

DISCLOSURE

THE TOWNS OF RUTHERFORD HEIGHTS

The following documentation is being provided by **RUTHERFORD HEIGHTS INC.** (the “**Declarant**”) with respect to the proposed common elements condominium corporation to be known as “**THE TOWNS OF RUTHERFORD HEIGHTS**” in accordance with the Condominium Act 1998, S.O. 1998, C.19 and the Regulations thereunder as amended (the “**Act**”):

1. Disclosure statement (including Table of Contents) (the “**Disclosure Statement**”).
2. Budget statement for the one (1) year period immediately following the registration of the proposed declaration and description (the “**Budget**” or “**Budget Statement**”).
3. The proposed declaration (the “**Declaration**”).
4. The proposed by-laws (the “**By-laws**”).
5. The proposed rules (the “**Rules**”).
6. The proposed management agreement (the “**Management Agreement**”).
7. The preliminary draft plan of condominium (the “**Condominium Plan**”).
8. The preliminary draft reference plan delineating the parcels of tied land (the “**Reference Plan**”).

The disclosure statement contains important information about the proposed condominium project as required by Section 72 of the Act. As the type and amount of disclosure required by the Act is objective, some Purchasers may have special circumstances such that certain provisions contained in the documents have significant importance to them on an individual basis, but have not been summarized as not being significant to the average Purchaser. Purchasers are therefore advised to read all of the documents enclosed (and not simply the disclosure statement itself) in their entirety and to review same with their legal and financial advisors.

Issued: March 1, 2022

**DISCLOSURE STATEMENT
TABLE OF CONTENTS
(under subsection 72(4) of the *Condominium Act 1998*)**

Declarant's name: RUTHERFORD HEIGHTS INC.

Declarant's municipal address: 51 Roysun Road, Unit 8, Vaughan, Ontario L4L 8P9

Brief legal description of the property/proposed property: Block 1, Plan 65M-XXXX; City of Vaughan, Regional Municipality of York in the Land Registry Office for the Land Titles Division of York Region (No. 65).

Mailing address of the property/proposed property: c/o Melbourne Property Management, 1244 Caledonia Road, Suite 100, Toronto, Ontario, M6A 2X5.

The mailing address for the property may be changed prior to registration.

Municipal address of the property/proposed property: There is presently no municipal address for the proposed common elements condominium as it will consist of a private road and landscaped common areas. It is currently expected that the parcels of tied land (each a "Potl") will each have a municipal address on the private condominium road.

Condominium Corporation: York Region Common Elements Condominium Corporation No. TBA (known as the "**Corporation**").

The Table of Contents is a guide to where the disclosure statement deals with some of the more common areas of concern to purchasers. Purchasers should be aware that the disclosure statement, which includes a copy of the existing or proposed declaration, by-laws and rules, contains provisions that are of significance to them, only some of which are referred to in this Table of Contents.

Purchasers should review all documentation.

In this Table of Contents,

"unit" or "units" include proposed unit or units;

"common elements" includes proposed common elements;

"common interest" includes a proposed common interest; and

"property" includes proposed property.

This Disclosure Statement deals with significant matters, including the following:

	MATTER		Specify the article, paragraph (and/or clause) and page number where the matter is dealt with in the existing or proposed declaration, by-laws, rules or other material in the disclosure statement
1.	The Corporation is a freehold condominium corporation that is a common elements condominium corporation.		Refer to: Article II, paragraph 2.1 (Disclosure Statement), page 6 and Paragraph 1.3 – (Declaration), page 43
2.	The property or part of the property is or may be subject to the <i>Ontario New Home Warranties Plan Act</i> .	Yes No — <u>X</u>	Refer to: Article VI, paragraph 6.1 (Disclosure Statement), page 12
3.	Not applicable	N/A	Refer to: Article VIII, paragraph 8.1 (Disclosure Statement), page 13
4.	A building on the property has been converted from a previous use.	N/A	Refer to: Articles V and VII, paragraphs 5.1 and 7.1 (Disclosure Statement), page 12
5.	Part of the common elements may be used for commercial or other purposes not ancillary to residential purposes.	Yes No — <u>X</u>	Refer to: Article VIII, paragraph 8.1 (Disclosure Statement), page 13
6.	A provision exists with respect to pets on the property	Yes No <u>X</u> —	Article III, paragraph 3.7 (Declaration), page 49
7.	There exist restrictions or standards with respect to the use of common elements that are based on the nature or design of the facilities and services on the property or on other aspects of the buildings located on the property.	Yes No <u>X</u> —	Refer to: Article III - (Declaration), pages 47-49
8.	The Declarant intends to lease a portion of the common interests.	Yes No — <u>X</u>	Refer to: Article X, paragraph 10.1 – (Disclosure Statement), page 13
9.	Not applicable.	N/A	
10.	Not applicable.	N/A	
11.	One or more common interests that is attached or will attach to an owner's parcel of land are exempt from a cost attributable to the rest of the common interests.	Yes No — <u>X</u>	Refer to: Budget, pages 29 to 41

12.	There is an existing or proposed by-law establishing what constitutes a standard unit.	Yes —	No <u>X</u>	Refer to: No reference. There are no units in this common elements condominium corporation.
13.	Part or the whole of the common elements are subject to a lease or a licence.	Yes —	No <u>X</u>	Refer to: Article X and XIX, paragraphs 10.1 and 19.1 - (Disclosure Statement), pages 13 and 24
14.	Parking for Owners is allowed: (a) In or on a unit (b) On the common elements (c) On a part of the common elements of which an owner has exclusive use. (d) There are restrictions on parking.	N/A Yes — Yes — Yes <u>X</u>	No No <u>X</u> No <u>X</u> No —	Refer to: Article IV, paragraph 4.2 (Disclosure Statement), page 7 Article III, paragraph 3.6 (Declaration), page 49 N/A Article III, paragraph 3.6 (Declaration), page 49
15.	Visitor must pay for parking. There is visitor parking on the property.	Yes — Yes <u>X</u>	No <u>X</u> No —	Refer to: Article IV, paragraph 4.8 (Disclosure Statement), page 12 Article III, paragraph 3.6 (Declaration), page 49
16.	The declarant may provide major assets and property, even though it is not required to do so.	Yes —	No <u>X</u>	Refer to: Article XX, paragraph 20.1 – (Disclosure Statement), page 24
17.	The Corporation is required: (a) To purchase units or assets; (b) To acquire services: (hydro, water) for common element areas, if applicable; landscaping/snow removal for common element areas; and other services as noted in the Budget; (c) To enter into agreements or leases with the declarant or a subsidiary body corporate, holding body corporate or affiliated body corporate of the declarant.	Yes — Yes <u>X</u> Yes <u>X</u>	No <u>X</u> No — No —	Article XXI, paragraph 21.1 – (Disclosure Statement), page 24 Article XXI, paragraph 21.1 – (Disclosure Statement), page 24 Article XXI, paragraph 21.1 – (Disclosure Statement), page 24

