

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF ADVANCED EDUCATION

Ministerial Order No. **M 359**

I, Amrik Virk, Minister of Advanced Education, hereby order that, in this Order:

(a) The following definitions apply:

“Lands” means the lands legally described as:

P.I.D. 015-940-357
District Lot 4805
Group 1 NWD
Except Portions in Plan 9301
Statutory Right of Way Plan 20570
Part Subdivided By Plan BCP3309 and
Part Subdivided By Plan BCP30252

as heavily outlined as Reference Plan LMP44331, a copy of which is attached as Schedule “A” to this Order;

“Lease” means the lease registered under Instrument No. BN327963 originally granted to Discovery Parks Incorporated, and assigned to the Tenant under Instrument No. BB4031317;

“Lease Modification” means the First Modification of Lease (TEF #2), a copy of which is attached as Schedule “B” to this Order;

“Tenant” means UBC Properties Investments Ltd., as trustee for UBC Properties Trust.

(b) Approval is given to the University of British Columbia to extend the term of the Lease of the Lands until July 31, 2098, substantially in accordance with the terms of the Lease Modification.



Minister of Advanced Education

October 6, 2014

Date

(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)*

G-582

Schedule "B"

TERMS OF INSTRUMENT - PART 2

FIRST MODIFICATION OF LEASE (TEF #2)

THIS AGREEMENT is dated for reference _____.

BETWEEN:

The University of British Columbia, with an office at 107 - 6328 Memorial Road, Vancouver,
British Columbia V6T 1Z2

(the "**Landlord**")

AND:

UBC Properties Investments Ltd., with an office at 101, 555 Great Northern Way, Vancouver,
British Columbia, V5T 1E2

(the "**Tenant**")

WHEREAS:

A. By a lease (the "**Lease**") dated for reference July 15, 1999 and registered in the Land Title Office (the "**LTO**") on December 9, 1999, under number BN327963, the Landlord leased to Discovery Parks Incorporated ("**Discovery**") certain lands (the "**Lands**") being a portion of those lands described in Item 2 of the Form C to which these Terms of Instrument are attached.

B. The Lands which are the subject of the Lease contain 0.154 ha as shown on Plan LMP44331.

C. By an assignment of lease dated for reference December 29, 2011 and registered in the LTO under registration number BB4031317, Discovery assigned its interest in the Lease, the Lands and the Premises to the Tenant.

D. The Landlord and the Tenant have agreed to modify the Lease as set out in this first modification to lease (the "**First Modification**").

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. **Capitalized Words and Definitions**

All capitalized words used in this First Modification but not defined or amended in this First Modification shall have the meanings given to them in the Lease.

2. **Parties**

The Indemnifier, Discovery Foundation, having been released by the Landlord, shall be deleted as a party.

3. **Recitals**

(a) Recital G dealing with the sharing of Net Rent between the Landlord and the Tenant shall be deleted in its entirety and be replaced by the words "Intentionally Deleted".

- (b) Recital H dealing with the extent of the Tenant's liability under the Lease shall be deleted in its entirety and be replaced by the words "Intentionally Deleted".
- (c) Recital I dealing with the Indemnifier being a party to the Lease shall be deleted in its entirety and be replaced by the words "Intentionally Deleted", the Indemnifier having been released from its obligations under the Lease by the Landlord at the time of the Assignment.

4. **Definitions**

The definition of Net Rent in paragraph 1.1(ee) shall be deleted in its entirety and replaced by the words "Intentionally Deleted".

5. **Order In Council**

The parties acknowledge and agree that the Order in Council contemplated by paragraph 2.4 of the Lease was granted on May 27, 1999 with the result that the term of the Lease commenced on August 1, 1999 pursuant to paragraph 3.1 of the Lease.

6. **Term of Lease**

The Landlord and Tenant agree that the expiry date of the Term shall be extended from July 31, 2059 until July 31, 2098.

7. **Minimum Rent**

Paragraph 4.1(a) of the Lease shall be deleted in its entirety and replaced with the following:

- "4.1(a) Minimum Rent has been paid in full by the Tenant to the Landlord for the entire Term, receipt of which is hereby acknowledged by the Landlord."

8. **Net Rent**

Paragraph 4.1(b) of the Lease regarding payment of 50% of the Net Rent from the TEF Building by the Tenant to the Landlord shall be deleted in its entirety and the Landlord hereby acknowledges and agrees that the Tenant has no obligation under the Lease to pay Net Rent to the Landlord.

