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LB0265645

2008 LAND ACT  
FORM C LB0265647

(Section 233)

Province of  
British Columbia

## GENERAL INSTRUMENT - PART 1

(This area for Land Title Office use)

PAGE 1 of 8 pages

ABSTRACT REGISTRY  
10000

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

OWEN BIRD LAW CORPORATION  
2900 - 595 Burrard Street  
P.O. Box 49130  
Vancouver, B.C. V7X 1J5  
Telephone: (604) 688-0401

Signature of Applicant, Applicant's Solicitor or Agent

SUSAN E. LLOYD

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:\*

(PID)

(LEGAL DESCRIPTION)

023-698-438

Lot 1 District Lot 121 and Section 22 Township 91 Kamloops Division  
Yale District Plan KAP58641

3. NATURE OF INTEREST: \*
- 
- DESCRIPTION

DOCUMENT REFERENCE  
(Page and paragraph)

PERSON ENTITLED TO INTEREST

Section 219 Covenant

Pages 4 to 6

Transferee

Priority Agreement granting Section  
219 Covenant DOC 1 LESS priority  
over Mortgage LB194152 and  
Assignment of Rents LB194153

Page 7

Transferee

KH 08/12/12 10:14:36 01 KL 072377  
CHARGE \$198.45Priority Agreement granting Section  
219 Covenant DOC 2 LESS priority  
over Mortgage CA861275

Page 8

Transferee

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

(a) Filed Standard Charge Terms

☐

D.F. No.

(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): \*

MATWAY DEVELOPMENTS LTD. (Inc. No. BC0811393), 36675 Dawson Road, Abbotsford, B.C. V3G 2L1

BARRY CHARLES HOLDINGS LTD. (Inc. No. BC0390899) and MANDATE NATIONAL  
MORTGAGE CORPORATION (Inc. No. A15572)(as to priority - each as to an undivided 1/2 interest in  
Mortgage LB194152 and Assignment of Rents LB194153)

589119 B.C. LTD. (Inc. No. BC0808392)(as to priority - Mortgage CA861275)

6. TRANSFEREE(S):\*

CITY OF MERRITT, 2185 Voght Street, PO Box 189, Merritt, B.C. V1K 1B8

7. ADDITIONAL OR MODIFIED TERMS: \*


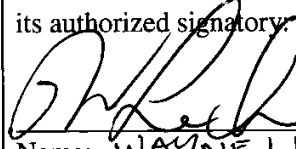
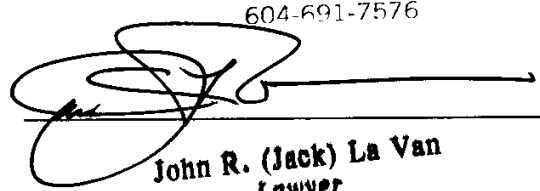
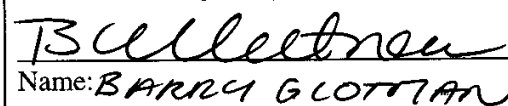
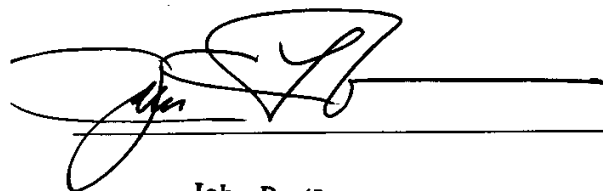

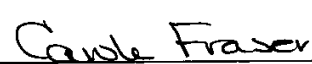


N/A

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**GENERAL INSTRUMENT - PART 1**

