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FB399487

FB399488

LAND TITLE ACT
FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

PAGE 1 of 7 pages

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

Robert H. Wynick
MACKENZIE FUJISAWA LLP
Barristers & Solicitors
1600 – 1095 West Pender Street
Vancouver, British Columbia V6E 2M6
(604) 689-3281

DYE & DURHAM

Signature of applicant, applicant's solicitor or agent
Robert H. Wynick

10388(023)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF TRANSFEREE: *
(PID) (LEGAL DESCRIPTION)

028-051-688

Lot 5, Section 1, Nanaimo District, Plan 87165

sm 2/10/2011 2:34:34 PM 2 1
Charge 2 \$146.80

3. NATURE OF INTEREST: *
DESCRIPTION

DOCUMENT REFERENCE
(Page and paragraph)

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Entire Document

Transferee

Priority Agreement over Mortgage
FB329411 and Assignment of Rents
FB329412

Page 7

Transferee

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

- (a) Filed Standard Charge Terms
- (b) Express Charge Terms
- (c) Release

- D.F. No.
- Annexed as Part 2
- 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): *

INSIGHT HOLDINGS LTD. (Incorp. No.BC0781305)
1600 – 1095 West Pender Street, Vancouver, British Columbia V6E 2M6
(the "Grantor")

CANADIAN WESTERN BANK
1201 Douglas Street, Victoria, British Columbia V8W 2E6
- as to priority over Mortgage FB329411 and Assignment of Rent FB329412


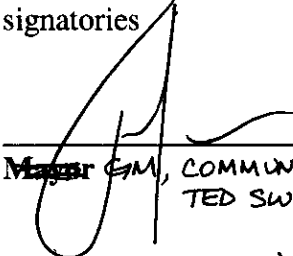
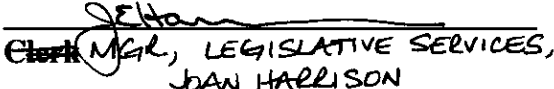
6. TRANSFEREE(S): *

CITY OF NANAIMO, 455 Wallace Street, Nanaimo, British Columbia, V9R 5J6
(the "Grantee")

GENERAL INSTRUMENT – PART 1

7. ADDITIONAL OR MODIFIED TERMS: *
N/A

8. EXECUTION(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:

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
 NANCY PETERSON Commissioner for taking Affidavits for British Columbia 455 Wallace Street Nanaimo, BC V9R 5J6	11	02	03	CITY OF NANAIMO by its authorized signatories  Mayor CM, COMMUNITY SAFETY + DEVELOP. TED SWABEY  Clerk MGR, LEGISLATIVE SERVICES, JAN HARRISON

OFFICER CERTIFICATION:

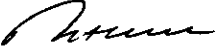
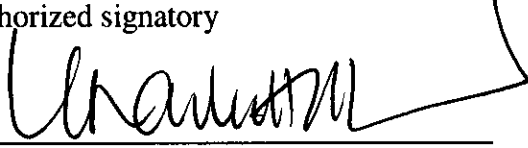


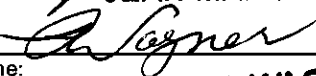
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Transferee Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
 <hr/> ROBERT H. WYNICK <i>Lawyer & Solicitor</i> McKENZIE FUJISAWA LLP 1600-1605 West Pender Street Vancouver, B.C. V6E 2M6 604-689-3281	11	1	20	INSIGHT HOLDINGS LTD. by its authorized signatory  <hr/> Name: Charles Koo
 <hr/> LESLIE JOHN A COMMISSIONER FOR TAKING AFFIDAVITS FOR BRITISH COLUMBIA #101 - 6475 METRAL DRIVE NANAIMO BC V9T 2L9 EXPIRY DATE : OCTOBER 31, 2013	11	1	21	CANADIAN WESTERN BANK by its authorized signatories  <hr/> Name: JEAN MARC JAQUIER  <hr/> Name: PATRICIA WAGNER

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 *Transferee Title Act* as they pertain to the execution of this instrument.

TERMS OF INSTRUMENT—PART 2

WHEREAS:

- A. The Grantor is the registered owner in fee simple of the lands and premises described in Item 2 of the General Instrument – Part 1 (the “Lands”).
- B. The Grantor has applied for rezoning of the Lands to permit the subdivision of the Lands and the development thereon of 16 residential dwelling units;
- C. The Grantee considers that it is in the public interest that the subdivision, development and use of the Lands be limited and the Grantor has offered to enter into this agreement to restrict the subdivision of the Lands and to not build upon the Lands as hereinafter set forth.
- D. Section 219 of the Land Title Act provides that a covenant, whether negative or positive in respect of the subdivision, use of land or use of a building on or to be erected on land, may be given to provide that the land is to be built on or used in accordance with a covenant or not to be used, built on or subdivided except in accordance with a covenant and a covenant in favour of a municipality may be registered as a charge against title to the land..

