

BC OnLine



BC OnLine Land Title Internet Service
Provided in co-operation with
Land Title and Survey Authority

LTSA - DOCUMENT RETRIEVAL

REQUESTED: 2007-12-19 15:20

CLIENT NAME: RE/MAX REAL ESTATE SERVICES AS
ADDRESS: REALTY LTD.
410-650 WEST 41ST AVE NORTH OFFICE TOWER
VANCOUVER BC V5Z 2M9

PICK-UP INSTRUCTIONS:

USER ID: PA74746 APPLICATION NO.: BV199315 NW PAGES: 129
ACCOUNT NO.: 199822
REFERENCE NO.: D55392 FOLIO NO.: RCROWE

REMARKS:

BC OnLine Land Title Fax Service

Help Desk Victoria (250) 953-8200
In B.C. 1-800-663-6102
Administration Office ... (250) 953-8250
Fax Number (250) 953-8222

Persons who need to rely on a plan for legal purposes must examine the official version at the Land Title Office in which the plan is deposited.

The bylaw and common property sheets attached to strata plans have been repealed. Information regarding the bylaws and/or dealings affecting the common property of strata plans must be obtained from the general index and/or common property index on ALTOS. Refer to the BC OnLine user guide for access information.

LAND TITLE ACT FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1

30 MAY 2003 11 51

BV199316

(This area for Land Title Office use)

Page 1 of 129 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
 JOHN G. R. THIRD, Fraser Milner Casgrain LLP
 1500 - 1040 West Georgia Street, Vancouver, BC
 V6E 4H8 Phone: (604) 443-7103 (LTO CLIENT #11709) DYE/DURHAM CLIENT No. 11061
2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*
- | | |
|-------------|--------------------------------------------------------------------------------------------------------------------------|
| (PID) | (LEGAL DESCRIPTION) |
| 025-627-635 | Lot A, DLs 102 and 211, Gp 1, NWD, Plan BCP4762 |
| 023-580-721 | Lot 1 Except: part subdivided by Plan BCP3161, DL31, 101, 102, 141, 144, 147, 209, 210 and 211, Gp 1, NWD, Plan LMP30518 |
3. NATURE OF INTEREST:*
- | | | |
|----------------------------------------------------|--------------------------------------------|---------------------------------------------------------------------------------------------|
| DESCRIPTION | DOCUMENT REFERENCE (PAGE AND PARAGRAPH) | PERSON ENTITLED TO INTEREST |
| Ground Lease over Lot A | Entire Instrument | Transferee |
| Easement over Remainder of Lot 1, Plan LMP30518 | Page 52, paragraph 29.01 | 02 03/05/30 14:49:58 04 LM 462539 CHARGE Registered Owner of Lease \$110.00 BV 199315 |
4. TERMS: Part 2 of this instrument consists of (select one only):
- (a) Filed Standard Charge Terms ☐ D.F. Number:
 (b) Express Charge Terms ☒ Annexed as Part 2
 (c) Release ☐ 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):*
SIMON FRASER UNIVERSITY
6. TRANSFEREE(S): (including postal address(es) and postal code(s))*
**MILLENNIUM UNIVERSITY HOMES LTD. (Incorp. No. 659282), 198 West Hastings Street,
 Vancouver, British Columbia, V6B 1H8**
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.

USE BLACK INK ONLY

Officer Signature(s)

ROGER McCONCHIE
 Barrister & Solicitor
 McCarthy Tétrault LLP
 1300 - 777 DUNSMUIR STREET
 VANCOUVER, B.C. V7Y 1K2
 DIRECT 604-643-5877

Execution Date

| | | |
|----|----|----|
| Y | M | D |
| 03 | 05 | 28 |

USE BLACK INK ONLY

Party(ies) Signature(s)

SIMON FRASER UNIVERSITY
 by its authorized signatories:

Michael Stevenson

Patricia Hibbitts

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.

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

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

1/2

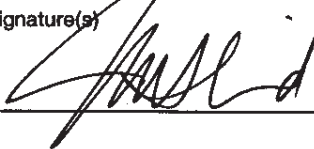
LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Page 2 of 129 pages

USE BLACK INK ONLY

Officer Signature(s)



JOHN G. R. THIRD
Barrister and Solicitor
FRASER MILNER CASGRAIN LLP
1500 - 1040 West Georgia Street
Vancouver, B.C. V6E 4H8
Telephone: (604) 687-4480

Execution Date

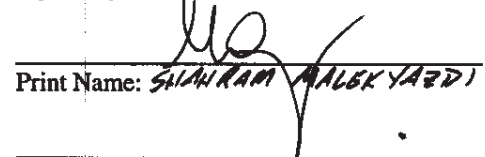
Y M D

| | | |
|----|----|----|
| 03 | 05 | 27 |
|----|----|----|

USE BLACK INK ONLY

Party(ies) Signature(s)

**MILLENNIUM UNIVERSITY
HOMES LTD**, by its authorized
signatory(ies):



Print Name: **SHIKHAR ALEX YARDI**

Print 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

TERMS OF INSTRUMENT – PART 2

Page 3 of 129 pages

GROUND LEASE

BETWEEN: SIMON FRASER UNIVERSITY

AND: MILLENNIUM UNIVERSITY HOMES LTD.

**RE: Lot A
District Lots 102 and 211
Group 1, New Westminster District
Plan BCP4762**

INDEX

| | |
|-----------------------------------------------------------------------------------------------------------|----|
| ARTICLE 1 DEFINITIONS | 9 |
| 1.01 Definitions..... | 9 |
| 1.02 Conditions and Covenants..... | 12 |
| 1.03 Construction of Words | 12 |
| 1.04 Interpretation | 12 |
| ARTICLE 2 PAYMENT OF RENT | 12 |
| 2.01 Basic Rent | 12 |
| 2.02 Payments Generally..... | 12 |
| 2.03 Net Lease..... | 13 |
| 2.04 Interest on Amounts in Arrears | 13 |
| ARTICLE 3 PAYMENT OF TAXES..... | 13 |
| 3.01 Payment of Taxes if Lessor is not Exempt Therefrom..... | 13 |
| 3.02 Payment of Taxes if Lessor is Exempt Therefrom..... | 14 |
| 3.03 Delinquent Taxes..... | 15 |
| 3.04 Payment of Utility Services | 15 |
| 3.05 Business Tax and License Fees | 16 |
| 3.06 Penalties Levied Pursuant to the UCC Guidelines..... | 16 |
| ARTICLE 4 CONSTRUCTION | 16 |
| 4.01 Licensing Requirements | 16 |
| 4.02 Lessee to Construct Buildings..... | 17 |
| 4.03 Substantial Completion of Buildings | 17 |
| 4.04 Deadlines for Commencement of Construction and Substantial Completion of Buildings | 18 |
| 4.05 Lessor's Obligation to Construct..... | 18 |
| 4.06 Termination Where Lessee Defaults in Commencement of Construction or Substantial Completion | 18 |
| 4.07 Builders All Risk and Wrap-Up Liability Insurance During Construction of Buildings | 19 |
| ARTICLE 5 USE OF LANDS AND BUILDINGS..... | 20 |
| 5.01 Use of Lands and Buildings | 20 |
| 5.02 Restrictions on Use and Development | 20 |
| 5.03 Community Association..... | 22 |
| 5.04 Performance Deposit..... | 22 |
| ARTICLE 6 INSURANCE..... | 23 |
| 6.01 Insurance | 23 |
| 6.02 Boiler and Machinery Insurance | 23 |
| 6.03 Deductible Amounts..... | 23 |
| 6.04 Co-Insurance Clauses | 23 |
| 6.05 Identity of Insured and Subrogation..... | 23 |
| 6.06 Release of Indemnified Parties from Liability for Insured Loss or Damage | 24 |
| 6.07 Payment of Loss Under Insurance Policies..... | 24 |
| 6.08 Workers' Compensation Coverage | 25 |

| | | |
|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----|
| 6.09 | Commercial General Liability..... | 25 |
| 6.10 | Payment of Insurance Premiums..... | 25 |
| 6.11 | Copies of Insurance Policies | 25 |
| 6.12 | Insurance May be Maintained by Lessor | 26 |
| 6.13 | Appointment of Trustee | 26 |
| ARTICLE 7 REPAIRS AND MAINTENANCE..... | | 26 |
| 7.01 | Lessor Not Obligated to Repair..... | 26 |
| 7.02 | Repair by the Lessee | 26 |
| 7.03 | Repairs to Buildings by the Lessor | 27 |
| 7.04 | Removal of Ice and Snow from Sidewalks | 28 |
| ARTICLE 8 DAMAGE OR DESTRUCTION | | 28 |
| 8.01 | Rent Not to Abate..... | 28 |
| 8.02 | Lessee's Obligations When the Buildings Are Damaged or Partially Destroyed..... | 28 |
| 8.03 | Lessee's Obligations When the Buildings Are Completely or Substantially Destroyed | 29 |
| 8.04 | Replacement, Repair or Reconstruction Under Sections 8.02 or 8.03 to be Carried Out in Compliance with Sections 7.02 and 9.01 | 29 |
| ARTICLE 9 REPLACEMENT, CHANGES, ALTERATIONS AND SUBSTITUTIONS | | 29 |
| 9.01 | Replacement, Changes, Alterations and Substitutions..... | 29 |
| ARTICLE 10 UNAVOIDABLE DELAYS | | 30 |
| 10.01 | Unavoidable Delays | 30 |
| ARTICLE 11 BUILDERS' LIENS..... | | 31 |
| 11.01 | Release of Liens | 31 |
| 11.02 | Lessor May File Notice of Interest..... | 31 |
| ARTICLE 12 INSPECTION AND EXHIBITION BY THE LESSOR..... | | 32 |
| 12.01 | Inspection by the Lessor..... | 32 |
| 12.02 | Exhibition by the Lessor | 32 |
| ARTICLE 13 OBSERVANCE OF REGULATIONS | | 32 |
| 13.01 | Observance of Regulations..... | 32 |
| ARTICLE 14 RIGHTS OF LESSOR AND LESSEE..... | | 33 |
| 14.01 | Rights of Lessor and Lessee..... | 33 |
| ARTICLE 15 INDEMNITY | | 33 |
| 15.01 | Breach, Violation or Non-Performance of Covenants by Lessee | 33 |
| 15.02 | Injury, Damage or Loss of Property..... | 33 |
| 15.03 | Waiver | 34 |
| 15.04 | Indemnification Survives Termination of Lease..... | 34 |
| ARTICLE 16 SUBLETTING AND ASSIGNING | | 34 |
| 16.01 | Subletting by Lessee - Other Than by Way of Mortgage | 34 |
| 16.02 | Assignment by Lessee - Other Than by Way of Mortgage..... | 35 |
| 16.03 | Mortgaging by Lessee | 37 |

| | |
|------------------------------------------------------------------------------|----|
| ARTICLE 17 MORTGAGE | 37 |
| 17.01 Rights of Mortgagee..... | 37 |
| 17.02 Notice to and Remedies of Mortgagee..... | 37 |
| 17.03 Mortgage Subject to Lessor's Rights Under Lease..... | 40 |
| 17.04 Protection of Mortgagee (Tripartite Agreements)..... | 40 |
| ARTICLE 18 BANKRUPTCY OF LESSEE | 40 |
| 18.01 Events of Bankruptcy or Receivership..... | 40 |
| 18.02 Certain Rights of the Parties..... | 42 |
| 18.03 No Abatement of Rent..... | 42 |
| ARTICLE 19 DEFAULT BY LESSEE..... | 43 |
| 19.01 Re-Entry on Certain Defaults By Lessee | 43 |
| 19.02 Forfeiture on Certain other Defaults by Lessee | 43 |
| 19.03 Rights to Cure..... | 44 |
| 19.04 Remedies of Lessor are Cumulative..... | 45 |
| 19.05 Waiver by Lessor | 45 |
| ARTICLE 20 COVENANTS OF LESSOR..... | 45 |
| 20.01 Covenant Respecting Charges and Encumbrances | 45 |
| 20.02 Covenant Respecting Authority to Lease..... | 45 |
| ARTICLE 21 ARBITRATION..... | 46 |
| 21.01 Arbitration..... | 46 |
| ARTICLE 22 CERTAIN COVENANTS AND AGREEMENTS OF LESSEE | 46 |
| 22.01 Conduct on Demised Premises..... | 46 |
| ARTICLE 23 SURRENDER OF LEASE..... | 47 |
| 23.01 Surrender of Lease | 47 |
| ARTICLE 24 QUIET ENJOYMENT AND OWNERSHIP OF TENANT'S FIXTURES | 47 |
| 24.01 Covenant for Quiet Enjoyment | 47 |
| 24.02 Ownership of Tenant's Fixtures..... | 47 |
| ARTICLE 25 OVERHOLDING..... | 47 |
| 25.01 Overholding..... | 47 |
| ARTICLE 26 CONVERSION OF GROUND LEASE UNDER THE STRATA PROPERTY ACT | 48 |
| 26.01 Leasehold Strata Plan | 48 |
| 26.02 Conversion of Ground Lease..... | 48 |
| 26.03 Execution of Model Strata Lot Lease by the Strata Corporation | 49 |
| 26.04 Release from Liability | 49 |
| ARTICLE 27 NOTICE | 50 |
| 27.01 Notice | 50 |
| ARTICLE 28 MISCELLANEOUS..... | 50 |
| 28.01 Construction Warranties..... | 50 |
| 28.02 Statements by Lessor and Lessee | 50 |
| 28.03 Assignment of Powers..... | 51 |

| | | |
|--------------------------|-----------------------------|----|
| 28.04 | Time of Essence | 51 |
| 28.05 | Modifications | 51 |
| 28.06 | Headings..... | 51 |
| 28.07 | Enurement | 51 |
| ARTICLE 29 EASEMENT..... | | 52 |
| 29.01 | Sediment Pond Easement..... | 52 |

Schedules

- A Model Strata Lot Lease (s. 16.02(d)(ii))
- B Tripartite Agreement (s. 17.04)
- C Order in Council (s. 20.02)
- D Sketch Plan of Location of Sediment Pond Facility (s. 29.01)

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

Page 8 of 129 pages

GROUND LEASE

THIS LEASE dated for reference the **30th** day of **May, 2003**

BETWEEN:

SIMON FRASER UNIVERSITY, a British Columbia university created pursuant to the *University Act*, and having an address of 8888 University Drive, Burnaby, British Columbia, V5A 1S6

(the “Lessor”)

AND:

MILLENNIUM UNIVERSITY HOMES LTD., a company duly incorporated under the laws of the Province of British Columbia and having an office at **198 West Hastings Street, Vancouver, British Columbia, V6B 1H8** (Incorporation No. **659282**)

(the “Lessee”)

WHEREAS the Lessor is the owner of the Lands (hereinafter defined), together with all improvements presently standing thereon.

AND WHEREAS the Lessor has agreed to lease to the Lessee the Lands for the Term (hereinafter defined) in order that the Lessee may erect the Buildings (hereinafter defined) on the Lands, convert this Lease under section 203(1) of the *Strata Property Act* and use, occupy and enjoy the Lands and the Buildings erected thereon for the Term of this Lease, all upon the terms and conditions and subject to the provisos herein contained.

NOW THIS LEASE WITNESSES that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee to be paid, observed and performed, the Lessor has demised and leased and by these presents does demise and lease unto the Lessee and the Lessee does hereby take and rent the Lands upon and subject to the conditions hereinafter expressed.

TO HAVE AND TO HOLD the Lands for and during the Term.

YIELDING AND PAYING to the Lessor in each and every of the years during the Term Rent as hereinafter provided.

This Lease is made upon and subject to the following covenants and conditions which each of the Lessor and the Lessee respectively covenants and agrees to keep, observe and perform to the extent that the same are binding or expressed to be binding upon it.

ARTICLE 1

DEFINITIONS

1.01 Definitions

The terms defined in this section 1.01, for all purposes of this Lease unless otherwise specifically provided herein, have the meanings hereinafter specified, as follows:

- (a) "Additional Rent" means the amounts, if any, payable by the Lessee pursuant to sections 2.04, 3.01 to 3.06 inclusive, 6.10, 6.12, 7.03 and 7.04, together with any other and additional amounts which are herein expressed to be added to and made part of Additional Rent, other than Basic Rent;
- (b) "Approval Process/Submission Requirements" means those approval process and submission requirements adopted by UCC for the Development Guidelines and by the City for Preliminary Plan Approval and issuance of building permits;
- (c) "Architect" means **Lawrence Doyle Architect Inc. of Vancouver**, British Columbia, or such other architects as the Lessee may appoint from time to time, who shall be a member in good standing of the Architectural Institute of British Columbia;
- (d) "Basic Rent" as of any particular time means the net basic rental provided for in this Lease as specified in Article 2 of this Lease;
- (e) "Buildings" means all structures and buildings constructed upon or under the Lands or any part thereof by or for the Lessee or its permitted assignees pursuant to the provisions of this Lease, including, without limitation, hard landscaping and infrastructure servicing such as roads, sewers and culverts, together with all replacements, alterations, additions, changes, substitutions, improvements or repairs thereto and all other improvements from time to time constructed upon or affixed or appurtenant to the Lands;
- (f) "City" means the City of Burnaby;
- (g) "Commencement Date" means the **30th** day of **May, 2003**;
- (h) "Commencement of Construction" means that a building permit or permits have been issued to the Lessee by the City for the Buildings, and that the foundations and footings of the Buildings have been commenced as certified to UCC by the Architect;

- (i) "Common Property" shall have the same meaning as such expression is given under the *Strata Property Act*;
- (j) "Community" means the residential community which is being developed by UCC, as trustee for the SFU Community Trust, on part of the Burnaby Mountain campus of the Lessor of which the Lands and the Buildings comprise a part;
- (k) "Construction Guidelines" mean the construction guidelines approved and adopted by UCC for the Lands and construction of the Buildings and all amendments thereto whether made before or after the date of this Lease;
- (l) "Development Guidelines" means those guidelines approved and adopted by UCC and the Lessor for the development of the Lands and all amendments thereto whether made before or after the date of this Lease;
- (m) "Easement Area" has the meaning set out in section 29.01 of this Lease;
- (n) "Indemnified Parties" means the Lessor, the members of its board of governors and the members of its senate, and UCC, and each of their respective directors, officers, servants, agents, employees, contractors, licensees, successors and assigns, and each of their subsidiary, affiliated or associated corporations and all others for whose conduct the Lessor or UCC are responsible in law;
- (o) "Lands" means those lands in the Province of British Columbia, more particularly known and described as **Lot A, District Lots 102 and 211, Group 1, New Westminster District, Plan BCP4762**;
- (p) "Leasehold Strata Plan" means a strata plan deposited in the Land Title Office pursuant to the *Strata Property Act* in which the land included in the strata plan is subject to this Lease;
- (q) "Marketing Guidelines" means the marketing guidelines approved and adopted by UCC for the Lands and all amendments thereto whether made before or after the date of this Lease;
- (r) "Model Strata Lot Lease" means the form of the individual leases into which this Lease is to be converted as described in section 26.02 of this Lease, the form of which is attached hereto as Schedule "A";
- (s) "Mortgage" means a mortgage or mortgages upon or in respect of and specifically charging the leasehold interest of the Lessee in the Lands and the Buildings or any part thereof and includes any debenture or deed of trust and mortgage to secure any bonds or debentures issued thereunder, and any assignment of rents made to the Mortgagee as security;
- (t) "Mortgagee" means a mortgagee or mortgagees under a Mortgage;

- (u) "Offer to Lease" means the offer to lease made by the Lessee to UCC with respect to the Lands which has been accepted by UCC;
- (v) "Preliminary Plan Approval" means the preliminary plan approval for the Lands granted by the City to the Lessee;
- (w) "Prime Rate" means the annual percentage rate of interest established from time to time by the Royal Bank of Canada, Main Branch, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by The Royal Bank of Canada as the prime rate;
- (x) "Property" means Lot 1, Except: part subdivided by Plan BCP3161, District Lots 31, 101, 102, 141, 144, 147, 209, 210 and 211, Group 1, NWD, Plan LMP30518;
- (y) "Rent" means the Basic Rent, Additional Rent and any other amounts payable by the Lessee under this Lease;
- (z) "Strata Corporation" means the corporation created by the provisions of the *Strata Property Act* upon the deposit of the Leasehold Strata Plan in the Land Title Office;
- (aa) "Strata Lot" means a strata lot shown as such on the Leasehold Strata Plan;
- (bb) "*Strata Property Act*" means the *Strata Property Act*, S.B.C., 1998, chapter 43, as amended from time to time;
- (cc) "Substantial Completion" or "Substantially Completed" means substantial completion as defined in section 4.03 of this Lease;
- (dd) "Term" means the 99 year period commencing on the **30th** day of **May, 2003** and ending at 11:59 p.m. on the **29th** day of **May, 2102**;
- (ee) "Tripartite Agreement" means the agreement between the Lessor, the Lessee and a Mortgagee as described in section 17.04 of this Lease, the form of which is attached hereto as Schedule "B";
- (ff) "Trustee" means a trust company duly authorized to carry on business in the Province of British Columbia appointed by the Lessor for the purposes of sections 4.07, 6.07 and 6.13; and
- (gg) "UCC" means SFU Community Corporation;
- (hh) "UCC Guidelines" means the Construction Guidelines, the Development Guidelines and the Marketing Guidelines;

- (ii) "Zoning Regulations" means those zoning regulations approved and adopted by the City with respect to the zoning requirements for the Lands and all amendments thereto whether made before or after the date of this Lease.

1.02 Conditions and Covenants

All the provisions of this Lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

1.03 Construction of Words

The words "herein", "hereby", "hereunder" and words of similar import refer to this Lease as a whole and not to any particular article, section or subsection hereof.

1.04 Interpretation

Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations or vice versa.

ARTICLE 2

PAYMENT OF RENT

2.01 Basic Rent

The Lessee covenants and agrees to pay to the Lessor as Basic Rent the sum of **\$10.00 and other good and valuable consideration** on the Commencement Date.

2.02 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease shall be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any set-off, compensation or deduction whatsoever at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Lessor may see fit; and
- (d) deemed to be Rent, in partial consideration for which this Lease has been entered into, and shall be payable and recoverable as Rent, such that the Lessor shall have all rights and remedies against the Lessee for default in making any such payment

which may not be expressly designated as Rent as the Lessor has for default in payment of Rent.

2.03 Net Lease

Unless otherwise expressly stipulated herein to the contrary, all Rent required to be paid by the Lessee hereunder shall be paid without any deduction, abatement or set-off whatsoever, it being the intention of the Lessor and the Lessee that all expenses, costs, payments and out goings incurred in respect of the Lands, the Buildings and any other improvements on the Lands or for any other matter or thing affecting the Lands, shall be borne by the Lessee, that the Basic Rent herein provided shall be absolutely net to the Lessor and free of all abatement, set-off or deduction of real property taxes, charges, rates, assessments, expenses, costs, payments or out goings of every nature arising from or related to the Lands, the Buildings or any other improvements on the Lands and that the Lessee shall pay or cause to be paid all such taxes, charges, rates, assessments, expenses, costs, payments and out goings.

2.04 Interest on Amounts in Arrears

When the Rent shall be in arrears, such amounts shall bear interest, including interest on overdue interest, at the Prime Rate plus 6% per annum calculated monthly not in advance from the date due until paid, irrespective of whether or not the Lessor demanded payment. The Lessor shall have all of the remedies for the collection of such interest, if unpaid after demand, as in the case of Rent in arrears, but this stipulation for interest shall not prejudice or affect any other remedy of the Lessor under this Lease. Provided however, the provisions of this section 2.04 shall not apply to the Lessee's failure to pay taxes under sections 3.01 and 3.02 when due.

If a court declares or holds the Prime Rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder shall be 18% per annum calculated monthly not in advance from the date due until paid.

ARTICLE 3

PAYMENT OF TAXES

3.01 Payment of Taxes if Lessor is not Exempt Therefrom

Save as otherwise provided in section 3.02, the Lessee will in each and every year during the Term not later than the day immediately preceding the date or dates on which real property taxes and other charges imposed upon real property within the Province of British Columbia become due and payable whether monthly, quarterly, twice yearly or otherwise, pay and discharge or cause to be paid and discharged all taxes, rates, duties, charges and assessments, including school taxes, local improvement rates and other charges which now are or shall or may be levied, rated, charged or assessed against the Lands, the Buildings, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, whether such taxes, rates, duties, charges and assessments are charged by any municipal, parliamentary, legislative, regional, school or other authority including Simon Fraser University

during the Term, and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and own client basis), charges and expenses occasioned by or arising from any and all such taxes, rates, duties, charges and assessments; and any such losses, costs, charges and expenses suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears. The Lessee further covenants and agrees that during the Term, it will deliver to the Lessor for inspection receipts for payments of all taxes, rates, duties, charges, assessments, including school taxes, local improvement rates and other charges in respect of the Lands, the Buildings, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein which were due and payable during the Term within 14 days following receipt by the Lessee of each of such receipts for payment. The Lessor shall, not later than 14 days following receipt of any assessment notices delivered to the Lessor by any taxing authority relating to the Lands, the Buildings or any other structures, any machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, forward a copy thereof to the Lessee. The Lessee shall have the right from time to time to appeal any assessment of the Lands or the Buildings or any other tax, rate, duty, charge or amount referred to in this section 3.01 provided that such appeal shall be at the sole cost and expense of the Lessee.

The Lessee shall be responsible for the payments referred to in this section 3.01 from the Commencement Date.

3.02 Payment of Taxes if Lessor is Exempt Therefrom

The Lessee covenants and agrees with the Lessor that if during the Term, the Lands, the Buildings, all other structures, all machinery, equipment and facilities and other property of any nature whatsoever, thereon and therein, are by the provisions of any municipal, parliamentary, legislative or regional enactment exempt from taxation in whole or in part by reason of the Lessor's ownership of the Lands and they would otherwise have been subject to taxation, then the Lessee shall in each and every year during the Term that such exemption occurs pay to the Lessor as Additional Rent in like manner and time as taxes are to be paid pursuant to section 3.01, an amount equal to the amount that but for such exemption would have been paid by the Lessee pursuant to section 3.01 for taxes, rates, duties, charges, assessments, including school taxes and local improvement rates, and other charges. For such purpose in each year during the Term the following provisions shall apply:

- (a) if the Province of British Columbia or any municipal, parliamentary, legislative, regional or other authority, including Simon Fraser University, having the authority so to do passes a by-law or by-laws in advance of the passing of a rating by-law or preparation of the real property tax roll for the current year providing for the payment of real property taxes and other charges imposed or to be imposed upon real property within the Province of British Columbia by monthly, quarterly or twice yearly instalments and providing that the amounts of such instalments shall be a percentage of the amount of real property taxes payable on the real property roll for the immediately preceding year, the Lessor shall deliver to the Lessee an advance tax statement or statements of the amount or amounts determined in accordance with such by-law or by-laws from time to time in

respect of the Lands, the Buildings and all other structures, all machinery and equipment and facilities and other property of any nature whatsoever thereon and therein; and

- (b) after the passing of a rating by-law or rating by-laws (as the case may be) by the Province of British Columbia or any municipal, parliamentary, legislative, regional or other authority, including Simon Fraser University, having the authority so to do, establishing the rate or rates to be levied on real property within the Province of British Columbia for the current year, the Lessor shall determine the Additional Rent by applying the rate or rates of levy established by such rating by-law or rating by-laws (as the case may be) to all, or such portion of the assessed value of the Lands, the Buildings and all other structures, all machinery, equipment, and facilities and other property of any nature whatsoever thereon and therein as the said rate or rates of levy are applied to other taxpayers in the Province of British Columbia in like case, and the Lessor shall deliver to the Lessee a statement of the amount payable under this section 3.02 after deducting all real property taxes and other charges paid in advance for the current year.

The Lessee shall have the right from time to time to appeal any assessment of the Lands or Buildings or any other tax, rate, duty, charge or amount referred to in this section 3.02, provided that such appeal shall be at the sole cost and expense of the Lessee.

The Lessee shall be responsible for the payments referred to in this section 3.02 from the Commencement Date.