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8. **EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
 <b>SUSAN E. LLOYD</b> Barrister & Solicitor 2900 - 595 BURRARD ST. VANCOUVER, B.C. V7X 1J5 604-691-7576	08	11	10	Transferor signature(s): <b>MATWAY DEVELOPMENTS LTD.</b> by its authorized signatory:  Name: <b>WAYNE LEBEARD</b>
 <b>John R. (Jack) La Van</b> Lawyer <b>LA VAN &amp; COMPANY</b> 704-1478 West Hastings Street Vancouver, B.C., V6G 3J6 Phone: 604-669-1411	08	11	14	<b>BARRY CHARLES HOLDINGS LTD.</b> by its authorized signatory(ies):  Name: <b>BARRY G. LOTTMAN</b>
 <b>John R. (Jack) La Van</b> Lawyer <b>LA VAN &amp; COMPANY</b> 704-1478 West Hastings Street Vancouver, B.C., V6G 3J6 Phone: 604-669-1411	08	11	14	<b>MANDATE NATIONAL MORTGAGE CORPORATION</b> by its authorized signatory(ies):  Name: <b>Adam Wong</b>
 <b>CAROLE M.L. FRASER</b> Commissioner for taking Affidavits in the Province of BC 2185 Voght Street Merritt BC V1K 1B8	08	11	25	<b>CITY OF MERRITT</b> by its authorized signatory(ies):  Name: <b>Ruth Tolerton</b> <b>Corporate Services</b>  Name: <b>David Laird</b> <b>Mayor</b>

**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.

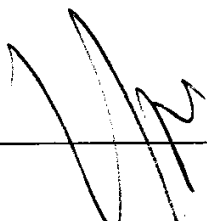
If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

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**LAND TITLE ACT  
FORM D****EXECUTIONS CONTINUED**

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Officer Signature(s)




ROGER E. HOLLAND  
Barrister & Solicitor / Notary Public  
SINGLETON URQUHART LLP  
LEGAL COUNSEL  
1200 - 925 West Georgia Street  
Vancouver BC V6C 3L2

Execution Date

Y	M	D
08	11	13

Transferor Signature(s)

**589119 B.C. LTD.** by its authorized  
signatory(ies):  
Name: Dean Russell

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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**TERMS OF INSTRUMENT - PART 2****SECTION 219 COVENANT**

THIS INDENTURE made the 25<sup>th</sup> day of November, 2008,

Pursuant to the provisions of Section 219 of the *Land Title Act*

**BETWEEN:**

**MATWAY DEVELOPMENTS LTD. (Inc. No. BC0811393)** of  
36675 Dawson Road, Abbotsford, B.C. V3G 2L1

(hereinafter called the "**Covenantor**")

OF THE FIRST PART

**AND:**

**CITY OF MERRITT**, a municipality incorporated under the laws  
of British Columbia, having an office at 2185 Voght Street, PO  
Box 189, Merritt, B.C. V1K 1B8

(hereinafter called the "**Covenantee**")

OF THE SECOND PART

**WHEREAS:**

A. The Covenantor is the registered owner in fee simple of land in the City of Merritt in the Province of British Columbia, which lands are more particularly known and described as:

Parcel Identifier: 023-698-438  
Lot 1 District Lot 121 and Section 22  
Township 91 Kamloops Division Yale District  
Plan KAP58641

(hereinafter called the "**Lands**");

B. The Covenantor has requested that the Covenantee approve a rezoning of the Lands, and the Covenantee has requested and the Covenantor has agreed to grant the within covenant to restrict the height of buildings to be constructed on the Lands; and

C. Section 219 of the *Land Title Act* provides that there may be registered as a charge against the title to any land a covenant in favour of a municipality, either of a negative or a positive nature, that land is to be used in a particular manner, that land is to be built or not to be built on except in accordance with the covenant, or that land is not be subdivided except in accordance with the covenant;

**NOW THEREFORE, IN CONSIDERATION** of sum of One Dollar (\$1.00) now paid by the Covenantee to the Covenantor and other good and valuable consideration, the receipt and

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sufficiency of which is hereby acknowledged by the Covenantor, the Covenantor covenants and agrees with the Covenantee as follows:

1. The Lands shall not be built upon and no building permit shall be issued for the construction, location or alteration of any building or structure on the Lands that does not comply with the following requirements:
  - a. any principal building for a residential use (including a home-based business) permitted under the Covenantee's zoning bylaw in effect at that time shall not exceed two (2) storeys nor 12 metres in building height; and
  - b. any building or structure for a commercial use permitted under the Covenantee's zoning bylaw in effect at that time shall not exceed one (1) storey nor 10 metres in building height.
2. The Covenantor shall at all times and does hereby indemnify, save harmless, release and forever discharge the Covenantee from and against all manner of actions, causes of action, claims, debts, suits, damages and promises whatsoever, at law or in equity, whether known or unknown, including without limitation for injury to persons or property, including death of any person, directly or indirectly, arising or resulting from, or attributable to, any act, omission, negligence or default of the Covenantor, in connection with or in consequence of this Agreement.
3. Subject to the provisions of section 219 of the *Land Title Act*, the covenants contained in this Agreement shall burden and run with the Lands. This Agreement may only be modified or discharged with the consent of the Covenantee pursuant to the provisions of Section 219(9) of the *Land Title Act*.
4. Except as provided in this Agreement, the Covenantee's rights and powers in the exercise of its functions pursuant to all public and private statutes, bylaws, orders and regulation, shall not be prejudiced nor affected by this Agreement.
5. The Covenantor will, if requested by the Covenantee, execute or cause to be executed such further and other documents and give such further and other assurances which may be reasonably necessary to give proper effect to the intent of this Agreement as may reasonably be requested by the Covenantee.
6. Notwithstanding anything contained herein, neither the Covenantor nor any future owner of the Lands or any portion thereof shall be liable under any of the covenants and agreements contained herein where such liability arises by reason of any act or omission occurring after the Covenantor or any future owner ceases to have any further interest in the Lands.
7. Waiver of any default by either party shall not be deemed to be a waiver of any other default.
8. Wherever the singular or masculine or neuter is used herein, the same shall be construed as including the plural, feminine, body corporate or politic unless the context requires otherwise.

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9. If any portion of this Agreement is held to be invalid or unenforceable, then such portion shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement which shall remain in full force and effect.
10. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
11. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
12. Wherever there is a reference to an enactment in this Agreement, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the Form C General Instrument – Part 1 attached hereto as of the date thereon.

## CONSENT AND PRIORITY AGREEMENT

### WHEREAS:

- A. The Transferor, Matway Developments Ltd., has granted the Transferee the attached section 219 covenant (the **"Encumbrance"**); and
- B. The Transferee has requested that Barry Charles Holdings Ltd., as to an undivided ½ interest, and Mandate National Mortgage Corporation, as to an undivided ½ interest (collectively, the **"Chargeholder"**) grant the Encumbrance priority over the mortgage and assignment of rents registered in the records of the Kamloops Land Title Office under numbers LB194152 and LB194153 (collectively, the **"Charge"**) and the Chargeholder has agreed to such priority on the terms that follow.

NOW THEREFORE, for \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed by the Chargeholder, the Chargeholder, being the holder of the Charge, hereby approves, joins in and consents to the granting of the Encumbrance and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Lands and shall be an Encumbrance upon the Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

IN WITNESS WHEREOF the Chargeholder has executed this Priority Agreement by causing its proper officers to sign the General Instrument – Part 1 attached hereto as of the date indicated thereon.

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## CONSENT AND PRIORITY AGREEMENT

### WHEREAS:

- A. The Transferor, Matway Developments Ltd., has granted the Transferee the attached section 219 covenant (the "**Encumbrance**"); and
- B. The Transferee has requested that 589119 B.C. Ltd. (the "**Second Chargeholder**") grant the Encumbrance priority over the mortgage registered in the records of the Kamloops Land Title Office under number CA861275 (the "**2<sup>nd</sup> Mortgage**") and the Second Chargeholder has agreed to such priority on the terms that follow.

NOW THEREFORE, for \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed by the Second Chargeholder, the Second Chargeholder, being the holder of the 2<sup>nd</sup> Mortgage, hereby approves, joins in and consents to the granting of the Encumbrance and consents and agrees that the Encumbrance shall be binding upon the Second Chargeholder's interest in or charge upon the Lands and shall be an Encumbrance upon the Lands in priority to the 2<sup>nd</sup> Mortgage in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Lands prior to the dating, execution and registration of the 2<sup>nd</sup> Mortgage and the advance of any monies thereunder.

IN WITNESS WHEREOF the Second Chargeholder has executed this Priority Agreement by causing its proper officers to sign the General Instrument – Part 1 attached hereto as of the date indicated thereon.

**END OF DOCUMENT**