

FORM C

(Section 23?)

10 JUN 2008 14 51

FB180724

Province of
British Columbia

GENERAL INSTRUMENT - PART 1

(This area for Land Title Office Use)

PAGE 1 of 11 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)
BULL, HOUSSER & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver,
British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)

Per:

LARRY R. SANDRIN

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*
(PID) (LEGAL DESCRIPTION)
SEE SCHEDULE

DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Statutory Right-of-Way under Section 218, <i>Land Title Act</i>	Entire Instrument	North Pender Island Local Trust Committee and The Nature Conservancy of Canada

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):*
J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

6. TRANSFEREE(S): (including postal address(es) and postal code(s))*
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*,
200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8 and
THE NATURE CONSERVANCY OF CANADA (Registration No. XS-0033684), Suite 300, 1205 Broad Street,
Victoria, British Columbia, V8W 2A4

7. ADDITIONAL OR MODIFIED TERMS:*
N/A

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

Officer Signature(s)

EXECUTION DATE

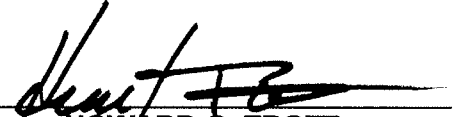
Party(ies) Signature(s)



Y	M	D
08	05	26

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:



Name:

Name: HOWARD G. TROTT

LARRY R. SANDRIN
BARRISTER & SOLICITOR
BULL, HOUSSE & TUPPER LLP
#3000, 1055 WEST GEORGIA
VANCOUVER, B.C. V6E 3R3
(604) 641-4873

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.

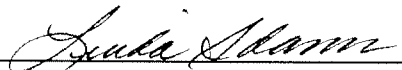
FORM D

EXECUTIONS CONTINUED

Officer Signature(s)

EXECUTION DATE

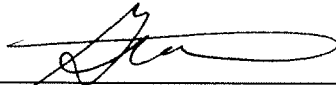
Party(ies) Signature(s)

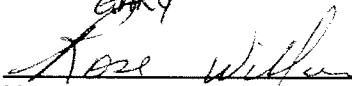

Name:

Y	M	D
08	06	03
08	05	23

TRANSFeree:

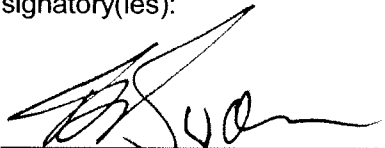
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE by its authorized signatory(ies):


Name: B. STEEVES


Name: ROSE WILLOW

TRANSFeree:

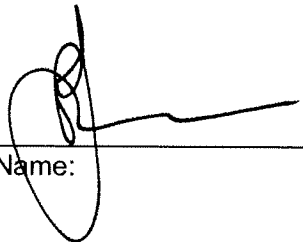
THE NATURE CONSERVANCY OF CANADA by its authorized signatory(ies):


Name: Thomas Swann

Name:

(as to both signatures)

LINDA JOAN ADAMS
Commissioner for Taking Affidavits
for British Columbia
200 - 1627 Fort Street
Victoria, BC V8R 1H8
Ph (250) 405-5151


Name:

(as to both signatures)

PETER D. JOHNSON
Barrister & Solicitor
2nd FLOOR, 837 BURDETT AVENUE
VICTORIA, BRITISH COLUMBIA
V8W 1B3

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.

FORM E

SCHEDULE

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

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(PID)	(LEGAL DESCRIPTION)
1. _____ - _____ - _____	Lot 1 of Parcel 1, James Island, Cowichan District, Plan VIP <u>85132</u>
2. _____ - _____ - _____	Lot 2 of Parcel 2, James Island, Cowichan District, Plan VIP <u>85132</u>
3. _____ - _____ - _____	Lot 3 of Parcel 3, James Island, Cowichan District, Plan VIP <u>85132</u>
4. _____ - _____ - _____	Lot 4 of Parcel 4, James Island, Cowichan District, Plan VIP <u>85132</u>
5. _____ - _____ - _____	Lot 5 of Parcel 5, James Island, Cowichan District, Plan VIP <u>85132</u>

TERMS OF INSTRUMENT - PART 2

STATUTORY RIGHT OF WAY

THIS AGREEMENT, dated for reference May 29, 2008,

BETWEEN:

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street,
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local
trust committee under the *Islands Trust Act*, 200 - 1627 Fort
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

AND:

THE NATURE CONSERVANCY OF CANADA, Suite 300,
1205 Broad Street, Victoria, British Columbia, V8W 2A4

(the "**NCC**")

WITNESSES WHEREAS:

- A. In addition to the terms defined above, any terms employed in these Recitals will have the meanings respectively ascribed to them in Section 1 of this Agreement;
- B. The Owner is the registered owner of the Lands, including the Conservation Areas;
- C. The Local Trust Committee has required the execution and registration of this Agreement as a condition of the adoption of Bylaw 170 of the Local Trust Committee; and
- D. The Owner has agreed to grant the Statutory Right-of-Way to the Local Trust Committee and to the NCC and the Statutory Right-of-Way is necessary for the operation and maintenance of the Local Trust Committee's and the NCC's respective undertakings,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee and the NCC to the Owner and for other good and valuable

consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner, the Local Trust Committee and the NCC covenant, each with the others, as follows:

1. DEFINITIONS

- (a) **“Access Invitee”** means any person determined by the NCC or by the Local Trust Committee in the exercise of their respective Sole Discretion, to require and merit access to all or any of the Conservation Areas for Educational and Research Purposes, in accordance with this Agreement;
- (b) **“Conservation Areas”** means those portions of the Lands defined and established as “Conservation Areas” pursuant to the Environmental Conservation Covenant;
- (c) **“Educational and Research Purposes”** means the purposes of reasonable and *bona fide* education and research relating to wildlife and habitat located upon the Lands and within the Conservation Areas by researchers and primary, secondary, post-secondary and other students, based upon applications to the NCC and to the Local Trust Committee for access across the Lands;
- (d) **“Environmental Conservation Covenant”** means that Section 219 Covenant and Section 218 Statutory Right-of-Way granted by the Owner in favour of the NCC and the Local Trust Committee and registered at the Victoria Land Title Office under numbers F318072 and F318073;
- (e) **“Lands”** means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (f) **“Sole Discretion”** means, with respect to any party to this Agreement, the sole, absolute and unfettered discretion of such party; and
- (g) **“Statutory Right-of-Way”** means that statutory right-of-way granted by the Owner to the NCC and to the Local Trust Committee pursuant to Section 2.1 of this Agreement.

2. STATUTORY RIGHT-OF-WAY RE: ACCESS FOR EDUCATIONAL AND RESEARCH PURPOSES

2.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the Local Trust Committee and to the NCC, and, subject to Section 2.5, their respective officers, employees, contractors and Access Invitees, in perpetuity, the right, liberty and easement by way of Statutory Right-of-Way on, over and across the Conservation Areas and, in order to access the Conservation Areas, the rest of the Lands for Educational and Research Purposes; PROVIDED THAT, in connection with the exercise of this Statutory Right-of-Way:

- (a) the NCC and/or the Local Trust Committee will provide publicly accessible information as to the methodology by which parties proposing to obtain access to Conservation Areas for Educational and Research Purposes may contact and

make application to the NCC and/or the Local Trust Committee for such purposes;

- (b) the NCC and the Local Trust Committee will each be solely responsible to determine the qualifications of their respective applicants requesting access to the Conservation Areas for Educational and Research Purposes;
- (c) upon the NCC or the Local Trust Committee determining, in its Sole Discretion, that any applicant for access to Conservation Areas for Educational Research Purposes is so qualified and merits such access, the NCC or the Local Trust Committee, as the case may be, will provide advance written notice of not less than 48 hours' duration to the Owner of the names and general purposes of such proposed access by such Access Invitees across the Lands as so approved by the NCC or the Local Trust Committee, together with the proposed times, dates and duration of any such proposed access upon or across the Lands for Educational and Research Purposes, together with the proposed methodology by which such Access Invitees may exercise such access to any relevant Conservation Areas;
- (d) the Owner will not be obligated to incur any expenses (other than reasonable overhead expenses) in connection with any access by Access Invitees across the Lands to Conservation Areas for Educational and Research Purposes;
- (e) the Owner may impose reasonable terms and conditions with respect to proposed access by Access Invitees to Conservation Areas for Educational and Research Purposes, including, without limitation, reasonable restrictions or conditions relating to the use of established roadways and pathways for such access so long as reasonably providing continuous and practical access to the Conservation Areas and prohibitions on access to and across golf courses and other recreational areas or facilities, restrictions upon entry into or affecting lakes, ponds, wetlands and watercourses upon any portions of the Lands outside Conservation Areas and prohibitions on access to residential, recreational, service, amenity or other buildings or improvements located upon the Lands outside the Conservation Areas, all so as to avoid any unreasonable interference with the use and enjoyment of such Lands or buildings, amenities, services and facilities by persons authorized by the Owner to use and enjoy the same; and
- (f) the NCC and the Local Trust Committee will each be solely responsible to ensure compliance with the terms and conditions of this Agreement and with the Environmental Conservation Covenant by their respective Access Invitees.

2.2 The NCC and the Local Trust Committee acknowledge and agree that:

- (a) with respect to the portions of the Lands outside of the Conservation Areas, the Statutory Right-of-Way granted may:

- (1) only be exercised over such areas as may be established by the Owner as vehicular roadways and pedestrian pathways, provided that this limit shall only apply if such roadways and pedestrian pathways provide reasonable, continuous and practical access to the Conservation Areas, and
 - (2) only be exercised only for the purposes of providing reasonable, continuous and practical access to the Conservation Areas; and
- (b) if requested by the Owner, at any time and from time to time, the NCC and the Local Trust Committee will execute such documentation as may reasonably be required to modify and/or partially discharge the Statutory Right-of-Way so as to restrict the charge of the Statutory Right-of-Way to such portions of the Lands as may be designated as "common property" on any bare land strata plan filed in connection with the Lands and/or to any portion of the Lands shown on any Reference Plan of Statutory Right-of-Way (and first approved by the NCC and by the Local Trust Committee, each acting promptly and reasonably) showing roadways and pathways, provided the NCC and the Local Trust Committee shall only be obligated under this paragraph if such common property and/or portion of the Lands, as the case may be, provide reasonable, continuous and practical access to the Conservation Areas .

