor’s leasehold interest in the Lands (the “**Statutory Right of Way Area**”), for the Grantee and the Grantee’s Representatives to enter onto the Statutory Right of Way Area at any time and from time to time to:

- (a) construct and install (including without limitation, excavate for such purposes), inspect, maintain, operate, repair, replace and remove the Infrastructure or any portion thereof within or on the Statutory Right of Way Area, including within the Building located on the Statutory Right of Way Area;
- (b) make and remove the Infrastructure service connections and connect and disconnect the Infrastructure service lines;
- (c) clear the Statutory Right of Way Area of any obstructions, including without limitation and to the extent applicable, trees or other vegetation, buildings, structures, foundations, pavements, improvements or obstructions which interfere with any of the rights granted to the Grantee herein;
- (d) install marking post(s) to mark the location of the Infrastructure or any portion thereof;

- (e) generally to do all acts necessary or incidental to the foregoing or to the business of providing Energy Services to the Building on the Lands and operating, maintaining and repairing the Infrastructure within or on the Statutory Right of Way Area; and
- (f) exercise any of the Grantee's other rights set out in this Agreement.

The Grantee agrees to act reasonably when exercising such rights and to use all reasonable efforts to minimize any disruption to the Grantor in connection with the exercise by the Grantee and the Grantee's Representatives of such rights.

2.1 Duties of Grantee. The Grantee covenants and agrees with the Grantor that:

- (a) the Grantee will undertake all activities in connection with the Infrastructure pursuant to this Agreement in a good and workmanlike manner and so as to cause no unnecessary damage or disturbance to the Lands or the Building;
- (b) when exercising its rights under this Agreement, the Grantee will minimize any interruption or disruption to the operations and activities of the Grantor on the Lands and in the Building; and
- (c) except in the case of an emergency situation (in which case no notice will be required), the Grantee will give the Grantor reasonable notice prior to commencing any work on the Lands in relation to the Infrastructure.

2.2 Covenants of the Grantor. The Grantor covenants and agrees with the Grantee that the Grantor will:

- (a) allow the Grantee to trim or, if necessary, cut down any tree or other growth on the Lands which in the opinion of the Grantee constitutes or may constitute a danger or obstruction to those using the Lands as permitted herein or to the Infrastructure;
- (b) permit the Grantee to bring on to the Lands all material and equipment, including motor vehicles, it requires in order to exercise any of the rights granted to the Grantee in this Agreement;
- (c) permit the Grantee for the period during which the Grantee accepts this grant but not beyond the day if ever on which the Grantee releases this grant, to peaceably hold and enjoy the rights hereby granted; and
- (d) execute all further documents or things whatsoever for the better assuring unto the Grantee of the statutory right of way hereby granted.

3. Section 219 Covenant. The Grantor acknowledges, covenants and agrees, pursuant to Section 219 of the *Land Title Act*, with the Grantee:

- (a) not to do or knowingly permit to be done on or within the Statutory Right of Way Area, including within the Building or any portion thereof located on the Statutory Right of Way Area, anything which interferes with or damages the Infrastructure or impairs the operation or otherwise adversely impacts the Infrastructure and the provision of Energy Services or creates any hazard. Such acts include, but are not limited to, the acts referred to in this Section 3;
- (b) not to make, place, erect, operate, use or maintain upon the Statutory Right of Way Area any building, structure, foundation, pavement, excavation, well, culvert, swimming pool, open drain or ditch, pond, pile or material, obstruction, equipment or thing, or to plant any vegetation which:
 - (i) interferes with or endangers the Infrastructure or the installation, construction, operation, maintenance, repair, removal, or replacement of the Infrastructure;
 - (ii) materially obstructs access by the Grantee or the Grantee's Representatives to the Infrastructure; or
 - (iii) creates any hazard by its operation, use, maintenance or existence on the Statutory Right of Way Area;
- (c) not, and will not permit any other person to diminish nor increase the soil cover over the Infrastructure or any portion thereof installed on, under or across the Lands, including without limiting the foregoing, will not construct or permit the construction of any open drains or ditches above, alongside or across any of the Infrastructure installed on, under or across the Lands, without the prior written consent of the Grantee;
- (d) not, and will not permit any other person to erect, place or install any pipe or other conduit within a distance of three (3) meters of the Infrastructure or any portion thereof, if such pipe or conduit or the material conveyed therein is reasonably likely to be vulnerable to damage or reduced operability or effectiveness from freezing, unless measures reasonably satisfactory to the Grantee are taken to adequately protect the pipe or conduit;
- (e) not to carry out blasting on or next to the Statutory Right of Way Area without the prior written consent of the Grantee and if such consent is granted, only in accordance with the written requirements of the Grantee;
- (f) not itself supply or install or allow any other person to install works similar to the Infrastructure or any other system that would supply Energy Services or domestic hot water and/or space heating to the Building or any portion thereof located on the Lands; and
- (g) to act reasonably and cooperate with the Grantee in connection with the provision by the Grantee of Energy Services to the building(s) on the Lands and, without