9. **Accounting**

Paragraph 4.7 of the Lease dealing with Accounting shall be deleted in its entirety and replaced with the following:

"4.7 Accounting. The Tenant shall:

- (a) maintain accounts in respect of this Lease and each of the Subleases;
- (b) prepare a budget for each fiscal year of the Tenant or portion thereof occurring during the Term, with respect to the Lands and Premises, the Lease and the estimated revenue and expenses related thereto, identifying funds proposed to be borrowed during the period of such budget and secured by a mortgage of the Tenant's interest in this Lease, and provide a copy of each such budget and each revision thereof to the Landlord's Vice-President Finance, Resources and Operations within 15 days of their approval by the Tenant's directors each year;
- (c) if requested by the Landlord, prepare periodic statements at least four times in each Fiscal Year of all amounts received pursuant to, and expenses incurred in connection with the Lease, the

Premises and the Subleases showing variances from budgeted amounts and deliver a copy of each such periodic statement to the Landlord's Vice-President Finance, Resources and Operations within 15 days of their approval by the Tenant's directors;

- (d) deliver to the Landlord's Vice-President Finance, Resources and Operations a copy of the Tenant's annual consolidated summary financial statement showing:
 - (i) total current assets,
 - (ii) total non-current assets, and
 - (iii) total assets, and
 - (iv) total current liabilities,
 - (v) total non-current liabilities, and
 - (vi) total liabilities, and
 - (vii) total equity

certified by an officer of the Tenant to accurately represent the summary of the consolidated financial statement of the Tenant for such year, and a copy of detailed audited statements with respect to the operations of the Tenant on the Lands and Premises and under the Lease. Such statements shall be delivered to the Landlord's Vice-President Finance, Resources and Operations, within 15 days of their approval by the Tenant's directors each year;

- (e) permit the Landlord to review the files, books and financial records of the Tenant in connection with the Tenant's management of the Lease and Subleases, the collection of the amounts coming due under the Subleases and the expenses incurred in connection therewith, upon receiving reasonable notice of the Landlord's desire to do so;
- (f) if the Tenant intends to enter into a major real estate project which would cause the total balance sheet liabilities of the Tenant to exceed 80% of the total liabilities and equity of the Tenant shall so advise the Landlord's Vice-President Finance, Resources and Operations, and the Landlord's Vice-President Finance, Resources and Operations, may request a pro forma summary financial statement as described in paragraph 4.7(d) herein which would include the proposed project, certified by an officer of the Tenant to accurately represent the expected impact of the proposed project on the summary financial statements; and
- (g) all financial information with respect to the Tenant obtained by the Landlord, its employees, officers and governors, shall be held confidential and not disclosed to any party and shall not be circulated to any other party whether within the employ of the Landlord or otherwise, except with the prior written consent of the Tenant."

10. Liability of Landlord and Tenant

Paragraph 4.8 of the Lease dealing with liability of the Landlord and Tenant if Net Rent is negative shall be deleted in its entirety and replaced by the words "Intentionally Deleted".

11. Landlord's Use of Rent

Paragraph 4.9 of the Lease dealing with the use by the Landlord of Minimum Rent and Net Rent for the purpose of the Landlord's scientific and technological research shall be deleted in its entirety and replaced by the words "Intentionally Deleted".

12. Proceedings

In paragraph 16.2 in the definition of "Non-Curable Default, the reference to paragraph 16.2 shall be deleted and be replaced by a reference to paragraph 18.2.

13. Calculation of Net Rent

Paragraph 16.14 and Schedule "D" of the Lease dealing with the calculation of Net Rent shall be deleted in their entirety replaced by the words "Intentionally Deleted".

14. Indemnity By the Indemnifier

Article 24.0 of the Lease dealing with the Indemnity by the Indemnifier shall be deleted in its entirety, the Indemnifier having been released, and be replaced by the words "Intentionally Deleted".

15. Schedule "C" Form of Agreement With Tenant's Mortgagee

Schedule "C" to the Lease shall be deleted in its entirety and shall be replaced by the document headed Schedule "C" Form of Agreement With Tenant's Mortgage attached to this First Modification.

16. Binding Agreement

This First Modification shall be binding upon the Landlord and the Tenant and enure to the benefit of their respective successors and permitted assigns.

17. Time is of the Essence

Time is of the essence of this First Modification and the Lease.

18. The Lease is Still in Force

All terms, covenants, conditions, and provisos contained in the Lease shall remain in full force and effect except as they have been modified in this First Modification.

19. Headings

The article and/or paragraph headings in this First Modification are inserted for ease of reference only and shall not affect the meaning, interpretation or any provision of this First Modification.

IN WITNESS WHEREOF the Landlord and the Tenant have executed this First Modification by each of them signing where indicated on the Land Title Act Forms C and D to which this First Modification is attached.

