

Lenders' Frequently Asked Questions regarding the Tripartite Agreement

The Tripartite Agreement is an agreement among the purchaser(s) of the condominium unit (the "Purchaser"), University District Trust, by its trustee University of Calgary Properties Group Ltd. (the "Trust") and the Purchaser's lender (also called the mortgagee) (the "Lender"), that is sometimes required by a lender so that the Purchaser can get mortgage financing to help fund its purchase of the condominium unit. The Tripartite Agreement provides comfort to the Lender regarding the Lender's security in the condominium unit. For example, the Lender gets notified in writing of (i) any significant modifications in Purchaser's unit lease (the "Unit Lease"), i.e. the agreement through which the Purchaser owns the unit, that could negatively affect the Lender; and (ii) a default by the Purchaser under the Unit Lease or a planned termination of the Unit Lease (with the Lender getting a set time period to cure that default and avoid termination occurring). The Tripartite Agreement sets out the timelines for exercising these rights, how the Lender may deal with the property if it steps into the shoes of the Purchaser and the tenant rights of the Purchaser that the Lender obtains the benefit of.

As head landlord under a head lease from The Governors of the University of Calgary (the "University") to the Trust, the University is unable to unilaterally amend the Head Lease. The Trust prepays rent under the Head Lease for condominium units. There are no restrictions in the Head Lease regarding a Lender's right to access the property for the purpose of exercising its rights under the Tripartite Agreement.

NOTE: The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained. For clarity, McMillan LLP is counsel to the Trust and is not counsel to a Purchaser or Lender or the University.