3.03 Delinquent Taxes

If the Lessee shall in any year during the Term fail to pay the taxes under sections 3.01 and 3.02 when due, the Lessee shall thereupon pay interest at the percentage rate or rates established by the Province of British Columbia or any other taxing authority, for unpaid real property taxes in the Province of British Columbia or any other taxing authority, for delinquent taxes, but the Lessee shall only be obligated to pay such interest as would be payable by other taxpayers in the Province of British Columbia.

3.04 Payment of Utility Services

The Lessee covenants with the Lessor to pay for or cause to be paid when due to the providers thereof, including Simon Fraser University if applicable, all charges for gas, electricity, light, heat, power, telephone, water and other utilities and services used in or supplied to the Lands and the Buildings throughout the Term and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs, charges and expenses occasioned by or arising from any and all such charges, and any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.

3.05 Business Tax and License Fees

The Lessee covenants with the Lessor to pay for or cause to be paid when due every tax and permit and license fee in respect of the use or occupancy of the Lands by the Lessee (and by any and every sublessee, assignee, permittee and licensee) other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or any such sublessee, assignee, permittee and licensee) whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority during the Term, and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges and expenses occasioned by or arising from any and all such taxes and permit and license fees, and any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.

3.06 Penalties Levied Pursuant to the UCC Guidelines

The Lessee covenants with the Lessor to pay for or cause to be paid when due every penalty imposed by UCC pursuant to the UCC Guidelines for acts or things done in contravention or in violation of any provision of the UCC Guidelines and any such penalties may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.

ARTICLE 4

CONSTRUCTION

4.01 Licensing Requirements

The Lessee hereby represents and warrants to the Lessor that the Lessee is a "Licensed Residential Builder" pursuant to the *Homeowner Protection Act* (British Columbia) and that the Lessee will:

- (a) ensure that any general contractor employed by the Lessee will be a licensed builder registered under the Act; and
- (b) provide home warranty insurance to owners of Strata Lots in compliance with the Act, and with coverage for:
 - (i) defects in materials and labour for a period of at least 2 years after the date on which the warranty begins;
 - (ii) defects in the building envelope, including defects resulting in water penetration, for a period of at least 5 years after the date on which the warranty begins; and

- (iii) structural defects for a period of at least 10 years after the date on which the warranty begins.

4.02 Lessee to Construct Buildings

Prior to the commencement of any development activity on the Lands and as soon as is reasonably practical after the acceptance of the Offer to Lease by UCC, the Lessee shall apply:

- (a) firstly, to UCC for design approval of the Buildings which application shall comply with the Development Guidelines; and
- (b) secondly, to the City for Preliminary Plan Approval which application shall comply with the Preliminary Plan Approval requirements, the Development Guidelines and the Zoning Regulations.

UCC shall, within 30 days after having received an application for design approval from the Lessee, either approve the Lessee's application or provide a written response to the Lessee with respect to such application. When UCC has approved the design of the Buildings and the City has granted Preliminary Plan Approval, the Lessee shall as soon as is reasonably practical apply to the City for a building permit, which application shall comply with the Development Guidelines and the Zoning Regulations, as may be amended. The Lessee acknowledges and agrees that the provisions of the Development Guidelines supersede and take precedence over similar provisions in the Zoning Regulations. Upon receipt of a building permit from the City, the Lessee shall construct the Buildings, together with other facilities ancillary thereto and connected therewith on the Lands expeditiously and in a good and workmanlike manner and in substantial accordance with the drawings, elevations, specifications (including materials to be used), and location on the Lands and exterior decoration and design all upon which the issuance of the building permit or permits by the City or other authority having jurisdiction are based, and in compliance with the requirements of the Preliminary Plan Approval.

Any changes to the drawings, specifications, location, exterior decoration, design, or exterior appearance of the Buildings or the appearance of the Lands must first be approved by the City and UCC.

4.03 Substantial Completion of Buildings

The Buildings shall be deemed to have been Substantially Completed when the Architect or engineer of the Lessee has issued a certificate to UCC, signed and sealed by the Architect or engineer, certifying that:

- (a) the Buildings are substantially complete in all material respects in a proper and workmanlike manner and in accordance with the applicable plans, specifications and supporting documents submitted to and accepted by each of UCC and the City upon which the Preliminary Plan Approval and building permits for the

Buildings have been based, except for deficiencies, the correction of which, in the opinion of the Architect or engineer is adequately ensured;

- (b) all building requirements and regulations of each of UCC and the City have been complied with by the Lessee except for deficiencies, the correction of which, in the opinion of the Architect or engineer is adequately ensured;
- (c) all permits for occupancy which may be required by the City have been obtained; and
- (d) the Buildings are ready for occupancy.

For purposes other than subsection 4.04(b), Substantial Completion may be in respect of portions of the Buildings.

4.04 Deadlines for Commencement of Construction and Substantial Completion of Buildings

The Lessee covenants and agrees with the Lessor that, subject always to sections 10.01 and 17.02:

- (a) Commencement of Construction of the Buildings shall take place on or before the day which is three months following the Commencement Date; and
- (b) the Buildings, services and facilities shall be Substantially Completed in accordance with the requirements of section 4.03 on or before the day which is 24 months following Commencement of Construction.

4.05 Lessor's Obligation to Construct

The Lessor shall, at the Lessor's cost, provide or cause to be provided prior to the Commencement of Construction:

- (a) water, gas, hydro and sewer services to the perimeter of the Lands to City standards; and
- (b) road access to the Lands.

4.06 Termination Where Lessee Defaults in Commencement of Construction or Substantial Completion

- (a) If Commencement of Construction or Substantial Completion of the Buildings does not occur by the dates set forth in section 4.04, the Lessor shall have the right and option to terminate this Lease and the provisions of section 19.01 shall apply, save only as modified by subsection 4.06(c) hereof.
- (b) In the event of a dispute between the Lessor and the Lessee as to whether or not the Lessor is entitled to terminate this Lease pursuant to the provisions of this

section 4.06 the Lessor and the Lessee agree to submit such dispute to arbitration in accordance with the provisions of Article 21.

- (c) If the Lessor terminates this Lease under this section 4.06, then the Lessor shall be entitled to retain as liquidated damages and not as a penalty, an amount equal to 25% of the Basic Rent.

4.07 Builders All Risk and Wrap-Up Liability Insurance During Construction of Buildings

- (a) The Lessee shall effect prior to the commencement of construction of the Buildings, or any of them, and shall maintain and keep in force until the insurance required under Article 6 shall have been effected, insurance protecting both the Lessee, the Lessor, and each of their directors, officers, employees, and agents, and the contractors, subcontractors, consultants and subconsultants of any tier and any such other persons as the Lessee may determine in its sole discretion (without any rights of cross claim or subrogation against the Lessor or any of the Indemnified Parties) the following primary insurance policies:

Comprehensive General Wrap-up Liability

This policy will have a limit of liability of not less than \$10,000,000 per occurrence or, with respect to products and completed operations, \$10,000,000 annually in the aggregate. The policy will cover activities relating directly to the Buildings and will include coverage for:

- A. premises and operations;
- B. owner's and contractor's protective;
- C. products and completed operations, including an extension of 36 months after completion of construction of the Buildings;
- D. blanket written contractual liability;
- E. employees as additional insureds;
- F. bodily injury and property damage; and
- G. non-owned automobile;

and will contain a cross liability and severability of interest clause;

"All Risks" Course of Construction

This policy will cover loss or damage to all property located on the site of the Buildings and used in the construction of the Building, excluding

equipment owned or leased by the consultant, subconsultants, contractors or subcontractors of any tier, but including:

- H. temporary works;
- I. construction buildings and supplies; and
- J. property that becomes part of the completed Buildings,

and will contain a waiver of subrogation in favour of the insureds, warranty and professional liability excluded.

This policy will be written with a limit of the full insurable value of the project subject to sublimits applicable to property in transit within North America or while temporarily stored at offsite locations in North America.

- (b) The Lessor shall be included as an "additional insured" under the liability insurance and as a "loss payee as its interest may appear" under the course of construction insurance. The proceeds of insurance which may become payable under any policy of property insurance effected pursuant to this section 4.07 shall be payable to the Lessor, the Lessee or the Mortgagee as their interests may appear (or if there is no Mortgagee, to the order of the Trustee if a Trustee is appointed by the Lessor pursuant to section 6.13) and shall be available to finance repair and reconstruction.
- (c) The policies described in this section 4.07 will be placed and maintained with insurers and will contain terms and conditions determined by the Lessee in its sole discretion.

ARTICLE 5

USE OF LANDS AND BUILDINGS

5.01 Use of Lands and Buildings

The Lessee covenants and agrees with the Lessor that neither the Lands nor the Buildings nor any part of the Lands or the Buildings shall be used for any purposes except as are permitted by the applicable Zoning Regulations and any and all subsequent amendments thereto and the Preliminary Plan Approval granted by the City in respect of the Lands and Buildings.

5.02 Restrictions on Use and Development

- (a) No plants, ground cover, shrubbery, trees or other form of natural growth exceeding 8' in height shall be placed, grown or permitted which front onto a public street unless, in the opinion of UCC, it is in keeping with the general character of the Community.

- (b) No lawns, ground cover, plants, shrubbery, trees or other form of landscaping shall be placed, grown or permitted on any part of the Lands which is unattractive or incompatible with the landscaping of any adjoining lots within the Community and no such landscaping shall be unreasonably neglected or maintained in a messy or untidy condition.
- (c) No Buildings situated upon the Lands nor any unimproved part of the Lands shall be permitted by the Lessee to become unsightly or incompatible with the general character of the Community as a result of lack of regular and reasonable maintenance and repair.
- (d) No waste material, equipment, storage bin or garbage disposal container shall be kept, stored or left in or in front of or on any part of the Lands unless the area in which such material, equipment, storage bin or garbage disposal container is kept, stored or left has first been screened by landscaping or fencing so that it is not readily visible.
- (e) No accumulated waste plant material shall be maintained on any part of the Lands except as part of an established compost pile which shall be maintained in such manner as not to be visible from neighbouring lots or the street.
- (f) No fence shall be erected, constructed, placed or maintained on any part of the Lands without the prior written approval of UCC.
- (g) No boat, camper, mobile home, motor home, travel trailer or tent shall be parked, placed, located, stored or kept upon any part of the Lands which is visible from neighbouring lots or the street.
- (h) No evaporation, air-conditioning or air-heating units or towers, clotheslines, fixtures, radio or transmission towers, satellite dishes, swimming pool fixtures or storage piles shall be located on the roof of any Buildings or shall be maintained on the Lands or any part thereof unless screened by walls or plantings or other adequate screens in such a manner as to conceal them from view from neighbouring lots and streets, such screening to be first approved in writing by UCC.
- (i) Where there is any material on or landscaping of any part of the Lands which is not in accordance with this section 5.02, UCC, its agents, employees and independent contractors shall have the right, exercisable in its sole discretion, but shall not be obligated, to enter upon the Lands to remove such improper materials and perform such landscaping or maintenance so that all material on and landscaping of the Lands is in accordance with this paragraph, all at the sole cost and expense of the Lessee, who shall pay the cost thereof to UCC upon delivery of an invoice or invoices therefor.

For the purposes of these restrictions, "general character of the Community" means an attractive residential community with compatible design features which unify the improvements located on

the lands within the Community such that the lands and the improvements have the outward appearance of, and are functional as, an integrated community, and having a street design mindful of the importance of ensuring 'eyes on the street' throughout to promote neighbours knowing each other.

5.03 Community Association

In order to provide a mechanism for the residents of the lands comprising the Community to liaison with the Lessor and to provide social and community benefits and facilities for the enjoyment and use of such residents, the Lessor has caused to be formed a non-profit body corporate (the "Association") pursuant to the *Society Act* (British Columbia), with the intent that the members of the Association will be the strata corporations and the ground lessees of the lands within the Community. The Lessee hereby agrees, as a term of this Agreement, to become a member of such Association, to retain such membership during any part of the term that the Lessee has a leasehold interest in any part of the Lands, and to cause any assignee of its interests hereunder, including the Strata Corporation, to become a member of the Association and to retain its membership in the Association during the Term. The Lessee will do all such things and execute all such assurances as may be required to participate in the use, enjoyment and benefits of the Association.

5.04 Performance Deposit

The Lessee agrees with the Lessor that in addition to the Rent it will lodge with UCC on or before the Commencement Date the sum of **\$50,000** (the "Deposit") by way of certified cheque, bank draft or irrevocable clean letter of credit from a chartered bank in Canada which will be held by UCC by way of deposit, to secure the performance of the Lessee of all of its obligations under this Lease including, without limitation, compliance with the UCC Guidelines and compliance with all covenants and other non-financial charges which are registered against title to the Lands (the "Permitted Encumbrances"). The Deposit will be returned by UCC to the Lessee following the date of Substantial Completion, without interest, provided the Lessee has fulfilled its obligations under the UCC Guidelines and is not in default of any Permitted Encumbrance. UCC shall not be required to keep the Deposit separate from its general funds. If the Lessee shall from time to time fail to observe or perform its obligations under the UCC Guidelines or fails to comply with a Permitted Encumbrance, the Lessee hereby authorizes UCC to apply all or part, as the case may be, of such Deposit to rectify such failure without prejudice to any other rights or remedies available to UCC at law or in equity. In the event UCC shall apply any or all of the Deposit towards the rectification of a default by the Lessee hereunder, the Lessee shall, from time to time, at the request of UCC, forthwith pay to UCC such sum to bring the amount of the Deposit up to its original amount.

ARTICLE 6

INSURANCE6.01 Insurance

At all times during the Term immediately following the Substantial Completion of the Buildings, the Lessee shall, at no expense to the Lessor, insure and keep insured or cause to be insured the Lands and the Buildings with one or more companies entitled to do business in the Province of British Columbia against all risks of loss or damage as is commercially available on a replacement basis.

6.02 Boiler and Machinery Insurance

At all times during the Term the Lessee shall, at no expense to the Lessor, maintain or cause to be maintained in respect of the Buildings boiler and machinery insurance with one or more companies entitled to do insurance business in the Province of British Columbia protecting the Lessor and the Lessee during the Term in respect of all boilers and such other pressure vessels, water heaters and similar equipment including, without limitation, associated piping not otherwise insured under section 6.01. Such insurance shall cover loss or damage caused by rupture of steam pipes.

6.03 Deductible Amounts

Any of the policies of insurance referred to in sections 4.07, 6.01 or 6.02 hereof may, with the approval of the Lessor, which approval shall not be unreasonably withheld, provide that the amount payable in the event of any loss shall be reduced by a deductible amount, such amount to be designated by the Lessee and approved by the Lessor, such approval not to be unreasonably withheld, and the Lessee shall be a co-insurer to the extent of the amount so deducted from the insurance monies paid in the event of any loss, and the said amount shall for the purpose of section 6.07 hereof, be included as part of the insurance monies payable and paid.

6.04 Co-Insurance Clauses

If any of the policies of insurance referred to in sections 4.07, 6.01 or 6.02 hereof shall contain any co-insurance clauses, the Lessee shall maintain at all times a sufficient amount of insurance to meet the requirements of such co-insurance clause so as to prevent the Lessor or the Lessee from becoming a co-insurer under the terms of such policy or policies and to permit full recovery in the event of loss.

6.05 Identity of Insured and Subrogation

Any and all policies of insurance referred to in sections 4.07, 6.01 and 6.02 hereof shall:

- (a) be written in the name of the Lessee and the Lessor as the insureds with loss payable to the Lessor, the Lessee and the Mortgagee, if any, as their respective interests may appear;

- (b) shall contain a waiver of subrogation clause to the effect that any release from liability entered into by the Lessee prior to any loss, shall not affect the right of the Lessee, the Mortgagee, UCC or the Lessor to recover; and
- (c) contain a provision or shall bear an endorsement that the insurer will not cancel such policy or make any material reduction in coverage without first giving the Lessor and the Mortgagee at least 60 days notice in writing of its intention to cancel.

6.06 Release of Indemnified Parties from Liability for Insured Loss or Damage

The Lessee hereby releases the Indemnified Parties from any and all liability for loss or damage caused by any of the perils against which the Lessee shall have insured or pursuant to the terms of this Lease is obligated to insure the Lands and the Buildings, or any part or parts thereof, and the Lessee hereby covenants to indemnify, defend and save harmless the Indemnified Parties from and against all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs, (including, without limitation, legal costs on a solicitor and his own client basis), claims and demands of any nature whatsoever relating to such insured loss or damage.

6.07 Payment of Loss Under Insurance Policies

- (a) The insurance monies payable under any or all of the policies of property insurance referred to in sections 4.07, 6.01, 6.02 or 6.12 hereof, shall, notwithstanding the terms of the policy or policies, be paid to the order of the Lessor, the Lessee and the Mortgagee, as their interests may appear or if there is no Mortgagee, to the order of the Trustee if a Trustee has been appointed pursuant to section 6.13.
- (b) Subject to Article 8 the Lessor and the Lessee agree that the Mortgagee or Trustee (as the case may be) shall use such insurance monies for the restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies are payable hereunder against certificates of the Architect engaged by the Lessee or such other person as the Lessor and the Lessee may agree upon who is in charge of such restoration, reconstruction or replacement. Should the Lessee fail to effect the restoration, reconstruction or replacement of the loss or damage in respect of which the insurance monies are payable, without unreasonable delay, the Lessor shall be entitled to effect such restoration, reconstruction or replacement and the Mortgagee or Trustee to whom such insurance monies are payable shall pay or cause to be paid to the Lessor such insurance monies in the same manner as the Mortgagee or Trustee (as the case may be) would have done had the Lessee effected such restoration, reconstruction or replacement.

6.08 Workers' Compensation Coverage

At all times during the Term, the Lessee shall at its own expense procure and carry or cause its contractor or contractors to procure and carry and pay for, full workers' compensation coverage in respect of all workmen, employees, servants and others engaged in or upon any work, non-payment of which would create a lien on the Lands or the Buildings.

The Lessee shall immediately notify the Lessor of any dispute involving third parties which may arise in connection with the obtaining and maintenance of workers' compensation coverage required hereby if such dispute results in the requisite coverage not being in place, and the Lessee shall take all reasonable steps to ensure the resolution of such dispute forthwith. At all times the Lessee shall indemnify, defend and save harmless the Indemnified Parties from and against all damages, costs (including, without limitation, legal costs of a solicitor and his own client basis), claims, suits, administrative proceedings, judgments and demands which the Lessor may incur or suffer as a result of any default by the Lessee of its obligation under this section 6.08 to ensure the said full workers' compensation coverage is maintained. The Lessee shall further ensure that no amount of the said workers' compensation coverage is left unpaid so as to create a lien on the Lands or the Buildings. If the workers' compensation coverage required by this section 6.08 is not in place prior to commencement of construction of the Buildings the Lessor shall be entitled to have recourse to the remedies of the Lessor specified in this Lease or at law or equity.

6.09 Commercial General Liability

At all times during the Term, the Lessee shall at the expense of the Lessee, maintain with one or more companies duly authorized to carry on business within the Province of British Columbia and approved by the Lessor, commercial general liability insurance against claims for injury, death or property damage or loss (including, without limitation, claims for consequential loss and loss of use), arising out of the use and occupation of the Lands and Buildings, indemnifying and protecting the Lessor, UCC, their respective officers, employers and agents and the Lessee to limits of not less than \$10 million per occurrence or such other limits which are approved by the Lessor from time to time, such approval not to be unreasonably withheld.

6.10 Payment of Insurance Premiums

The Lessee shall pay or cause to be paid all of the premiums under the policies of insurance referred to in Article 4 and in this Article 6 as they become due and payable and in default of payment by the Lessee, the Lessor may pay the same and add the amount so paid to the Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Additional Rent as Rent in arrears.

6.11 Copies of Insurance Policies

If requested by the Lessor the Lessee shall forthwith from time to time deliver or cause to be delivered to the Lessor certified copies of all policies of insurance referred to in

Article 4 and in this Article 6 and obtained and maintained by the Lessee hereunder, accompanied by evidence satisfactory to the Lessor that the premiums thereon have been paid.

6.12 Insurance May be Maintained by Lessor

The Lessee agrees that should the Lessee at anytime during the Term fail to insure or keep insured the Buildings against risks of loss or damage as required under sections 4.07, 6.01 and 6.02, or fail to maintain liability insurance against claims for injury, death or property damage or loss as required under sections 4.07 and 6.09, then in any of such events, the Lessor, although not obliged to do so, may obtain and maintain such insurance in such amount or amounts with such deductible amounts and for such period or periods of time as the Lessor deems advisable, or the Lessor may put in place an owner controlled insurance program in such amount or amounts with such deductible amounts and for such period or periods of time as the Lessor deems advisable; and the Lessee shall pay to the Lessor as Additional Rent upon the Lessor obtaining any of such insurance and thereafter annually during the Term within 30 days after receipt of any invoice from the Lessor all premiums therefor. In the event the Lessor pays for or obtains and maintains any insurance pursuant to this section 6.12, the Lessor shall submit to the Lessee annually a properly documented certificate of insurance and a statement of the amount or amounts payable by the Lessee under this section 6.12 as the cost of such insurance for the next ensuing year and upon receipt of payment therefor shall apply the same on account of the premiums of such insurance with the loss, if any, thereunder payable to the Lessor, the Lessee and any Mortgagee as their interests may appear.

6.13 Appointment of Trustee

The Lessor hereby reserves the right to appoint a Trustee at any time and from time to time during the Term to manage the payment out of insurance monies for the restoration, reconstruction or replacement of loss or damage to the Lands or the Buildings, such appointment to be made in the sole discretion of the Lessor in circumstances in which insurance proceeds would otherwise be payable to the Lessee.

ARTICLE 7

REPAIRS AND MAINTENANCE

7.01 Lessor Not Obligated to Repair

Except as provided in section 4.04, the Lessor shall not be obliged to furnish any services or facilities or to make repairs or alterations in or to the Lands or the Buildings, the Lessee hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Lands and the Buildings.

7.02 Repair by the Lessee

The Lessee at the Lessee's cost and expense shall during the Term, put and keep in good order and condition or shall cause to be put and kept in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not

unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) the Lands and the Buildings, and the appurtenances and equipment thereof, both inside and outside, including, but not limited to fixtures, walls, foundations, roofs, vaults, elevators, if any, and similar devices, heating and air conditioning equipment, sidewalks, landscaping, yards and other like areas, water and sewer mains and connections, water, steam, gas, and electric pipes and conduits, and all other fixtures on the Lands and the Buildings and machinery and equipment used or required in the operation thereof, whether or not enumerated herein, and shall, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacements, alterations, additions, changes, substitutions and improvements, ordinary or extraordinary, foreseen or unforeseen, structural or otherwise, and keep the Buildings and aforesaid fixtures, appurtenances and equipment fully usable for all the purposes for which the Buildings were erected and constructed and the aforesaid fixtures, appurtenances and equipment were supplied and installed. Such repairs shall be in all respects to the standard at least substantially equal in quality of material and workmanship to the original work and material in the Buildings and aforesaid fixtures, appurtenances and equipment.

The Lessee shall not commit or suffer waste or injury to the Lands or the Buildings or any part thereof (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) and shall not use or occupy or permit to be used or occupied the Lands or the Buildings or any part thereof for any illegal or unlawful purpose or in any manner which will result in the cancellation of any insurance, or in the refusal of any insurers generally to issue any insurance as requested. The Lessee shall not injure or disfigure the Lands or the Buildings or permit the same to be injured or disfigured in any way; and at the expiration or other termination of this Lease, the Lessee shall, except as otherwise expressly provided herein, surrender and deliver up the Lands with the Buildings, and the aforesaid fixtures, appurtenances and equipment thereof, or any replacements thereof or substitution therefor, in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings). The Lessee accepts the Lands "as is" knowing the condition thereof, and agreeing that neither Lessor nor UCC has made any representation, warranty or agreement with respect thereto, except as otherwise expressly provided herein.

7.03 Repairs to Buildings by the Lessor

The Lessee covenants and agrees with the Lessor that if the Lessee does not put and keep in good order and condition or cause to put and kept in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) the Lands and the Buildings and the fixtures, appurtenances and equipment thereof, both inside and outside, all as more particularly required by the provisions of section 7.02, the Lessor through its agents, servants, contractors and subcontractors, although not obliged to do so, may enter upon those parts of the Lands and the Buildings required for the purpose of making the necessary repairs required to put the Lands, Buildings, fixtures, appurtenances and equipment in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation

or structure of the Buildings); provided that the Lessor will make such repairs only after giving the Lessee 60 days written notice of its intention so to do, except in the case of an emergency. Any amount paid by the Lessor in making such repairs to the Lands and the Buildings or any part or parts thereof, together with all costs and expenses of the Lessor, shall be reimbursed to the Lessor by the Lessee on demand together with interest at the rate of 6% per annum above the Prime Rate from the date incurred until paid and may be recovered by the Lessor as Additional Rent.

7.04 Removal of Ice and Snow from Sidewalks

The Lessee covenants and agrees with the Lessor that if the Lessee at any time during the Term fails to keep the public sidewalks adjacent to the Lands reasonably clean from ice and snow during the times and to the extent required of an owner under the provisions of the applicable City by laws with respect thereto in effect from time to time, the Lessor through its agents, servants, contractors and subcontractors may remove such ice and snow and the Lessor shall not be required to give the Lessee any notice of its intention so to do. Any costs and expenses incurred by the Lessor in removing such ice and snow shall be reimbursed to the Lessor by the Lessee on demand together with interest at the rate of 6% per annum above the Prime Rate from the date incurred until paid and may be recovered by the Lessor as Additional Rent.

ARTICLE 8

DAMAGE OR DESTRUCTION

8.01 Rent Not to Abate

The partial destruction or damage or complete destruction by fire or other casualty of the Buildings shall not terminate this Lease or entitle the Lessee to surrender possession of the Lands or the Buildings or to demand any abatement or reduction of the Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

8.02 Lessee's Obligations When the Buildings Are Damaged or Partially Destroyed

The Lessee covenants and agrees with the Lessor that in the event of damage to or partial destruction of the Buildings, the Lessee, subject to the by laws and requirements of UCC, the Lessor, the City and any other governmental authority having jurisdiction shall either:

- (a) replace any part of the Buildings destroyed with a comparable new structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) repair or replace such damage or destruction, in the absence of any such agreement.

8.03 Lessee's Obligations When the Buildings Are Completely or Substantially Destroyed

The Lessee covenants and agrees with the Lessor that in the event of complete or substantially complete destruction of the Buildings the Lessee, subject to the by laws and requirements of UCC, the Lessor, the City and any other governmental authority having jurisdiction, shall either:

- (a) reconstruct or replace the Buildings, with a new structure or structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, replace the Buildings with a new structure or structures comparable to the structure or structures being replaced.

8.04 Replacement, Repair or Reconstruction Under Sections 8.02 or 8.03 to be Carried Out in Compliance with Sections 7.02 and 9.01

Any replacement, repair or reconstruction of the Buildings or any part thereof pursuant to the provisions of sections 8.02 or 8.03 hereof shall be made or done in compliance with the provisions of sections 7.02 and 9.01 hereof.

ARTICLE 9

REPLACEMENT, CHANGES, ALTERATIONS AND SUBSTITUTIONS

9.01 Replacement, Changes, Alterations and Substitutions

The Lessee shall not make or permit to be made any changes, alterations, replacements, substitutions or additions affecting the structure of the Buildings, the major electrical and/or mechanical systems contained therein, or the exterior decoration, design or appearance of the Buildings, when the cost thereof is reasonably expected to exceed \$50,000 (such amount shall be adjusted by the amount of any increase in the consumer price index (all items in) for Vancouver, British Columbia as published by Statistics Canada, or any comparable index which may replace it at any time, from the Commencement Date to the end of the month immediately preceding the month in which the costs are going to be incurred), without the written approval of the Lessor thereto, which approval the Lessor shall not withhold unreasonably. The Lessor hereby confirms that any application for a change, alteration, replacement, substitution or addition shall be submitted by the Lessee to UCC for review and approval, unless the Lessor otherwise advises. No changes, alterations, replacements, substitutions or additions shall be undertaken until the Lessee shall have submitted or caused to be submitted to UCC drawings, elevations (where applicable), specifications (including the materials to be used), locations (where applicable) and exterior decoration and design of the proposed changes, alterations, replacements, substitutions or additions and until the same have been approved in writing by UCC.