Schedule "C"

Form of Agreement With the Tenant's Mortgagee

TRI-PARTITE AGREEMENT

THIS AGREEMENT is made the ____ day of _____, 2010

BETWEEN:

THE UNIVERSITY OF BRITISH COLUMBIA, 107 - 6328 Memorial Road, Vancouver, British Columbia, V6T 1Z2, a body corporate under the laws of the Province of British Columbia

(the "Landlord")

AND:

UBC PROPERTIES INVESTMENTS LTD., (Incorporation No. BC578584) of #101 - 555 Great Northern Way, Vancouver, BC V5T 1E2

(the "Tenant")

AND:

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(the "Mortgagee")

WITNESSES THAT:

A. By a lease (the "**Lease**") dated for reference July 15, 1999 and registered in the Land Title Office on December 9, 1999, under number BN327963, the Landlord leased to Discovery Parks Incorporated ("**Discovery**") the Lands defined in the Lease;

B. By an assignment of lease dated for reference December 29, 2011 and registered in the Land Title Office under registration number BB4031317, Discovery assigned its interest in the Lease, the Lands and the Premises to the Tenant;

C. By modification of lease dated for reference _____ and registered in the Land Title Office under registration number _____, the Landlord and Tenant modified the Lease;

D. By a Mortgage dated the ____ day of _____, _____ (the "**Mortgage**") from the Tenant as mortgagor to the Mortgagee, and to be registered in the appropriate Land Title Office, the Tenant did demise and sublease by way of mortgage all of the Tenant's right, title and interest in and to the Lease (save and except the last day thereof) to secure the principal sum of \$_____ together with interest and all other moneys owing thereunder from time to time;

E. The Mortgagee is a "**Tenant's Mortgagee**" as defined in the Lease and desires to have every opportunity to protect its interest and the security of the Mortgage, and to have the advantage of the covenants between the Landlord and the Tenant with respect to protection of the Mortgagee's interest as contained in the Lease; and

F. The Landlord and the Tenant have agreed to enter into this Agreement for the purpose of providing adequate security for the Mortgagee.

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

1. The Tenant acknowledges and represents to the Mortgagee that the Tenant has entered or intends to enter into possession of the Lands pursuant to the terms of the Lease.
2. The Landlord and Tenant warrant and represent to the Mortgagee that:
 - (a) all necessary consents or approvals to the granting of the Lease and the Mortgage required under applicable legislation have been obtained and any relevant reservations or limitations in such legislation or affecting the Lands have been complied with and observed and the Landlord has the full right and authority to grant the Lease of the Lands to the Tenant for the use as provided in the Lease;
 - (b) the Landlord has approved in writing pursuant to the terms of the Lease the complete drawings, plans and specifications for the construction of the buildings and improvements to be constructed by the Tenant on the Lands;
 - (c) the Landlord has not directed the Tenant to take any remedial action pursuant to the Lease;
 - (d) the Landlord has not asserted against the Tenant any claim for indemnification pursuant to the Lease;
 - (e) the Landlord has consented to all subleases and assignments made to date by the Tenant, as disclosed in Appendix A hereto; and
 - (f) the Mortgagee is a "Tenant's Mortgagee" as defined in the Lease.
3. The Landlord and the Tenant warrant and represent to the Mortgagee that all of the issued and outstanding shares in the capital of the Tenant are owned legally and beneficially by the Landlord.
4. The Landlord acknowledges, agrees and confirms to and with the Mortgagee that:
 - (a) the Lease is in good standing and has not been amended except: *[nil unless otherwise stated]*;
 - (b) there has been no prepayment of rent under the Lease except in accordance with the terms thereof, if any;
 - (c) there are no rental arrears outstanding under the Lease;
 - (d) the Landlord has not determined to act or given notice of its intention to act upon any default under the Lease, and to the best knowledge of the Landlord there has been no default under the Lease by either the Landlord or the Tenant; and
 - (e) any buildings and other improvements constructed on the Lands will be and remain the property of the Tenant during term of the Lease.
5. The Landlord acknowledges receipt of notice of the Mortgage and a copy of same from the Mortgagee and of written notice specifying an address for notices to be given to the Mortgagee as being the address for the Mortgagee shown on page 1 hereof, all in accordance with Article 16.00 and clause 14.3 of the Lease and the Landlord hereby covenants and agrees to grant and provide to the Mortgagee all rights, assurances and notices afforded under the terms of the Lease to a Mortgagee.