18.	<p>The declarant or subsidiary body corporate, holding body corporate or affiliated body corporate of the declarant owns the land adjacent to the land described in the description.</p> <p>1. The current use of the land is: proposed residential development</p> <p>2. The declarant has made representation respecting the future use of the land. The Disclosure Statement contains a statement of the representation</p> <p>3. Applications have been submitted to an approval authority respecting the use of the Land.</p>	<p>Yes No</p> <p><u>X</u> ____</p> <p>Yes No</p> <p><u>X</u> ____</p> <p>Yes No</p> <p><u>X</u> ____</p>	<p>Refer to:</p> <p>Article XXII, paragraph 22.1 – (Disclosure Statement), page 24</p> <p>Article XXII, paragraph 22.2 – (Disclosure Statement), page 24</p> <p>Article XXII – (Disclosure Statement), page 24</p> <p>Article XXII, paragraph 22.3 – (Disclosure Statement), page 24</p>
19.	Not applicable.	N/A	Not applicable.
20.	Under clause 143(a) of the Condominium Act, 1998 the common interest is attached or will attach to the owner's parcel of land described in the declaration and cannot be severed from the parcel upon the sale of the parcel or the enforcement of an encumbrance registered against the parcel.	<p>Yes No</p> <p><u>X</u> ____</p>	<p>Refer to:</p> <p>Schedule "J" to the Declaration, Page 72</p>
21.	The declaration contains a list of the buildings, structures, facilities and services to be included in the common elements.	<p>Yes No</p> <p><u>X</u> ____</p>	<p>Refer to:</p> <p>Schedule "H" to the Declaration, Page 70</p>
22 - 27	N/A	N/A	N/A

The Purchaser's right under the Condominium Act, 1998 to rescind an agreement of purchase and sale are set out at Article XVI paragraph 16.1 and Article XVII, paragraph 17.1 of the Disclosure Statement (pages 21 to 24).

This Disclosure Statement is made this 1st day of March, 2022.

DISCLOSURE STATEMENT
(under subsection 72(3) of the Condominium Act, 1998)

I. DATE OF DISCLOSURE STATEMENT

1.1 Date

This Disclosure Statement is made this 1st day of March, 2022.

II. TYPE OF CORPORATION

2.1 Type

The condominium project being developed by the Declarant is a freehold condominium corporation that is a common elements condominium corporation.

III. NAME AND MUNICIPAL ADDRESS OF DECLARANT / MAILING AND MUNICIPAL ADDRESS OF CONDOMINIUM

3.1 Declarant

The name and municipal address of the Declarant are as follows:

DECLARANT: RUTHERFORD HEIGHTS INC.
 51 Roysun Road, Unit 8
 Vaughan, Ontario
 L4L 8P9

3.2 Condominium

The name, mailing address and municipal address of the Condominium or the proposed property are as follows:

YORK REGION COMMON ELEMENTS CONDOMINIUM
 CORPORATION NO. TBA

Mailing Address: c/o Melbourne Property Management, 1244
 Caledonia Road, Suite 100, Toronto, Ontario, M6A
 2X5.

Municipal Address: There is presently no municipal address for the
 proposed common elements condominium as it
 consists of a private road and landscaped common
 areas. It is currently anticipated that the parcels of
 tied land (each a “Potl” and collectively the “Potls”)
 will each have a municipal address on the private
 condominium road.

IV. GENERAL DESCRIPTION OF THE PROPERTY

4.1 Legal Description of the Property

The Corporation (herein referred to as the “**Corporation**” or the “**Condominium**”) is to be located on the property legally described as Block 1, Plan 65M-XXXX, City of Vaughan, Regional Municipality of York in the Land Registry Office for the Land Titles Division of York Region (No. 65) (the “**Property**”). The Property is located on the west side of Simmons Street, south of Rutherford Road, City of Vaughan.

4.2 Division and Composition of the Project

The Declarant proposes to develop and sell approximately fourteen (14) blocks of, in total, approximately seventy (70) residential townhouse lots of freehold tenure, to be described in accordance with the part designations on the draft reference plan delivered with this Disclosure Statement (the “**Condominium Plan**”). Parking for the owners of the residential dwellings will be available on the corresponding driveways (as per plan).

In conjunction with the development of these townhouse lots, the Declarant also proposes to develop a common elements condominium corporation (the “**Condominium**”). The Condominium, as earlier discussed, will comprise, for the most part, of a series of internal road and sidewalk areas together with approximately eighteen (18) visitor parking spaces (one (1) of which will be designated for physically challenged parking), common landscaped areas and various ancillary services which will service the project. Each of the proposed seventy (70) residential dwellings to be constructed will be allocated with a common interest in the Condominium and will thereby comprise a parcel of tied land (“**Potl**”) to the Condominium. The Declarant reserves the right to increase or decrease the number of the Potls in the Condominium by changing the size of unsold Potls or by adding to or subtracting from the lands currently anticipated to be included within the Condominium.

Accompanying this Disclosure Statement is a reduced copy of the Condominium Plan showing the proposed location of the internal roads, sidewalk areas and visitor parking. The Condominium Plan is intended to give purchasers an overview of the location of the Condominium and Potls. Each of the Potls will be designated and described as parts on a new Reference Plan to be deposited prior to the registration of the Condominium. A draft of the new Reference Plan is attached to the Disclosure Statement.