The Lessee covenants and agrees with the Lessor that, subject to Article 10, all changes, alterations, replacements, substitutions and additions undertaken by or for the Lessee once begun shall be prosecuted with due diligence to completion. All such changes, alterations, additions shall meet the requirements of the Approval Process/Submission Requirements, Development Guidelines, Zoning Regulations, and other requirements of the Lessor, UCC, the City and any other governmental authorities having jurisdiction.

ARTICLE 10

UNAVOIDABLE DELAYS

10.01 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Lessee, stop work order issued by any court or tribunal of competent jurisdiction (provided that such order was not issued as the result of any act or fault of the Lessee or of any one employed by it directly or indirectly), fire or explosion, flood, wind, water, earthquake, snowfall, inclement weather affecting construction conditions, act of God, delays in obtaining municipal approvals or design approval from UCC or other similar circumstances beyond the reasonable control of the Lessee and not avoidable by the exercise of reasonable effort or foresight by the Lessee, the Lessee is, in good faith and without default or neglect on its part, prevented or delayed in the Commencement of Construction or the prosecution of construction or in the Substantial Completion or completion of the Buildings or repair of the Buildings or any part or parts of them which under the terms of this Lease the Lessee is required to do by a specified date or within a specified time or if not specified within a reasonable time, the date or period of time within which the work was to have been completed shall be extended by the Lessor by a reasonable period of time at least equal to that of such delay or prevention and the Lessee shall not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Lessor and the Lessee. If the Lessor and the Lessee cannot agree as to whether or not there is a prevention or delay within the meaning of this section or they cannot agree as to the length of such prevention or delay, then such matter shall be determined by reference to arbitration in accordance with Article 21.

The Lessee shall act diligently and take all reasonable steps of a prudent owner to remove the cause or causes of delay in the Commencement of Construction or in the Substantial Completion or completion of the Buildings.

ARTICLE 11

BUILDERS' LIENS11.01 Release of Liens

The Lessee shall, throughout the Term at its own cost and expense, cause any and all builders' liens and other liens for labour, services or materials alleged to have been furnished with respect to the Lands or the Buildings, which may be registered against or otherwise affect the Lands or the Buildings, to be paid, satisfied, released (including, without limitation, the release of all such liens from the interest of the Lessor in the Lands), or vacated within 42 days after the Lessor shall send to the Lessee and the Mortgagee written notice by registered mail of any claim for any such lien; provided however, that in the event of a bona fide dispute by the Lessee of the validity or correctness of any claim for any such lien, the Lessee shall not be bound by the foregoing, but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into court the amount claimed or sufficient security therefor, and such costs as the court may direct, or the Lessee may provide, as security in respect of such claim, an irrevocable letter of credit, lodged with the Lessor, for 120% of the full amount of any claim for any such lien, the amount of which letter of credit shall be increased every six months to include interest on the claimed amount at the Prime Rate, calculated semi-annually not in advance from the date any such claim is registered against or otherwise affects the Lands or the Buildings, continuing so long as the aforesaid proceedings shall continue and which letter of credit shall be on terms sufficient to protect the Lessor's interest in the Lands and the Buildings and in a form reasonably satisfactory to the Lessor and shall be issued by one of the chartered Banks of Canada; and, upon being entitled to do so, the Lessee shall register all such documents as may be necessary to cancel such lien from the Lands and the Buildings, including the Lessor's interest therein.

11.02 Lessor May File Notice of Interest

It is agreed that the Lessor shall not be responsible for claims of builders liens filed by persons claiming through the Lessee or persons for whom the Lessee is in law responsible. The Lessee acknowledges and agrees that the improvements to be made to the Lands will be made at the Lessee's request solely for the benefit of the Lessee and those for whom the Lessee is in law responsible. The Lessor reserves the right throughout the Term to file a notice of interest in the Lower Mainland Land Title Office (the "Land Title Office") against title to the Lands pursuant to s. 3 of the *Builders Lien Act*, S.B.C. 1997, c. 45 that the Lessor's interest in the Lands is not bound by a lien claimed under such Act in respect of an improvement to the Lands unless that improvement is undertaken at the express request of the Lessor.

ARTICLE 12

INSPECTION AND EXHIBITION BY THE LESSOR12.01 Inspection by the Lessor

The Lessor and the Lessee agree that it shall be lawful for a representative of the Lessor at all reasonable times during the Term to enter the Lands and the Buildings, or any of them and to examine the condition thereof; and, further, that all wants of repair as required by section 7.02 which upon such inspections shall be found, and for the amendment of which notice shall be delivered or given by the Lessor to the Lessee, the Lessee shall within 60 days after receipt of every such notice or such longer period as provided in subsection 19.02(a) well and sufficiently repair and make good accordingly.

12.02 Exhibition by the Lessor

During the final 12 months of the Term, the Lessor shall be entitled to display upon the Lands the usual signs advertising the Lands and the Buildings as being available for purchase or letting, provided such signs are displayed in such a manner as not to interfere unreasonably with the Lessee's use and enjoyment of the Lands and the Buildings.

ARTICLE 13

OBSERVANCE OF REGULATIONS13.01 Observance of Regulations

The Lessee covenants with the Lessor that, notwithstanding any other provision of this Lease to the contrary, throughout the Term the Lessee will comply with all provisions of law including, without limitation, municipal, regional, provincial and federal legislative enactments including, without limitation, all police, fire and sanitary regulations, zoning and building by-laws, and any municipal, regional, provincial, federal, other governmental regulations or rules and guidelines of the City, the Lessor or UCC including the Approval Process/Submission Requirements, Development Guidelines and the Zoning Regulations, which relate to the construction and erection of the Buildings, to the equipment and maintenance of the Buildings, to the operation, occupation and use of the Buildings or the Lands to the extent that the Lessee operates, occupies and uses the Buildings or the Lands, whether by subletting the same or any part thereof or otherwise, prior to the filing of the Leasehold Strata Plan and the creation of the Strata Corporation, and to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Buildings, the Lands or any part thereof.

ARTICLE 14

RIGHTS OF LESSOR AND LESSEE14.01 Rights of Lessor and Lessee

All rights and benefits and all obligations of the Lessor and the Lessee under this Lease shall be rights, benefits and obligations of the Lessor and the Lessee respectively in their capacities as Lessor and Lessee respectively under this Lease, and references in this Lease to the "Lessor" shall be to Simon Fraser University in its capacity and role as landlord under this Lease and as registered owner of the Lands and not to Simon Fraser University in its capacity as the owner of all university lands with regulatory powers with respect thereto (Simon Fraser University, in the latter capacity, being referred to in this Lease as "Simon Fraser University").

ARTICLE 15

INDEMNITY15.01 Breach, Violation or Non-Performance of Covenants by Lessee

The Lessee shall indemnify, defend and save harmless the Indemnified Parties from any and all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), builders' liens, claims and demands of any nature whatsoever relating to and arising during the Term out of any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Lessee to be fulfilled, kept, observed and performed.

15.02 Injury, Damage or Loss of Property

Notwithstanding the provisions of Article 6 hereof, the Lessee shall indemnify, defend and save harmless the Indemnified Parties from any and all manner of actions, causes of action, suits, administrative proceedings, damages, loss, costs (including, without limitation, legal costs on a solicitor and his own client basis), claims and demands of any nature whatsoever relating to and arising during the Term out of:

- (a) any injury to person or persons, including death resulting at any time therefrom, occurring in or about the Lands or the Buildings; and
- (b) any damage to or loss of property occasioned by the use and occupation of the Lands or the Buildings.

provided however, that except as otherwise provided in section 6.06, nothing contained herein shall require the Lessee to indemnify any of the Indemnified Parties against any action, causes of action, suits, administrative proceedings, claims or demands for damages arising out of the wilful or negligent acts or omissions of any of the Indemnified Parties.

15.03 Waiver

Neither the Lessor, the Indemnified Parties nor UCC shall be liable to the Lessee for any damage, loss or prejudice suffered or claimed on account of:

- (a) the approval of any plans and specifications for a Building, whether or not defective;
- (b) the construction or performance of any work, whether or not pursuant to approved plans and specifications; or
- (c) the development, or manner of development, of any part of the Lands.

15.04 Indemnification Survives Termination of Lease

The obligations of the Lessee to indemnify the Indemnified Parties under the provisions of this Lease with respect to liability by reason of any matter arising prior to the date of release of the Lessee pursuant to section 26.04 hereof, shall survive any termination of this Lease, anything in this Lease to the contrary notwithstanding.

ARTICLE 16**SUBLETTING AND ASSIGNING****16.01 Subletting by Lessee - Other Than by Way of Mortgage**

Save as expressly provided in section 16.03, the Lessee shall not and will not during the Term sublease the Lands, the Buildings or any part thereof or any structure or any part of any structure erected thereon to any person, persons or corporation whatsoever, without the consent in writing of the Lessor, which consent the Lessor may arbitrarily withhold; provided however that:

- (a) if Basic Rent and Additional Rent and taxes or amounts in lieu of taxes have been paid and the Lessee is not then in default in the performance or observance of the other covenants, provisos and agreements required of the Lessee to be performed and observed, the Lessee may from time to time without the consent of the Lessor, enter into subleases with lessees or occupants of the dwelling units in the Buildings comprising in every case part or parts (but not the whole) of the Buildings, such dwelling units to be used by the lessees or occupants for residential purposes only;
- (b) notwithstanding any such consent being given by the Lessor under this section 16.01 and such subleasing being effected, the Lessee shall remain bound to the Lessor for the fulfilment of all of its obligations hereunder; and

- (c) at the Lessor's request, a copy of any or all subleases shall be forwarded to the Lessor within 30 days of the conclusion of such transaction together with particulars of registration (if any) in the Land Title Office.

16.02 Assignment by Lessee - Other Than by Way of Mortgage

- (a) The Lessee shall not and will not during the Term (other than by way of Mortgage as permitted in or by section 16.03) assign, transfer or sell or otherwise, by any act or deed, cause the Lands or the Buildings, or any of them, or this Lease, to be assigned, transferred or sold to any person, persons or corporation whatsoever without the consent in writing of the Lessor, which consent the Lessor shall not unreasonably withhold, provided as hereinafter set forth.
- (b) Provided that the Lessor, in considering a request by the Lessee that such an assignment be approved, shall be acting reasonably in taking into account the following matters, and if the Lessor is not satisfied as to any of such matters, the Lessor shall be acting reasonably in refusing to approve the proposed assignment:
 - (i) the reputation and experience of the proposed assignee as a real estate developer and the nature of the business of the proposed assignee;
 - (ii) the financial standing and capability of the proposed assignee (as evidence of which the three most recent financial statements of the proposed assignee shall be provided to the Lessor), including evidence that the proposed assignee will be able to secure a lender to finance construction of the Buildings and all ancillary facilities, and evidence that there are no actions, suits, claims, legal or administrative proceedings or investigations, private or public, pending or threatened, which might affect the proposed assignee's ability to fulfil all the covenants and agreements of the Lessee under this Lease and the Model Strata Lot Lease;
 - (iii) the ability of the Lessee and the proposed assignee to arrange that the proposed assignee, following the assignment, will have full ability to perform the covenants and agreements of the Lessee under this Lease and the Model Strata Lot Lease, including evidence that all drawings, plans, specifications, designs, applications, permits, approvals and contracts relating to the construction of the Buildings and all facilities ancillary thereto will be assigned to the proposed assignee; and
 - (iv) past and present dealings of the proposed assignee with UCC and/or Simon Fraser University.
- (c) Provided however that the Lessor shall also be acting reasonably and shall be entitled arbitrarily to withhold its consent to an assignment:
 - (i) if the Lessee is in default in the performance and observance of any of the covenants, provisos and agreements required of the Lessee to be

performed and observed under this Lease, the Model Strata Lot Lease, or any restrictive covenant registered against the Lands in priority to this Lease;

- (ii) if the Basic Rent to be paid by the Lessee to the Lessor under section 2.01 or any Additional Rent has not been paid in full;
 - (iii) unless the proposed assignee enters into an agreement, in form and content satisfactory to the Lessor, with the Lessor whereby the proposed assignee covenants directly with the Lessor and agrees to be bound by and comply with all of the covenants, provisos and agreements required of the Lessee to be performed and observed under this Lease and the Model Strata Lot Lease.
- (d) Notwithstanding the foregoing, if Basic Rent and Additional Rent and taxes or amounts in lieu of taxes have been paid and the Lessee is not then in default in the performance or observance of the other covenants, provisos and agreements required of the Lessee to be performed and observed:
- (i) the Lessee, without the consent of the Lessor, may offer for sale its leasehold interest in the proposed Strata Lots which the Lessee proposes to create by deposit of a Leasehold Strata Plan in accordance with Article 26, provided that the Lessee has complied with all requirements of the *Real Estate Act*, R.S.B.C. 1996, c.397 so far as they pertain to the offer for sale of the proposed Strata Lots (provided however, that where the Lessee proposes to offer for sale its leasehold interest in more than 50% of the proposed Strata Lots to one person or one corporation or group of companies with substantially the same shareholders or directors, then the prior consent of the Lessor to such person or corporation must be obtained in accordance with section 16.02(b) and (c)); and
 - (ii) the Lessee, without the consent of the Lessor, may assign, transfer or convey its leasehold interest in those Strata Lots created by the deposit of the Leasehold Strata Plan as aforesaid which have been Substantially Completed, if the City has issued an occupancy permit in respect thereof and the provisions of section 16.02 of the Model Strata Lot Lease attached hereto as Schedule "A" shall apply to such assignments, transfers or conveyances (provided however, that where the Lessee proposes to offer for sale all of its leasehold interest in more than 50% of the Strata Lots to one person or one corporation or group of companies with substantially the same shareholders or directors, then the prior consent of the Lessor to such person or corporation must be obtained in accordance with section 16.02(b) and (c)).
- (e) If the Lessee is required by the Superintendent of Real Estate (the "Superintendent") to submit a prospectus or disclosure statement, as the case may be, to the Superintendent relating to proposed Strata Lots, a copy of the

prospectus or disclosure statement shall be delivered to the Lessor within 30 days of the acceptance thereof by the Superintendent.

- (f) A copy of any and all agreements to purchase, assignments, transfers or sales shall be furnished to the Lessor within 30 days of the completion of each transaction together with particulars, if any, of registration in the Land Title Office.

16.03 Mortgaging by Lessee

The Lessee shall have the right, without the consent of the Lessor, at any time and from time to time to mortgage its leasehold estate by assignment or sublease and, *inter alia*, to give security by way of an assignment of rents and to extend, modify, renew, vary or replace any such mortgage, assignment or other security. A copy of any and all mortgages shall be furnished to the Lessor together with particulars of registration in the Land Title Office within 30 days of such registration.

ARTICLE 17

MORTGAGE

17.01 Rights of Mortgagee

The Mortgagee under any Mortgage referred to in section 16.03 may enforce such Mortgage and acquire title to the leasehold estate in any lawful way and, by its representative or by a receiver, as the case may be, take possession of and manage the Lands and upon foreclosure of such Mortgage may sell or assign the leasehold estate and the purchaser or assignee of the leasehold estate shall be liable to perform the obligations imposed upon the Lessee by this Lease only so long as such purchaser or assignee has ownership or possession of such leasehold estate.

17.02 Notice to and Remedies of Mortgagee

- (a) No re-entry, termination, acceptance of surrender, disclaimer or forfeiture of this Lease by the Lessor or by a receiver, interim receiver, receiver-manager, liquidator, custodian or trustee shall be valid against the Mortgagee who has executed and delivered to the Lessor a tripartite agreement in the form attached hereto as Schedule "B" unless the Lessor shall first have given to the Mortgagee notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease, specifying the nature of that default and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default specified in the notice within a period of 60 days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default is other than the failure to pay Rent or any other sums required to be paid by the Lessor by any provisions of this Lease and if the default cannot reasonably be cured within such 60 day period, then to

immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default;

and the Lessor hereby grants the Mortgagee access to the Lands and the Buildings for that purpose.

- (b) If the default is cured within the period specified, the Mortgagee shall be entitled to become tenant of the Lands and Buildings for the balance of the Term remaining at the date of the notice of default or contingency, providing that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term; provided however that in the event the Mortgagee consists of more than one Mortgagee each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default or contingency specified as aforesaid and the assumption of the balance of the Term as aforesaid by that Mortgagee which is willing to cure and assume as aforesaid and whose charge ranks in priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and assume as aforesaid; except that in the event any Mortgagee has commenced a foreclosure action the provisions of subsection 17.02(c) shall apply.
- (c) In the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee is in default of the performance of its covenants and agreements with the Lessor under this Lease at the time such foreclosure proceedings are commenced, the Lessor shall not re-enter, terminate or forfeit this Lease after the commencement of foreclosure proceedings on the ground of any default or contingency entitling the Lessor to re-enter, terminate or forfeit this Lease if the Mortgagee:
 - (i) shall first have given to the Lessor notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings without undue delay;
 - (iii) cures the default or contingency within a period of 60 days from the date of receipt of notice from the Lessor specifying the nature of the default or contingency, or if the default or contingency is other than the failure to pay Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or contingency cannot reasonably be cured within such 60 day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or contingency; and
 - (iv) performs and observes all of the Lessee's covenants and agreements under this Lease and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee.

In the event that the Mortgagee acquires title to the Lessee's interest in the Lands and the Buildings pursuant to the foreclosure proceedings, the Mortgagee shall thereupon become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term; provided however that in the event the Mortgagee consists of more than one Mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default or contingency granted by this subsection 17.02(c) to a foreclosing Mortgagee shall be deemed granted to them in the order of priority of the charges held by the foreclosing Mortgagees.

- (d) If this Lease shall be subject to termination or forfeiture pursuant to Article 18 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor notice of Mortgage in favour of the Mortgagee and specified an address for notice under Article 27, the Lessor shall give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to terminate or forfeit this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure any other default of the Lessee and the Lessee's other default shall be deemed to have been sufficiently cured if the Mortgagee:
 - (i) commences foreclosure proceedings against the Lessee as more particularly set out in subsection 17.02(c);
 - (ii) takes possession and control of the Lands and the Buildings, or causes a receiver to be appointed under the terms of the Mortgage or by a court of competent jurisdiction, who takes possession and control of the Lands and the Buildings, and the Lessor hereby grants the Mortgagee or such receiver access to the Lands and the Buildings for that purpose;
 - (iii) cures every default within a period of 60 days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such 60 day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or defaults; and
 - (iv) attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term.

Provided however that in the event the Mortgagee consists of more than one Mortgagee the right to take possession and control, to cure any default and to assume the Lease as aforesaid shall be deemed granted to them in the order of the priority of their respective charges.

- (e) Any re-entry, termination or forfeiture of this Lease made in accordance with the provisions of this Lease as against the Lessee shall be valid and effectual against the Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease.
- (f) No entry upon the Lands or into the Buildings by the Mortgagee pursuant to this section 17.02 for the purpose of curing any default or defaults of the Lessee shall release or impair the continuing obligations of the Lessee.

17.03 Mortgage Subject to Lessor's Rights Under Lease

Subject to the provisions of section 17.02, every Mortgage shall be made expressly subject to the rights of the Lessor under this Lease.

17.04 Protection of Mortgagee (Tripartite Agreements)

The Lessor and the Lessee agree that the obligations of the Lessor under section 17.02 are subject to the Mortgagee entering into an agreement in the form attached hereto as Schedule "B" whereby the Mortgagee covenants and agrees that if it acquires title to the Lessee's interest in this Lease but only for so long as it holds such title, it shall perform and observe the covenants and agreements required of the Lessee to be performed and observed, if not performed or observed by the Lessee, whether or not the Lessor has taken any steps to enforce performance or observance of any of the covenants and agreements in this Lease to be performed or observed by the Lessee.

ARTICLE 18

BANKRUPTCY OF LESSEE

18.01 Events of Bankruptcy or Receivership

The parties agree, subject to the provisions of sections 17.02 and 17.04, that:

- (a) if the Lessee shall make a general assignment for the benefit of creditors; or
- (b) if the Lessee shall institute proceedings to be adjudicated bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against the Lessee or shall file an application or petition or answer or consent, seeking re-organization or re-adjustment of the indebtedness of the Lessee under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency or shall consent to the filing of any such application or petition or shall consent to the appointment of a receiver or receiver-manager; or
- (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator or custodian of all or substantially all of the property of the Lessee or of the Lessee's leasehold

interest in the Strata Lot shall be appointed or applied for by the Lessee or appointed pursuant to an instrument or by order of a court; or

- (d) if a judgment, decree or order shall be entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted otherwise than by the Lessee, provided that such judgment, decree or order is not in good faith contested by the Lessee; or
- (e) if any application or petition or certificate or order is made or granted for the winding up or dissolution of the Lessee, voluntary or otherwise;

then the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee shall have the right to disclaim this Lease or to hold and retain the Lands and the Buildings for a period not exceeding six months from the effective date of any such appointment, receiving order, assignment, judgment, decree, order or the commencement of dissolution or winding-up, as the case may be, or until the expiration of the Term, whichever first happens on the same terms and conditions as the Lessee might have held the Lands and the Buildings had no such appointment, receiving order, assignment, judgment, decree or order been made or dissolution or winding-up commenced.

If the receiver, interim receiver, receiver-manager, liquidator or custodian holds and retains the Lands and the Buildings as aforesaid he shall during the said period either:

- (i) surrender possession at any time and the Term shall thereupon terminate; or
- (ii) upon approval of the court as hereinafter provided, sell, transfer or otherwise dispose of all of the interest of the Lessee in this Lease and the Lands and the Buildings for the remainder of the Term or any part thereof and all the rights of the Lessee hereunder, notwithstanding anything to the contrary in Article 16 contained, if the Supreme Court of British Columbia upon the application of such receiver, interim receiver, receiver-manager, liquidator, custodian or trustee and after 14 days written notice of such application to the Lessor, approves such sale, transfer or disposition; or
- (iii) continue as tenant for the balance of the Term remaining provided that the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease on the part of the Lessee to be performed and observed.

18.02 Certain Rights of the Parties

The Lessor and the Lessee agree that:

- (a) Should the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee at any time before or after taking possession, disclaim this Lease or surrender possession to the Lessor, his liability and the liability of the estate of the Lessee and of the Lessee for payment of Rent is limited to the period of time during which the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee remains in possession of the Lands and the Buildings for the purposes of the trust estate. If the receiver, receiver-manager, liquidator, custodian or trustee disclaims this Lease or surrenders possession, the Lessor or the Lessor's agents or employees authorized by the Lessor may immediately or at any time thereafter re-enter the Lands and the Buildings without being liable for any prosecution or damages therefor, and may repossess and enjoy the Lands and the Buildings and all fixtures and improvements therein and thereon, except fixtures and improvements which are of the nature of usual tenants' fixtures and normally removable by tenants and which are not part of the Buildings or the Lands and such receiver, receiver-manager, liquidator, custodian or trustee shall execute a surrender or assignment to the Lessor in registrable form.
- (b) Entry into possession of the Lands and the Buildings by the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee and its occupation by him while required for the purposes of the performance of his duties in his office shall not be deemed to be evidence of an intention on his part to retain the Lands and the Buildings, nor affect his right to disclaim or to surrender possession pursuant to the provisions of section 18.01.
- (c) If after occupation of the Lands and the Buildings, the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee elects to retain it and thereafter sells, transfers or otherwise disposes of the Lease, the Lands and the Buildings and all interests and rights of the Lessee therein and hereunder to a person approved by the court as provided by section 18.01, his liability and the liability of the Lessee and his estate for the payment of the Rent, if any, is limited to the period of time during which he remains in possession of the Lands and the Buildings.

18.03 No Abatement of Rent

The receiver, receiver-manager, liquidator, custodian or trustee shall pay to the Lessor for the period during which the receiver, receiver-manager, liquidator, custodian or trustee actually occupies the Lands and the Buildings pursuant to section 18.01 hereof the Rent calculated on the basis of this Lease and payable in accordance with the terms hereof.

ARTICLE 19

DEFAULT BY LESSEE19.01 Re-Entry on Certain Defaults By Lessee

The Lessor and the Lessee agree that subject to the provisions of section 17.02, if:

- (a) the Lessee shall default in payment of Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and such default shall continue for a period of 30 days after written notice of intention to terminate this Lease by reason of such default shall have been given by the Lessor to the Lessee; or
- (b) the Lessee shall default in ensuring Commencement of Construction or Substantial Completion of the Buildings by the dates set forth in section 4.03, and such default shall continue for a period of 30 days after written notice of intention to terminate this Lease by reason of such default shall have been given by the Lessor to the Lessee;

the Lessor or the Lessor's agents or employees authorized by the Lessor may immediately or at any time thereafter re-enter the Lands and the Buildings without being liable to any prosecution or damages therefor and may repossess and enjoy the Lands, the Buildings and all fixtures and improvements on the Lands except fixtures and improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Buildings or the Lands, as liquidated damages, without such re-entry and repossession constituting a forfeiture or waiver of the Rent paid or to be paid to the Lessor, all of which Rent may be retained by the Lessor as liquidated damages and not as a penalty (provided however that where the Lessee has defaulted in the Commencement of Construction or the Substantial Completion of the Buildings as set forth in subsection 19.01(b) then a portion of the Basic Rent shall be refunded to the Lessee as provided in section 4.06) and without forfeiture or waiver of the covenants to be performed by the Lessee up to the date of such re-entry and repossession.

19.02 Forfeiture on Certain other Defaults by Lessee

The Lessor and the Lessee agree that, subject to the provisions of section 17.02, if:

- (a) the Lessee shall default in performing or observing any of its covenants or obligations under this Lease (other than those referred to in section 19.01) and the Lessor shall have given to the Lessee notice of such default and at the expiration of 60 days after the giving of such notice the default shall continue to exist or, in the case of a default which cannot with due diligence be cured within the period of 60 days aforesaid, the Lessee fails to proceed promptly after the giving of such notice to cure such default; and
- (b) the Lessor desires to re-enter the Lands and to repossess and enjoy the Lands and the Buildings and all fixtures and improvements thereon (except fixtures and

improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Lands and the Buildings);

the Lessor shall unless the Lessee voluntarily surrenders the Lands and the Buildings to the Lessor, apply to the Supreme Court of British Columbia, upon not less than 14 days notice to all persons interested in the Lands and the Buildings, for an order that, either:

- (i) the interest of the Lessee in this Lease and the Lands and the Buildings for the remainder of the Term and all the rights of the Lessee hereunder be sold by public auction or private sale on such terms and conditions as the Court deems fair and equitable in the circumstances, the proceeds therefrom to be distributed, after all Rent and other money due to the Lessor hereunder is paid to the Lessor, in accordance with the priorities of the persons interested as aforesaid as ascertained by the Court upon enquiry or reference; or
- (ii) the Lessor or the Lessor's agents or employees be authorized to re-enter the Lands and the Buildings without being liable to any prosecution or damages therefor, and repossess and enjoy the Lands and the Buildings and all fixtures and improvements (except for fixtures and improvements which are of the nature of usual tenants' fixtures and normally removable by tenants, and which are not part of the Buildings or the Lands), as liquidated damages, without such re-entry and repossession working a forfeiture or waiver of the Rent and other money paid or to be paid to the Lessor, all of which Rent may be retained by the Lessor as liquidated damages and not as a penalty and without forfeiture or waiver of the covenants to be performed by the Lessee up to the date of such re-entry and repossession; and

in ordering such sale or re-entry, the Court may direct the Registrar of the Land Title Office to cancel the Lessee's interest in the Lands, the Buildings and this Lease, and assign this Lease to the purchaser free and clear of and from all liens, charges and encumbrances whatsoever. The Lessor shall not be responsible for any loss to any such person interested which may arise by reason of any such sale or re-entry unless the same occurs by reason of the wilful neglect or default of the Lessor.

19.03 Rights to Cure

The Lessor and the Lessee agree that if the Lessee defaults in performing or observing any of its covenants or obligations under this Lease (other than those referred to in section 19.01) and the Lessor has given to the Lessee notice of such default and at the expiration of 60 days after the giving of such notice the default continues to exist or, in the case of a default which cannot with due diligence be cured within the period of 60 days aforesaid, the Lessee fails to proceed promptly after the giving of such notice to cure such default, the Lessor, UCC, or their duly authorized agents shall have the right and licence, at any time, and from time to time, without any liability for trespass or otherwise, to enter upon the Lands to cure the default of the

Lessee, and any costs so incurred by the Lessor or UCC in curing such default, shall be payable to the Lessor under this Lease as Additional Rent.

