

BM197167

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BM197168

LAND TITLE ACT

FORM C

Province of British Columbia

Province of British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

PAGE 1 of 17 PAGES

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
Lynn Ramsay, Q.C., Swinton & Company, Barristers and Solicitors, 1000 - 840 Howe Street, Vancouver, B.C.,
V6Z 2M1, Telephone: (604) 687-2242

Lynn Ramsay, Q.C.

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:*

(PID)

(LEGAL DESCRIPTION)

SEE SCHEDULE

SEE SCHEDULE

3. NATURE OF INTEREST: *

DESCRIPTION

DOCUMENT REFERENCE

PERSON ENTITLED TO INTEREST

SEE SCHEDULE

(Page and paragraph)

SEE SCHEDULE

02 98/07/13 14:42:01 01 NW 083646
SEE SCHEDULE CHARGE \$110.00

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

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

X

D.F. No.

Annexed as Part 2

There is no Part 2 of this instrument

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

TRANSFEROR(S): *

GREENSIDE PROPERTIES INC. (Incorporation No. 368865) and ROYAL BANK OF CANADA (AS TO PRIORITY) and 8458429 HOLDINGS LIMITED (Incorporation No. 207788) (AS TO PRIORITY)

TRANSFeree(S): *

RESORT MUNICIPALITY OF WHISTLER, a municipality incorporated under the Resort Municipality of Whistler Act, R.S.B.C. 1996, c.407 and having its address at 4325 Blackcomb Way, Whistler, B.C., V0N 1B4

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:

Execution Date

Officer Signature(s)

Y	M	D
98	06	04

Party(ies) Signature(s)

Lynn Ramsay, Q.C.
1000 - 840 Howe Street
Vancouver, B.C., V6Z 2M1
Telephone: (604) 687-2242

GREENSIDE PROPERTIES INC.
by its authorized signatory:

David Ehrhardt


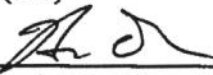
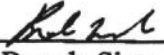
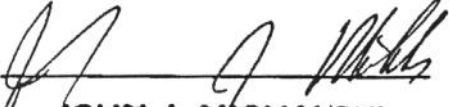
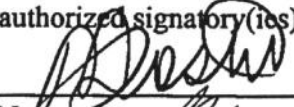


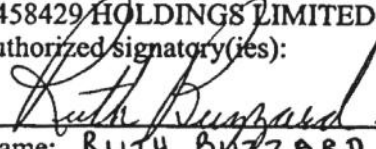
OFFICER CERTIFICATION:

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

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 2

Officer Signature(s)	Execution Date			Transferor/Borrower/Party Signature(s)
	Y	M	D	
 LINDA MANHEIM, Deputy Municipal Clerk A Commissioner for taking Affidavits for the Province of British Columbia Resort Municipality of Whistler 4325 Blackcomb Way Whistler, B.C. V0N 1B4 (as to both signatures)	98	07	06	RESORT MUNICIPALITY OF WHISTLER by its authorized signatory(ies):  Mayor: Hugh O'Reilly  Clerk: Brenda Sims
 JOHN J. MICHALSKI BARRISTER & SOLICITOR 609 Columbia Street New Westminster, B.C. V3M 1A7 (as to execution by Royal Bank of Canada)	98	06	04	ROYAL BANK OF CANADA by its authorized signatory(ies):  Name: RICHARD THOMAS FOSTER SENIOR ACCOUNTS MANAGER  Name: GINA MARIE DUNBAR ASSISTANT ACCOUNT MANAGER
 ALLAN E. LESTER FERGUSON GIFFORD Barristers & Solicitors SUITE 500 - PARK PLACE 666 BURNARD STREET VANCOUVER, B.C. V6C 3H3 (604) 687-3216 (as to execution by 8458429 Holdings Limited)	98	06	19	8458429 HOLDINGS LIMITED by its authorized signatory(ies):  Name: RUTH BUZZARD 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.

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FORM E**

SCHEDULE

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

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:*

<i>(PID)</i>	<i>(LEGAL DESCRIPTION)</i>
No PID	Lot 20 District Lot 3060 Group 1 NWD Plan LMP <u>38744</u>
No PID	Lot 21 District Lot 3060 Group 1 NWD Plan LMP <u>38744</u>
No PID	Lot 22 District Lot 3060 Group 1 NWD Plan LMP <u>38744</u>
No PID	Lot 23 District Lot 3060 Group 1 NWD Plan LMP <u>38744</u>
No PID	Lot 24 District Lot 3060 Group 1 NWD Plan LMP <u>38744</u>

3. NATURE OF INTEREST: *

DESCRIPTION

*DOCUMENT REFERENCE
(Page and paragraph)*

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Pages 4 to 14

Transferee

Priority Agreement
granting Section 219
Covenant No. BM197167
priority over Mortgage
BK149272, and
Assignment of Rents
BK149273