Purchasers are advised that the Condominium Plan and Draft Reference Plan may be altered and/or revised to comply with decisions of final site plan and other approvals from the City of Vaughan (the “**Municipality**”) and other governmental authorities having jurisdiction over the Property. Without limiting the generality of the foregoing, purchasers are advised that portions of some or all of the services being or to be constructed by the Declarant beneath or upon the internal roads to service the development may be required to be located in areas beyond the limits of the internal roads and possibly within certain front, rear and/or side yard areas of the proposed residential lots. Accordingly, all Potls will be subject to general easements in favour of the Corporation, and possibly in favour of utility companies and service providers (hydro, gas, telephone, and/or cable providers) in order to allow for the maintenance

and repair of any such services by the Corporation, utility companies and service providers. In the alternative, purchasers are advised that pending the obtaining of all required approvals to allow for the proposed development, the Declarant is also reserving the right to create any of these areas which may be beyond the limits of the internal roads and which may contain such services as exclusive use common element areas within the Condominium of which one or more of the Potls as specified in the condominium documents will then have the exclusive use. Such areas may, for instance, include portions of driveway areas where an owner's motor vehicle would be parked or portions of any front yard, rear yard or side yard areas within a Potl. Subject to the condominium documents, owners of Potls having the exclusive use of these areas will have the responsibility for the clearing of snow, landscape maintenance and grass cutting of these areas, if required. If these exclusive use areas are established, they will then be outlined on the plan of condominium and will be described in Schedule "F" to the Declaration. Purchasers are further advised that pending the Declarant finalizing its site servicing plan for the project, the Declarant is reserving the right to change or vary the location of these exclusive use areas and to also incorporate similar areas appurtenant to other Potls. Purchasers acknowledge and agree that such changes shall not be considered material changes to this Disclosure Statement.

Purchasers of Potls are notified that during the construction of the Condominium and the dwellings within the Potls, the Declarant, and its contractors, suppliers and trades, will be entitled to use those portions of the Property and Shared Facilities as may be necessary and that during construction, a certain amount of dust, noise and heavy traffic will occur. The Declarant will take reasonable efforts to ensure that its contractors, suppliers and trades will carry out their work on behalf of the Declarant, in such a manner as to reasonably reduce and minimize the degree of interference and discomfort to the residents of the Potls, and with their use and enjoyment of the Property, provided that nothing shall derogate from the right of the Declarant to complete construction of the Condominium, or the construction of the dwellings.

The Declarant will reserve a licence over the common elements for the purposes of completing any outstanding work required to be performed under any municipal development agreement. The Corporation shall assume all long term maintenance obligations under the municipal agreements in the licence and indemnify the Declarant in the event that the Condominium breaches the terms of such agreements and causes the Declarant loss or damage. The licence shall expire upon the earlier of 21 years less one day from the execution of the said agreement or completion of all obligations of the Declarant arising under the said agreement(s) (hereinafter referred to as the "**Licence Agreement**"). In addition, the Licence Agreement will contain a licence permitting the Declarant and/or any related, associated or affiliated company (a "**Permitted Party**") the use of the common elements of the Condominium for the purposes of allowing it to conduct its construction, marketing, sales, customer service and leasing programs, at such location within the common elements of the Condominium as the Permitted Party requires, in its sole discretion, until the earlier of 21 years less a day or the time as the Declarant has sold and conveyed title to all Potls in the Condominium owned by the Declarant, or some earlier date chosen by the Declarant in its sole discretion (hereinafter referred to as the "**Marketing Termination Date**"). The Licence Agreement is annexed as Schedule "A" to By-law No. 2 of this Condominium and is also

contained in the Declaration. The Declarant/Permitted Party shall also be entitled to use any residential dwelling owned by it within a Potl as a model dwelling until the Marketing Termination Date.

The Declarant will be making (or has made) applications for zoning approval, site plan approval and condominium draft plan approval and may also be obligated to enter into various development and collateral agreements with the City of Vaughan and other applicable governmental authorities. The Declarant reserves the right to implement any changes necessitated in order to obtain such approval(s) required by the applicable governmental authority. In addition, where required or otherwise applicable, the Declarant shall have the Condominium assume the obligations under any of the aforementioned agreements, with respect to the Condominium property immediately following registration of the Condominium, and upon such assumption by the Condominium Corporation, the Declarant shall be released of any further obligations thereunder.

4.3 Proposed Types and Number of Buildings and Units

There are no units or buildings within the condominium plan.

4.4 Utilities/Refuse Collection/Mail

(a) Utilities

This Condominium has been designed so that hydro service (e.g. hydro for streetlights) and water supplied to the common elements is bulk metered and billed to the Corporation directly by the utility and included in the budget. It is anticipated that each Potl will be separately metered or sub-metered for hydro, gas and water. However, in the event that water use in the Potls is not metered, or sub-metered, water rates will be payable by the Condominium Corporation and added to the common expenses. Please refer to the budget for more information regarding utilities.

(b) Refuse Collection and Recycling

It is currently anticipated that Potls will be provided with municipal refuse pick-up. In the event that such situation changes, and thereby the Condominium will be required to arrange for private refuse and recyclables pick-up for the Potls at the Condominium's expense, the costs for same will be included in the common expenses of the Condominium. The budget included with this Disclosure Statement has been prepared on the basis of municipal garbage and recycling pick up. Recycling of refuse is required by the Municipality and residents will be required to sort refuse in accordance with the recycling requirements of the Municipality. It is intended that Potl owners will have curb side refuse/recyclable pick up; however, Purchasers are advised that the Declarant reserves the right to require Purchasers to deliver refuse/recyclables to a designated garbage holding area(s) at the times designated by the Condominium's board or its

property manager. In such case, Purchasers are advised that garbage may be required to be kept in the Potl prior to such designated time and Purchasers are further advised that the designated garbage holding area(s) may be in proximity to their Potl.

(c) Mail Delivery

It is anticipated that residents of Potls will not receive postal delivery directly to their front door and will be required to retrieve mail from a designated central mailbox facility(s), the location(s) of which will be determined by the Declarant in consultation with Canada Post and the Municipality. Purchasers are advised that a central mailbox facility may be in proximity to their Potl. Purchasers are further advised that the central mailbox facility(s) may be temporarily located offsite until such time as the common elements of the Condominium are complete.