19.04 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies of the Lessor at law or equity. No remedy shall be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more or all of the available remedies specified herein or at law or equity. In addition to any other remedies provided in this Lease, the Lessor shall be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements hereof.

19.05 Waiver by Lessor

The failure of the Lessor to insist upon the strict performance of any covenant or agreement of this Lease shall not waive such covenant or agreement, and the waiver by the Lessor of any breach of any covenant or agreement of this Lease shall not waive such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of Rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Lessee shall not waive such breach. No waiver by the Lessor shall be effective unless made in writing.

ARTICLE 20

COVENANTS OF LESSOR

20.01 Covenant Respecting Charges and Encumbrances

The Lessor covenants with the Lessee that the Lessor has a good and marketable title in fee simple to the Lands and that the Lessor has not at any time heretobefore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the title to the Lands or any part thereof is charged or encumbered other than the subsisting exceptions and reservations contained in the original grant of the Lands from the Crown and any restrictive covenants and/or easements and/or rights of way in favour of the City or other public bodies or utilities which may be registered against the Lands.

20.02 Covenant Respecting Authority to Lease

The Lessor covenants with the Lessee that it now has in itself good right, full power and authority to lease the Lands to the Lessee in the manner and according to the true intent of this Lease pursuant to Order-In-Council No. 537, a copy of which is attached hereto as Schedule "C".

ARTICLE 21

ARBITRATION21.01 Arbitration

If the Lessor and the Lessee do not agree as to any of the matters which, if no agreement is reached upon them, are by the provisions hereof to be determined by arbitration, any such disagreement shall be referred to three arbitrators, one of whom shall be chosen by the Lessor, one by the Lessee and the third by the two so chosen and the third arbitrator so chosen shall be the chairman. The award will be made by the majority of the arbitrators appointed. If within 15 days or such extended time as the parties may agree upon, a party who has been notified of a dispute fails to appoint an arbitrator or the two arbitrators appointed by the parties do not agree upon a third arbitrator, then the party or parties not in default may apply to the Supreme Court of British Columbia for the appointment of an arbitrator to represent the party or parties in default or a third arbitrator or both of such arbitrators. Each party shall pay its own costs of attending the arbitration. The costs of the arbitrators and the award shall be in the discretion of the arbitrators who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be paid or any part thereof and may award costs to be paid as between solicitor and client. Except as to matters otherwise provided herein, the rules of the British Columbia International Commercial Arbitration Centre as amended from time to time, shall apply. The case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its "Procedures for Cases under the BCICAC Rules."

ARTICLE 22

CERTAIN COVENANTS AND AGREEMENTS OF LESSEE22.01 Conduct on Demised Premises

Taking into account that during construction of the Buildings the Lands will be operated as a normal construction site (but subject to the Construction Guidelines), the Lessee covenants and agrees with the Lessor that it will not carry on nor do, nor allow to be carried on or done upon the Lands or in the Buildings any work, business or occupation which may be a nuisance or which may be improper, noisy or contrary to any law or to any rule or guideline of the City, UCC or Simon Fraser University or any enactment of any governmental agencies or authorities having jurisdiction for the time being in force.

ARTICLE 23

SURRENDER OF LEASE23.01 Surrender of Lease

At the expiration or sooner determination of the Term, the Lessee shall surrender the Lands and the Buildings to the Lessor in the condition in which they were required to be kept by the Lessee under the provisions of this Lease, except as herein otherwise expressly provided. The Lessee shall not be entitled to any compensation from the Lessor for surrendering and yielding up to the Lands and the Buildings as aforesaid except as otherwise provided in the Model Strata Lot Lease attached hereto as Schedule "A".

ARTICLE 24

QUIET ENJOYMENT AND OWNERSHIP OF TENANT'S FIXTURES24.01 Covenant for Quiet Enjoyment

If the Lessee pays the Rent hereby reserved and the other charges, and performs the covenants hereinbefore on the Lessee's part contained, the Lessee shall and may peaceably enjoy and possess the Lands for the Term, without any interruption or disturbance whatsoever from the Lessor or any other person, firm or corporation lawfully claiming from or under the Lessor, provided however that nothing in this section 24.01 shall limit the rights of access reserved by the Lessor under section 7.03, the rights of inspection conferred upon the Lessor by section 12.01, and the right of the Lessor to show the Lands and the Buildings and to post notice, pursuant to section 12.02.

24.02 Ownership of Tenant's Fixtures

The Lessee may confer upon tenants or occupants of the Buildings the right of property in, or the right to remove fixtures or improvements which are of the nature of usual tenant's fixtures and normally removable by tenants, and which are not part of the Buildings or the Lands. The Lessee shall make good or shall cause such tenants to make good, any damage to the Buildings or the Lands caused by any removal of the tenant's fixtures.

ARTICLE 25

OVERHOLDING25.01 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee shall hold over and the Lessor shall accept Rent after the expiration of the Term, the new tenancy thereby created shall be a tenancy from month to month, at a rent which is the fair market rent of the Lands as agreed between the Lessor and the Lessee, or, failing such agreement, as determined by arbitration pursuant to Article 21, and not a tenancy from year to year and shall be subject to the

covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month.

ARTICLE 26

CONVERSION OF GROUND LEASE UNDER THE STRATA PROPERTY ACT

26.01 Leasehold Strata Plan

- (a) The Lessee shall prepare or cause to be prepared as soon as reasonably possible after the date of this Lease the Leasehold Strata Plan, the same to be prepared in accordance with the provisions of the *Strata Property Act*.
- (b) The Lessee shall deliver the Leasehold Strata Plan to the Lessor and the Lessor agrees to deliver to the Lessee its written consent to the registration of the Leasehold Strata Plan for filing in the Land Title Office if the Leasehold Strata Plan has been prepared in accordance with the provisions in that regard contained in the *Strata Property Act*.
- (c) As soon as reasonably possible after the written consent of the Lessor has been delivered, the Lessee shall deposit the Leasehold Strata Plan in the Land Title Office in accordance with the provisions of the *Strata Property Act* and the *Land Title Act*, R.S.B.C. 1996, Chapter 250, as amended from time to time, in respect of the Leasehold Strata Plan.
- (d) The Lessee acknowledges and confirms to the Lessor that it shall be the sole responsibility of the Lessee to comply with the requirements of the *Strata Property Act* such that the Leasehold Strata Plan may be accepted by the Land Title Registrar for deposit in the Land Title Office as aforesaid.

26.02 Conversion of Ground Lease

It is understood and agreed between the Lessor and the Lessee that the deposit of the Leasehold Strata Plan shall, in accordance with the provisions of Part 12 of the *Strata Property Act*, operate as a conversion of this Lease into individual leases in the name of the Lessee in respect of the interest of the Lessee in each Strata Lot subject to the applicable terms and conditions contained in this Lease and in the Model Strata Lot Lease attached hereto and forming Schedule "A" hereof and to the provisions of the *Strata Property Act* and the regulations made thereunder. From and after the conversion of this Lease under the *Strata Property Act* as aforesaid, each Strata Lot shall be held during all of the unexpired residue of the Term then remaining separately from and independently of each of the other Strata Lots as if each Strata Lot had been demised to the Lessee by separate leases in the form of the Model Strata Lot Lease attached hereto as Schedule "A".

26.03 Execution of Model Strata Lot Lease by the Strata Corporation

The Lessee covenants and agrees with the Lessor that within 10 days after the deposit of the Leasehold Strata Plan in the Land Title Office and prior to the assignment of any of the Strata Lots the Lessee will deliver to the Lessor a lease in the form of the Model Strata Lot Lease attached hereto and forming Schedule "A" hereof executed by the Lessee and the Strata Corporation together with a resolution of the Strata Corporation to authorize the Strata Corporation to enter into and exercise the said lease. The Lessor shall upon receipt of the executed Model Strata Lot Lease, execute the same and return the same to the Lessee, and the Lessee shall cause the Model Strata Lot Lease to be filed in the Land Title Office.

26.04 Release from Liability

- (a) The Lessor covenants and agrees with the Lessee that **Millennium University Homes Ltd.**, the Lessee named herein (but not including any lessee, sublessee or tenant of the Lessee or any other party claiming under the Lessee or any party to whom the Lessee assigns, transfers or conveys a Strata Lot under section 16.02(d) of this Lease or section 16.02 of the Model Strata Lot Lease), shall be released and discharged from any and all of its liabilities and obligations under the covenants, terms and conditions contained in the Model Strata Lot Lease in respect of each Strata Lot on the date which is the later of:
- (i) the date the Lessee's leasehold interest in that Strata Lot is assigned to the first arm's length purchaser thereof; or
 - (ii) the date of Substantial Completion of the Buildings as certified by the Architect.

Provided that the Lessee shall have paid the Basic Rent, Additional Rent, taxes and any other monies required to be paid hereunder and observed and performed the covenants and agreements herein to be performed by the Lessee up to and including the said date.

- (b) The Lessor agrees that, while otherwise having the right to do so, it will refrain from pursuing its remedies hereunder against the Lessee for a default under the Model Strata Lot Lease in respect of which the Lessee has been released in accordance with the provisions of section 26.04.
- (c) Save as herein specifically provided, the Lessee shall not be released from its liabilities and obligations under this Lease.

ARTICLE 27

NOTICE27.01 Notice

All notices, demands and requests which may be or are required to be given pursuant to this Lease shall be in writing and shall be sufficiently given if served personally upon the party or an executive officer of the party for whom it is intended or mailed prepaid and registered addressed to the parties at the addresses set out on page 7 hereof, or such other addresses as the parties may from time to time advise by notice in writing. Mortgagees hereof shall supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request shall be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed aforesaid on the second business day next following the date of such mailing. Provided however that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice shall be deemed to be received when actually delivered.

ARTICLE 28

MISCELLANEOUS28.01 Construction Warranties

The Lessee covenants and agrees with the Lessor that the Lessee is a licenced builder under the *Homeowner Protection Act* (British Columbia) and will comply with the warranty requirements set out in that Act.

28.02 Statements by Lessor and Lessee

The Lessor and the Lessee agree that at any time and from time to time upon not less than 30 days prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect or if there have been modifications that the same are in full force and effect as modified and identifying the modifications;
- (b) the dates to which the Rent and other charges have been paid and the request shall specify the charges in respect of which such information is required; and
- (c) that, so far as the maker of the statement knows, without having conducted any searches or made any particular enquiries, the party who requests the statement is not in default under any provisions of this Lease, or, if in default, the particulars thereof.

This certification shall be provided by the Lessor on the following conditions:

- (i) that neither the Lessor nor the party signing on behalf of the Lessor be liable for any damage or expense should for any reason, including negligence, the information provided be inaccurate, incomplete or misleading; and
- (ii) that should any or all of the information be inaccurate, incomplete or misleading, for any reason, including negligence, the Lessor shall, as against any person or corporation who may rely on the contents of this certification statement, be able to assert and enforce its full rights in strict accordance with this Lease as if this certification statement had not been signed on behalf of the Lessor and as if any or all persons and corporations who may rely on the contents of the certification statement had not relied on the contents of the certification statement.

28.03 Assignment of Powers

If not already delegated to UCC pursuant to the express provisions of this Lease, any and all of the rights and powers vested in the Lessor pursuant to this Lease may be delegated, transferred or assigned by the Lessor to UCC from time to time and at any time during the Term by notice in writing to the Lessee to that effect.

28.04 Time of Essence

Time shall be of the essence of this Lease, save as herein otherwise provided.

28.05 Modifications

This Lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the Lessor and the Lessee or by the successors or assigns of the Lessor and the successors or permitted assigns of the Lessee.

28.06 Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

28.07 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease shall extend to, be binding upon and enure to the benefit of the Lessor and the Lessee and the successors and assigns of the Lessor and the successors and permitted assigns of the Lessee.

ARTICLE 29

EASEMENT29.01 Sediment Pond Easement

In consideration of the covenants and agreements reserved and contained on the part of the Lessee to be observed and performed herein, the Lessor for itself and its successors and assigns hereby grants to the Lessee and its successors and assigns, with the intent that the benefit of this easement shall be annexed to and run with the Lands, and that the burden of this easement shall run with and bind the Property and every part thereof, a non exclusive, free and uninterrupted easement from the Commencement Date to the date of Substantial Completion for the Lessee and its employees and contractors to enter upon, pass and repass, on foot or by vehicle, with or without personal property, on, along, over, across and through the Property for the purpose of using the sediment pond facility constructed by UCC in a location to be determined by the Lessor, acting reasonably (the "Easement Area") but substantially in the area shown hatched on Schedule "D" for its proper and intended purpose, subject only to the following restrictions and limitations:

- (a) payment by the Lessee of the Deposit referred to in section 5.04;
- (b) the right of the Lessor to grant easements or rights of way in, over, under or through the Easement Area for any purpose whatsoever, provided that no such easements shall be granted which restrict the rights granted by this section 29.01; and
- (c) the right of the Lessor to make and amend reasonable rules and regulations from time to time regarding the use of and activities upon the Easement Area.

The Lessor agrees to complete the construction of the sediment pond facility on the Easement Area as soon as reasonably practical.

IN WITNESS WHEREOF the Lessor and the Lessee have hereunto caused **this Lease to be executed on the Form C attached hereto** by their respective proper officers duly authorized for such purpose.

This is Schedule "A" referred to in
Section 16.02(d)(ii) of this Lease

BETWEEN:

SIMON FRASER UNIVERSITY

AND:

MILLENNIUM UNIVERSITY HOMES LTD.

AND:

THE OWNERS, LEASEHOLD STRATA PLAN
BCS _____

RE:

Lot A
District Lots **102 and 211**
Group 1, New Westminster District
Plan **BCP4762**

**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 pages

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)

●

●

3. NATURE OF INTEREST:*

DESCRIPTION

DOCUMENT REFERENCE
(PAGE AND PARAGRAPH)

PERSON ENTITLED TO INTEREST

Leasehold Estate

Entire Instrument

Transferee

4. TRANSFEROR(S):*

SIMON FRASER UNIVERSITY

5. TRANSFEREE(S): (including postal address(es) and postal code(s)):

●

6. 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.

USE BLACK INK ONLY

Officer Signature(s)

Execution Date

Y M D

USE BLACK INK ONLY

Party(ies) Signature(s)

03

03

SIMON FRASER UNIVERSITY by
its authorized signatories:

Print Name:

Print Name:

● by its authorized signatories:

Print Name:

Print 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.

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

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

MODEL STRATA LOT LEASE

BETWEEN: SIMON FRASER UNIVERSITY

AND: MILLENNIUM UNIVERSITY HOMES LTD.

AND: THE OWNERS, LEASEHOLD STRATA PLAN BCS_____

RE: Lot A
District Lots 102 and 211
Group 1, New Westminster District
Plan BCP4762

INDEX

| | |
|----------------------------------------------------------------------------------------------------------------------------------|----|
| ARTICLE 1 DEFINITIONS | 62 |
| 1.01 Definitions | 62 |
| 1.02 Conditions and Covenants | 64 |
| 1.03 Construction of Words | 64 |
| 1.04 Interpretation | 64 |
| ARTICLE 2 BASIC RENT AND ADDITIONAL RENT | 65 |
| 2.01 Basic Rent | 65 |
| 2.02 Payments Generally | 65 |
| 2.03 Net Lease | 65 |
| 2.04 Interest on Amounts in Arrears | 65 |
| ARTICLE 3 PAYMENT OF TAXES | 66 |
| 3.01 Payment of Taxes if Lessor is not Exempt Therefrom | 66 |
| 3.02 Payment of Taxes if Lessor is Exempt Therefrom | 67 |
| 3.03 Delinquent Taxes | 68 |
| 3.04 Business Tax and License Fees | 68 |
| 3.05 Penalties Levied Pursuant to UCC Guidelines | 69 |
| ARTICLE 4 PAYMENT FOR UTILITY SERVICES | 69 |
| 4.01 Payment For Utility Services | 69 |
| ARTICLE 5 CONSTRUCTION | 70 |
| 5.01 No Construction Obligation For Assignees of Strata Lots | 70 |
| 5.02 Indemnity From Strata Corporation and Lessees | 70 |
| 5.03 Lessee to Construct Buildings | 71 |
| 5.04 Substantial Completion of Buildings | 71 |
| 5.05 Deadlines for Commencement of Construction and Substantial Completion of Buildings | 72 |
| 5.06 Application for Order For Sale Where the Lessee Defaults in Commencement of Construction or Substantial Completion | 72 |
| 5.07 Builders All Risk and Wrap-Up Liability Insurance During Construction of Buildings | 72 |
| ARTICLE 6 USE OF STRATA LOT | 74 |
| 6.01 Use of Strata Lot | 74 |
| 6.02 Prohibited Use | 74 |
| 6.03 Restrictions on Use and Development | 74 |
| 6.04 Community Association | 75 |
| ARTICLE 7 INSURANCE | 76 |
| 7.01 Insurance | 76 |
| 7.02 Boiler and Machinery Insurance | 76 |
| 7.03 Deductible Amounts | 76 |
| 7.04 Co-Insurance Clauses | 76 |
| 7.05 Identity of Insured and Subrogation | 77 |
| 7.06 Release of Indemnified Parties from Liability for Insured Loss or Damage | 77 |
| 7.07 Payment of Loss Under Insurance Policies | 77 |

| | | |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------|----|
| 7.08 | Workers' Compensation Coverage | 78 |
| 7.09 | Commercial General Liability..... | 78 |
| 7.10 | Payment of Insurance Premiums..... | 78 |
| 7.11 | Copies of Insurance Policies | 79 |
| 7.12 | Insurance May be Maintained by Lessor | 79 |
| 7.13 | Appointment of Trustee | 80 |
| ARTICLE 8 REPAIRS AND MAINTENANCE..... | | 80 |
| 8.01 | Lessor Not Obligated to Repair..... | 80 |
| 8.02 | Repairs..... | 80 |
| 8.03 | Repairs may be made by Lessor..... | 81 |
| 8.04 | Removal of Ice and Snow from Sidewalks | 82 |
| 8.05 | Lessee Not Relieved of Obligations to Repair | 82 |
| ARTICLE 9 CHANGES, ALTERATIONS AND SUBSTITUTIONS | | 83 |
| 9.01 | Changes, Alterations and Substitutions..... | 83 |
| ARTICLE 10 UNAVOIDABLE DELAYS | | 83 |
| 10.01 | Unavoidable Delays | 83 |
| ARTICLE 11 BUILDERS' LIENS..... | | 84 |
| 11.01 | Improvements by Lessee | 84 |
| 11.02 | Improvements by Strata Corporation | 85 |
| 11.03 | Lessor May File Notice of Intent | 85 |
| ARTICLE 12 INSPECTION AND EXHIBITION BY THE LESSOR..... | | 85 |
| 12.01 | Inspection by the Lessor..... | 85 |
| 12.02 | Exhibition by the Lessor | 86 |
| ARTICLE 13 OBSERVANCE OF REGULATIONS | | 86 |
| 13.01 | Observance of Regulations..... | 86 |
| ARTICLE 14 RIGHTS OF LESSOR AND LESSEE..... | | 86 |
| 14.01 | Rights of Lessor and Lessee..... | 86 |
| ARTICLE 15 INDEMNITY | | 87 |
| 15.01 | Breach, Violation or Non-Performance of Covenants by Lessee and the Strata Corporation..... | 87 |
| 15.02 | Injury, Damage or Loss of Property..... | 87 |
| 15.03 | Waiver | 88 |
| 15.04 | Indemnification Survives Termination of Lease | 88 |
| ARTICLE 16 SUBLETTING AND ASSIGNING | | 88 |
| 16.01 | Subletting by Lessee - Other Than by Way of Mortgage | 88 |
| 16.02 | Assignment by Lessee - Other Than by Way of Mortgage..... | 89 |
| ARTICLE 17 MORTGAGE | | 89 |
| 17.01 | Assignment or Subletting by Way of Mortgage..... | 89 |
| 17.02 | Rights of Mortgagee..... | 90 |
| 17.03 | Notice to and Remedies of Mortgagee..... | 90 |
| 17.04 | Protection of Mortgagee (Tripartite Agreements)..... | 92 |

| | |
|----------------------------------------------------------------------------------------------------------|-----|
| ARTICLE 18 BANKRUPTCY OF LESSEE | 93 |
| 18.01 Events of Bankruptcy or Receivership | 93 |
| 18.02 Procedure in the Event of Bankruptcy or Receivership | 93 |
| 18.03 Certain Rights of the Parties..... | 95 |
| 18.04 No Abatement of Rent..... | 95 |
| ARTICLE 19 DEFAULT BY LESSEE | 96 |
| 19.01 Procedure in the Event of Default by Lessee | 96 |
| 19.02 Procedure in Event of Default by Strata Corporation | 96 |
| 19.03 Rights to Cure..... | 97 |
| 19.04 Remedies of Lessor are Cumulative..... | 97 |
| 19.05 Waiver by Lessor | 97 |
| ARTICLE 20 ARBITRATION | 98 |
| 20.01 Arbitration | 98 |
| ARTICLE 21 ADDITIONAL COVENANTS AND AGREEMENTS OF LESSEE AND STRATA CORPORATION | 98 |
| 21.01 Conduct on Demised Premises..... | 98 |
| 21.02 Duties of the Strata Corporation..... | 98 |
| 21.03 Rental Restrictions | 99 |
| ARTICLE 22 SURRENDER OF LEASE..... | 99 |
| 22.01 Surrender of Lease | 99 |
| ARTICLE 23 QUIET ENJOYMENT AND OWNERSHIP OF TENANT'S FIXTURES | 99 |
| 23.01 Covenant for Quiet Enjoyment | 99 |
| 23.02 Removal of Lessee's Fixtures | 99 |
| ARTICLE 24 OVERHOLDING | 100 |
| 24.01 Overholding..... | 100 |
| ARTICLE 25 RENEWAL OF LEASE..... | 100 |
| 25.01 Renewal of Lease | 100 |
| ARTICLE 26 PURCHASE OF LESSEE'S INTEREST IN STRATA LOT BY THE LESSOR | 102 |
| 26.01 Effect of the <i>Strata Property Act</i> | 102 |
| ARTICLE 27 DESTRUCTION OF THE BUILDINGS | 103 |
| 27.01 <i>Strata Property Act</i> Provisions..... | 103 |
| ARTICLE 28 NOTICE | 104 |
| 28.01 Notice | 104 |
| ARTICLE 29 MISCELLANEOUS..... | 104 |
| 29.01 Conflict Between Provisions of Model Strata Lot Lease and the <i>Strata Property Act</i> | 104 |
| 29.02 Statements by Lessor and Lessee | 104 |
| 29.03 Assignment of Powers..... | 105 |
| 29.04 Time of Essence | 105 |
| 29.05 Modifications | 105 |

| | | |
|-------|-------------------------------------------------------------------------|-----|
| 29.06 | Execution of the Model Strata Lot Lease by the Strata Corporation | 105 |
| 29.07 | Release from Liability | 106 |
| 29.08 | Enurement | 106 |
| 29.09 | Headings..... | 106 |

MODEL STRATA LOT LEASE

BETWEEN:

SIMON FRASER UNIVERSITY, a British Columbia university created pursuant to the *University Act*, and having an address of 8888 University Drive, Burnaby, British Columbia, V5A 1S6

(the "Lessor")

AND:

MILLENNIUM UNIVERSITY HOMES LTD., a company duly incorporated under the laws of the Province of British Columbia and having an office at **198 West Hastings Street, Vancouver, British Columbia, V6B 1H8** (Incorporation No. **659282**)

(the "Lessee")

AND:

THE OWNERS, LEASEHOLD STRATA PLAN BCS●, having an office at ●, Burnaby, British Columbia, ●

(the "Strata Corporation")

NOW THIS LEASE WITNESSES that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee to be paid, observed and performed, the Lessor has demised and leased and by these presents does demise and lease unto the Lessee and the Lessee does hereby take and rent the Strata Lot upon and subject to the conditions hereinafter expressed.

TO HAVE AND TO HOLD the Strata Lot for and during the Term.

YIELDING AND PAYING to the Lessor in each and every of the years during the Term Rent as hereinafter provided.

This Lease is made upon and subject to the following covenants and conditions which each of the Lessor and the Lessee and the Strata Corporation, respectively, agree to keep, observe and perform.

ARTICLE 1

DEFINITIONS1.01 Definitions

The terms defined in this section 1.01, for all purposes of this Lease unless otherwise specifically provided herein, have the meanings hereinafter specified, as follows:

- (a) "Additional Rent" means the amounts, if any, payable by the Lessee pursuant to sections 2.04, 3.01 to 3.05 inclusive, 4.01, 7.10, 7.12, 8.03 and 8.04, together with any other and additional amounts which are herein expressed to be added to and made part of Additional Rent, other than Basic Rent;
- (b) "Approval Process/Submission Requirements" means those approval process and submission requirements adopted by UCC for the Development Guidelines and by the City for Preliminary Plan Approval and issuance of building permits;
- (c) "Architect" means **Lawrence Doyle Architect Inc. of Vancouver**, British Columbia, or such other architects as the Lessee may appoint from time to time, who shall be a member in good standing of the Architectural Institute of British Columbia;
- (d) "Basic Rent" as of any particular time means the net basic rental provided for in this Lease as specified in section 2.01;
- (e) "Buildings" means all structures and buildings constructed upon or under the Lands or any part thereof by or for the Lessee or its permitted assignees pursuant to the provisions of this Lease, including, without limitation, hard landscaping and infrastructure servicing such as roads, sewers and culverts, together with all replacements, alterations, additions, changes, substitutions, improvements or repairs thereto and all other improvements from time to time constructed upon or affixed or appurtenant to the Lands;
- (f) "City" means the City of Burnaby;
- (g) "Commencement of Construction" means that a building permit or permits have been issued to the Original Lessee by the City for the Buildings and the foundations and footings of the Buildings shall have been commenced as certified to the Lessor by the Architect;
- (h) "Common Property" shall have the same meaning as such expression is given under the *Strata Property Act*;
- (i) "Community" means the residential community which is being developed by UCC, as trustee for the SFU Community Trust, on part of the Burnaby Mountain campus of the Lessor of which the Lands and the Buildings comprise a part;

- (j) "Construction Guidelines" means the construction guidelines approved and adopted by UCC for the Lands and construction of the Buildings and all amendments thereto whether made before or after the date of this Lease;
- (k) "Development Guidelines" means those guidelines approved and adopted by UCC and the Lessor for the development of the Lands and all amendments thereto whether made before or after the date of this Lease;
- (l) "Ground Lease" means that certain indenture of lease of the Lands dated for reference the **30th day of May, 2003** and made between Simon Fraser University, as Lessor and **Millennium University Homes Ltd.**, as Lessee;
- (m) "Indemnified Parties" means the Lessor, the members of its board of governors and the members of its senate, and UCC, and each of their respective directors, officers, servants, agents, employees, contractors, licensees, successors and assigns, and each of their subsidiary, affiliated or associated corporations and all others for whose conduct the Lessor or UCC are responsible in law;
- (n) "Lands" means those lands in the Province of British Columbia, owned by the Lessor and more particularly known and described as Lot A, District Lots **102 and 211, Group 1, New Westminster District, Plan BCP4762**;
- (o) "Leasehold Strata Plan" means a strata plan deposited in the Land Title Office pursuant to the *Strata Property Act* in which the land included in the strata plan is subject to this Lease;
- (p) "Model Strata Lot Lease" means this Lease;
- (q) "Mortgage" means a mortgage or mortgages upon or in respect of and specifically charging the leasehold interest of the Lessee in the Strata Lot or any part thereof and includes any debenture or deed of trust and mortgage to secure any bonds or debentures issued thereunder and any assignment of rents made to the Mortgagee as security;
- (r) "Mortgagee" means a mortgagee or mortgagees under a Mortgage;
- (s) "Original Lessee" means **Millennium University Homes Ltd.**, the Lessee named herein;
- (t) "Preliminary Plan Approval" means the preliminary plan approval granted by the City to the Original Lessee;
- (u) "Prime Rate" means the annual percentage rate of interest established from time to time by the Royal Bank of Canada, Main Branch, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian dollar loans to customers in Canada and designated by The Royal Bank of Canada as the prime rate;

- (v) “Rent” means the Basic Rent, Additional Rent and any other amounts payable by the Lessee under this Lease;
- (w) “Strata Lot” means a strata lot shown as such on the Leasehold Strata Plan;
- (x) “*Strata Property Act*” means the *Strata Property Act*, S.B.C., 1998, chapter 43, as amended from time to time;
- (y) “Substantial Completion” or “Substantially Completed” means substantial completion as defined in section 4.02 of the Ground Lease;
- (z) “Term” means the unexpired portion of the Term of the Ground Lease commencing on the date of the deposit of the Leasehold Strata Plan in the Land Title Office, save and except as modified by Article 25 of this Lease;
- (aa) “Termination” shall have the same meaning as such expression is given under Part 12 of the *Strata Property Act*;
- (bb) “UCC” means the SFU Community Corporation;
- (cc) “UCC Guidelines” means the Construction Guidelines and the Development Guidelines;
- (dd) “Unit Entitlement” shall have the same meaning as such expression is given under the *Strata Property Act*; and
- (ee) “Zoning Regulations” means those zoning regulations approved and adopted by the City with respect to the zoning requirements for the Lands and all amendments thereto whether made before or after the date of this Lease.