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Transferee

Priority Agreement
granting Section 219
Covenant No. BM197167
priority over
Mortgage BL370921

Page 16 and 17

Transferee

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FORM C
TERMS OF INSTRUMENT - PART 2**

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PART 2 - TERMS OF INSTRUMENT

**HOUSING AGREEMENT
SECTION 219 COVENANT**

THIS AGREEMENT dated for reference March 31, 1998 is made

BETWEEN:

GREENSIDE PROPERTIES INC. (Inc. No. 368865) 1000 -840
Howe Street, Vancouver British, Columbia, V6Z 2M1

(the "Owner")

AND:

RESORT MUNICIPALITY OF WHISTLER,
4325 Blackcomb Way, Whistler, B.C., V0N 1B4

(the "Municipality")

GIVEN THAT:

A. Section 219 of the *Land Title Act* R.S.B.C. 1996, c.250 as amended, permits the registration of a covenant of a negative or positive nature in favour of the Municipality in respect of the use of land or construction on land;

B. The Owner and the Municipality wish to enter into this Agreement to provide for affordable employee housing on the terms and conditions set out in this Agreement, and agree that this Agreement is both a section 219 covenant under the *Land Title Act* and a housing agreement under section 905 of the *Municipal Act*;

This Agreement is evidence that in consideration of \$2.00 paid by the Municipality to the Owner (the receipt of which is acknowledged by the Owner), the Owner covenants and agrees with the Municipality, in accordance with section 219 of the *Land Title Act*, as follows:

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FORM C
TERMS OF INSTRUMENT - PART 2**

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**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In this Agreement:

- (a) "Area" means the area in square feet of habitable living space within a dwelling on the Lot;
- (b) "Employee" means an individual who is either employed or self-employed for an average of not less than 20 hours per week over the most recent twelve months and whose principal place of employment or business is located within the boundaries of the Resort Municipality of Whistler;
- (c) "First Purchaser" means the person to whom the Lot is first transferred by the Owner;
- (d) "LTO" means the New Westminster/Vancouver Land Title Office;
- (e) "Lot" means a parcel of land in the Resort Municipality of Whistler legally described in item 2 of Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.
- (f) "Lots" means more than one Lot;
- (g) "Municipality" means the Resort Municipality of Whistler;
- (h) "Prime Rate" means the annual rate of interest, expressed as a percentage, used as a reference rate by the Royal Bank of Canada at its main branch in Vancouver, British Columbia for Canadian dollar loans and designated by the Royal Bank of Canada from time to time as its prime rate;
- (i) "Retiree" means an individual who has ceased employment and who was an Employee for 5 of the 6 years immediately preceding the date on which the individual ceased employment;

1.2 Interpretation

In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;

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TERMS OF INSTRUMENT - PART 2**

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- (b) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (c) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (d) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Agreement;
- (e) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) reference to a "party" or the "parties" is a reference to a party, or the parties, to this Agreement and their respective successors, assigns, trustees, administrators and receivers; and
- (g) reference to a "day", "month" or "year" is a reference to a calendar day, calendar month, or calendar year unless otherwise expressly provided.

**ARTICLE 2
HOUSING AGREEMENT AND SUBDIVISION RESTRICTIONS**

2.1 Use and Occupancy

- (a) The Owner agrees that the Owner may only sell a Lot to an Employee or to a Retiree.
- (b) The Owner agrees that each Lot may only be used or occupied as a permanent residence, and then only by an individual who resides in the Lot and who is:
 - (i) an Employee;
 - (ii) a Retiree; or
 - (iii) living in the Lot with an Employee or Retiree in a single domestic unit and
 - (A) is related to the Employee or Retiree by blood, marriage, adoption, common law marriage or foster parenthood; or
 - (B) is in a spousal relationship with the Employee or Retiree.

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2.2 Sales Lottery Covenant

The Owner covenants and agrees with the Municipality that none of the Lots may be sold separately from any of the other lots, except in accordance with the following conditions:

- (a) a Lot may be sold only to an Employee or a Retiree;
- (b) the First Purchaser must be an Employee or Retiree who has been selected as an eligible purchaser through a lottery held by the Municipality in accordance with the rules and policies on such lotteries of the Municipality current at the time of the lottery;
- (c) a Lot shall be sold to a First Purchaser in a serviced state but as bare land without the construction of any house or other buildings.

2.3 Statutory Declaration

Within three days after receiving notice from the Municipality, the Owner must deliver to the Municipality a statutory declaration, substantially in the form attached as Schedule A, sworn by the Owner under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration. The Municipality may request such a statutory declaration in respect of any particular Lot no more than four times in any calendar year.