limiting the generality of the foregoing, the Grantor will ensure that the Grantee has reasonable access to the Infrastructure and any part thereof on the Statutory Right of Way Area at all times.

4. Fees and Charges. The Grantee will establish a schedule of Fees and Charges which will be payable by the Grantor and others in connection with the Grantee's provision of Energy Services, as approved from time to time by the British Columbia Utilities Commission. The Grantor will pay all taxes and charges payable on all such Fees and Charges.
5. Payment. The Grantor covenants and agrees with the Grantee that the Grantor and all persons deriving title from the Grantor will at all times pay to the Grantee the Fees and Charges (and any interest thereon) from time to time established by the Grantee and approved by the British Columbia Utilities Commission at the times and in the manner required for payment.
6. Timing of Payment / Late Charges. The Fees and Charges will be payable by the Grantor in accordance with the servicing/customer agreement to be entered into between the Grantor and the Grantee . If any such amount is not paid when due, the Grantor will be required to pay any late payment charge established by the Grantee in accordance with such agreement.
7. Certificate of Payment. Within 10 days of any written request by the Grantor, the Grantee will issue a written certificate to the Grantor or any lender to or purchaser from the Grantor, certifying the amount outstanding under this Agreement as of the date of the certificate. The Grantor will be required to pay in advance the Grantee's reasonable fee for the issuance of any such certificate.
8. Application for Service. The Grantor will connect each Building to the Infrastructure and will apply in advance to the Grantee for any connection to the Grantee's Infrastructure, using the form established by the Grantee for such purpose, and the Grantor will provide the Grantee with any information and documentation required by the Grantee in connection therewith.
9. Suspension of Service. The Grantee will have the right to temporarily suspend the provision of Energy Services to the Building in order to carry out any repairs or improvements in respect of the Grantee's Infrastructure, as determined by the Grantee in its absolute discretion, or in the event of fire, flood or other sudden emergency, provided that any interruption of service will be minimized as much as reasonably practicable. Whenever reasonably practicable, the Grantee will give notice of any such suspension and will restore service as soon as possible but in no event shall the Grantee be liable to the Grantor for any costs, losses or damages that the Grantor might suffer during the suspension of service.
10. No Requirement to do Works, pay Fees, etc. This Agreement does not in any way require the Grantee to provide any works or services whatsoever to the Lands or the

Building, to construct, install, inspect, clean, maintain, repair, replace or remove any works or improvements whatsoever within or in respect of the Lands or the Building, or to pay any fee or other amount whatsoever in connection with this Agreement, unless the Grantee is expressly required to do so under the terms of this Agreement or under any other agreement in writing.

11. Subdivision / Effect of Agreement. This Agreement and the rights herein granted will run with the Grantor's leasehold interest in the Lands and each part into which the Lands may be subdivided, whether by subdivision plan, strata plan or otherwise howsoever, and the term "Grantor" includes the owner of each leasehold interest in each subdivided portion of the Lands and the successors in title thereof. Without limiting the foregoing, any amount payable hereunder will run with the Grantor's leasehold interest in the Lands and each part into which the Lands may be subdivided. Notwithstanding any other provision of this Agreement, in the event that the Lands are subdivided by means of a leasehold strata plan pursuant to the *Strata Property Act*:
 - (a) the "Grantor" under this Agreement shall be the strata corporation created by the filing of such strata plan and the individual owners of the strata lots created by such strata plan shall have no obligations or liabilities under this Agreement other than as members of the strata corporation;
 - (b) the statutory right of way and section 219 covenant granted pursuant to this Agreement are intended to apply to and burden only the common property created by such strata plan and not at any time to burden any strata lot or the owner of any strata lot; and
 - (c) upon the request of and at the expense of the Grantor or any strata lot owner, the Grantee will execute and deliver in registrable form a discharge of this Agreement from any such strata lot.
12. Application to Strata Corporation. Without limiting anything set out in this Agreement, any strata corporation created in respect of any portion of the Lands will be a "Grantor" and will be bound by all of the terms and conditions of this Agreement and any common property created by any leasehold strata plan in respect of any portion of the Lands will remain as part of the "Lands" and will be subject to this Agreement.
13. Assessment of Strata Corporation. If at any time the Lands or any portion thereof are stratified by a leasehold strata plan, the Grantee may levy the Fees and Charges to the strata corporation created in respect of such strata plan and the strata corporation will pay the Fees and Charges so levied.
14. Grantee's Remedies. The Grantor hereby agrees that:
 - (a) The Grantee may, after having given the Grantor 48 hours prior written notice, discontinue providing Energy Services to the Building and/or to the Grantor if the Grantor:

- (i) fails to fully pay for any Energy Services provided to the Building on or before the due date for such payment; or
 - (ii) fails to provide or pay by the applicable date required any security deposit, equivalent form of security or guarantee or any requisite increase thereof;
- (b) The Grantee may, without having to give the Grantor notice, discontinue providing Energy Services to the Building and/or to the Grantor, if the Grantor:
- (i) refuses to provide reference information and identification acceptable to the Grantee when applying for service or at any subsequent time on request by the Grantee;
 - (ii) breaches the terms and conditions upon which service is provided by the Grantee, including without limitation, the terms and conditions of the applicable customer agreement;
 - (iii) breaches any material term or condition of this Agreement;
 - (iv) has defective pipes, appliances or service connections and fittings in any part or parts of the Building;
 - (v) uses the provided Thermal Energy in a manner that, in the opinion of the Grantee, may:
 - a. lead to a dangerous situation, or
 - b. cause undue or abnormal fluctuations in the temperature of the Infrastructure;
 - (vi) fails to make modifications or additions to the Grantor's equipment as required by the Grantee to prevent the danger or control the fluctuations described in sub-paragraph (v) above;
 - (vii) negligently or fraudulently misrepresents to the Grantee its use of Thermal Energy or the Thermal Energy load requirements of, or Thermal Energy volume consumed within and by, the Building;
 - (viii) terminates or causes the termination of the applicable customer agreement; or
 - (ix) stops consuming Thermal Energy in the Building,

and the Grantee will not be liable for any loss, injury or damage suffered by the Grantor by reason of the discontinuation of service as contemplated in Sections 14(a) and 14(b) above.

- (c) In addition to the above provisions for enforcement of the payments due under this Agreement, the Grantee may, at its option, bring or take legal action against the Grantor for payment in any court of competent jurisdiction.
 - (d) The Grantor will be liable and pay for all of the Grantee's costs in connection with the enforcement of this Agreement, including, without limitation, all legal fees and disbursements on a solicitor and own client basis.
15. Injunctive Relief. The Grantor acknowledges and agrees that, without limiting any other right or remedy of the Grantee, the Grantee may obtain from a court of competent jurisdiction injunctive relief in respect of any breach or anticipated breach by the Grantor of any of the Grantor's duties or obligations under this Agreement.
 16. Remedies Cumulative. All rights and remedies of the Grantee under this Agreement are cumulative and are in addition to and do not exclude any other right or remedy provided in this Agreement or otherwise allowed by law. All rights and remedies of the Grantee may be exercised concurrently, without the Grantee making any election, but will not give rise to duplicative liability of the Grantor.
 17. Amendment. Except as expressly set out herein, this Agreement may only be amended by an agreement in writing signed by the Grantee and the Grantor. No modification or amendment of any provision of this Agreement will be inferred from anything done or omitted by any of the parties except by an express agreement in writing duly executed and delivered by all of the parties.
 18. No Waiver. No condoning, excusing or overlooking of any default nor any delay in proceeding or failure to proceed in the case of any default under this Agreement will operate as a waiver of or otherwise affect in any way any rights or remedies under this Agreement or at law. No waiver of any rights or remedies will be inferred from anything done or omitted to be done by any party except by an express waiver in writing. No waiver in respect of any matter or thing will operate as a waiver in respect of any other matter or thing.
 19. Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of in force in the Province of British Columbia, which is the proper law hereof, and the courts of British Columbia will have the exclusive jurisdiction with respect to all matters arising under or in respect of this Agreement.
 20. Time of the Essence. Time is of the essence of this Agreement and will remain of the essence notwithstanding any extension of time given under or in connection with this Agreement.
 21. Notices. All notices under this Agreement must be given in writing and delivered in accordance with this provision. The parties agree that:

- (a) any notice to the Grantor may be sent to the Grantor's address according to Land Title Office records in respect of the Grantor's leasehold interest in the Lands or delivered to the Grantor; and
- (b) all notices to the Grantee must be sent to the Grantee at the address set out above or such other address as the Grantee may notify the Grantor in accordance with the terms hereof at any time and from time to time.