1.02 Conditions and Covenants

All the provisions of this Lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

1.03 Construction of Words

The words “herein”, “hereby”, “hereunder” and words of similar import refer to this Lease as a whole and not to any particular article, section or subsection hereof.

1.04 Interpretation

Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations or vice versa.

ARTICLE 2

BASIC RENT AND ADDITIONAL RENT2.01 Basic Rent

If the Basic Rent under the Ground Lease has not been paid, the Lessee covenants and agrees to pay to the Lessor, by the dates provided in the Ground Lease, as Rent for and during the Term, its proportionate share of the unpaid Basic Rent for the Lessee's Strata Lot being the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time.

2.02 Payments Generally

All payments by the Lessee to the Lessor of whatsoever nature required or contemplated by this Lease except payments arising under Article 3 hereof, shall be:

- (a) paid to the Lessor by the Lessee in lawful currency of Canada;
- (b) made when due hereunder, without prior demand therefor and without any set-off, compensation or deduction whatsoever at the office of the Lessor or such other place as the Lessor may designate from time to time to the Lessee;
- (c) applied towards amounts then outstanding hereunder, in such manner as the Lessor may see fit; and
- (d) deemed to be Rent, in partial consideration for which this Lease has been entered into, and shall be payable and recoverable as Rent, such that the Lessor shall have all rights and remedies against the Lessee for default in making any such payment which may not be expressly designated as Rent as the Lessor has for default in payment of Rent.

2.03 Net Lease

All Basic Rent required to be paid by the Lessee hereunder shall be paid without any deduction, abatement or set-off whatsoever, it being the intention of the Lessor and Lessee that all expenses, costs, payments and out goings incurred in respect of the Strata Lot, or any other matter or thing affecting the Strata Lot, shall be borne by the Lessee, that the Basic Rent herein provided shall be absolutely net to the Lessor and free of all abatements, set-off or deduction of real property taxes, charges, rates, assessments, expenses, costs, payments or out goings of every nature arising from or related to the Strata Lot. The Lessee shall pay or cause to be paid all such taxes, charges, rates, assessments, expenses, costs, payments and out goings arising out of or in connection with the Strata Lot when due.

2.04 Interest on Amounts in Arrears

When the Rent or any other amounts payable hereunder by the Lessee to the Lessor shall be in arrears, such amounts shall bear interest, including interest on overdue interest,

at the Prime Rate plus 6% per annum calculated monthly not in advance from the date due until paid, irrespective of whether or not the Lessor demanded payment. The Lessor shall have all the remedies for the collection of such interest, if unpaid after demand, as in the case of Rent in arrears, but this stipulation for interest shall not prejudice or affect any other remedy of the Lessor under this Lease. Provided however, the provisions of this section 2.04 shall not apply to the Lessee's failure to pay taxes under sections 3.01 and 3.02 when due.

If a court declares or holds the Prime Rate to be void or unenforceable for any reason including uncertainty, then the rate of interest payable on amounts in arrears hereunder shall be 18% per annum calculated monthly not in advance from the date due until paid.

ARTICLE 3

PAYMENT OF TAXES

3.01 Payment of Taxes if Lessor is not Exempt Therefrom

Save as otherwise provided in section 3.02, the Lessee will in each and every year during the Term not later than the day immediately preceding the date or dates on which real property taxes and other charges imposed upon real property within the Province of British Columbia become due and payable whether monthly, quarterly, twice yearly or otherwise, pay and discharge or cause to be paid and discharged all taxes, rates, duties, charges and assessments, including school taxes, local improvement rates and other charges which now are or shall or may be levied, rated, charged or assessed against the Strata Lot, all other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, whether such taxes, rates, duties, charges and assessments are charged by any municipal, parliamentary, legislative, regional, school or other authority including Simon Fraser University during the Term and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges and expenses occasioned by or arising from any and all such taxes, rates, duties, charges and assessments; and any such losses, costs, charges and expenses suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears. The Lessee further covenants and agrees that during the Term, it will deliver to the Lessor for inspection receipts for payments of all taxes, rates, duties, charges, assessments, including school taxes, local improvement rates and other charges in respect of the Strata Lot, or any other structures, all machinery, equipment, facilities and other property of any nature whatsoever thereon and therein which were due and payable during the Term within 14 days following receipt by the Lessee of each of such receipts for payment. The Lessor shall, not later than 14 days following receipt of any assessment notices delivered to the Lessor by any taxing authority, relating to the Strata Lot, or any other structures, any machinery, equipment, facilities and other property of any nature whatsoever thereon and therein, forward a copy thereof to the Lessee. The Lessee shall have the right from time to time to appeal any assessment of the Strata Lot or any other tax, rate, duty, charge or amount referred to in this section 3.01 provided that such appeal shall be at the sole cost and expense of the Lessee. If in the future the Lessee is unable to appeal any assessment of the Strata Lot or any other tax, rate,

duty, charge or amount referred to in this section 3.01 except in the name of the Lessor, then the Lessee shall have the right to appeal in the name of the Lessor.

Notwithstanding anything herein contained, the Lessee shall be responsible for the payments referred to in this section 3.01 only from the date of deposit of the Leasehold Strata Plan and if such date shall be other than the first day of May in any year, such payments as to the first and last years of this Lease shall be reduced proportionately.

3.02 Payment of Taxes if Lessor is Exempt Therefrom

The Lessee covenants and agrees with the Lessor that if during the Term, the Strata Lot, all other structures, all machinery, equipment and facilities and other property of any nature whatsoever, thereon and therein, are by the provisions of any municipal, parliamentary, legislative or regional enactment exempt from taxation in whole or in part by reason of the Lessor's ownership of the Lands and they would otherwise have been subject to taxation, then the Lessee shall in each and every year during the Term that such exemption occurs pay to the Lessor as Additional Rent in like manner and time as taxes are to be paid pursuant to section 3.01, an amount equal to the amount that but for such exemption would have been paid by the Lessee pursuant to section 3.01 for taxes, rates, duties, charges, assessments, including school taxes and local improvement rates, and other charges. For such purpose in each year during the Term the following provisions shall apply:

- (a) if the Province of British Columbia or any municipal, parliamentary, legislative, regional or other authority, including Simon Fraser University, having the authority so to do passes a by-law or by-laws in advance of the passing of a rating by-law or preparation of the real property tax roll for the current year providing for the payment of real property taxes and other charges imposed or to be imposed upon real property within the Province of British Columbia by monthly, quarterly or twice yearly instalments and providing that the amounts of such instalments shall be a percentage of the amount of real property taxes payable on the real property roll for the immediately preceding year, the Lessor shall deliver to the Lessee an advance tax statement or statements of the amount or amounts determined in accordance with such by-law or by-laws from time to time in respect of the Lands, and all other structures, all machinery and equipment and facilities and other property of any nature whatsoever thereon and therein; and
- (b) after the passing of a rating by-law or rating by-laws (as the case may be) by the Province of British Columbia or any municipal, parliamentary, legislative, regional or other authority, including Simon Fraser University, having the authority so to do, establishing the rate or rates to be levied on real property within the Province of British Columbia, for the current year, the Lessor shall determine the Additional Rent by applying the rate or rates of levy established by such rating by-law or rating by-laws (as the case may be) to all, or such portion of the assessed value of the Strata Lot, and all other structures, all machinery, equipment, and facilities and other property of any nature whatsoever thereon and therein as the said rate or rates of levy are applied to other taxpayers in the Province of British Columbia in like case, and the Lessor shall deliver to the

Lessee a statement of the amount payable under this section 3.02 after deducting all real property taxes and other charges paid in advance for the current year.

The Lessee shall have the right from time to time to appeal any assessment of the Strata Lot or any other tax, rate, duty, charge or amount referred to in this section 3.02, provided that such appeal shall be at the sole cost and expense of the Lessee. If in the future, the Lessee is unable to appeal any assessment of the Strata Lot or any other tax, rate, duty, charge or amount referred to in this section 3.02 except in the name of the Lessor, then the Lessee shall have the right to appeal in the name of the Lessor.

Notwithstanding anything herein contained, the Lessee shall be responsible for the payments referred to in this section 3.02 only from the date of deposit of the Leasehold Strata Plan and if such date shall be other than the first day of January in any year, such payments as to the first and last years of this Lease shall be reduced proportionately.

3.03 Delinquent Taxes

If the Lessee shall in any year during the Term fail to pay the taxes under sections 3.01 and 3.02 when due, the Lessee shall thereupon pay interest at the percentage rate or rates established by the Province of British Columbia or any other taxing authority, for unpaid real property taxes in the Province of British Columbia or any other taxing authority, for delinquent taxes, but the Lessee shall only be obligated to pay such interest as would be payable by other taxpayers in the Province of British Columbia.

3.04 Business Tax and License Fees

- (a) The Lessee covenants with the Lessor to pay for or cause to be paid when due every tax and permit and license fee in respect of the use or occupancy of the Strata Lot by the Lessee (and any and every sublessee, assignee, permittee and licensee) other than such taxes as corporate income, profits or excess profit taxes assessed upon the income of the Lessee (or such sublessee, assignee, permittee and licensee) whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority during the Term and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges and expenses occasioned by or arising from any and all such taxes and permit and license fees, and any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.
- (b) The Strata Corporation covenants with the Lessor to pay for or cause to be paid when due every tax and permit and license fee in respect of any and every business carried on, upon or in the Common Property (unless such tax or fee is payable by the Lessee under subsection 3.04(a)) whether such taxes or permit and license fees are charged by any municipal, parliamentary, legislative, regional or other authority during the Term and will indemnify and keep indemnified the

Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges and expenses occasioned by or arising from any and all such taxes and permit and license fees, and the Strata Corporation shall reimburse the Lessor for any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor within thirty (30) days after receipt of invoices therefor from the Lessor and in default thereof the Lessee's share of the amount to which the Lessor is entitled to reimbursement from the Strata Corporation (which share shall be determined as hereinafter set forth) may be recovered by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of and as Rent in arrears. In apportioning any amount to which the Lessor is entitled to reimbursement under this subsection 3.04(b) such amount shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time.

3.05 Penalties Levied Pursuant to UCC Guidelines

The Lessee and the Strata Corporation jointly and severally covenant with the Lessor to pay for or cause to be paid when due every penalty imposed by UCC pursuant to the UCC Guidelines for acts or things done in contravention or in violation of any provision of the UCC Guidelines and any such penalties may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.

ARTICLE 4

PAYMENT FOR UTILITY SERVICES

4.01 Payment For Utility Services

- (a) The Lessee covenants with the Lessor to pay for or cause to be paid when due to the providers thereof, including Simon Fraser University (if applicable), all charges for gas, electricity, light, heat, power, telephone, water and other utilities and services used in or supplied to the Strata Lot throughout the Term and will indemnify and keep indemnified the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges, expenses occasioned by or arising from any and all such charges, and any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor may be collected by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of Rent in arrears.
- (b) The Strata Corporation covenants with the Lessor to pay for or cause to be paid to the providers thereof, including Simon Fraser University (if applicable), when due all charges for gas, electricity, light, heat, power, telephone, water and other utilities and services used or supplied to the Common Property or the Strata

Corporation throughout the Term (unless such charges are payable by the Lessee under section 4.01(a)) and will indemnify the Lessor from and against payment of all losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), charges and expenses occasioned by or arising from any and all such charges, and the Strata Corporation shall reimburse the Lessor for any such losses, costs, charges and expenses which relate to such charges suffered by the Lessor within thirty (30) days after receipt of invoices therefor from the Lessor and in default thereof the Lessee's share of the amount to which the Lessor is entitled to reimbursement from the Strata Corporation (which share shall be determined as hereinafter set forth) may be recovered by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of and as Rent in arrears. In apportioning any amount to which the Lessor is entitled to reimbursement under this section 4.01(b) such amount shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time.

ARTICLE 5

CONSTRUCTION

5.01 No Construction Obligation For Assignees of Strata Lots

The covenants of the Lessee, relating to construction of the Buildings, contained in sections 5.03 to 5.07 inclusive of this Lease shall not be binding upon those parties to whom the Original Lessee assigns, transfers or conveys a Strata Lot under subsection 16.02(d) of the Ground Lease (unless the prior consent of the Lessor must be obtained in accordance with subsections 16.02(b) and (c) of the Ground Lease) or section 16.02 of this Lease. The said covenants shall, nonetheless, bind the Original Lessee and its successors and assigns permitted pursuant to subsections 16.02(b) and (c) of the Ground Lease.

5.02 Indemnity From Strata Corporation and Lessees

The Strata Corporation and those parties who are Lessees under this Lease by virtue of an assignment, transfer or conveyance of a Strata Lot under and in accordance with the terms of section 16.02 of the Ground Lease or section 16.02 of this Lease do hereby release and discharge the Lessor, UCC and their respective servants, agents, employees, successors and assigns from any and all liability for loss or damage of any nature whatsoever arising out of, relating in any way to, caused by or in any way connected with the construction of the Buildings, including any failure to complete construction of the Buildings, howsoever arising, and the existence of any deficiencies in the Buildings, and the Strata Corporation and the aforesaid Lessees do hereby covenant and agree with the Lessor to indemnify, defend and save harmless the Indemnified Parties from and against all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), claims, judgments and demands of any nature whatsoever, incurred or suffered by or made against any of the Indemnified Parties, arising out of, relating to

or in any way connected with the construction of the Buildings, including any failure to complete construction of the Buildings, howsoever arising, and the existence of any deficiencies in the Buildings. Nothing in the general law of suretyship shall operate to release the Strata Corporation or the aforesaid Lessee from their obligations under this indemnity.

5.03 Lessee to Construct Buildings

Upon receipt of a building permit or permits from the City, the Lessee shall construct the Buildings, together with other facilities ancillary thereto and connected therewith on the Lands expeditiously and in a good and workmanlike manner in substantial accordance with the drawings, elevations, specifications (including materials to be used), and location on the Lands and exterior decoration and design all upon which the issuance of the building permit or permits by the City or other authority having jurisdiction are based, and in compliance with the requirements of the Preliminary Plan Approval.

Any changes to the drawings, specifications, location, exterior decoration, design, or exterior appearance of the Buildings or the appearance of the Lands must first be approved by the City and UCC.

5.04 Substantial Completion of Buildings

The Buildings shall be deemed to have been Substantially Completed when the Architect or engineer of the Lessee has issued a certificate to UCC, signed and sealed by the Architect or engineer, certifying that:

- (a) the Buildings are substantially complete in all material respects in a proper and workmanlike manner and in accordance with the applicable plans, specifications and supporting documents submitted to and accepted by each of UCC and the City upon which the Preliminary Plan Approval and building permits for the Buildings have been based, except for deficiencies, the correction of which, in the opinion of the Architect or engineer is adequately ensured;
- (b) all building requirements and regulations of each of UCC and the City have been complied with by the Lessee except for deficiencies, the correction of which, in the opinion of the Architect or engineer is adequately ensured;
- (c) all permits for occupancy which may be required by the City have been obtained; and
- (d) the Building is ready for occupancy.

For purposes other than subsection 5.05(b), Substantial Completion may be in respect of portions of the Buildings.

5.05 Deadlines for Commencement of Construction and Substantial Completion of Buildings

The Lessee covenants and agrees with the Lessor that, subject always to sections 10.01 and 17.03:

- (a) Commencement of Construction of the Buildings shall take place on or before the day which is three months following the day of commencement of the term of the Ground Lease; and
- (b) the Buildings, services and facilities shall be Substantially Completed on or before the day which is 24 months following Commencement of Construction.

5.06 Application for Order For Sale Where the Lessee Defaults in Commencement of Construction or Substantial Completion

- (a) If Commencement of Construction or Substantial Completion of the Buildings does not occur by the dates set forth in section 5.05, then the Lessor shall have the right and option to apply to the Supreme Court of British Columbia for an order for sale as provided in section 209 of the *Strata Property Act* and the provisions of subsection 19.01(a) hereof shall apply.
- (b) In the event of a dispute between the Lessor and the Lessee as to whether or not the Lessor is entitled to apply for an order for sale pursuant to the provisions of this section 5.06 the Lessor and the Lessee agree to submit such dispute to arbitration in accordance with the provisions of Article 20.

5.07 Builders All Risk and Wrap-Up Liability Insurance During Construction of Buildings

- (a) The Lessee shall effect prior to the commencement of construction of the Buildings, or any of them, and shall maintain and keep in force until the insurance required under Article 7 shall have been effected, insurance protecting both the Lessee, the Lessor, and each of their directors, officers, employees, and agents, and the contractors, subcontractors, consultants and subconsultants of any tier and any such other persons as the Lessee may determine in its sole discretion (without any rights of cross claim or subrogation against the Lessor or any of the Indemnified Parties) the following primary insurance policies:

- (i) Comprehensive General Wrap-up Liability

This policy will have a limit of liability of not less than \$10,000,000 per occurrence or, with respect to products and completed operations, \$10,000,000 annually in the aggregate. The policy will cover activities relating directly to the Buildings and will include coverage for:

- A. premises and operations;

- B. owner's and contractor's protective;
- C. products and completed operations, including an extension of 36 months after completion of construction of the Buildings;
- D. blanket written contractual liability;
- E. employees as additional insureds;
- F. bodily injury and property damage; and
- G. non-owned automobile;

and will contain a cross liability and severability of interest clause;

(ii) "All Risks" Course of Construction

This policy will cover loss or damage to all property located on the site of the Buildings and used in the construction of the Building, excluding equipment owned or leased by the consultant, subconsultants, contractors or subcontractors of any tier, but including:

- A. temporary works;
- B. construction buildings and supplies; and
- C. property that becomes part of the completed Buildings,

and will contain a waiver of subrogation in favour of the insureds, warranty and professional liability excluded.

This policy will be written with a limit of the full insurable value of the project subject to sublimits applicable to property in transit within North America or while temporarily stored at offsite locations in North America.

- (b) The Lessor shall be included as an "additional insured" under the liability insurance and as a "loss payee as its interest may appear" under the course of construction insurance. The proceeds of insurance which may become payable under any policy of property insurance effected pursuant to this section 5.07 shall be payable to the Lessor, the Lessee or the Mortgagee as their interests may appear (or if there is no Mortgagee, to the order of the Trustee if a Trustee is appointed by the Lessor pursuant to section 7.13) and shall be available to finance repair and reconstruction.
- (c) The policies described in this section 5.07 will be placed and maintained with insurers and will contain terms and conditions determined by the Lessee in its sole discretion.

ARTICLE 6

USE OF STRATA LOT6.01 Use of Strata Lot

The Lessee covenants and agrees with the Lessor that the Strata Lot (other than its share of the Common Property) shall be used only for the purposes as are permitted by the applicable Zoning Regulations, and any and all subsequent amendments thereto, and the Preliminary Plan Approval granted by the City in respect of the Lands and Buildings.

6.02 Prohibited Use

The Lessee covenants and agrees with the Lessor that it will not carry on nor do, nor allow to be carried on nor done upon the Strata Lot any work, business or occupation which may be a nuisance or which may be improper, noisy or contrary to any law or to any by-law, the Development Guidelines, the Zoning Regulations, or to any other regulation of Simon Fraser University or any governmental agencies or authorities having jurisdiction for the time being in force.

6.03 Restrictions on Use and Development

- (a) No plants, ground cover, shrubbery, trees or other form of natural growth exceeding 8' in height shall be placed, grown or permitted which front onto a public street unless, in the opinion of UCC, it is in keeping with the general character of the Community.
- (b) No lawns, ground cover, plants, shrubbery, trees or other form of landscaping shall be placed, grown or permitted on any part of the Lands which is unattractive or incompatible with the landscaping of any adjoining lots within the Community and no such landscaping shall be unreasonably neglected or maintained in a messy or untidy condition.
- (c) No Buildings situated upon the Lands nor any unimproved part of the Lands shall be permitted by the Lessee to become unsightly or incompatible with the general character of the Community as a result of lack of regular and reasonable maintenance and repair.
- (d) No waste material, equipment, storage bin or garbage disposal container shall be kept, stored or left in or in front of or on any part of the Lands unless the area in which such material, equipment, storage bin or garbage disposal container is kept, stored or left has first been screened by landscaping or fencing so that it is not readily visible.
- (e) No accumulated waste plant material shall be maintained on any part of the Lands except as part of an established compost pile which shall be maintained in such manner as not to be visible from neighbouring lots or the street.

- (f) No fence shall be erected, constructed, placed or maintained on any part of the Lands without the prior written approval of UCC.
- (g) No boat, camper, mobile home, motor home, travel trailer or tent shall be parked, placed, located, stored or kept upon any part of the Lands which is visible from neighbouring lots or the street.
- (h) No evaporation, air-conditioning or air-heating units or towers, clotheslines, fixtures, radio or transmission towers, satellite dishes, swimming pool fixtures or storage piles shall be located on the roof of any Buildings or shall be maintained on the Lands or any part thereof unless screened by walls or plantings or other adequate screens in such a manner as to conceal them from view from neighbouring lots and streets, such screening to be first approved in writing by UCC.
- (i) Where there is any material on or landscaping of any part of the Lands which is not in accordance with this section, UCC, its agents, employees and independent contractors shall have the right, exercisable in its sole discretion, but shall not be obligated, to enter upon the Lands to remove such improper materials and perform such landscaping or maintenance so that all material on and landscaping of the Lands is in accordance with this paragraph, all at the sole cost and expense of the Lessee, who shall pay the cost thereof to UCC upon delivery of an invoice or invoices therefor.

For the purposes of these restrictions, “general character of the Community” means an attractive residential community with compatible design features which unify the improvements located on the lands within the Community such that the lands and the improvements have the outward appearance of, and are functional as, an integrated community, and having a street design mindful of the importance of ensuring ‘eyes on the street’ throughout to promote neighbours knowing each other.

6.04 Community Association

In order to provide a mechanism for the residents of the lands comprising the Community to liaison with the Lessor and to provide social and community benefits and facilities for the enjoyment and use of such residents, the Lessor has caused to be formed a non-profit body corporate (the “Association”) pursuant to the *Society Act* (British Columbia), with the intent that the members of the Association will be the strata corporations and the ground lessees of the lands within the Community. The Lessee hereby agrees, as a term of this Agreement, to cause the Strata Corporation to retain its membership in the Association during any part of the term that the Lessee has a leasehold interest in the Strata Lot. The Lessee will do all such things and execute all such assurances as may be required to participate in the use, enjoyment and benefits of the Association.

ARTICLE 7

INSURANCE7.01 Insurance

At all times during the Term the Strata Corporation immediately following the Substantial Completion of the Buildings, shall, at no expense to the Lessor, insure and keep insured or cause to be insured the Buildings and insurable improvements owned by the Strata Corporation with one or more companies entitled to do business in the Province of British Columbia against all risks of loss or damage as is commercially available on a replacement basis and as may otherwise be required by the *Strata Property Act* including, without restricting the generality of the foregoing, the hazards of lightning, earthquake, explosion, wind storm, cyclone, tornado, hail, water escape, strikes, riot, civil commotion, malicious damage, vandalism, aircraft, smoke and vehicle damage to the extent that insurance against such risk or perils, or any of them, may be obtained in an amount equal to the full replacement value thereof.

7.02 Boiler and Machinery Insurance

At all times during the Term the Strata Corporation shall, at no expense to the Lessor, maintain or cause to be maintained in respect of the Buildings boiler and machinery insurance with one or more companies entitled to do insurance business in the Province of British Columbia protecting the Lessor, the Strata Corporation and the Lessee during the Term in respect of all boilers, water heaters and similar equipment including, without limitation, associated piping and such other pressure vessels not otherwise insured under section 7.01 as the Strata Corporation may from time to time be required by the provisions of the *Strata Property Act* to insure or otherwise deems it necessary to insure in amounts to be designated by the Strata Corporation.

7.03 Deductible Amounts

Any of the policies of insurance referred to in sections 5.07, 7.01 or 7.02 hereof may, with the approval of the Lessor, which approval shall not be unreasonably withheld, provide that the amount payable in the event of any loss shall be reduced by a deductible amount, such amount to be designated by the Strata Corporation and approved by the Lessor, such approval not to be unreasonably withheld, and the Strata Corporation shall be a co-insurer to the extent of the amount so deducted from the insurance monies paid in the event of any loss, and the said amount shall for the purpose of section 7.07 hereof, be included as part of the insurance monies payable and paid.

7.04 Co-Insurance Clauses

If any of the policies of insurance referred to in sections 5.07, 7.01 or 7.02 hereof shall contain any co-insurance clauses, the Strata Corporation shall maintain at all times a sufficient amount of insurance to meet the requirements of such co-insurance clause so as to prevent the Lessor, the Lessee or the Strata Corporation from becoming a co-insurer under the terms of such policy or policies and to permit full recovery in the event of loss.

7.05 Identity of Insured and Subrogation

Any and all policies of insurance referred to in sections 5.07, 7.01 or 7.02 hereof shall:

- (a) be written in the name of the Lessor and the Strata Corporation as the insureds, as their respective interests may appear;
- (b) shall contain a waiver of subrogation clause to the effect that any release from liability entered into by the Lessee prior to any loss, shall not affect the right of the Lessor to recover; and
- (c) contain a provision or shall bear an endorsement that the insurer will not cancel such policy or make any material reduction in coverage without first giving the Lessor at least 60 days notice in writing of its intention to cancel.

7.06 Release of Indemnified Parties from Liability for Insured Loss or Damage

The Strata Corporation and the Lessee hereby release the Indemnified Parties from any and all liability for loss or damage caused by any of the perils against which the Strata Corporation shall have insured or pursuant to the terms of this Lease is obligated to insure the Lands and the Buildings and any insurable improvements for which at law the Strata Corporation is responsible, or any part or parts thereof, and the Strata Corporation hereby covenants to indemnify, defend and save harmless the Indemnified Parties from and against all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs, (including, without limitation, legal costs on a solicitor and his own client basis), claims and demands of any nature whatsoever relating to such insured loss or damage.

7.07 Payment of Loss Under Insurance Policies

- (a) The insurance monies payable under any or all of the policies of property insurance referred to in sections 5.07, 7.01, 7.02 or 7.12 hereof, or as it concerns insurance on the Buildings, shall, notwithstanding the terms of the policy or policies, be paid to the order of the insurance trustee designated by the bylaws of the Strata Corporation (if any), otherwise it shall be paid, to the order of the Strata Corporation on behalf of the Lessor, UCC, the Lessee, the Strata Corporation and the Mortgagee, if any.
- (b) Subject to Article 27 the Strata Corporation shall use such insurance monies for the restoration, reconstruction or replacement of the loss or damage in respect of which such insurance monies are payable hereunder against certificates of the architect engaged by the Strata Corporation or such other person as the Lessor and the Strata Corporation may agree upon who is in charge of such restoration, reconstruction or replacement. Should the Strata Corporation fail to effect the restoration, reconstruction or replacement of the loss or damage in respect of which the insurance monies are payable, without unreasonable delay, the Lessor shall be entitled to effect such restoration, reconstruction or replacement and the

Strata Corporation shall pay or cause the insurance trustee to pay to the Lessor such insurance monies in the same manner as the insurance trustee would have done had the Strata Corporation effected such restoration, reconstruction or replacement.