2.4 Relief from Occupancy Restriction

If the Owner is in breach of section 2.1(b), the Owner may request to be relieved from the obligations under that section for reasons of hardship, but no such request may be made later than 30 days after the Owner has been given notice of breach by the Municipality. The request must be delivered in writing to the Clerk of the Municipality. The request must set out the circumstances of the default and the hardship involved. The Owner agrees that the Municipality is under no obligation to grant any relief, and may proceed with its remedies under this Agreement, and at law and in equity, despite the Owner's request and the Owner agrees that the relief, if any, is to be determined by the Municipality in its absolute and unfettered discretion.

2.5 Restriction on Lease or Rental

- (a) The Owner must not rent or lease any Lot except in accordance with this section.
- (b) Without limiting the generality of section 2.5(a), the Owner may rent or lease a Lot to an individual who is permitted to reside in the Lot by section 2.1.
- (c) The Owner agrees that, subject to subsection 2.5 (e), if a dwelling on the Lot is rented or leased to an Employee or a Retiree, the rent payable for the dwelling

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must not exceed \$1.25 per square foot of Area per month and if individual bedrooms within the dwelling are rented or leased, the initial rent may not exceed \$500 per month per bedroom. The number of bedrooms in a dwelling will be determined by the Municipality's building inspector having reference to the drawings submitted to the Municipality and approved as part of the building permit for the dwelling issued by the Municipality.

- (d) The Owner agrees that no extra rent charges or fees may be levied or collected by or on behalf of the Owner for use of sanitary sewer, storm sewer or water utilities. For clarity, this section does not apply to cablevision, telephone or other telecommunications, gas utility or electricity utility fees or charges.
- (e) The Municipality agrees that the rent for a dwelling unit on a Lot or bedroom within a dwelling unit may be increased annually, beginning the first anniversary of the day on which the occupancy permit of the dwelling was issued by the Municipality, by increasing the rent by adding to the prior year's rent an amount calculated in accordance with the following formula:

(Original rent as determined under section 2.5(c), plus all previous annual increases X 40%) X Prime Rate on the anniversary date - 2%.

- (f) If a dwelling unit on a Lot or a bedroom within the dwelling unit is rented or leased under this section 2.5:
 - (i) a copy of this Agreement must be attached to the rental agreement or lease and the rental agreement or lease must contain the agreement of the tenant or lessee that the Lot is subject to the occupancy restriction in section 2.1(b);
 - (ii) the rental agreement or lease must contain a provision that the Lot cannot be occupied in breach of the occupancy restriction in section 2.1(b); and
 - (iii) the rental agreement or lease must entitle the Owner to terminate it on 30 days' notice if the tenant or lessee occupies, or allows occupation of, the Lot in breach of the occupancy restriction in section 2.1(b).
- (g) The Owner agrees to terminate any rental agreement or lease where the tenant or lessee occupies, or allows occupation of, a Lot in breach of the occupancy restriction in section 2.1(b), in accordance with the terms of the rental agreement or lease and the *Residential Tenancy Act* (British Columbia).
- (h) The Municipality may, in its sole discretion, on the request of the Owner agree to permit from time to time any increase in the rents beyond those otherwise permitted under this section on such terms and conditions and in such amounts as the Municipality considers desirable.

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2.6 Damages and Rent Charge

- (a) The Owner acknowledges that the Municipality requires employee housing to attract employees to work for the local businesses which generate tax and other revenue for the Municipality. The Owner therefore agrees that for each day the Lot is occupied in breach of this Agreement, the Owner must pay the Municipality \$100.00 for each day ("Daily Amount") on which the breach has occurred, as liquidated damages and not as penalty, due and payable at the office of the Municipality on the last day of the calendar month in which the breach occurred. The Daily Amount is increased on January 1 of each year by the amount calculated by multiplying the Daily Amount as of the previous January 1 by the percentage increase between the preceding January 1 and the immediately preceding December 31 in the All-Items Consumer Price Index published by Statistics Canada for Vancouver, where 1996 = 100. The Owner agrees that payment may be enforced by the Municipality in a court of competent jurisdiction as a contract debt.
- (b) By this section, the Owner grants to the Municipality a rent charge under s. 219 of the *Land Title Act* (British Columbia) and at common law, securing payment by the Owner to the Municipality of the amounts described in section 2.6(a). The Municipality agrees that enforcement of the rent charge granted by this section is suspended until the date that is 30 days after the date on which any amount due under section 2.6(a) is due and payable to the Municipality in accordance with section 2.6(a). The Municipality may enforce the rent charge granted by this section by an action for an order for sale or by proceedings for the appointment of a receiver.

2.7 Specific Performance

The Owner agrees that the Municipality is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement. The Owner agrees that this is reasonable given the public interest in restricting the occupancy of the Lots in accordance with this Agreement.