4.5 Recreational and other Amenities

(a) Amenities to be Provided

The Declarant proposes to provide approximately eighteen (18) visitor parking spaces (one (1) of which may be designated for physically challenged parking), to comprise a portion of the common elements of the Condominium.

The Declarant proposes to provide a common parkette to be located within the Condominium.

(b) Restrictions for Recreational and other Amenities:

Only owners of Potls and their tenants and household guests shall have the use of recreational and other amenities.

(c) Commencement and Completion Dates for Construction of Amenities:

Construction is anticipated to commence in the fall of 2022, and the proposed date for completion is on or about summer of 2024. Please note, however, that the foregoing anticipated dates may be delayed due to pandemics, including related to COVID-19, strikes and other labour disruptions, as well as shortages of material(s) and equipment, or due to inclement weather conditions, or by other causes or events beyond the Declarant's control.

(d) Amenities to be Provided During Period of Interim Occupancy:

It is anticipated that purchasers of Potls will complete their respective transactions after registration of the Condominium. As the Potls are freehold property, it is anticipated that there will be no interim occupancy. Amenities are expected to be available for use within eight (8) months following registration of the Condominium.

4.6 Shared Facilities

The Declarant intends that the Condominium will share the use of a private roadway to be constructed within the lands to the north of the Property, together with any shared municipal services or utilities located thereon or thereunder, as shared facilities (collectively, the “**Shared Roadway**”). The Declarant anticipates the Shared Roadway will be a common elements roadway on a condominium plan to be registered on the lands to the north of the Property (the “**Abutting Condominium**” and together with the Corporation, the “**Condominium Corporations**”). In order to provide for the sharing of costs associated with the Shared Roadway, the Declarant shall have the Condominium enter into or assume an agreement with the Abutting Condominium (the “**Shared Facilities Agreement**” or “**SFA**”). The Shared Facilities Agreement shall take effect upon the Shared Roadway being available for use by the Condominium Corporations and each Condominium Corporation shall assume the benefits and obligations of the Shared Facilities Agreement forthwith following its respective registration. Upon registration of the various plans of condominium, each Condominium Corporation shall assume the Shared Facilities Agreement from its respective owner/declarant. The Declarant shall be released and forever discharged from the obligations that the Condominium would otherwise have had under the Shared Facilities Agreement upon the registration of the declaration and description creating such condominium.

Pursuant to the terms of the Shared Facilities Agreement, various costs and expenses relating to the Shared Roadway, including lighting, snow removal, maintenance, repair and landscaping (individually and collectively, the “**Shared Facilities Costs**”), will be allocated between the Condominium and the Abutting Condominium based on relative use and/or determined on a formula based on either Potl or unit count or square footage as determined by the Declarant and/or the Abutting Condominium or its respective owner/declarant, in their sole discretion. It is currently anticipated that all utilities for the Shared Roadway for street lights or otherwise will be separately metered or check metered, the cost of which will form part of the Shared Facilities Costs.

4.7 Easements

The Condominium will be subject to those easements as disclosed by the registered title and created in Schedule “A” to the Declaration. In addition to the easements existing and noted on title to the Property as of the date of this Disclosure Statement, further easements may be required. The Condominium may receive and may be subject to easements as required for the purpose of providing access to servants, agents and contractors, to maintain, repair, replace or service any municipal services and any equipment, system or any other item provided by any utility; and for easements in favour of the Declarant for the purpose of providing access for contractors, installation of facilities and other associated easements required for the construction of the Condominium and dwellings on the Potls.

The easements are stated in this Disclosure Statement in a general nature, as the specific locations and nature of the easements and the reference plans have not yet been finally determined.

4.8 Visitor Parking

There will be approximately eighteen (18) outdoor surface visitor parking spaces within the Condominium (one (1) of which will be designated for physically challenged parking) (the “**Visitor Parking Spaces**”). The Visitor Parking Spaces will be available for the use of guests of owners of Potls or their tenants. There will be no charges payable by visitors for the use of these Visitor Parking Spaces. The Declarant reserves the right to increase or decrease the number of Visitor Parking Spaces, provided same conforms to the by-laws of the applicable governmental authority, including the availability of Visitor Parking Spaces designated for physically challenged persons, if required. The Declarant also reserves the right to change the location of the Visitor Parking Spaces. Please refer to the Declaration and the Rules of the Condominium for further details regarding the use of the Visitor Parking Spaces.

V. **NO CONVERSION OF RENTED RESIDENTIAL PREMISES**

- 5.1 No building on the Property has been or will be converted from a previous use and no buildings are contemplated to be constructed on the Property. Therefore, in respect to the Condominium, the Declarant has not made application pursuant to subsection 9(4) of the Act for approval to convert previously used or exiting rental residential premises to condominium tenure.

VI. **ONTARIO NEW HOME WARRANTIES PLAN ACT (“ONHWPA”)**

6.1 Applicability

Pursuant to subsection 15(c) of the Ontario New Home Warranties Plan Act, R.S.O. 1990, C.0.31 (the “ONHWPA”), the warranties provided for therein do not apply to the common elements of a common elements condominium. Accordingly, the common elements of this Condominium Corporation are not subject to ONHWPA.

6.2 Enrolment

As the Condominium is not subject to the ONHWPA, the Declarant does not intend to enrol the common elements in the ONHWPA Plan.

The Declarant has applied or will apply to enrol the dwellings to be constructed on the Potls under the ONHWPA.

VII. **NO CONVERSION FROM PREVIOUS USE**

- 7.1 There are no buildings on the Property, and accordingly there are no buildings which have been converted from a previous use.

VIII. NON-RESIDENTIAL USE

8.1 Commercial use

No parts of the common elements are to be used for commercial purposes or other purposes not ancillary to residential purposes.

IX. BLOCKS OF POTLS AND COMMON INTERESTS MARKETING TO INVESTORS

- 9.1 The Declarant reserves the right to market Potls (and common interests attaching thereto) in blocks to investors, but has no present intention of doing so. No restriction has been placed on the number of Potls (and common interests attaching thereto) that may be purchased by an individual or a corporation.