7.08 Workers' Compensation Coverage

At all times during the Term, the Strata Corporation shall at its own expense procure and carry or cause its contractor or contractors to procure and carry and pay for, full workers' compensation coverage in respect of all workmen, employees, servants and others engaged in or upon any work, non-payment of which would create a lien on the Strata Lot, the Buildings, or any part thereof.

The Strata Corporation shall immediately notify the Lessor of any dispute involving third parties which may arise in connection with the obtaining and maintenance of workers' compensation coverage required hereby if such dispute results in the requisite coverage not being in place, and the Strata Corporation shall take all reasonable steps to ensure the resolution of such dispute forthwith. At all times the Lessee and the Strata Corporation shall indemnify, defend and save harmless the Indemnified Parties from and against all damages, costs (including, without limitation, legal costs on a solicitor and his own client basis), claims, suits, administrative proceedings, judgments and demands which the Lessor or UCC may incur or suffer as a result of any default by the Strata Corporation of its obligation under this section 7.08 to ensure the said full workers' compensation coverage is maintained. The Strata Corporation shall further ensure that no amount of the said workers' compensation coverage is left unpaid so as to create a lien on the Strata Lot, or the Buildings or any part thereof. If the workers' compensation coverage required by this section 7.08 is not in place within 60 days of the date of the notice to the Lessor hereinbefore mentioned, the Lessor shall be entitled to have recourse to the remedies of the Lessor specified in this Lease or at law or equity.

7.09 Commercial General Liability

At all times during the Term, the Strata Corporation shall maintain with one or more companies duly authorized to carry on business within the Province of British Columbia and approved by the Lessor, commercial general liability insurance against claims for injury, death or property damage or loss (including, without limitation, claims for consequential loss and loss of use), arising out of the use and occupation of the Lands and Buildings and any insurable improvements for which at law the Strata Corporation is responsible, indemnifying and protecting the Lessor, UCC, the Lessee, the Strata Corporation and their respective servants, agents, successors and assigns in the sum of not less than \$10 million per occurrence or such other limits which are approved by the Lessor from time to time, such approval not to be unreasonably withheld.

7.10 Payment of Insurance Premiums

The Strata Corporation shall pay or cause to be paid all of the premiums under the policies of insurance referred to in Article 5 and in this Article 7 as they become due and payable whether such policies are obtained and maintained by the Strata Corporation under sections 7.01,

7.02 or 7.09 or by the Lessor under section 7.12 and in default of payment by the Strata Corporation, the Lessor may pay the same and the Strata Corporation shall reimburse the Lessor for the amount so paid by the Lessor within thirty (30) days after receipt on an invoice therefor from the Lessor and in default of payment thereof by the Strata Corporation, the Lessee's share of the amount so paid by the Lessor (which share shall be determined as hereinafter set forth) may be recovered by the Lessor as Additional Rent with all rights of distress and otherwise as reserved to the Lessor in respect of and as Rent in arrears. In apportioning the cost of such insurance, such cost shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all the Strata Lots from time to time. The Lessor shall submit to the Lessee annually a statement of the amount or amounts payable by the Lessee under section 7.12 as the cost of such insurance for the next ensuing year and upon receipt of payment therefor shall apply the same on account of the premiums of such insurance with the loss, if any, thereunder payable to the Lessor, UCC, the Lessee, the Strata Corporation and any Mortgagee, as their interest may appear.

7.11 Copies of Insurance Policies

If requested by the Lessor, the Strata Corporation shall forthwith from time to time deliver or cause to be delivered to the Lessor certified copies of all policies of insurance referred to in Article 5 and in this Article 7 and obtained and maintained by the Strata Corporation hereunder, accompanied by evidence satisfactory to the Lessor that the premiums thereon have been paid.

7.12 Insurance May be Maintained by Lessor

The Lessee agrees that should the Strata Corporation at anytime during the Term fail to insure or keep insured the Buildings against risks of loss or damage as required under sections 5.07, 7.01 and 7.02, or fail to maintain liability insurance against claims for injury, death or property damage or loss as required under sections 5.07 and 7.09, then in any of such events, the Lessor, although not obliged to do so, may obtain and maintain such insurance in such amount or amounts with such deductible amounts and for such period or periods of time as the Lessor deems advisable, or the Lessor may put in place an owner controlled insurance program in such amount or amounts with such deductible amounts and for such period or periods of time as the Lessor deems advisable; and the Strata Corporation and the Lessee shall pay to the Lessor as Additional Rent upon the Lessor obtaining any of such insurance and thereafter annually during the Term within thirty (30) days after receipt of any invoice from the Lessor all premiums therefor. In the event the Lessor pays for or obtains and maintains any insurance pursuant to this section 7.12, the Lessor shall submit to the Lessee annually, a properly documented certificate of insurance and a statement of the amount or amounts payable by the Lessee and the Strata Corporation under this section 7.12 as the cost of such insurance for the next ensuing year and upon receipt of payment therefor shall apply the same on account of the premiums of such insurance with the loss, if any, thereunder payable as set out in subsection 7.07, 7.07(b) and section 7.10 is applicable to the payment of all premiums paid by the Lessor under this section 7.12.

7.13 Appointment of Trustee

The Lessor hereby reserves the right to appoint a Trustee at any time and from time to time during the Term to manage the payment out of insurance monies for the restoration, reconstruction or replacement of loss or damage to the Lands or the Buildings, such appointment to be made in the sole discretion of the Lessor in circumstances in which insurance proceeds would otherwise be payable to the Lessee.

ARTICLE 8

REPAIRS AND MAINTENANCE

8.01 Lessor Not Obligated to Repair

Except as provided in section 4.04 of the Ground Lease, the Lessor shall not be obliged to furnish any services or facilities or to make repairs or alterations in or to the Strata Lot or the Common Property, the Lessee and the Strata Corporation hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Strata Lot and the Common Property.

8.02 Repairs

- (a) The Lessee at the Lessee's cost and expense shall during the Term, put and keep the Strata Lot including areas allocated to its exclusive use, in good order and condition or shall cause to be put and kept in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings).
- (b) The Strata Corporation, at no cost to the Lessor, shall during the Term maintain and repair the structure and the exterior of the Buildings including:
 - (i) windows, doors, and skylights on the exterior of the Buildings;
 - (ii) chimneys, stairs, balconies and other things attached to the exterior of the Buildings; and
 - (iii) fences, railings, and similar structures that enclose patios, balconies and yards;

including the decorating of the whole of the exterior of the Buildings, and shall maintain and repair (including renewal where reasonably necessary) all Common Property (other than limited common property that is the responsibility of the Lessee to maintain and repair under the bylaws of the Strata Corporation), and all common areas both internal and external, including lawns, gardens, parking and storage areas, public halls and lobbies and shall keep in a state of good and serviceable repair and properly maintain the fixtures and fittings including all

elevators and recreational facilities, and other apparatus and equipment used in connection with the Common Property or other assets of the Strata Corporation (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings).

- (c) The Lessee and the Strata Corporation shall in the same manner and to the same extent as prudent owners make such repairs so that the Buildings and all appurtenances and equipment and fixtures thereto as aforesaid shall be fully usable for all of the purposes for which the same were erected and constructed and such repairs shall be in all respects to a standard at least substantially equal in quality of material and workmanship to the original work and material in the Buildings and shall meet the requirements of the Development Guidelines and of municipal, provincial, federal, regional, school and other governmental authorities.
- (d) The Strata Corporation and the Lessee shall not commit or suffer waste or injury to the Lands, the Strata Lot or the Buildings or any part thereof (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings) and shall not use or occupy or permit to be used or occupied the Lands, the Strata Lot or the Buildings or any part thereof for any illegal or unlawful purpose or in any manner which will result in the cancellation of any insurance, or in the refusal of any insurers generally to issue any insurance as requested. The Lessee and the Strata Corporation shall not injure or disfigure the Lands, the Strata Lot or the Buildings or permit the same to be injured or disfigured in any way; and at the expiration or other termination of this Lease, the Lessee shall, except as otherwise expressly provided herein, surrender and deliver up the Lands, the Strata Lot and the Buildings, and the aforesaid fixtures, appurtenances and equipment thereof, or any replacements thereof or substitution therefor, in good order and condition (reasonable wear and tear excepted so long as the reasonable wear and tear does not unreasonably affect the exterior appearance of the Buildings or the foundation or structure of the Buildings). The Lessee accepts the Strata Lot "as is" knowing the condition thereof, and agreeing that neither the Lessor nor UCC has made any representation, warranty or agreement with respect thereto.

8.03 Repairs may be made by Lessor

- (a) If the Lessee is in breach of the provisions of subsection 8.02(a), the Lessor through its agents, servants, contractors and sub-contractors although not obliged to do so, may enter upon those parts of the Strata Lot required for the purpose of making the necessary repairs required to remedy the breach or may require the Strata Corporation to make such repairs as the Lessor may require to remedy the breach.

- (b) If the Strata Corporation is in breach of the provisions of subsection 8.02(b), the Lessor through its agents, servants, contractors and sub-contractors although not obliged to do so, may enter upon those parts of the Strata Lot and the Common Property required for the purpose of making the necessary repairs required to remedy the breach.
- (c) The Lessor covenants and agrees with the Lessee and the Strata Corporation to make such repairs only after giving the Lessee or the Strata Corporation, as the case may be, sixty (60) days written notice of its intention so to do, except in the case of an emergency in which event no notice shall be required. Any amount paid by the Lessor in making such repairs together with all costs and expenses of the Lessor shall be reimbursed to the Lessor, in the case of repairs necessitated by a breach of subsection 8.02(a) by the Lessee and in the case of a breach by the Strata Corporation of the provisions of subsection 8.02(b) by the Strata Corporation on demand together with interest at the rate of 6% per annum above the Prime Rate from the date incurred until paid and may be recovered by the Lessor in the case of repairs necessitated by a breach of subsection 8.02(a) from the Lessee as Additional Rent and in the case of a breach of the provisions of subsection 8.02(b) if not reimbursed by the Strata Corporation (which share shall be determined as hereinafter set forth) as Additional Rent. In apportioning any amount to which the Lessor is entitled to reimbursement under this subsection such amount shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time.

8.04 Removal of Ice and Snow from Sidewalks

The Strata Corporation covenants and agrees with the Lessor that if the Strata Corporation at any time during the Term fails to keep the public sidewalks adjacent to the Lands reasonably clean from ice and snow during the times and to the extent required of an owner under the provisions of the applicable City by-laws with respect thereto in effect from time to time, the Lessor through its agents, servants, contractors and subcontractors may remove such ice and snow and the Lessor shall not be required to give the Strata Corporation any notice of its intention so to do. Any costs and expenses incurred by the Lessor in removing such ice and snow shall be reimbursed to the Lessor by the Strata Corporation on demand with interest at the rate of 6% per annum above the Prime Rate from the date incurred until paid, and in default of reimbursement by the Strata Corporation to the Lessor, the Lessee's share of the amount so paid (which share shall be determined as hereinafter set forth) may be recovered by the Lessor from the Lessee as Additional Rent. In apportioning any amount to which the Lessor is entitled to reimbursement under this section such amount shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time.

8.05 Lessee Not Relieved of Obligations to Repair

Notwithstanding that the Strata Corporation assumes any of the obligations of the Lessee referred to in this Article 8 by reason of any statutory requirement or with the consent of

the Lessor, the Lessee shall nevertheless remain bound to the Lessor for the fulfilment of all of its obligations under this Article 8.

ARTICLE 9

CHANGES, ALTERATIONS AND SUBSTITUTIONS

9.01 Changes, Alterations and Substitutions

The Lessee or the Strata Corporation shall not make or permit to be made any changes, alterations, replacements, substitutions or additions affecting the structure of the Building, the major electrical and/or mechanical systems contained therein, or the exterior decoration, design or appearance of the Buildings or the Lands, when the cost thereof is reasonably expected to exceed \$50,000 (such amount shall be adjusted by the amount of any increase in the consumer price index (all items in) for Vancouver, British Columbia as published by Statistics Canada, or any comparable index which may replace it at any time, from the commencement date for the Ground Lease to the end of the month immediately preceding the month in which the costs are going to be incurred), without the written approval of the Lessor thereto, which approval the Lessor shall not withhold unreasonably. The Lessor hereby confirms that any application for a change, alteration, replacement, substitution or addition shall be submitted by the Lessee to UCC for review and approval, unless the Lessor otherwise advises. No changes, alterations, replacements, substitutions or additions shall be undertaken until the Lessee shall have submitted or caused to be submitted to the UCC drawings, elevations (where applicable), specifications (including the materials to be used), locations (where applicable) and exterior decoration and design of the proposed changes, alterations, replacements, substitutions or additions and until the same have been approved in writing by the UCC.

The Lessee and the Strata Corporation covenant and agree with the Lessor that, subject to Article 10, all changes, alterations, replacements, substitutions and additions undertaken by or for the Lessee or the Strata Corporation once begun shall be prosecuted with due diligence to completion. All such changes, alterations and additions shall meet the requirements of the Approval Process/Submission Requirements, Development Guidelines, Zoning Regulations, and other regulations of Simon Fraser University, UCC and any other authorities having jurisdiction.

ARTICLE 10

UNAVOIDABLE DELAYS

10.01 Unavoidable Delays

If, by reason of strike, lock-out or other labour dispute, material or labour shortage not within the control of the Lessee or the Strata Corporation, stop work order issued by any court or tribunal of competent jurisdiction (provided that such order was not issued as the result of any act or fault of the Lessee or the Strata Corporation or of any one employed by them directly or indirectly), fire or explosion, flood, wind, water, earthquake, snowfall, inclement

weather affecting construction conditions, act of God, delays in obtaining municipal approvals or a design approval from UCC or other similar circumstances beyond the reasonable control of the Lessee or the Strata Corporation and not avoidable by the exercise of reasonable effort or foresight by the Lessee or the Strata Corporation, the Lessee or the Strata Corporation is, in good faith and without default or neglect on its part, prevented or delayed in the prosecution of construction or in the Substantial Completion or completion of the Buildings or repair of the Buildings or any part or parts of them which under the terms of this Lease the Lessee or the Strata Corporation is required to do by a specified date or within a specified time or, if not specified within a reasonable time, the date or period of time within which the work was to have been completed shall be extended by the Lessor by a reasonable period of time at least equal to that of such delay or prevention and the Lessee or the Strata Corporation shall not be deemed to be in default if it performs and completes the work in the manner required by the terms of this Lease within such extended period of time or within such further extended period of time as may be agreed upon from time to time between the Lessor and the Lessee and/or the Strata Corporation. If the Lessor and the Lessee or the Strata Corporation cannot agree as to whether or not there is a prevention or delay within the meaning of this section or they cannot agree as to the length of such prevention or delay, then such matter shall be determined by reference to arbitration in accordance with Article 20.

The Lessee and the Strata Corporation shall act diligently and take all reasonable steps of a prudent owner to remove the cause or causes of delay in the Substantial Completion or completion of the Buildings.

ARTICLE 11

BUILDERS' LIENS

11.01 Improvements by Lessee

The Lessee shall, throughout the Term at its own cost and expense, cause any and all builders' liens and other liens for labour, services or materials alleged to have been furnished with respect to the Strata Lot, which may be registered against the Strata Lot, to be paid, satisfied, released (including, without limitation, the release of all such liens from the interest of the Lessor in the Strata Lot) or vacated within forty-two (42) days after the Lessor shall send to the Lessee written notice by registered mail of any claim for any such lien; provided however, that in the event of a bona fide dispute by the Lessee of the validity or correctness of any claim for any such lien, the Lessee shall not be bound by the foregoing, but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into Court the amount claimed or sufficient security therefor, and such costs as the Court may direct, and registering all such documents as may be necessary to cancel such lien, or providing such other security in respect of such claim as the Lessor may in writing approve, such approval not to be unreasonably withheld.

The Lessee shall give notice to its contractors, subcontractors, materialmen, and workmen that services or materials are provided to the Lessee at its request and for its sole

benefit and that the Lessor has not requested the improvements and will not be responsible for them.

11.02 Improvements by Strata Corporation

The Strata Corporation shall, throughout the Term at its own cost and expense, cause any and all builders' liens and other liens for labour, services or materials alleged to have been furnished with respect to the Common Property or the Strata Lot, which may be registered against the Common Property or the Strata Lot and are not the responsibility of the Lessee under section 11.01, to be paid, satisfied, released (including, without limitation, the release of all such liens from the interest of the Lessor in the Strata Lot and Common Property) or vacated within forty-two (42) days after the Lessor shall send to the Strata Corporation written notice by registered mail of any claim for any such lien; provided however, that in the event of a bona fide dispute by the Strata Corporation of the validity or correctness of any claim for any such lien, the Strata Corporation shall not be bound by the foregoing but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into Court the amount claimed or sufficient security therefor and such costs as the Court may direct and registering all such documents as may be necessary to cancel such lien, or providing such other security in respect of such claim as the Lessor may in writing approve.

The Strata Corporation shall give notice to its contractors, subcontractors, materialmen, and workmen that services or materials are provided to the Strata Corporation at its request and for its sole benefit and that the Lessor has not requested the improvements and will not be responsible for them.

11.03 Lessor May File Notice of Intent

It is agreed that the Lessor shall not be responsible for claims of builders liens filed by persons claiming through the Lessee or persons for whom the Lessee is in law responsible. The Lessee acknowledges and agrees that the improvements to be made to the Strata Lot will be made at the Lessee's request solely for the benefit of the Lessee and those for whom the Lessee is in law responsible. The Lessor reserves the right throughout the Term to file a notice of interest in the Land Title Office against title to the Strata Lot pursuant to s. 3 of the *Builders Lien Act*, S.B.C. 1997, c. 45 that the Lessor's interest in the Strata Lot is not bound by a lien claimed under such Act in respect of an improvement to the Strata Lot unless that improvement is undertaken at the express request of the Lessor.

ARTICLE 12

INSPECTION AND EXHIBITION BY THE LESSOR

12.01 Inspection by the Lessor

The Lessee and the Strata Corporation agree with the Lessor that it shall be lawful for a representative of the Lessor, upon the provision of notice, at all reasonable times during the Term to enter the Strata Lot, the Common Property and the Buildings, or any of them and to examine the condition thereof; and, further, that all wants of repair as required by section 8.02

which upon such views shall be found, and for the amendment of which notice shall be delivered or given by the Lessor to the Lessee or the Strata Corporation, the Lessee shall within 60 days after receipt of every such notice or such longer period as provided in subsection 19.02(a), well and sufficiently repair and make good accordingly.

12.02 Exhibition by the Lessor

During the final 12 months of the Term, the Lessor shall be entitled to display upon the Lands the usual signs advertising the Strata Lot as being available for purchase or letting, provided such signs are displayed in such a manner as not to interfere unreasonably with the Lessee's use and enjoyment of the Strata Lot and the Common Property.

ARTICLE 13

OBSERVANCE OF REGULATIONS

13.01 Observance of Regulations

The Lessee and the Strata Corporation covenant with the Lessor that, notwithstanding any other provision of this Lease to the contrary, throughout the Term the Lessee and the Strata Corporation will comply with all provisions of law including, without limitation, municipal, regional, provincial and federal legislative enactments including, without limitation, all police, fire and sanitary regulations, zoning and building by-laws, and any municipal, regional, provincial, federal or other governmental regulations or rules and guidelines of the City, the Lessor or UCC, including the Approval Process/Submission Requirements, the Development Guidelines and the Zoning Regulations, which relate to the construction and erection of the Buildings, to the equipment and maintenance of the Buildings, to the operation, occupation and use of the Buildings or the Lands, and to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Buildings, the Lands or any part thereof. The Lessee and the Strata Corporation covenant to comply with all police, fire and sanitary regulations imposed by any municipal, regional, provincial, federal or other governmental authorities and to observe and obey all municipal, regional, provincial, federal and other governmental regulations and other legal requirements governing the use and occupation of the Strata Lot or the Buildings.

ARTICLE 14

RIGHTS OF LESSOR AND LESSEE

14.01 Rights of Lessor and Lessee

All rights and benefits and all obligations of the Lessor and the Lessee under this Lease shall be rights, benefits and obligations of the Lessor and the Lessee respectively in their capacities as Lessor and Lessee respectively under this Lease, and references in this Lease to the "Lessor" shall be to Simon Fraser University in its capacity and role as landlord under this Lease and as registered owner of the Lands and not to Simon Fraser University in its capacity as the

owner of all university lands with regulatory powers with respect thereto (Simon Fraser University, in the latter capacity, being referred to in this Lease as "Simon Fraser University").

ARTICLE 15

INDEMNITY

15.01 Breach, Violation or Non-Performance of Covenants by Lessee and the Strata Corporation

The Lessee and the Strata Corporation shall jointly and severally indemnify, defend and save harmless the Indemnified Parties from any and all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), builders' liens, claims and demands of any nature whatsoever relating to and arising during the Term out of any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Lessee or the Strata Corporation to be fulfilled, kept, observed and performed.

15.02 Injury, Damage or Loss of Property

Notwithstanding the provisions of Article 7 hereof, the Lessee and the Strata Corporation shall jointly and severally indemnify, defend and save harmless the Indemnified Parties from any and all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), claims and demands of any nature whatsoever relating to and arising during the Term out of:

- (a) any injury to person or persons, including death resulting at any time therefrom, occurring in the Strata Lot; and
- (b) any damage to or loss of property occasioned by the use and occupation of the Strata Lot.

Notwithstanding the provisions of section 7.06 hereof, the Strata Corporation shall indemnify, defend and save harmless the Indemnified Parties from any and all manner of actions, causes of action, suits, administrative proceedings, damages, losses, costs (including, without limitation, legal costs on a solicitor and his own client basis), claims and demands of any nature whatsoever relating to and arising during the Term out of:

- (c) any injury to person or persons, including death resulting at any time therefrom occurring in or about the Lands or the Buildings except that part thereof comprised in the Strata Lot; and
- (d) any damage to or loss of property occasioned by the use and occupation of the Lands or the Buildings except that part thereof comprised in the Strata Lot.

Provided however, that except as otherwise provided in section 7.06, nothing contained herein shall require the Lessee to indemnify any of the Indemnified Parties against any action, causes of action, suits, claims or demands for damages arising out of the wilful or negligent acts or omissions of any of the Indemnified Parties.

15.03 Waiver

Neither the Lessor, the Indemnified Parties nor UCC shall be liable to the Lessee or to the Strata Corporation for any damage, loss or prejudice suffered or claimed on account of:

- (a) the approval of any plans and specifications for a Building, whether or not defective;
- (b) the construction or performance of any work, whether or not pursuant to approved plans and specifications; or
- (c) the development, or manner of development, of any part of the Lands.

15.04 Indemnification Survives Termination of Lease

The obligations of the Lessee and the Strata Corporation to indemnify the Indemnified Parties under the provisions of this Lease with respect to liability by reason of any matter arising shall survive any termination of this Lease, anything in this Lease to the contrary notwithstanding.

ARTICLE 16

SUBLETTING AND ASSIGNING

16.01 Subletting by Lessee - Other Than by Way of Mortgage

- (a) The Lessee may at any time and from time to time during the Term sublease the Strata Lot without the consent of the Lessor if there has been Substantial Completion; provided however that, Basic Rent and Additional Rent have been paid and the Lessee is not then in default in the performance or observance of the other covenants, provisos and agreements required of the Lessee to be performed and observed.
- (b) Notwithstanding any such subleasing being effected, the Lessee shall remain bound to the Lessor for the fulfilment of all of its obligations hereunder.
- (c) At the Lessor's request, a copy of any or all subleases shall be forwarded to the Lessor within 30 days of the conclusion of such transaction together with particulars of registration (if any) in the Lower Mainland Land Title Office (the "Land Title Office").

16.02 Assignment by Lessee - Other Than by Way of Mortgage

The Lessee may at any time and from time to time during the Term, assign, transfer or convey the Strata Lot without the consent of the Lessor; provided however that Rent has been paid and the Lessee is not then in default in the performance or observance of the other covenants, provisos and agreements required of the Lessee to be performed and observed; and provided further that such assignment, transfer or conveyance by the Lessee of its leasehold interest in the Strata Lot (other than by way of Mortgage) shall be subject to the following conditions:

- (a) the assignment, transfer or conveyance shall be in the form attached hereto as Addendum "A", which forms a part of this Lease, with such additions, deletions or amendments thereto as are appropriate to the premises to be assigned, transferred or conveyed and as are approved by the Lessor and shall be executed by or on behalf of the vendor and purchaser named therein and the Lessor before being deposited in the Land Title Office for registration;
- (b) the City or other authority having jurisdiction has first issued an occupancy permit in respect of the Strata Lot; and
- (c) a copy of all such assignments, transfers or conveyances shall be furnished to the Lessor within thirty (30) days of the conclusion of each transaction together with particulars of registration in the Land Title Office;

otherwise the Lessor's consent must be first had and obtained, which consent may be unreasonably withheld.

ARTICLE 17**MORTGAGE****17.01 Assignment or Subletting by Way of Mortgage**

Nothing herein contained shall be construed to prevent or prohibit the assignment or subletting by the Lessee of the Strata Lot by way of Mortgage provided that in the event of and notwithstanding any such assignment or subletting the Lessee shall be and remain liable for the payment of all Rent and the performance of all the terms, covenants and conditions of this Lease. Subject to the provisions of sections 17.02 and 19.03, every Mortgage shall be made expressly subject to the rights of the Lessor under this Lease; otherwise assignment or subletting by the Lessee of the Strata Lot by way of Mortgage shall be subject to the consent of the Lessor which consent may be unreasonably withheld. A copy of any and all Mortgages shall be furnished to the Lessor together with particulars of registration in the Land Title Office within 30 days of such request.

17.02 Rights of Mortgagee

The Mortgagee under any Mortgage referred to in section 17.01 may enforce such Mortgage and acquire title to the leasehold estate in any lawful way and, by its representative or by a receiver, as the case may be, take possession of and manage the Strata Lot and upon foreclosure of such Mortgage may sell or assign the leasehold estate and the purchaser or assignee of the leasehold estate shall be liable to perform the obligations imposed upon the Lessee by this Lease only so long as such purchaser or assignee has ownership or possession of such leasehold estate.

17.03 Notice to and Remedies of Mortgagee

- (a) No acceptance of surrender, disclaimer of this Lease by a receiver, interim receiver, receiver manager, liquidator, custodian or trustee or order for sale of the Lessee's interest in the Strata Lot or this Lease or re-entry by the Lessor or a judgment against the Strata Corporation arising out of an action brought by the Lessor under section 19.02 shall be valid against the Mortgagee who has executed and delivered to the Lessor a tripartite agreement pursuant to section 17.04 unless the Lessor shall first have given to the Mortgagee notice of the default entitling the Lessor to re-enter, terminate or forfeit this Lease or to bring an action against the Strata Corporation as aforesaid, specifying the nature of that default and stating the Lessor's intention to take such proceedings and requiring the Mortgagee:
 - (i) to cure the default specified in the notice within a period of 60 days from the date of receipt of that notice by the Mortgagee; or
 - (ii) if the default is other than the failure to pay Rent or any other sums required to be paid by the Lessor by any provisions of this Lease and if the default cannot reasonably be cured within such 60 day period, then to immediately commence to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default, and the Lessor hereby grants the Mortgagee access to the Strata Lot for that purpose.
- (b) If the default is cured within the period specified, the Mortgagee shall be entitled to become tenant of the Strata Lot for the balance of the Term remaining at the date of the notice of default or contingency, provided that the Mortgagee attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term; provided however that in the event the Mortgagee consists of more than one Mortgagee each having a separate charge upon the Lessee's interest in this Lease, and more than one of them wishes to cure the default or contingency specified in the notice aforesaid, then the Lessor hereby agrees to permit curing of the default or contingency specified as aforesaid and the assumption of the balance of the Term as aforesaid by that Mortgagee which is willing to cure and assume as aforesaid and whose charge ranks in

priority over the charge or charges held by the other Mortgagee or Mortgagees willing to cure and assume as aforesaid.