NOW THEREFORE, in consideration of the premises and covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree with the other as follows:

- 1. The Grantor covenants and agrees that:
 - (a) it will not subdivide or develop or use the Lands other than as a residential strata titled development consisting of no more than sixteen (16) strata lots;
 - (b) no building or structure constructed on the Lands will be used or occupied unless a strata plan has been filed with respect to that building;
 - (c) each strata plan to be deposited with respect to the Lands after the first strata plan must be a phased strata plan and consolidated with the existing strata plan;
 - (d) it will not remove any vegetation or construct any building or structure on the Lands, and will not apply to the Grantee for a building permit to construct any building or structure upon the Lands, unless and until a development permit has been issued by the Grantee that addresses to the satisfaction of the Grantee (i) site grading and fencing that respects and protects and wetland setback area adjacent to the Lands, (ii) a rain water management plan that preserves the pre-development flows and patterns from the Lands, and (iii) an erosion and sediment control plan, and (iv) landscaping requirements including in particular the installation of trees along the Bird Sanctuary Drive cul-de-sac frontage; and
 - (e) in developing and using the Lands, it will not construct any gates or other structure restricting vehicular access to and from the Lands.

2. The Grantor covenants and agrees to indemnify and save harmless the Grantee from any and all claims, causes of action, suits, demands, expenses, costs and legal fees whatsoever that anyone might have and to reimburse the Grantee for any expense that might be incurred by the Grantee as a result of a breach of the covenants under this agreement.
3. The Grantor and the Grantee agree that the enforcement of this agreement shall be entirely within the discretion of the Grantee and that the execution and registration of this covenant against the title to the Lands shall not be interpreted as creating any duty on the part of the Grantee to the Grantor or to any other person to enforce any provision or the breach of any provision of this agreement.
4. Nothing contained or implied herein shall prejudice or affect the rights and powers of the Grantee in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if the Agreement had not been executed and delivered by the Grantor.
5. The Grantor hereby releases and forever discharges the Grantee of and from any claim, cause of action, suit, demand, expenses, costs and legal fees whatsoever which the Grantor can or may have against the said Grantee for any loss or damage or injury that the Grantor may sustain or suffer arising out of a breach of the covenant under this agreement.
6. It is mutually understood, acknowledged and agreed by the parties thereto that the Grantee has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Grantor other than those contained in this agreement.
7. The Grantor agrees to execute all other documents and provide any other assurances necessary to give effect to the covenants contained in this agreement.
8. The Grantor shall pay the legal fees of the Grantee in connection with the preparation and registration of this agreement.
9. The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns that it will at all times perform and observe the requirements and restrictions hereinbefore set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective ownership of any interest in the Lands.
10. The restrictions and covenants herein contained shall be covenants running with the Lands and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be registered in the Victoria Land Title Office pursuant to Section 219 of the *Land Title Act* as covenants in favour of the Grantee as a first charge against the Lands.
11. This agreement shall enure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.

12. Wherever the expressions "Grantor" and "Grantee" are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C and Form D attached hereto.

CONSENT AND PRIORITY AGREEMENT

GIVEN THAT CANADIAN WESTERN BANK (the "Chargeholder") is the holder of Mortgage FB329411 and Assignment of Rents FB329412 (the "Charges") registered against the land legally described (the "Lands") in the s. 219 covenant to which this Agreement is attached (the "Covenant"),

This Consent and Priority Agreement is evidence that in consideration of payment to it of \$1.00 by the Grantee described in item 6 of the General Instrument – Part 1 to which this Agreement is attached (the "Transferee"), the Chargeholder agrees with the Grantee as follows:

1. The Chargeholder consents to the granting and registration of the Covenant and the Chargeholder agrees that the Covenant binds its interest in and to the Lands.
2. The Chargeholder grants to the Grantee priority for the Covenant over the Chargeholder's right, title and interest in and to the Lands and the Chargeholder postpones the Charges and all of its right, title and interest thereunder, to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charges.

As evidence of its agreement with the Grantee to be bound by this Consent and Priority Agreement, as a contract and as a deed executed and delivered under seal, the Chargeholder has executed and delivered this Agreement by executing the Form D to which this Agreement is attached and which forms part of this Agreement.

END OF DOCUMENT