X. PORTION OF COMMON INTERESTS DECLARANT INTENDS TO LEASE

- 10.1 The Declarant does not presently intend to lease any part of the common elements or common interest.

XI. DECLARATION, BY-LAWS, RULES AND MANAGEMENT AGREEMENT

- 11.1 Accompanying this disclosure statement is a copy of the proposed Declaration, By-laws, Rules and Management Agreement.

XII. BRIEF DESCRIPTION OF SIGNIFICANT FEATURES OF VARIOUS AGREEMENTS SUBJECT TO TERMINATION

12.1 Proposed Management Agreement (Section 111 of the Act)

- (a) The Corporation will enter into a Management Agreement with a property manager which may be the Declarant or a related company to the Declarant (the “**Manager**”) pursuant to which the Manager is to be the sole and exclusive representative and managing agent of the Corporation subject to overall control of the Corporation, for a period of one (1) year from the date of registration of the Declaration. The duties of the Manager are fully set out in the Management Agreement and do not include the duties of the directors and officers of the Corporation as set forth in the by-laws unless specifically stated otherwise in the Management Agreement. The Manager is entitled to act in the name of the Corporation in order to carry out the Corporation’s duties under the Declaration, the Act and the By-laws. The Manager will collect and expend the common expenses and supply monthly statements and annual budgets.
- (b) The Corporation is to pay the Manager for its managerial services the sum as set out in the Budget during the first year of the Management Agreement. The Management Agreement may be terminated by the Corporation pursuant to the provisions of Section 111 of the Act.

- (c) The duties of the Manager include enforcing the terms of the declaration, by-laws and rules; advising the Board as to any additional by-laws or rules which should be established to assist in the operation of the Property; collecting and receiving monies payable by the owners and depositing same into the appropriate trust accounts; utilizing such funds to make payments of accounts including insurance, repairs and maintenance; attempting to collect delinquent accounts; keeping accurate accounts and records of financial transactions involved in the management of the Property.
- (d) The Manager may engage a parent or subsidiary corporation or person affiliated to perform any work or services for the Corporation subject to the restrictions set out in the Management Agreement. Upon registration of the Declaration and thereafter prior to the beginning of each fiscal year during the term of the Management Agreement, the Manager shall provide the Board with an estimated budget for the following year.
- (e) A copy of the proposed Management Agreement is included with this Disclosure Statement. Purchasers are advised to review the actual Management Agreement for a complete understanding of the provisions contained therein. This summary is qualified in all respects by the Management Agreement, itself.

12.2 Other Agreements

Each of the following agreements may be terminated by the Corporation pursuant to the provisions of Section 112 of the Act:

(a) Reserve Fund Study

The Condominium is obliged to establish and maintain one or more reserve funds to cover the costs of the major repair and replacement of the common elements and assets of the Condominium. In turn, the Condominium is obliged to retain an independent and qualified consultant to conduct a reserve fund study, for and on behalf of the Condominium, within the first year following registration, in accordance with the provisions of section 94(4) of the Act. The reserve fund study will confirm, among other things, the adequacy of the reserve fund, and the annual appropriation necessary to cover the anticipated repair and replacement costs of the common elements and other assets of the Condominium, based on their respective life expectancy. The reserve fund study must be updated on a periodic basis, at the times and in the manner prescribed by the Act. Pending the Condominium's receipt of the first reserve fund study and its implementation of a proposed funding plan with respect thereto (if same is necessary), the total amount of the contributions to the reserve fund shall in no case be less than 10% of the budgeted amount required for contributions to the common expenses, exclusive of the reserve fund.

The proposed first year budget statement makes specific reference to the estimated cost of retaining a qualified consultant to conduct the reserve fund study, for and on behalf of the Condominium. This estimate has been based on a price figure negotiated by the Declarant with a duly qualified and independent third party consultant, to undertake the reserve fund study on behalf of the Condominium immediately after the Condominium has been created and it is intended that the Reserve Fund Study will be provided at the Turnover Meeting. In the event that the non-declarant board of directors terminates the contract entered into and chooses to retain an alternate consultant to undertake the reserve fund study, or to prepare a second reserve fund study at a cost or figure higher than the negotiated price or additional cost in the case of a second study, then with respect to the Declarant's accountability for any deficiency in the first year budget arising pursuant to section 75 of the Act, it is the Declarant's stated position that it shall only be responsible for the amount of the negotiated price, insofar as the cost of the reserve fund study is concerned, and that any expenditure in excess of said amount shall be the sole responsibility of the Condominium. Purchasers are hereby advised to carefully review the first year budget statement enclosed herewith for further details.

(b) Performance Audit

The Condominium will be obliged to engage or retain a consultant who holds a certificate of authorization within the meaning of the Professional Engineers Act, or alternatively a certificate of practice within the meaning of the Architects Act to conduct a performance audit of the common elements on behalf of the Condominium, no earlier than 6 months and no later than 10 months following registration, in accordance with the provisions of section 44 of the Act, and to inspect and report on the condition or state of repair of all major components of the building(s) comprising part of the common elements as specified by the Act. Before the end of the 11th month following the registration of the declaration, the person who conducts the performance audit is obliged to submit his or her report on the state of the deficiencies (if any) with respect to the common elements of the Condominium, to the board of directors.

Pursuant to the provisions of the Declaration, the Condominium is obliged to permit the Declarant and its authorized employees, agents and representatives to accompany (and confer with) the consultant(s) retained to carry out the performance audit while same is being conducted, and to provide the Declarant with at least fifteen (15) days written notice prior to the commencement of the performance audit, and to also permit the Declarant and its authorized employees, agents and representatives to carry out any repair or remedial work identified or recommended by the performance auditor in connection with the performance audit (if the Declarant chooses to do so) for the purposes of facilitating and expediting the rectification and audit process (and bringing all matters requiring rectification to the immediate attention of the Declarant, so that same may

be promptly dealt with), and affording the Declarant the opportunity to verify, clarify and/or explain any potential matters of dispute to the performance auditor, prior to the end of the 11th month following the registration of the Condominium and the corresponding submission of the performance auditor's report to the board.