- (c) In the event the Mortgagee commences foreclosure proceedings against the Lessee, whether or not the Lessee or the Strata Corporation is in default of the performance of its covenants and agreements with the Lessor under this Lease at the time such foreclosure proceedings are commenced, the Lessor shall not make application for an order for the sale of the Lessee's interest in the Strata Lot or this Lease or re-enter after the commencement of foreclosure proceedings on the ground of any default entitling the Lessor to such order or re-entry provided the Mortgagee:
- (i) shall first have given to the Lessor notice of the foreclosure proceedings;
 - (ii) is actively prosecuting the foreclosure proceedings without undue delay;
 - (iii) cures the default within a period of 60 days from the date of receipt of notice from the Lessor specifying the nature of the default, or if the default is other than the failure to pay Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default cannot reasonably be cured within such 60 day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default; and
 - (iv) performs and observes all of the Lessee's covenants and agreements under this Lease and without undue delay diligently prosecutes to a conclusion the foreclosure proceedings commenced by the Mortgagee.

In the event that the Mortgagee acquires title to the Lessee's interest in the Strata Lot pursuant to the foreclosure proceedings, the Mortgagee shall thereupon become subrogated to the rights of the Lessee under this Lease, provided it attorns to the Lessor as tenant and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term. Provided however that in the event the Mortgagee consists of more than one Mortgagee and more than one of them commences foreclosure proceedings, the right to cure any default granted by this section 17.03(c) to a foreclosing Mortgagee shall be deemed granted to them in the order of priority of the charges held by the foreclosing Mortgagees.

- (d) If this Lease shall be subject to an order for sale pursuant to Article 18 by reason of the bankruptcy or insolvency of the Lessee and the Mortgagee has filed with the Lessor notice of Mortgage in favour of the Mortgagee and specified an address for notice under Article 28, the Lessor shall give to the Mortgagee notice of the bankruptcy or insolvency of the Lessee entitling the Lessor to apply for an order for sale of this Lease and stating the Lessor's intention to take such proceedings and requiring the Mortgagee to cure any other default of the Lessee

and the Lessee's other default shall be deemed to have been sufficiently cured if the Mortgagee:

- (i) commences foreclosure proceedings against the Lessee as more particularly set out in subsection 17.03(c);
- (ii) takes possession and control of the Strata Lot, or causes a receiver to be appointed under the terms of the Mortgagee's charge or by a court of competent jurisdiction, who takes possession and control of the Strata Lot (and the Lessor hereby grants the Mortgagee or such receiver access to the Strata Lot for that purpose), cures every default within a period of 60 days from the date of receipt by the Mortgagee of the notice from the Lessor of the bankruptcy or insolvency of the Lessee, or if such default or defaults are other than the failure to pay Rent or any other sums required to be paid to the Lessor by any provision of this Lease and if such default or defaults cannot reasonably be cured within such 60 day period, immediately commences to cure the same and to diligently prosecute to conclusion all acts necessary to cure the default or defaults; and
- (iii) attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease for so long as it remains tenant and has not assigned the balance of the Term.

Provided however that in the event the Mortgagee consists of more than one Mortgagee the right to take possession and control, to cure any default and to assume the Lease as aforesaid shall be deemed granted to them in the order of the priority of their respective charges.

- (e) Any sale of the Lessee's interest in the Strata Lot made in accordance with the provisions of this Lease as against the Lessee shall be valid and effectual against the Lessee even though made subject to the rights of any Mortgagee to cure any default of the Lessee and to continue as tenant under this Lease.
- (f) No entry upon the Strata Lot by the Mortgagee pursuant to this section for the purpose of curing any default or defaults of the Lessee shall release or impair the continuing obligations of the Lessee.

17.04 Protection of Mortgagee (Tripartite Agreements)

The Lessor and the Lessee agree that the obligations of the Lessor under section 17.03 are subject to the Mortgagee entering into an agreement in the form attached hereto as Addendum "B" whereby the Mortgagee agrees that, if it acquires title to the Lessee's interest in this Lease, it shall, for so long as it remains tenant and has not assigned the balance of the Term, perform and observe the covenants and agreements required of the Lessee to be performed and observed if not performed or observed by the Lessee, whether or not the Lessor has taken any steps to enforce performance or observance of any of the covenants and agreements in this Lease to be performed or observed by the Lessee.

ARTICLE 18

BANKRUPTCY OF LESSEE18.01 Events of Bankruptcy or Receivership

18.02 that: The parties hereto agree, subject to the provisions of sections 17.03, 17.04 and

- (a) if the Lessee shall make a general assignment for the benefit of creditors; or
- (b) if the Lessee shall institute proceedings to be adjudicated bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against the Lessee or shall file an application or petition or answer or consent, seeking re-organization or re-adjustment of the indebtedness of the Lessee under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency or shall consent to the filing of any such application or petition or shall consent to the appointment of a receiver or receiver-manager; or
- (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator or custodian of all or substantially all of the property of the Lessee or of the Lessee's leasehold interest in the Strata Lot shall be appointed or applied for by the Lessee or appointed pursuant to an instrument or by order of a court; or
- (d) if a judgment, decree or order shall be entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted otherwise than by the Lessee, provided that such judgment, decree or order is not in good faith contested by the Lessee; or
- (e) if any application or petition or certificate or order is made or granted for the winding up or dissolution of the Lessee voluntarily or otherwise;

the Lessor may, unless the Lessee voluntarily surrenders the Strata Lot to the Lessor, apply to the Supreme Court of British Columbia for an order for sale as provided in section 209 of the *Strata Property Act*.

18.02 Procedure in the Event of Bankruptcy or Receivership

that: The parties hereto agree, subject to the provisions of sections 17.03 and 17.04,

- (a) if the Lessee shall make a general assignment for the benefit of creditors; or

- (b) if the Lessee shall institute proceedings to be adjudicated bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against the Lessee or shall file an application or petition or answer or consent, seeking reorganization or re-adjustment of the indebtedness of the Lessee under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency or shall consent to the filing of any such application or petition or shall consent to the appointment of a receiver or receiver-manager; or
- (c) if a receiver, interim receiver, receiver-manager, trustee, liquidator or custodian of all or substantially all of the property of the Lessee or of the Lessee's leasehold interest in the Strata Lot shall be appointed or applied for by the Lessee or appointed pursuant to an instrument or by order of a court; or
- (d) if a judgment, decree or order shall be entered by a court of competent jurisdiction adjudging the Lessee a bankrupt or insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or determining that proceedings for reorganization, arrangement, adjustment, composition, liquidation, dissolution or winding-up or any similar relief under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act* or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted otherwise than by the Lessee, provided that such judgment, decree or order is not in good faith contested by the Lessee; or
- (e) if any application or petition or certificate or order is made or granted for the winding up or dissolution of the Lessee voluntarily or otherwise;

then the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee shall have the right to disclaim this Lease or to hold and retain the Strata Lot for a period not exceeding six months from the effective date of any such appointment, receiving order, assignment, judgment, decree, order or the commencement of dissolution or winding-up, as the case may be, or until the expiration of the Term, whichever first happens on the same terms and conditions as the Lessee might have held the Strata Lot had no such appointment, receiving order, assignment, judgment, decree or order been made or dissolution or winding-up commenced.

If the receiver, interim receiver, receiver-manager, liquidator or custodian holds and retains the Strata Lot as aforesaid it shall during the said period either:

- (i) surrender possession at any time and the Term shall thereupon terminate; or
- (ii) sell, transfer or otherwise dispose of all the interest of the Lessee in this Lease and the Strata Lot for the remainder of the Term or any part thereof and all the rights of the Lessee hereunder, notwithstanding anything to the contrary in Article 16 contained if, after 14 days written notice of the court application being given to the Lessor, the Supreme Court of British Columbia upon the application of such receiver, interim receiver, receiver-

manager, liquidator, custodian or trustee approves such sale, transfer or disposition; or

- (iii) continue as tenant for the balance of the Term remaining provided that the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee attorns as tenant to the Lessor and undertakes to be bound by and to perform the covenants and agreements of this Lease on the part of the Lessee to be performed and observed.

18.03 Certain Rights of the Parties.

The parties hereto agree that:

- (a) Should the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee at any time before or after taking possession, disclaim this Lease or surrender possession to the Lessor, his liability and the liability of the estate of the Lessee and of the Lessee for payment of Rent is limited to the period of time during which the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee remains in possession of the Strata Lot for the purposes of the trust estate. And if the receiver, receiver-manager, liquidator, custodian or trustee disclaims this Lease or surrenders possession, the Lessor or the Lessor's agents or employees authorized by the Lessor may immediately or at any time thereafter apply to the Supreme Court of British Columbia for an order for sale as provided in section 209 of the *Strata Property Act* without being liable for any prosecution or damages therefor, and such receiver, receiver-manager, liquidator, custodian or trustee shall execute a surrender or assignment to the Lessor in registrable form;
- (b) Entry into possession of the Strata Lot by the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee and its occupation by him while required for the purposes of the performance of his duties in his office shall not be deemed to be evidence of an intention on his part to retain the Strata Lot, nor affect his right to disclaim or to surrender possession pursuant to the provisions of section 18.02; and
- (c) If after occupation of the Strata Lot, the receiver, interim receiver, receiver-manager, liquidator, custodian or trustee elects to retain it and thereafter sells, transfers or otherwise disposes of this Lease, the Strata Lot and all interests and rights of the Lessee therein and hereunder to a person approved by the court as provided by section 18.02, his liability and the liability of the Lessee and his estate for the payment of the Rent, if any, is limited to the period of time during which he remains in possession of the Strata Lot.

18.04 No Abatement of Rent

The receiver, receiver-manager, liquidator, custodian or trustee shall pay to the Lessor for the period during which the receiver, receiver-manager, liquidator, custodian or

trustee actually occupies the Strata Lot pursuant to section 18.02 hereof the Rent calculated on the basis of this Lease and payable in accordance with the terms hereof.

ARTICLE 19

DEFAULT BY LESSEE

19.01 Procedure in the Event of Default by Lessee

Subject to the provisions of section 17.03, if:

- (a) the Lessee shall default in payment of Rent or any other sums required to be paid to the Lessor by any provision of this Lease, and such default shall continue for a period of 30 days after written notice of intention to terminate this Lease by reason of such default shall have been given by the Lessor to the Lessee; or
- (b) the Lessee shall default in performing or observing any of its covenants or obligations under this Lease (other than those referred to in section 18.01 and subsection 19.01(a)) or if the Strata Corporation shall default in performing or observing any of its covenants or obligations under this Lease (other than those referred to in section 19.02) and the Lessor shall have given to the Lessee notice of such default and at the expiration of sixty (60) days after the giving of such notice the default shall continue to exist or, in the case of a default which cannot with due diligence be cured within the period of sixty (60) days aforesaid, the Lessee fails to proceed promptly after the giving of such notice to cure such default;

the Lessor may unless the Lessee voluntarily surrenders the Strata Lot to the Lessor, apply to the Supreme Court of British Columbia for an order for sale as provided in section 209 of the *Strata Property Act*.

19.02 Procedure in Event of Default by Strata Corporation

If the Strata Corporation shall default in performing or observing any of its covenants or obligations under this Lease as the same relate to the Common Property and the Lessor shall have given to the Lessee and the Strata Corporation and to each Mortgagee notice specifying such default and at the expiration of sixty (60) days after the giving of such notice the default shall continue to exist or, in the case of a default which cannot with due diligence be cured within the period of sixty (60) days aforesaid, the Strata Corporation fails to proceed promptly after the giving of such notice to cure such default, the Lessor may:

- (a) cure the specified default, although not obliged to do so, and any amount paid by the Lessor in curing such default, together with all costs and expenses of the Lessor, shall be reimbursed to the Lessor by the Strata Corporation, the Lessee's share of the amount so paid and the said costs and expenses of the Lessor (which share shall be determined as hereafter set forth) may be recovered by the Lessor from the Lessee as Additional Rent. In apportioning any amount to which the

Lessor is entitled to reimbursement by the Strata Corporation, such amount shall be borne by the Lessee in the proportion that the Unit Entitlement of the Lessee's Strata Lot bears to the aggregate Unit Entitlement of all of the Strata Lots from time to time; or

- (b) bring an action against the Strata Corporation to remedy the specified default or recover the amount so paid by the Lessor in curing the default and all costs and expenses of the Lessor.

19.03 Rights to Cure

The Lessor and the Lessee agree that if the Lessee defaults in performing or observing any of its covenants or obligations under this Lease (other than those referred to in section 19.01) and the Lessor has given to the Lessee notice of such default and at the expiration of 60 days after the giving of such notice the default continues to exist or, in the case of a default which cannot with due diligence be cured within the period of 60 days aforesaid, the Lessee fails to proceed promptly after the giving of such notice to cure such default, the Lessor, UCC, or their duly authorized agents shall have the right and licence, at any time, and from time to time, without any liability for trespass or otherwise, to enter upon the Lands to cure the default of the Lessee, and any costs so incurred by the Lessor or UCC in curing such default, shall be payable to the Lessor under this Lease as Additional Rent.

19.04 Remedies of Lessor are Cumulative

The remedies of the Lessor specified in this Lease are cumulative and are in addition to any remedies of the Lessor at law or equity. No remedy shall be deemed to be exclusive, and the Lessor may from time to time have recourse to one or more or all of the available remedies specified herein or at law or equity. In addition to any other remedies provided in this Lease, the Lessor shall be entitled to restrain by injunction any violation or attempted or threatened violation by the Lessee of any of the covenants or agreements hereof.

19.05 Waiver by Lessor

The failure of the Lessor to insist upon the strict performance of any covenant or agreement of this Lease shall not waive such covenant or agreement, and the waiver by the Lessor of any breach of any covenant or agreement of this Lease shall not waive such covenant or agreement in respect of any other breach. The receipt and acceptance by the Lessor of Rent or other monies due hereunder with knowledge of any breach of any covenant or agreement by the Lessee or the Strata Corporation shall not waive such breach. No waiver by the Lessor shall be effective unless made in writing.

ARTICLE 20

ARBITRATION20.01 Arbitration

If the Lessor and the Lessee or the Strata Corporation do not agree as to any of the matters which, if no agreement is reached upon them, are by the provisions hereof to be determined by arbitration, any such disagreement shall be referred to three arbitrators, one of whom shall be chosen by the Lessor, one by the Lessee or the Strata Corporation, as the case may be, and the third by the two so chosen and the third arbitrator so chosen shall be the chairman. The award will be made by the majority of the arbitrators appointed. If within 15 days or such extended time as the parties may agree upon, a party who has been notified of a dispute fails to appoint an arbitrator or the two arbitrators appointed by the parties do not agree upon a third arbitrator, then the party or parties not in default may apply to the Supreme Court of British Columbia for the appointment of an arbitrator to represent the party or parties in default or a third arbitrator or both of such arbitrators. Each party shall pay its own costs of attending the arbitration. The costs of the arbitrators and the award shall be in the discretion of the arbitrators who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be paid or any part thereof and may award costs to be paid as between solicitor and client. Except as to matters otherwise provided herein, the rules of the British Columbia International Commercial Arbitration Centre as amended from time to time, shall apply. The case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its "Procedures for Cases under the BCICAC Rules."

ARTICLE 21

ADDITIONAL COVENANTS AND AGREEMENTS OF LESSEE AND STRATA CORPORATION21.01 Conduct on Demised Premises

The Lessee and the Strata Corporation and each of them covenant and agree with the Lessor that they will not carry on nor do, nor allow to be carried on or done upon the Strata Lot or the Common Property any work, business or occupation which may be a nuisance or which may be improper, noisy or contrary to any law or to any rule or guideline of the City, UCC or Simon Fraser University, or any enactment of any governmental agencies or authorities having jurisdiction for the time being in force. The Lessee also covenants and agrees with the Lessor to comply with the bylaws and rules of the Strata Corporation, with the *Strata Property Act*, the regulations thereunder and any other enactment or laws.

21.02 Duties of the Strata Corporation

The Strata Corporation must:

- (a) perform its duties under the *Strata Property Act*; and

- (b) require the Lessee to comply with the following:
 - (i) the bylaws and rules of the Strata Corporation; and
 - (ii) the *Strata Property Act*, the regulations thereto and any other enactment or laws.

21.03 Rental Restrictions

The Lessee and the Strata Corporation agree not to impose rental restrictions in the bylaws of the Strata Corporation which would restrict the renting out of a secondary suite within a Strata Lot.

ARTICLE 22

SURRENDER OF LEASE

22.01 Surrender of Lease

At the expiration or sooner determination of the Term, unless this Lease is renewed as provided in Article 25, the Lessee shall surrender the Strata Lot (including the interest of the Lessee in the Common Property) to the Lessor in the condition in which it was required to be kept by the Lessee under the provisions of this Lease, except as herein otherwise expressly provided.

ARTICLE 23

QUIET ENJOYMENT AND OWNERSHIP OF TENANT'S FIXTURES

23.01 Covenant for Quiet Enjoyment

If the Lessee pays the Rent hereby reserved and the other charges, and the Lessee and the Strata Corporation perform the covenants hereinbefore on the part of the Lessee and the Strata Corporation herein contained, the Lessee shall and may peaceably enjoy and possess the Strata Lot for the Term, without any interruption or disturbance whatsoever from the Lessor or any other person, firm or corporation lawfully claiming from or under the Lessor, provided however that nothing in this section 23.01 shall limit the rights of inspection conferred upon the Lessor under section 12.01, and the right of the Lessor to show the Strata Lot and to post notice, pursuant to section 12.02.

23.02 Removal of Lessee's Fixtures

At the expiry or earlier termination of the Term or any renewal of it, the Lessee and the Strata Corporation may remove their fixtures and the fixtures of any subtenants and licensees and any persons claiming through or under them. The Lessee and the Strata Corporation shall make good or shall cause such tenants to make good, any damage to the Buildings or the Lands caused by any removal of the tenant's fixtures.

ARTICLE 24

OVERHOLDING24.01 Overholding

The Lessee covenants and agrees with the Lessor that if the Lessee shall hold over and the Lessor shall accept Rent after the expiration of the Term, the new tenancy thereby created shall be a tenancy from month to month, at a rent which is the fair market rent of the Lands as agreed between the Lessor and the Lessee, or, failing such agreement, as determined by arbitration pursuant to Article 20, and not a tenancy from year to year and shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month.

ARTICLE 25

RENEWAL OF LEASE25.01 Renewal of Lease

- (a) Special provisions concerning the renewal of this Lease by the Lessor are contained in sections 210, 211 and 212 of the *Strata Property Act* and, except as otherwise provided in subsection 25.01(b) of this Lease the provisions of the said sections 210, 211 and 212 (as such may be amended from time to time) apply to this Lease; the parties hereto agree to conform with and be bound by the said provisions so far as they relate to this Lease.
- (b) Any renewal of this Lease shall be on the same terms and conditions as are herein contained, mutatis mutandis, except that the term shall be five (5) years unless the Lessor elects to renew for a longer period and the Rent shall be determined as follows:
 - (i) the Basic Rent payable by the Lessee during each renewal term shall be that share of the current market rental value of the Lands (excluding the Buildings, as if the Lands were unimproved), apportioned to the Strata Lot in the proportion that the most recent assessed value of the Strata Lot bears to the total of the most recent assessed values of all of the Strata Lots, with such annual sum to be agreed upon in writing by and between the Lessor and the Lessee; provided however that if the Lessor and the Lessee do not agree in writing upon the Basic Rent for any renewal term at least six (6) months prior to the end of the Term or six (6) months prior to the end of the renewal term immediately preceding the renewal term the Basic Rent for which has yet to be determined, the Basic Rent for such last mentioned renewal term shall be determined by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia). The arbitrators shall within the said six (6) month period determine the Basic Rent for such renewal term. If the arbitrators shall not have determined such Basic

Rent within the said six (6) months, the Lessee shall pay to the Lessor during the renewal term pending such determination Basic Rent as provided in paragraph 25.01(b)(ii). The Lessee covenants and agrees to pay the Basic Rent as so determined for each renewal term in twelve (12) monthly instalments in advance, on the first day of each month in each year during each renewal term, provided however, that should the date upon and from which such Basic Rent first begins to accrue be a date other than the first day of a month, such Basic Rent shall be apportioned accordingly as to the first and last months of the renewal term;

- (ii) if the annual Basic Rent at any time payable under any renewal of this Lease is subject to a revision which is dependent upon a determination to be made pursuant to the provisions of this subsection but which has not been made, and if consequently, the amount of the revision of the Basic Rent cannot be ascertained within the time limited herein, the Lessee shall, pending the making of the computation, continue to pay monthly instalments calculated at one-twelfth (1/12) of the Additional Rent payable in the last year of the Term or any subsequent renewal thereof, as the case may be, and when the revised annual Basic Rent has been ascertained, the Lessee shall pay to the Lessor the amount, if any, by which the monthly instalments of the revised annual Basic Rent payable prior to the date thereof exceeds the amount actually paid between the termination of this Lease or any subsequent renewal thereof, as the case may be, and the final determination of the revised annual Basic Rent, together with interest at the rate of three per cent (3%) per annum above the Prime Rate on such excess amount or the Lessor shall credit the Lessee against future instalments of annual Basic Rent with any overpayment, together with interest at the rate of three per cent (3%) per annum above the Prime Rate on such overpayment.
- (c) When the Basic Rent has been determined (by agreement or arbitration) for any renewal of this Lease under subsection 25.01(b) the Lessor shall prepare, execute and deliver to the Lessee not less than three (3) copies of the renewal of this Lease in a form acceptable for registration in the Land Title Office and the Lessee shall execute the renewal lease, attend to the registration thereof and deliver an executed copy of the same to the Lessor with particulars of registration in the Land Title Office endorsed thereon. All fees for the registration of the renewal of this Lease in the Land Title Office shall be borne by the Lessee.

ARTICLE 26

PURCHASE OF LESSEE'S INTEREST IN STRATA LOT BY THE LESSOR26.01 Effect of the *Strata Property Act*

- (a) Special provisions concerning the purchase of the Lessee's interest in the Strata Lot by the Lessor are contained in section 214 of the *Strata Property Act* and, except as otherwise provided in subsection 26.01(b), the provisions of section 214 of the *Strata Property Act* (as such may be amended from time to time) apply to this Lease; the parties hereto agree to conform with and be bound by the said provisions so far as they relate to this Lease.
- (b) Upon the Termination of this Lease, the Lessor shall purchase the Lessee's interest in the Strata Lot. The purchase price of the Lessee's interest in the Strata Lot shall be its fair market value, as agreed between the Lessor and the Lessee, and evaluated, in accordance with the regulations under the *Strata Property Act*, as if this Lease did not expire. If the Lessor and the Lessee cannot agree upon the purchase price of the Lessee's interest in the Strata Lot within sixty (60) days (or such extended period as the parties may mutually agree upon) following the Termination of this Lease as aforesaid then the purchase price shall be the fair market value of the Lessee's interest in the Strata Lot as determined by arbitration in accordance with the *Commercial Arbitration Act* (British Columbia). For the purposes of assessing such fair market value and in furtherance to the provisions of the *Strata Property Act* the Lessee's interest in the Strata Lot shall be determined:
 - (i) on the basis that the Lessee's interest in the Strata Lot consists only of that part of the Building comprising the Strata Lot and his interest in the improvements on the Common Property based on the Unit Entitlement of the Strata Lot, with no value being attributable to the Lands;
 - (ii) on the basis that the Strata Lot and the Common Property is free of all liens, charges and financial encumbrances; and
 - (iii) on the basis that the Lands may be used only for the purposes set forth in this Lease, and the purchase price shall be calculated as of the date of Termination of this Lease.
- (c) The purchase price of the Lessee's interest in the Strata Lot shall be paid less any amounts owing to the Lessor by the Lessee and any amounts paid by the Lessor to satisfy any Mortgage, encumbrance, lien, judgment, taxes or other charges registered in the Land Title Office against this Lease and any other normal adjustments not later than thirty (30) days after the purchase price shall have been determined pursuant to this Article 26 (either by agreement or arbitration) and in exchange for which the Lessee shall deliver without cost to the Lessor a deed of surrender and conveyance of the Lessee's interest in the Strata Lot in a form

acceptable to the Lessor and such as to effectively surrender and convey to the Lessor all of the interest, right and title of the Lessee free of all liens, charges and encumbrances in the Strata Lot together with vacant possession of the Strata Lot.

(d) In the event that:

- (i) subsequent to the date on which the Lessor is obliged to purchase the Strata Lot hereunder, the Strata Lot or any portion thereof shall be damaged by fire or other casualty; or
- (ii) the resolution referred to in section 213(1) of the *Strata Property Act* is passed;

then, insurance monies or right to insurance monies resulting from loss or damage to the Strata Lot or any portion thereof required to be purchased by the Lessor and not applied in accordance with the terms of this Lease shall be turned over to the Lessor upon completion of the sale, and the Lessee hereby expressly covenants and agrees with the Lessor not to oppose any application by the Lessor under section 160 of the *Strata Property Act* for payment of insurance proceeds to the Lessor to enable the Lessor to purchase the Lessee's interest in the Strata Lot as required by section 213(2) of the *Strata Property Act*.

ARTICLE 27

DESTRUCTION OF THE BUILDINGS

27.01 Strata Property Act Provisions

It is hereby acknowledged and agreed by and between the parties hereto that the *Strata Property Act* contains special provisions concerning:

- (a) insurance in sections 149, 156 and 157;
- (b) decisions not to repair or replace in section 159; and
- (c) voluntary cancellation of a strata plan in section 272;

and the same, by section 200 of the *Strata Property Act*, apply, with the necessary changes and so far as they are applicable, to Part 12 of the *Strata Property Act*. Section 213 of the *Strata Property Act* contains further provisions in this regard and the parties hereto shall be entitled to exercise such rights with such consequences as are therein set forth (as such may be amended from time to time), but subject to section 26.01(d) of this Lease, and in the event that there shall be any conflict or inconsistency between the rights and obligations of the parties herein contained and the said provisions of the *Strata Property Act*, the said provisions of the *Strata Property Act* shall prevail; provided however that if any of the said provisions of the *Strata Property Act* are amended so as to make them no longer applicable to this Lease, then on the date on which such amendment shall come into force, the provisions of Addendum "C" attached

hereto shall apply mutatis mutandis to this Lease and be binding on the parties to the extent that the said provisions of the *Strata Property Act* are no longer applicable hereto.

ARTICLE 28

NOTICE

28.01 Notice

All notices, demands and requests which may be or are required to be given pursuant to this Lease shall be in writing and shall be sufficiently given if served personally upon the party or an executive officer of the party for whom it is intended or mailed prepaid and registered addressed to the parties at the addresses set out on page 1 of this Lease, or such other addresses as the parties may from time to time advise by notice in writing. Mortgagees hereof shall supply their respective mailing addresses to the Lessor and the Lessee. The date of receipt of any such notice, demand or request shall be deemed to be the date of delivery if such notice, demand or request is served personally or if mailed aforesaid on the second business day next following the date of such mailing. Provided however that if mailed, should there be between the time of mailing and the actual receipt of the notice a mail strike, slow down of postal service or other labour dispute which affects the delivery of such notice, then such notice shall be deemed to be received when actually delivered.

ARTICLE 29

MISCELLANEOUS

29.01 Conflict Between Provisions of Model Strata Lot Lease and the *Strata Property Act*

In the event that the terms of this Lease or the duties and obligations of the Lessor, the Lessee or the Strata Corporation under the terms of this Lease conflict or are inconsistent with the provisions of the *Strata Property Act* applicable to leasehold strata lots the said provisions of the *Strata Property Act* shall prevail.

29.02 Statements by Lessor and Lessee

The Lessor and the Lessee agree that at any time and from time to time upon not less than 30 days prior request by the other party, each will execute, acknowledge and deliver to the other a statement in writing certifying:

- (a) that this Lease is unmodified and in full force and effect or if there have been modifications that the same are in full force and effect as modified and identifying the modifications;
- (b) the dates to which the Rent and other charges have been paid and the request shall specify the charges in respect of which such information is required; and

- (c) that, so far as the maker of the statement knows, without having conducted any searches or made any particular enquiries, the party who requests the statement is not in default under any provisions of this Lease, or, if in default, the particulars thereof.

This certification shall be provided by the Lessor on the following conditions:

- (i) that neither the Lessor nor the party signing on behalf of the Lessor be liable for any damage or expense should for any reason, including negligence, the information provided be inaccurate, incomplete or misleading; and
- (ii) that should any or all of the information be inaccurate, incomplete or misleading, for any reason, including negligence, the Lessor shall, as against any person or corporation who may rely on the contents of this certification statement, be able to assert and enforce its full rights in strict accordance with this Lease as if this certification statement had not been signed on behalf of the Lessor and as if any or all persons and corporations who may rely on the contents of the certification statement had not relied on the contents of the certification statement.