2.3 The Statutory Right-of-Way granted to the NCC and to the Local Trust Committee pursuant to Section 2.1 is necessary for the operation and maintenance of the NCC's and the Local Trust Committee's respective undertakings.

2.4 The Owner agrees that the Local Trust Committee and the NCC will be entitled, during the term of the Statutory Right-of-Way, to an appurtenant licence to the use of any wharves or docks reasonably required for the purposes of the exercise of the rights of access contemplated in the Statutory Right-of-Way; PROVIDED THAT such licence will not constitute an interest in land and may only be exercised by the Local Trust Committee and by the NCC during the term of any tenure (and subject to any relevant terms and conditions imposed) under any leases or easements held by the Owner in connection with any such wharves or docks. The Owner will secure the agreement of each successor in title to the Lands that such successors in title will be bound by the grant of the licence set out in this Section 2.4.

2.5 Notwithstanding anything to the contrary contained in this Agreement, no rights of possession, nor access nor remedies are granted to the general public with respect to any of the Conservation Areas nor to any other portion of the Lands by this Agreement, and no member of the general public will have any standing to enforce or enjoy any rights or remedies granted by this Agreement to the NCC and the Local Trust Committee, or either of them, except as an Access Invitee through the NCC and the Local Trust Committee.

3. DISPUTE RESOLUTION

3.1 If there is a disagreement regarding a breach of this Agreement which has occurred or is threatened, or if there is disagreement as to the meaning of this Agreement, the Owner or the

NCC and/or the Local Trust Committee may give notice to the other requiring a meeting between such parties within 5 days of receipt of the notice.

3.2 The Owner and the NCC and/or the Local Trust Committee will diligently, reasonably and in good faith, endeavour to resolve the subject of any such disagreement within 10 days following receipt of a notice as contemplated in Section 3.1.

3.3 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the disagreement within 10 days following receipt of such notice, those parties may appoint a mutually acceptable person to mediate the matter and such parties will act diligently, reasonably and in good faith and co-operate with the mediator and with one another in an attempt to resolve the matter within 10 days after the mediator is appointed. Any costs of any such mediation will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

3.4 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the matter in dispute through mediation, or if either party refuses or fails to participate in mediation, then either the Owner or the NCC and/or the Local Trust Committee may submit the matter in dispute to a single arbitrator appointed jointly by the parties; PROVIDED THAT if the Owner and the NCC and/or the Local Trust Committee are unable to agree upon the appointment of an arbitrator, an arbitrator shall be appointed pursuant to and shall act in accordance with the *Commercial Arbitration Act* (British Columbia) to render a determination through arbitration of any issue in dispute.

3.5 Any determination of the arbitrator appointed pursuant to Section 3.4 shall be final and binding upon the Owner and the NCC and/or the Local Trust Committee.

3.6 Any costs of arbitration pursuant to this Article 3 will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

4. NOTICES

4.1 Any notice or other communication (collectively, a "Notice") required or permitted under this Agreement shall be:

- (a) delivered in person; or
- (b) sent by prepaid registered mail or courier to the address of the parties at their respective addresses as set out in Sections 5 or 6, as the case may be, of Part 1 of this General Instrument;

PROVIDED THAT if the Lands are subdivided by the filing of a strata plan, including a bare land strata plan, then following the deposit of any such strata plan at the Victoria Land Title Office, any Notice may be delivered by the Local Trust Committee or by the NCC to the registered office of the strata corporation created by the filing of any such strata plan.

4.2 If a Notice is delivered in person, the party receiving the Notice shall forthwith acknowledge receipt of same in writing, and the Notice shall be deemed to have been received

on the earlier of the date of such acknowledgment and the date that is 5 days after the Notice is sent.

4.3 If a Notice is sent by pre-paid registered mail or courier, it shall be deemed to have been received on the fourth business day following the day on which the Notice was sent.

4.4 Each party agrees to immediately give written notice to the other of any change in its address from that set out in Sections 5 or 6, as the case may be, in Part 1 of this General Instrument.

4.5 If a party refuses to sign an acknowledgment of receipt of a Notice, the person delivering the Notice may swear an affidavit of service and the Notice shall be deemed to have been received on the date of service set out in the affidavit.

4.6 In this section, "business day" means a day other than a Saturday, Sunday or statutory holiday in British Columbia.

5. GENERAL

5.1 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee and the NCC to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee and the NCC.

5.2 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

5.3 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee and the NCC will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce their rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

5.4 This Agreement will enure to the benefit of and be binding upon the Local Trust Committee and the NCC and their respective successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 5.4) will run with the Lands and enure to the benefit of and be binding upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties; and

- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement.

5.5 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

5.6 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

5.7 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

END OF DOCUMENT