The proposed first year budget statement makes specific reference to the estimated cost of retaining a qualified consultant to conduct the performance audit. This estimate has been based on a price figure negotiated by the Declarant with a duly qualified and independent third party consultant to undertake the performance audit on behalf of the Condominium, after the Condominium has been created. In the event that the board of directors chooses to retain an alternate consulting engineer or architect to undertake the performance audit, at a cost or figure higher than the negotiated price, then with respect to the Declarant's accountability for any deficiency in the first year budget arising pursuant to section 75 of the Act, it is the Declarant's stated position that it shall only be responsible for the amount of the negotiated price, insofar as the cost of the performance audit is concerned, and that any expenditure in excess of said amount shall be the sole responsibility of the Condominium. Purchasers are hereby advised to carefully review the first year budget statement enclosed herewith for further details.

(c) Financial Audit

The Condominium is obliged to retain the services of a qualified and independent chartered accountant or auditor, in order to have audited financial statements prepared as of the last day of the month in which the turnover meeting is scheduled to be held. Said financial statements are obliged to be delivered by the Declarant to the board within 60 days after the turnover meeting, in accordance with section 43(7) of the Act, but all such financial statements are to be prepared at the expense of the Condominium. In addition, the Condominium's auditor must prepare a set of annual audited financial statements in respect of the Condominium and the auditor must present said financial statements before the annual general meeting of the owners, and submit a formal report on such statements to the Condominium (on behalf of the owners) in accordance with the provisions of sections 66 to 71 of the Act.

The proposed first year budget statement makes specific reference to the estimated cost of retaining a qualified accountant to prepare and conduct all requisite financial statements and audits required or prescribed by the Act during the first year of the Condominium's operation. This estimate has been based on a price figure negotiated by the Declarant with a duly qualified and independent third party accountant, to undertake the financial statements and audits on behalf of the Condominium, after the Condominium has been created. In the event that the board of directors chooses to retain an alternate accountant or auditor to prepare and conduct all requisite financial statements and audits during the first year,

at a cost or figure higher than the negotiated price, then with respect to the Declarant's accountability for any deficiency in the first year budget arising pursuant to section 75 of the Act, it is the Declarant's stated position that it shall only be responsible for the amount of the negotiated price, insofar as the cost of the financial statements and audits are concerned, and that any expenditure in excess of said amount shall be the sole responsibility of the Condominium. Purchasers are hereby advised to carefully review the first year budget statement enclosed herewith for further details.

Utility Supply and Services Agreement

The Condominium will be obliged to enter into an agreement with a third party company (the "**Meter Reading Company**") regarding the metering or sub-metering of water (the "**Meter Reading Agreement**"). Such agreement will, among other things, confirm that the Meter Reading Company is the owner of the utility meters serving the Potls, will outline the Meter Reading Company's obligations with respect to operating the utility distribution system and will confirm the rates and charges that the Meter Reading Company will be entitled to charge to the Corporation and Potl owners, all of which shall be in accordance with the regulations under the *Ontario Energy Board Act*, as applicable. The form of agreement that each Potl owner will be required to enter into with the Meter Reading Company shall be attached as a Schedule to the Meter Reading Agreement.

(d) Miscellaneous Contracts

The Declarant Board will enter into such contracts as may be necessary or required for the provision of services to the Condominium including, without limitation, hydro, water, gas, landscaping, snow removal, garbage pickup and disposal, provision of supplies, cleaning services, insurance, accounting services, and other such matters as may be required for the orderly operation of the business of the Corporation.

12.3 Mutual Use Agreements (Section 113 of the Act)

The Declarant intends to enter into or have the Condominium Corporation assume the Shared Facilities Agreement for the provision and mutual use, repair, operation, replacement, inspection, and maintenance or cost-sharing of facilities or services as more fully set out in Section 4.6 of this Disclosure Statement.

12.4 Portion of Common Elements Subject to Licence

The common elements shall be subject to a licence in favour of the Declarant, as set out in Section 12.5 below.

12.5 Agreements to be entered into or assumed by the Condominium Corporation

In addition to the Agreements set out in Section 12.1 and 12.2 herein, the Declarant also intends that the Corporation will enter into and/or assume the Declarant's rights and obligations in the following Agreements, as it relates to the Property:

- (i) After registration of the Condominium and prior to the turnover meeting (while the Declarant controls the Board), the Declarant shall cause the Condominium to enter into an agreement (the "**Limited Recourse and Indemnity Agreement**") with the Declarant which shall provide as follows: (i) the Condominium shall have no rights against the Declarant beyond those that are specifically granted to the Condominium under the Act; (ii) the Condominium shall indemnify and save the Declarant harmless from all actions, causes of action, claims and demands for damages or loss which are brought by the Condominium in contravention of the Limited Recourse and Indemnity Agreement; and (iii) the Limited Recourse and Indemnity Agreement shall not be terminated or terminable by the Condominium following the turnover meeting.
- (ii) The Declarant shall assign to and the Condominium shall assume all ongoing obligations of the Declarant from and after the date of registration of the Condominium pursuant to any agreements entered into with the City of Vaughan, Region of York, the owner or operator of the railway lands adjacent to the Project and/or any other governmental authority, including but not limited to a site plan agreement, any development agreement or restrictive covenant agreement (collectively the "**Development Agreements**"). The ongoing costs relating to such Development Agreements will be common expenses of the Condominium.
- (iii) The Declarant will reserve a licence over the common elements for the purposes of completing any outstanding work required to be performed under any municipal development agreement. The Corporation shall assume all long term maintenance obligations under the municipal agreements in the licence and indemnify the Declarant in the event that the Condominium breaches the terms of such agreements and causes the Declarant loss or damage. The licence shall expire upon the earlier of 21 years less one day from the execution of the said agreement or completion of all obligations of the Declarant arising under the said agreement(s) (hereinafter referred to as the "**Licence Agreement**"). In addition, the Licence Agreement will contain a licence permitting the Declarant and/or any related, associated or affiliated company (a "**Permitted Party**") the use of the common elements of the Condominium for the purposes of allowing it to conduct its construction, marketing, sales, customer service and leasing programs, at such location within the

common elements of the Condominium as the Permitted Party requires, in its sole discretion, until the earlier of 21 years less a day or the time as the Declarant has sold and conveyed title to all dwellings within the Potls owned by the Declarant, or some earlier date chosen by the Declarant in its sole discretion (hereinafter referred to as the “**Marketing Termination Date**”). The Licence Agreement is annexed as Schedule “A” to By-law No. 2 of this Condominium and is also contained in the Declaration. The Declarant/Permitted Party shall also be entitled to use any dwelling owned by it as a model suite until the Marketing Termination Date.