6. The Landlord and the Tenant will at any time and from time to time, upon not less than 30 days' prior written request by the Mortgagee, execute, acknowledge and deliver to the Mortgagee a statement in writing certifying:
 - (a) that the Lease is unmodified and in full force and effect or, if there have been any modifications, that the same are in full force and effect as modified and identifying the modifications;
 - (b) the dates to which the rent or other charges payable under the Lease have been paid, provided that the request specifies the charges in respect of which such information is required; and
 - (c) so far as the maker of the statement is aware, the other party to the Lease is not in default under any provision of the Lease, or, if in default, the particulars thereof.
7. The Tenant and the Landlord covenant and agree with the Mortgagee that:
 - (a) they will not accept a surrender of the Lease, in whole or in part, without the prior written consent of the Mortgagee,
 - (b) they will not agree to any modification or amendment to the Lease:
 - (i) which may materially adversely affect the Mortgage or the Mortgagee's security, without the prior written consent of the Mortgagee, or
 - (ii) which does not materially adversely affect the Mortgage or the Mortgagee's security, without giving the Mortgagee 30 days' prior written notice of such modification or amendment.
8. Neither the Mortgagee nor any receiver or receiver-manager appointed thereby nor any assignee, transferee or purchaser of the Lease pursuant to enforcement proceedings initiated by the Mortgagee shall, unless it elects to do so, be subject to or bound by any other agreements between the Landlord and the Tenant.
9. If the Landlord and the Tenant 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 may affect the Mortgage or the Mortgagee's security, the Mortgagee shall be given a reasonable opportunity by the Tenant and the Landlord to participate in the arbitration proceedings.
10. If the Mortgagee shall have cured any default in the payment of rent or any other amount required to be paid by the Tenant 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 having jurisdiction over any proceeding involving the Tenant, from commencing or prosecuting foreclosure or other appropriate proceedings or from obtaining possession of the Lands, then the time for commencing or prosecuting such foreclosure or other proceedings or for curing defaults (other than payment of rent or any other amount required to be paid by the Tenant under this Lease) shall be extended for the period of such prohibition or injunction.
11. If the Landlord has not already done so, the Landlord hereby authorizes the Tenant or the Mortgagee, on behalf of the Landlord, to file notice in the land title office against title to the property including the Lands pursuant to the Builders Lien Act of British Columbia, and any amendment thereto to the effect that the Landlord shall not be responsible for the costs of improvements to the Lands.

12. If the Lease is terminated, surrendered, disclaimed or forfeited and as a result the Tenant ceases to have any leasehold interest in the Lands, all covenants and obligations of the Tenant hereunder shall be assumed by the Landlord without any further act or agreement of the parties.
13. The Mortgagee agrees that if it gives any written notice of default to the Tenant under the Mortgage, it will concurrently therewith give a copy of such notice to the Landlord at the addresses specified on page 1 of this Agreement and the Landlord shall have the right to cure such default.
14. The Mortgagee covenants and agrees that if the Tenant defaults under the Lease and the Mortgagee demands payment of the full principal sum owing under or secured by the Mortgage and commences foreclosure or other realization proceedings under the Mortgage, the Landlord shall have the right to require the Mortgagee to assign the Mortgage to the Landlord (or to another entity nominated by the Landlord in which the Landlord has an interest) upon payment to the Mortgagee of the principal sum, accrued interest, costs and any other moneys to which the Mortgagee is entitled under the Mortgage.
15. If the Mortgagee attorns as tenant pursuant to paragraph 16.4 of the Lease as amended by this Agreement, a new lease is entered into with either the Mortgagee or the Mortgagee's assignee pursuant to Paragraph 16.5 of the Lease, and or the Mortgagee assigns the Lease pursuant to paragraph 16.6 of the Lease as amended by this Agreement, then the definitions of Activities and Research Activities in such new lease or the Lease, as the case may be, shall be replaced by a definition of Permitted Activities and amended to read as follows:


“Permitted Activities” means the use and occupation of the Premises by the Tenant for the sole purpose of providing office, commercial and retail space to Subtenants, provided however that the Tenant agrees subject to commercial reasonableness, to use best efforts to limit the rentals at current market rental rates to first, divisions of UBC as Subtenants, second, third party research Subtenants, and last, other university compatible third party Subtenants. Wherever the term Activities or Research Activities appears in the Lease, it shall be read and construed as being a reference to this new definition of Permitted Activities rather than to the former definitions of Activities and Research Activities.”
16. The Tenant agrees to pay the costs of the Landlord incurred in connection with this Agreement.
17. This Agreement shall be deemed to terminate at such time as the Mortgage has been paid in full in accordance with the terms and conditions therein contained and is discharged from the title to the Lands.
18. The Tenant hereby acknowledges and agrees that nothing contained in this Agreement shall in any way release or limit the covenants and obligations of the Tenant under the Mortgage or the Lease.
19. The Tenant expressly consents to the exchange of notices or information between the Landlord and the Mortgagee as contemplated herein, including in particular, but without limiting the generality of the foregoing, the giving to the Landlord or Mortgagee as the case may be of a copy of any written notice to the Tenant of default.
20. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
21. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF this Agreement has been executed as of the date first above written.

THE UNIVERSITY OF BRITISH COLUMBIA)
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Authorized Signatory)
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Authorized Signatory)

UBC PROPERTIES INVESTMENTS LTD.)
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Appendix A

List Of All Subleases And Assignments Made To Date By The Tenants
(see Section 2(e) of this Tripartite Agreement)