29.03 Assignment of Powers

If not already delegated to UCC pursuant to the express provisions of this Lease, any and all of the rights and powers vested in the Lessor pursuant to this Lease may be delegated, transferred or assigned by the Lessor to UCC from time to time and at any time during the Term by notice in writing to the Lessee to that effect.

29.04 Time of Essence

Time shall be of the essence of this Lease, save as herein otherwise provided.

29.05 Modifications

This Lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the Lessor, the Lessee and the Strata Corporation or by the successors or assigns of the Lessor and the successors or permitted assigns of the Lessee.

29.06 Execution of the Model Strata Lot Lease by the Strata Corporation

- (a) If the Strata Corporation fails to execute this Lease and deliver the same to the Lessor together with a resolution of the Strata Corporation authorizing the execution of the Lease in accordance with section 26.03 of the Ground Lease then the Lessee shall observe and perform all of those covenants, conditions and agreements which the Strata Corporation would have been bound to observe and perform by the terms of this Lease had it executed and delivered the same as aforesaid.

- (b) If at any time during the Term the Strata Corporation does not have the right, power and authority to observe and perform any of the covenants, conditions and agreements which the Strata Corporation is bound to observe and perform then the Lessee shall observe and perform all of those covenants, conditions and agreements which the Strata Corporation would have been obligated to observe and perform had the Strata Corporation such right, power and authority.

29.07 Release from Liability

The Lessor covenants and agrees that the Original Lessee named herein (but not including any lessee, sublessee or tenant of the Original Lessee or any other party claiming under the Original Lessee or any party to whom a Strata Lot is assigned, transferred or conveyed under and pursuant to the terms of section 16.02(d) of the Ground Lease, or section 16.02 of the Model Strata Lot Lease), shall be released and discharged from any and all of its liabilities and obligations under the covenants, terms and conditions contained in the Model Strata Lot Lease in respect of each Strata Lot on the date which is the later of:

- (a) the date the leasehold interest of the said Original Lessee in that Strata Lot is assigned to the first arm's length purchaser thereof; or
- (b) the date of Substantial Completion of the Buildings as certified by the Architect or other professional consultant of the Lessee.

Provided that the Lessee shall have paid the Rent and other monies required to be paid hereunder and observed and performed the covenants and agreements herein to be performed by the said Original Lessee up to and including the said date.

29.08 Enurement

It is further agreed and declared by the Lessor and the Lessee that this Lease shall extend to, be binding upon and enure to the benefit of the Lessor, the Lessee and the Strata Corporation and their respective administrators, successors and assigns and if there is more than one Lessee named the word "Lessee" shall be deemed to include each of such Lessees (as the case may be) their several administrators, successors and assigns, and they shall be jointly and severally liable under this Lease.

29.09 Headings

The captions and headings throughout this Lease are for convenience and reference only and the words and phrases contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of or the scope or intent of this Lease nor in any way affect this Lease.

IN WITNESS WHEREOF the Lessor, the Lessee and the Strata Corporation have hereunto caused this Lease to be executed by their respective proper officers duly authorized for such purpose.

THE SEAL OF SIMON FRASER)
UNIVERSITY)
was hereunto affixed in the presence of:)
)
By: _____)
Name:)
Title:) C/S
)
By: _____)
Name)
Title:)
)
)

THE COMMON SEAL OF MILLENNIUM)
UNIVERSITY HOMES LTD.)
was hereunto affixed in the presence of:)
)
By: _____)
Name:) C/S
Title:)
)
By: _____)
Name)
Title:)

THE COMMON SEAL OF THE OWNERS)
LEASEHOLD STRATA PLAN)
BCS_____)
was hereunto affixed in the presence of:)
)
By: _____)
Name:)
Title:)
)
By: _____)
Name)
Title:)

C/S

Addendum "A"

This is the Addendum referred to in
section 16.02 of the Model Strata Lot Lease

ASSIGNMENT

THIS Assignment made the ____ day of _____, 20____,

BETWEEN:

●, a company duly incorporated under the laws of the Province of
British Columbia and having an office at ●, ●, British Columbia,
●

(the "Vendor")

AND:

●,

(the "Purchaser")

AND:

SIMON FRASER UNIVERSITY, a British Columbia University
created pursuant to the *University Act*, and having an office at 8888
University Drive, Burnaby, British Columbia, V5A 1S6

(the "University")

WHEREAS:

- A. By a ground lease dated for reference the **30th** day of **May, 2003** (the "Ground Lease"), and registered in the Lower Mainland Land Title Office (the "Land Title Office") under registration number ● on the terms and conditions therein contained, the University, as lessor, did demise and lease to the Vendor, as lessee, those lands in the Province of British Columbia, more particularly known and described as:

Parcel Identifier: 025-627-635

Lot A

District Lots **102 and 211**

Group 1

New Westminster District

Plan **BCP4762**

(the "Lands");

- B. The Lands have been subdivided into strata lots by the deposit of a leasehold strata plan in the Land Title Office in accordance with the provisions of the *Strata Property Act*, S.B.C. 1998, chapter 43, as amended, and the *Land Title Act*, S.B.C. 1996, chapter 250, and the Registrar of the Land Title Office has issued in the name of the University, as registered owner in fee simple, new certificates of title to each of the strata lots shown upon the leasehold strata plan;
- C. The deposit of the leasehold strata plan converted the Ground Lease into individual leases in the name of the Vendor, in respect of the interest of the Vendor in each strata lot including its share in the common property, at a rent, premium or other consideration, and subject to the applicable terms and conditions contained in the Ground Lease and in the model strata lot lease attached thereto and to the provisions of the said *Strata Property Act* and the regulations thereto (the model strata lot lease being hereinafter referred to as the "Lease");
- D. The Vendor, at the request of the Purchaser, has agreed to assign to the Purchaser for the sum of \$_____ the Vendor's interest in:

Parcel Identifier: ●
 Strata Lot ●
 District Lot ●
 Leasehold Strata Plan BCS●

(the "Strata Lot")

for all the residue now unexpired of the said term of the Lease subject to the rent hereinafter reserved and to the performance and observance of the covenants on the part of the Lessee and the conditions contained in the Lease so far as the same relate to the Strata Lot; and

- E. The University hereby consents to this assignment.

NOW THIS ASSIGNMENT WITNESSES as follows:

1. In consideration of the sum of \$_____ paid by the Purchaser to the Vendor (the receipt and sufficiency of which is hereby acknowledged by the Vendor), the Vendor as beneficial owner hereby assigns to the Purchaser the Vendor's interest in the Strata Lot, to hold unto the Purchaser for all the residue now unexpired of the term of the Lease subject to the payment to the University of the Rent reserved in the Lease, to the performance and observance of the covenants on the part of the lessee to be performed and observed, and the conditions contained in the Lease, all in so far as the same relate to the Strata Lot.
2. The Purchaser covenants with the Vendor and the University and each of them that the Purchaser shall during all the residue now unexpired of the term of the Lease and every renewal thereof perform and observe the covenants on the part of the lessee to be performed and observed and the conditions contained in the Lease as fully and effectually

as if the Lease contained a separate demise of the Strata Lot at the Rent referred to in the Lease.

3. The Purchaser covenants with the Vendor and the University and each of them to indemnify both the Vendor and the University and each of them against all actions, suits, costs, expenses, charges, damages, losses, claims and demands for or on account of non-payment of the Rent referred to in the Lease and the non-performance or non-observance of the said covenants and conditions, in so far as the same relate to the Strata Lot.
4. The Vendor covenants with the Purchaser that the Lease is a valid and subsisting lease, that the covenants, provisos and conditions thereof on the part of the lessee have been duly performed and observed up to the date hereof, that the Vendor is entitled to grant this assignment, that subject to the payment of the Rent referred to in the Lease and the observance and performance of the covenants and conditions of the Lease, the Purchaser may enjoy the Strata Lot for all the residue now unexpired of the term of the Lease and any renewal thereof, without interruption by the Vendor or any person claiming through the Vendor and that the Vendor and the University shall at all times hereafter at the request and cost of the Purchaser, execute such further assurance in respect of this assignment as the Purchaser may reasonably require.
5. The Purchaser acknowledges to the Vendor and the University that the Purchaser has had the opportunity to read the contents of the Ground Lease including the Model Strata Lot Lease attached thereto.
6. It is hereby agreed by the parties hereto that this Assignment shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns, respectively.

IN WITNESS WHEREOF the parties hereto have hereunto executed this Assignment.

NAME OF COMPANY

THE CORPORATE SEAL OF ●

was hereunto affixed in the presence of:

By:

Authorized Signatory

By:

Authorized Signatory

C/S

SIGNED, SEALED AND DELIVERED by)
_____ and _____)
in the presence of:)
_____)
Signature)
_____)
Print Name)
_____)
Address)
_____)
Occupation)
(witness as to all signatures))

Print Name

Print Name

SIMON FRASER UNIVERSITY)
)
By: _____)
Authorized Signatory)
)
By: _____)
Authorized Signatory)

Addendum "B"

This is the Addendum referred to in
section 17.04 of the Model Strata Lot Lease

THIS AGREEMENT made the ____ day of _____, 20__.

BETWEEN:

●

(the "Lessee")

AND:

●

(the "Mortgagee")

AND:

SIMON FRASER UNIVERSITY, a British Columbia University
created pursuant to the *University Act*, and having an office at 8888
University Drive, Burnaby, British Columbia, V5A 1S6

(the "University")

WHEREAS:

- A. By a ground lease dated for reference the **30th** day of **May, 2003** (the "Ground Lease"), and registered in the Lower Mainland Land Title Office (the "Land Title Office") under registration number ● on the terms and conditions therein contained, the University, as lessor, did demise and lease to the Lessee, as lessee, those lands in the Province of British Columbia, more particularly known and described as:

Parcel Identifier: 025-627-635
 Lot A
 District Lots 102 and 211
 Group 1
 New Westminster District
 Plan BCP4762

(the "Lands");

- B. The Lands have been subdivided into strata lots by the deposit of a leasehold strata plan in the Land Title Office in accordance with the provisions of the *Strata Property Act*, S.B.C. 1998, chapter 43, as amended, and the *Land Title Act*, S.B.C. 1996, chapter 250 and the Registrar of the Land Title Office has issued in the name of the University, as registered owner in fee simple, new certificates of title to each of the strata lots shown upon the leasehold strata plan;
- C. The deposit of the leasehold strata plan converted the Ground Lease into individual leases in the name of the Vendor, in respect of the interest of the Lessee in each strata lot including its share in the common property, at a rent, premium or other consideration, and subject to the applicable terms and conditions contained in the Ground Lease and in the model strata lot lease attached thereto and to the provisions of the said *Strata Property Act* and the regulations thereto (the model strata lot lease being hereinafter referred to as the "Lease");
- D. _____ has assigned its interest in Strata Lot _____, Leasehold Strata Plan BCS _____ (the "Leased Premises") to the Lessee;
- E. By a mortgage (the "Mortgage") made the ____ day of _____, 20____, between the Lessee as mortgagor, and the Mortgagee, and registered in the Land Title Office under No. _____, the Lessee did demise and assign by way of mortgage unto the Mortgagee all the Lessee's right, title and interest in the Leased Premises under the Lease to secure a loan in the sum of _____ dollars (\$_____); and
- F. The Mortgagee is a "Mortgagee", as defined under section 1.01 of the Lease and desires to have every opportunity to protect its interest and security.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and of the sum of One Dollar (\$1.00) now paid by each of the Mortgagee, the University and the Lessee to the others (the receipt and sufficiency of which is hereby acknowledged by each of the parties):

- 1. The University covenants and agrees with the Mortgagee that the University:
 - (a) will not accept a surrender of the Lease, in whole or in part, without the prior written consent of the Mortgagee, not to be unreasonably withheld; and
 - (b) will not agree to any modification or amendment to the Lease:

- (i) which may adversely affect the Mortgagee's security without the prior written consent of the Mortgagee, such consent not to be unreasonably withheld (provided that if the Mortgagee has neither provided its consent nor advised the University in writing, within forty-five (45) days of receipt of a request from the University for its consent, that it will not provide its consent, the Mortgagee will be deemed to have consented to the modification or amendment); or
 - (ii) which does not materially adversely affect the Mortgagee's security without giving the Mortgagee seven (7) days prior written notice.
- 2. The Lessee acknowledges and represents to the Mortgagee that it has entered into possession of the Leased Premises pursuant to the terms of the Lease.
- 3. The University covenants and agrees to grant and provide to the Mortgagee all rights, assurance and notice afforded under the terms of the Lease to a "Mortgagee", as defined in the Lease, and, without limiting the generality of the foregoing, all remedies afforded a "Mortgagee" under the Lease.
- 4. The University and the Lessee mutually covenant and agree, at any time and from time to time, upon not less than thirty (30) days prior request by the Mortgagee, to execute, acknowledge and deliver to the Mortgagee a statement in writing certifying that:
 - (a) the Lease is unmodified and in full force and effect or if there have been modifications that same is in full force and effect as modified and identifying the modifications;
 - (b) the dates to which the rent and other charges payable under the Lease have been paid, provided that the request specifies with particulars the charges in respect of which such information is required; and
 - (c) to the best of the knowledge of the maker of the statement, without having conducted any searches or made any particular enquiries, the other party to the Lease is not in default under the provisions of the Lease, or, if in default, the particulars thereof.
- 5. If the Mortgagee acquires title to the Lessee's interest in the Leased Premises, the Mortgagee covenants and agrees to attorn as tenant under the Lease pursuant to the terms thereof for so long as it remains tenant and has not assigned the balance of the Term and hereby acknowledges that it has had the opportunity to read the Lease and upon attorning as tenant under the Lease shall adopt the covenants and agreements of the Lease on the part of the Lessee to be performed and observed as though such provisions were incorporated in and formed a part of this agreement provided that the provisions of this section 5 shall not limit or affect the University's rights to re-enter, seek an order for sale, terminate or forfeit the Lease if the Mortgagee fails to comply with the requirements of section 17.03 of the Lease. If the Mortgagee complies with the requirements of this

section 5 and section 17.03 of the Lease, the Mortgagee shall be given and afforded the right, privileges and benefits of the Lessee under the Lease.

6. If the Lessee and the University cannot agree as to any matters regarding the Lease and they decide that the resolution of that matter is to be determined by arbitration pursuant to the arbitration provisions of the Lease, the Mortgagee shall be given adequate notice of such arbitration proceedings and if in the reasonable opinion of the Mortgagee, such proceedings affect its mortgage security, the Mortgagee shall be given a reasonable opportunity by the Lessee and the University to participate in the arbitration proceedings if the Mortgagee considers such proceedings may affect its mortgage security.
7. If the Mortgagee shall have fully cured any default in the payment of any Rent (as defined in the Lease) or any other amount required to be paid by the Lessee under the Lease and shall continue to pay currently such monetary obligations as and when the same fall due then if the Mortgagee is prohibited, by any process or injunction issued by any court by reason of any action by any court having jurisdiction over any proceeding involving the Lessee, from commencing or prosecuting foreclosure or other appropriate proceedings of the nature thereof or from obtaining possession of the Leased Premises, then the time specified in section 17.03 of the Lease for commencing or prosecuting such foreclosure or other proceedings or for curing defaults other than payment of Rent (as defined in the Lease) or any other amount required to be paid by the Lessee under the Lease shall be extended for the period of such prohibition or injunction.
8. If the Mortgagee has cured all defaults and contingencies of which the Mortgagee has received notice from the University under section 17.03 of the Lease, then it shall be entitled to permit the Lessee to continue as tenant of the Leased Premises unless the Mortgagee has acquired the right, title and interest of the Lessee in the Leased Premises under the Lease, in which case the provisions of section 5 hereof shall apply. For the purposes of this clause the events contemplated by Article 18 of the Ground Lease shall not constitute a default or contingency.
9. This Agreement shall be deemed to terminate and be of no further force and effect at such time as the Mortgage has been paid in full, has been terminated or released in accordance with the terms and conditions therein contained, or has been released or discharged from the Leased Premises.
10. The Mortgagee covenants and agrees that subject to the provisions of section 17.03 of the Ground Lease, all of the rights of the Mortgagee, whether statutory or at common law, shall be subject to the rights of the University under the Ground Lease.

11. This Agreement shall enure to the benefit of and shall be binding upon the parties hereto, and their respective successors and assigns.

IN WITNESS WHEREOF this Agreement has been executed on the day, month and year first above written.

SIGNED, SEALED AND DELIVERED by)
 _____ and _____)
 in the presence of:)
 _____)
 Signature)
 _____)
 Print Name)
 _____)
 Address)
 _____)
 Occupation)
 (witness as to all signatures))

_____)
 Print Name

_____)
 Print Name

THE COMMON SEAL OF ●)
 was hereunto affixed in the presence of:)
 _____)
 By: _____)
 Name: _____)
 Title: _____)
 _____)
 By: _____)
 Name _____)
 Title: _____)

C/S

SIMON FRASER UNIVERSITY)
)
By: _____)
Authorized Signatory)
)
By: _____)
Authorized Signatory)

Addendum "C"

This is the Addendum referred to in
section 27.01 of the Model Strata Lot Lease

DAMAGE OR DESTRUCTIONSection 27.01 Rent Not to Abate

The partial destruction or damage or complete destruction by fire or other casualty of the Buildings shall not terminate this Lease or entitle the Lessee to surrender possession of the Strata Lot or to demand any abatement or reduction of the Basic Rent or Additional Rent or other charges payable under this Lease, any law or statute now or in the future to the contrary notwithstanding.

Section 27.02 Lessee's Obligations when Buildings Damaged or Partially Destroyed

The Strata Corporation and the Lessee covenant and agree with the Lessor that, in the event of damage to or partial destruction of the Buildings, the Strata Corporation and the Lessee subject to the bylaws, rules and guidelines of the City, UCC and Simon Fraser University governing development on the Lands at such time shall either:

- (a) replace any part of the Buildings destroyed with a new structure in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) repair or replace such damage or destruction, in the absence of any such agreement.

Section 27.03 Lessee's Obligations when Buildings Completely or Substantially Destroyed

The Strata Corporation and the Lessee covenant and agree with the Lessor that, in the event of complete or substantially complete destruction of the Buildings, the Strata Corporation and the Lessee, subject to bylaws, rules and guidelines of the City, UCC and Simon Fraser University governing development on the Lands at such time, shall either:

- (a) reconstruct or replace the Buildings with a new structure or structures in accordance with any agreement which may be made by the Lessee with the Lessor; or
- (b) in the absence of any such agreement, replace the Buildings with a new structure or structures, comparable to the structure or structures being replaced which shall cost not less than approximately the amount of the insurance monies payable and paid by reason of such destruction.

**Section 27.04 Replacement, Repair Or Reconstruction under
Section 27.02 or 27.03 To Be Carried Out in Compliance with Articles 5, 8 and 9**

Any replacement, repair or reconstruction of the Buildings or any part thereof pursuant to the provisions of sections 27.02 or 27.03 hereof shall be made or done in compliance with the provisions of Articles 5, 8 and 9 of this Lease.

This is Schedule "B" referred to in
section 17.04 of this Lease

THIS AGREEMENT made the ____ day of _____, 20__.

BETWEEN:

●

(the "Lessee")

AND:

●

(the "Mortgagee")

AND:

SIMON FRASER UNIVERSITY, a British Columbia University
created pursuant to the *University Act*, and having an office at 8888
University Drive, British Columbia, V5A 1S6

(the "University")

WHEREAS:

- A. By a ground lease dated for reference the **30th** day of **May, 2003** (the "Ground Lease"), and registered in the Lower Mainland Land Title Office (the "Land Title Office") under registration number ● on the terms and conditions therein contained, the University, as lessor, did demise and lease to the Lessee, as lessee, those lands in the Province of British Columbia, more particularly known and described as:

Parcel Identifier: 025-627-635
 Lot A
 District Lots **102 and 211**
 Group 1
New Westminster District
 Plan **BCP4762**

(the "Lands");

- B. By an indenture of mortgage (the "Mortgage") made the ____ day of _____, 20__ between the Lessee as mortgagor, and the Mortgagee, and registered in the Land Title Office under no. _____, the Lessee did demise and assign by way of mortgage unto the Mortgagee all the Lessee's right, title and interest in the Lands under the Ground Lease to secure a loan in the sum of _____ dollars (\$_____); and
- C. The Mortgagee is a "Mortgagee", as defined under section 1.01 of the Ground Lease and desires to have every opportunity to protect its interest and security.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and of the sum of one Dollar (\$1.00) now paid by each of the Mortgagee, the University and the Lessee to the others (the receipt and sufficiency of which is hereby acknowledged by each of the parties):

1. The University covenants and agrees with the Mortgagee that the University:
 - (a) will not accept a surrender of the Ground Lease, in whole or in part, without the prior written consent of the Mortgagee, not to be unreasonably withheld; and
 - (b) will not agree to any modification or amendment to the Ground Lease:
 - (i) which may adversely affect the Mortgagee's security without the prior written consent of the Mortgagee, such consent not to be unreasonably withheld (provided that if the Mortgagee has neither provided its consent nor advised the University in writing, within forty-five (45) days of receipt of a request from the University for its consent, that it will not provide its consent, the Mortgagee will be deemed to have consented to the modification or amendment); or
 - (ii) which does not materially adversely affect the Mortgagee's security without giving the Mortgagee seven (7) days prior written notice.
2. The Lessee acknowledges and represents to the Mortgagee that it has entered into possession of the Lands pursuant to the terms of the Ground Lease.
3. The University covenants and agrees to grant and provide to the Mortgagee all rights, assurance and notice afforded under the terms of the Ground Lease to a "Mortgagee", as

defined in the Ground Lease, and, without limiting the generality of the foregoing, all remedies afforded a "Mortgagee" under the Ground Lease.

4. The University and the Lessee mutually covenant and agree, at any time and from time to time, upon not less than thirty (30) days prior request by the Mortgagee, to execute, acknowledge and deliver to the Mortgagee a statement in writing certifying that:

- (a) the Ground Lease is unmodified and in full force and effect or if there have been modifications that same is in full force and effect as modified and identifying the modifications;
 - (b) the dates to which the rent and other charges payable under the Ground Lease have been paid, provided that the request specifies with particulars the charges in respect of which such information is required; and
 - (c) to the best knowledge of the maker of the statement, without having conducted any searches or made any particular enquiries, the other party to the Ground Lease is not in default under the provisions of the Ground Lease, or, if in default, the particulars thereof.
5. If the Mortgagee acquires title to the Lessee's interest in the Lands, the Mortgagee covenants and agrees to attorn as tenant under the Ground Lease pursuant to the terms thereof for so long as it remains tenant and has not assigned the balance of the Term and hereby acknowledges that it has had the opportunity to read the Ground Lease and upon attorning as tenant under the Ground Lease shall adopt the covenants and agreements of the Ground Lease on the part of the Lessee to be performed and observed as though such provisions were incorporated in and formed a part of this agreement provided that the provisions of this section 5 shall not limit or affect the University's rights to re-enter, seek an order for sale, terminate or forfeit the Ground Lease if the Mortgagee fails to comply with the requirements of section 17.02 of the Ground Lease. If the Mortgagee complies with the requirements of this section 5 and section 17.02 of the Ground Lease, the Mortgagee shall be given and afforded the right, privileges and benefits of the Lessee under the Ground Lease.
6. If the Mortgagee is the Government of Canada, or a Crown Corporation of the Government of Canada which does not insure risk, and if the University has given to the Mortgagee notice of a default or contingency or notice of the bankruptcy or insolvency of the Lessee entitling the University to re-enter or terminate or forfeit the Ground Lease, and the Mortgagee commences to cure the default or contingency, then upon the Mortgagee curing the default or contingency and if the Mortgagee attorns as tenant to the University, then during the period that the Mortgagee is the tenant of the University under the Lease, the Mortgagee shall not be under any obligation to take out and keep in force by the Lessee any of the insurance required to be taken out and kept in force by the Lessee under the Ground Lease; provided however that the provisions of this section shall not relieve the Mortgagee, as tenant, from any of the other covenants, conditions and agreements under the Ground Lease.

7. If the Lessee and the University cannot agree as to any matters regarding the Ground Lease and they decide that the resolution of that matter is to be determined by arbitration pursuant to the arbitration provisions of the Ground Lease, the Mortgagee shall be given adequate notice of such arbitration proceedings and if in the reasonable opinion of the Mortgagee, such proceedings may affect its mortgage security, the Mortgagee shall be give a reasonable opportunity by the Lessee and the University to participate in the arbitration proceedings if the Mortgagee consider such proceedings may affect its mortgage security.
8. If the Mortgagee shall have fully cured any default in the payment of any Rent (as defined in the Ground Lease) or any other amount required to be paid by the Lessee under the Ground Lease and shall continue to pay currently such monetary obligations as and when the same fall due then if the Mortgagee is prohibited, by any process or injunction issued by any court by reason of any action by any court having jurisdiction over any proceeding involving the Lessee, from commencing or prosecuting foreclosure or other appropriate proceedings of the nature thereof or from obtaining possession of the Lands, then the time specified in section 17.02 of the Ground Lease for commencing or prosecuting such foreclosure or other proceedings or for curing defaults other than payment of Rent (as defined in the Ground Lease) or any other amount required to be paid by the Lessee under the Ground Lease shall be extended for the period of such prohibition or injunction.
9. If the Mortgagee has cured all defaults and contingencies of which the Mortgagee has received notice from the University under section 17.02 of the Ground Lease, then it shall be entitled to permit the Lessee to continue as tenant of the Lands unless the Mortgagee has acquired the right, title and interest of the Lessee in the Lands under the Ground Lease, in which case the provisions of section 5 hereof shall apply. For the purposes of this clause, the events contemplated by Article 18 of the Ground Lease shall not constitute a default or contingency.
10. This Agreement shall be deemed to terminate and be of no further force and effect and the obligations, if any, of the Mortgagee under the Ground Lease as tenant shall cease and be of no further force and effect at such time as the Mortgage has been paid in full, has been terminated or released in accordance with the terms and conditions therein contained, or has been released or discharged from the Lands or the Mortgagee has assigned the balance of the Term; unless, having obtained an order absolute in foreclosure proceedings against the Lessee, the Mortgagee elects otherwise to continue this Agreement in full force and effect and to be bound as tenant under the Ground Lease.

11. This Agreement shall enure to the benefit of and shall be binding upon the parties hereto, and their respective successors and assigns.

| | | |
|------------------------------------------|---|-----|
| THE COMMON SEAL OF ● |) | |
| was hereunto affixed in the presence of: |) | |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | C/S |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | |

| | | |
|------------------------------------------|---|-----|
| THE COMMON SEAL OF ● |) | |
| was hereunto affixed in the presence of: |) | |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | C/S |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | |

| | | |
|-------------------------|---|--|
| SIMON FRASER UNIVERSITY |) | |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | |
| |) | |
| By: _____ |) | |
| Authorized Signatory |) | |

SCHEDULE "C"

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 537, Approved and Ordered JUL - 4 2002


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that:

(a) in this order,

"Agreement to Lease" means the agreement to lease dated August 1, 2001 between Simon Fraser University and Burnaby Mountain Community Corporation on file with the office of the Deputy Minister of Advanced Education;

"Form of lease" means the form of lease set out as Exhibit "B", Exhibit "C" or Exhibit "D" of the Agreement to Lease;

"lands" means those portions of the lands described as follows that are outlined in a heavy dark line in the attached Schedule:

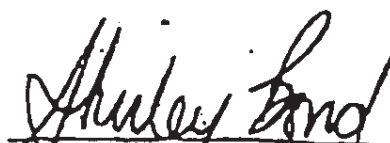
Parcel Identifier 023-580-721


Lot 1, District Lots 31, 101, 102, 141, 144, 147, 209, 210 and 211, Group 1, NWD, Plan LMP30518;

(b) approval is given to Simon Fraser University

(a) to dispose of the lands in accordance with an agreement to lease substantially in the form of the Agreement to Lease, and

(b) grant leases over all or part of the lands substantially in the applicable form of lease, each for a term of not more than 99 years.


Minister of Advanced Education


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- University Act, section 50 (2)
Other (specify):-