12.6 Proposed Insurance Trust Agreement (Section 114 of the Act)

The Corporation is authorized to enter into an Insurance Trust Agreement with a trust company registered under the Loan and Trust Corporations Act or a chartered Bank (the “**Trustee**”). The Declarant does NOT intend to enter into an Insurance Trust Agreement with a Trustee for the first year of operation of the condominium.

XIII. AMALGAMATION

13.1 Statement regarding Amalgamation

- (a) The Declarant does not intend to cause the Corporation to amalgamate with any other existing or proposed condominium corporation within sixty (60) days of the date of registration of the Corporation’s declaration and description nor does the Declarant have any knowledge that the Corporation intends to amalgamate with another corporation.
- (b) No amalgamation is intended or proposed between this Condominium and any other existing or proposed condominium corporation. Accordingly, no amalgamation documentation is available or enclosed herewith.

XIV. BUDGET STATEMENT

- 14.1 A Budget Statement for the one year period immediately following registration of the Declaration and the Description is included with this Disclosure Statement. Purchasers are advised that the Budget Statement which accompanies this Disclosure Statement shall, as aforesaid, be increased at the rate of seven and a half percent (7.5%) per annum after September 30, 2023. After such date, the total operating costs reflected in the Budget Statement shall be increased by seven and a half percent (7.5%) per annum with respect to all costs, save and except for utility costs which may, in the sole and absolute discretion of the Declarant, be adjusted for the greater of the actual increase in such costs from the date of this Disclosure to the closing date for the first dwelling within a Potl in the Condominium and seven and a half percent (7.5%) per annum, which increase for each utility shall be determined by the Declarant in its sole and absolute discretion. Purchasers are advised that reference to September 30, 2023 shall not be construed or interpreted as a representation or warranty by the

Declarant that registration of the Condominium shall take place on or before such date.

- 14.2 One of the largest components of the Budget Statement is the cost attributed to utilities. Purchasers are advised that, as a result of uncertainty in the utility distribution markets, the Declarant's reasonable assumptions regarding such utility costs may be incorrect as a result of circumstances which are not capable of being accurately predicted as of the date of registration of the condominium and which are beyond the Declarant's control. Consequently, prior to registration of the Condominium, the projected costs for such utilities shown in the Budget Statement which accompanies this Disclosure Statement shall be updated to reflect market conditions as of the date of registration as an alternative to applying an assumed inflation factor to such projected costs as provided in the Budget Statement (in the Declarant's sole discretion). The Budget Statement which accompanies this Disclosure Statement and the common expenses applicable to each Potl shall be revised accordingly. Purchasers specifically acknowledge and agree that any increase in utility costs from that which was originally represented in the Budget Statement which accompanies this Disclosure Statement shall not be the responsibility of the Declarant, despite section 75 of the Act. Purchasers acknowledge that the possibility of an increase in utility costs has been properly disclosed and, consequently, any increase shall not constitute a material change to the Disclosure Statement or such Budget Statement. In addition, purchasers agree that this acknowledgement may be pleaded by the Declarant as a complete defense to any application or objection raised by purchasers in this regard.
- 14.3 The Budget Statement has been prepared based on the assumption that the dwellings on the Potls will be completed and occupied as of the registration of the Condominium. However, since this will likely not be the case, although purchasers will make their monthly contributions to common expenses in accordance with the Budget and the proportions set out in Schedule "D" to the Declaration, the Declarant will not be required to make the same contribution to common expenses for Undeveloped Potls (as such term is defined in the Declaration) as will purchasers of Potls during the first fiscal year following the registration of the Condominium. Rather, the Declarant will be required to pay the difference, if any, between the sum payable to the Condominium by purchasers of Potls for operating expenses during such first year and the sum actually expended by the Condominium to pay for all budgeted operating expenses. Furthermore, the Declarant will make its proportional payment to the reserve fund for Undeveloped Potls to the Condominium so that the Condominium will have collected the full budgeted reserve fund amount for the first fiscal year as stipulated in the initial budget of the Condominium. Please refer to paragraphs 1.6(b) and 1.6(c) of the Declaration for the specific provisions relating to payment of common expenses in the first fiscal year of the Condominium.

XV. FEES OR CHARGES TO BE PAID TO THE DECLARANT

- 15.1 There are no fees or charges that the Condominium is required or intended to pay to the Declarant. There are no fees or charges that the Condominium is required or intended to pay to any other person or persons, except as expressly provided or contemplated in the proposed first year budget statement of the Condominium. Please therefore refer to the first year budget statement for all projected or anticipated expenses of the Condominium, and the corresponding services being provided.

XVI. RESCISSION RIGHTS (SECTION 73 OF THE ACT)

- 16.1 The following is a copy of Section 73 of the Act which sets out the rescission rights available to a purchaser of a unit in the Condominium:
- “(1) A purchaser who receives a disclosure statement under subsection 72(1) may, in accordance with this section, rescind the agreement of purchase and sale before accepting a deed to the unit being purchased that is in registerable form.
 - (2) To rescind an agreement of purchase and sale under this section, a purchaser or the purchaser’s solicitor shall give a written notice of rescission to the declarant or to the declarant’s solicitor, who must receive the notice within 10 days of the later of,
 - (a) the date that the purchaser receives the disclosure statement; and
 - (b) the date that the purchaser receives a copy of the agreement of purchase and sale executed by the declarant and the purchaser.
 - (3) If a declarant or the declarant’s solicitor receives a notice of rescission from a purchaser under this section, the declarant shall promptly refund, without penalty or charge, to the purchaser, all money received from the purchaser under the agreement and credited towards the purchase price, together with interest on the money calculated at the prescribed rate from the date that the declarant received the money until the date the declarant refunds it.”