2.8 Notice of Housing Agreement

For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes both a covenant under s. 219 of the *Land Title Act* and a housing agreement entered into under s. 905 of the *Municipal Act* (British Columbia);
- (b) the Municipality is required to file a notice of housing agreement in the LTO against title to the Lots; and

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- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in a Lot.

**ARTICLE 3
GENERAL**

3.1 No Effect on Laws or Powers

This Agreement does not

- (a) affect or limit the discretion, rights, duties or powers of the Municipality under any enactment or at common law, including in relation to the use or subdivision of the Lots,
- (b) impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
- (c) affect or limit any enactment relating to the use or subdivision of the Lots, or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lots.

3.2 Notice

Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission or sent by registered mail or given to the Owner at the address of the Owner on the Land Title Office record for the Lot. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. Any notice which is sent by registered mail is to be considered to have been given on the third day after it is given to the post office. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.

3.3 Covenant runs With the Lot

Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the Municipality in accordance with section 219 of the *Land Title Act* in respect of each of the Lots and this Agreement burdens each of the Lots and runs with each of them and binds the Owner's successors in title to each of them and binds every parcel into which they are consolidated or subdivided by any means, including by subdivision or by strata plan under the *Condominium Act* (British Columbia).

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3.4 Limitation on Owner's Obligations

The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of a Lot.

3.5 Waiver

An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

3.6 Further Acts

The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

3.7 Severance

If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

3.8 No Other Agreements

This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

3.9 Amendment

This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the Municipality.

3.10 Enurement

This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

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3.11 Deed and Contract

By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

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CONSENT AND PRIORITY AGREEMENT

WHEREAS 8458429 Holdings Limited ("Holdings") is the holder of a Mortgage, an Assignment of Rents which were registered in the Vancouver Land Title Office under numbers BK149272, and BK149273 respectively (collectively called the "Registered Charges") which encumber the lands described in the attached Section 219 Covenant;

AND WHEREAS Holdings is also the holder of unregistered interests (the "Unregistered Charges") in those same lands pursuant to the terms of a letter agreement dated June 17, 1989;

AND WHEREAS the Registered Charges and Unregistered Charges are hereinafter referred to together as the "Charges";

NOW THEREFORE, in consideration of the sum of \$1.00 paid by the Resort Municipality of Whistler to Holdings and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Holdings covenants and agrees as follows:

1. Holdings hereby consents to the granting and registration of the attached Section 219 Covenant and Holdings hereby agrees that the Section 219 Covenant shall be binding upon its interest in and to the lands described in the Section 219 Covenant;
2. Holdings hereby grants to the Resort Municipality of Whistler priority for the Section 219 Covenant over Holdings' right, title and interest under the Charges in and to the lands described in the Section 219 Covenant and Holdings does hereby postpone the Charges and all of its rights, titles and interests thereunder to the Section 219 Covenant as if the Section 219 Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charges.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee hereto has executed the Land Title Office Form C which is attached hereto and forms part of this Agreement.

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PRIORITY AGREEMENT

BETWEEN:

RESORT MUNICIPALITY OF WHISTLER, a municipality
incorporated under the *Resort Municipality of Whistler Act*,
R.S.B.C. 1996, c. 407 and having its address at 4325 Blackcomb
Way, Whistler, B.C., V0N 1B4

(the "Subsequent Chargee")

AND:

ROYAL BANK OF CANADA, 613 Columbia Street, New
Westminster, British Columbia, V3M 1A7

(the "Prior Chargee")

WHEREAS:

A. Greenside Properties Inc. (the "Owner") is the owner of those parcels of land and
premises located in the Resort Municipality of Whistler and legally described as

Lots 20 inclusive to 24, all of District Lot 3860, Group 1, NWD,
Plan LMP 38744

(the "Land");

B. The Owner (or its predecessor in title) granted the Prior Chargee a mortgage
which is registered against the title to the Land in the Vancouver Land Title Office under
number BL370921 (the "Prior Charge");

C. The Owner granted the Subsequent Chargee a Section 219 Covenant which will
be registered concurrently with this Agreement (the "Subsequent Charge");

NOW THEREFORE in consideration of the sum of One (\$1.00) Dollar now paid by the
Subsequent Chargee to the Prior Chargee, the receipt and sufficiency of which are hereby
acknowledged, the Prior Chargee does hereby grant to the Subsequent Chargee priority over the
Prior Charge and the Prior Chargee hereby covenants and agrees to subordinate and postpone all
its right, title and interest in and to the Land with the intent and with the effect that the interest of
the Subsequent Chargee shall rank ahead of the Prior Charge as though the Subsequent Charge
had been executed, delivered and registered in time prior to the registration of the Prior Charge.

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As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee hereto has executed the Land Title Office Form C which is attached hereto and forms part of this Agreement.

END OF DOCUMENT