If any portion of the Lands is stratified by a strata plan (including a bare land strata plan), any notice in respect of such stratified lands will be sufficiently given if given to the strata corporation and it will not be necessary to give notice to all of the owners of strata lots within the strata plan. Notices will be sent by personal delivery, electronic transmission (including by fax) or by registered mail. Notices will be deemed to have been delivered (i) upon delivery, if delivered by hand, (ii) upon receipt, if sent by electronic transmission, or (iii) on the fifth Business Day after the mailing thereof, if sent by registered mail from a post office in British Columbia. In any court proceedings, any notice may be given in accordance with any requirements for service provided for pursuant to the Supreme Court Rules of the Province of British Columbia.

- 22. Grantee's Licences and Authorizations. The Grantee may grant to any other person a licence or other agreement, authorizing such person to exercise any right granted to the Grantee pursuant to this Agreement.
- 23. Assignment by Grantee. The Grantee may assign this Agreement provided any such assignee satisfies any requirements set out in Sections 218 and 219 of the *Land Title Act* (British Columbia). The Grantor hereby consents to any such assignment and agrees that upon the assignment of this Agreement by the Grantee, the Grantee will be released from any and all further duties and obligations arising under this Agreement which arise after the time of such assignment.
- 24. Further Assurances. The Grantor will execute and deliver any further agreement, document or instrument and do and perform any further act or thing as may be required by the Grantee at any time and from time to time in order to evidence or give full force and effect to the terms, conditions and intent of this Agreement.
- 25. Ownership of Infrastructure. Notwithstanding any degree of annexation or affixation, or rule of law or equity to the contrary, all components of the Infrastructure and additions or extensions thereto will be and remain the property of and vest in the Grantee.
- 26. Release of Grantor. For greater certainty, no person who has been "Grantor" will be liable for any breach of this Agreement occurring after such person has ceased to be an owner of, or a strata corporation with respect to, a leasehold interest of any part of the Lands.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Agreement by signing on the *Land Title Act* Form C and Form D attached hereto, and in the case of SFU, by signing below.

SFU as the registered owner of the Lands hereby consents to the statutory right of way and section 219 covenant granted pursuant to this Agreement (the “**Grantee’s Charges**”). In addition, SFU agrees that the Grantee’s Charges are derived from and in respect of the Grantor’s leasehold interest in the Lands pursuant to the Lease and in this regard, if such Lease is terminated and/or released and discharged from title to the Lands prior to the expiry of the original term of such Lease, SFU covenants and agrees to:

- (a) cause any replacement ground lease tenant to grant to the Grantee a replacement statutory right of way and section 219 covenant on substantially the same terms and conditions as contained in this Agreement over such tenant’s leasehold interest; or
- (b) if there is no replacement ground lease tenant, to grant to the Grantee a replacement statutory right of way and section 219 covenant over the Lands on terms and conditions satisfactory to SFU and the Grantee, both acting reasonably, provided that (i) it will not be unreasonable for SFU to require the terms and conditions of such replacement statutory right of way to be substantially different from those contained herein, and (ii) the term of such replacement statutory right of way will expire concurrently with the original term of the Lease,

in the event that the Grantee continues to own and operate the NUS at such time.

SIMON FRASER UNIVERSITY

Per: _____
Authorized Signatory

PRIORITY CONSENT

For One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by ● [Bank] (the “**Chargeholder**”), being the holder of Mortgage ● and Assignment of Rents ● (collectively, the “**Charges**”), hereby approves and consents to the granting of the Statutory Right of Way and the Section 219 Covenant (collectively, the “**Encumbrances**”) attached, and consents and agrees that the Encumbrances shall be binding upon the Chargeholder’s interest in or charge upon the leasehold interest in the Lands evidenced by Lease No. _____ and shall be encumbrances upon such leasehold interest in the Lands in priority to the Charges in the same manner and to the same effect as if the Encumbrances had been granted and registered against such leasehold interest in the Lands prior to the dating, execution and registration of the Charges and the advance of any monies thereunder.

IN WITNESS WHEREOF the Chargeholder has executed this priority agreement by causing its proper officers to sign the *Land Title Act* Form D attached hereto.

- END OF DOCUMENT -