XVII. RESCISSION RIGHTS UPON MATERIAL CHANGE (SECTION 74 OF THE ACT)

- 17.1 The following is a copy of Section 74 of the Act which sets out what constitutes a “material change” and the rescission rights available to a purchaser of a unit (or a common interest) in the Condominium in the event of a material change:
- “(1) Whenever there is a material change in the information contained or required to be contained in a disclosure statement delivered to a purchaser under subsection 72(1) or a revised disclosure statement or a

notice delivered to a purchaser under this section, the declarant shall deliver a revised disclosure statement or a notice to the purchaser.

(2) In this section,

“material change” means a change or a series of changes that a reasonable purchaser, on an objective basis, would have regarded collectively as sufficiently important to the decision to purchase a unit or proposed unit in the corporation that it is likely that the purchaser would not have entered into an agreement of purchase and sale for the unit or the proposed unit or would have exercised the right to rescind such an agreement of purchase and sale under section 73, if the disclosure statement had contained the change or series of changes, but does not include,

- (a) a change in the contents of the budget of the corporation for the current fiscal year if more than one year has passed since the registration of the declaration and description for the corporation;
 - (b) a substantial addition, alteration or improvement within the meaning of subsection 97(6) that the corporation makes to the common elements after a turnover meeting has been held under section 43;
 - (c) a change in the portion of units or proposed units that the declarant intends to lease;
 - (d) a change in the schedule of the proposed commencement and completion dates for the amenities of which construction had not been completed as of the date on which the disclosure statement was made; or
 - (e) a change in the information contained in the statement described in subsection 161(1) of the services provided by the municipality or the Minister of Municipal Affairs and Housing, as the case may be as described in that subsection if the unit or the proposed unit is in a vacant land condominium corporation.
- (3) The revised disclosure statement or notice required under subsection (1) shall clearly identify all changes that in the reasonable belief of the declarant may be material changes and summarize the particulars of them.
- (4) The declarant shall deliver the revised disclosure statement or notice to the purchaser within a reasonable time after the material change mentioned in subsection (1) occurs and, in any event, no later than 10 days before delivering to the purchaser a deed to the unit being purchased that is in registerable form.
- (5) Within **10** days after receiving a revised disclosure statement or a notice under subsection (1), a purchaser may make an application to the

Superior Court of Justice for a determination whether a change or a series of changes set out in the statement or notice is a material change.

- (6) If a change or a series of changes set out in a revised disclosure statement or a notice delivered to a purchaser constitutes a material change or if a material change occurs that the declarant does not disclose in a revised disclosure statement or notice as required by subsection (1), the purchaser may, before accepting a deed to the unit being purchased that is in registerable form, rescind the agreement of purchase and sale within 10 days of the latest of,
 - (a) the date on which the purchaser receives the revised disclosure statement or the notice, if the declarant delivered a revised disclosure statement or notice to the purchaser;
 - (b) the date on which the purchaser becomes aware of a material change, if the declarant has not delivered a revised disclosure statement or notice to the purchaser as required by subsection (1) with respect to the change; and
 - (c) the date on which the Superior Court of Justice makes a determination under subsection (5) or (8) that the change is material, if the purchaser or declarant, as the case may be, has made an application for the determination.
- (7) To rescind an agreement of purchase and sale under this section, a purchaser or the purchaser's solicitor shall give a written notice of rescission to the declarant or to the declarant's solicitor.
- (8) Within 10 days after receiving a notice of rescission, the declarant may make an application to the Superior Court of Justice for a determination whether the change or the series of changes on which the rescission is based constitutes a material change, if the purchaser has not already made an application for the determination under subsection (5).
- (9) A declarant who receives a notice of rescission from a purchaser under this section shall refund, without penalty or charge, to the purchaser, all money received from the purchaser under the agreement and credited towards the purchase price, together with interest on the money calculated at the prescribed rate from the date that the declarant received the money until the date the declarant refunds it.
- (10) The declarant shall make the refund,
 - (a) within 10 days after receiving a notice of rescission, if neither the purchaser nor the declarant has made an application for a determination described in subsection (5) or (8) respectively; or
 - (b) within 10 days after the court makes a determination that the change is material, if the purchaser has made an application under

subsection (5) or the declarant has made an application under subsection (8).”

XVIII. INTEREST ON DEPOSITS

- 18.1 Pursuant to subsection 82(8) of the Act, the Declarant is entitled to retain the excess of all interest earned on money held in trust over the interest the Declarant is required to pay to the purchaser under Section 82 of the Act.

XIX. USE OF COMMON ELEMENTS

- 19.1 The Declarant does not intend to permit any part of the common elements to be used for commercial or other purposes not ancillary to residential purposes. None of the common elements are proposed to be leased or subject to any licence.

XX. MAJOR ASSETS TO BE PROVIDED BY DECLARANT

- 20.1 The Declarant does not intend to provide any major assets or property to the Corporation. The Declarant shall determine the type of furnishings and equipment to be provided in connection with all or any amenity areas of the Condominium and common elements in its sole discretion and same may be provided after registration of the Condominium under the Act.

XXI. UNITS, ASSETS OR SERVICES THE CORPORATION MUST PURCHASE FROM THE DECLARANT

- 21.1 There are no units, assets or services (other than those services outlined under the Budget Statement) that the Corporation is required to purchase or acquire nor are there any agreements or leases that the corporation must enter into with the Declarant or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant, other than the Licence Agreement, the Limited Recourse and Indemnity Agreement, and the assumption and assignment agreement related to the Development Agreements.

XXII. ADJOINING LANDS

- 22.1 The Declarant or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant does own lands immediately adjacent to the lands described in the Description which as described in this Disclosure Statement are the lands which will comprise the Potls.
- 22.2 The current use of the adjacent land owned by the Declarant is residential.
- 22.3 Applications have been submitted to an approval authority respecting the use of the adjacent lands.

XXIII. RULES

- 23.1 Purchasers are hereby advised that pursuant to section 58 of the Act, the board may make, amend or repeal rules respecting the use of the common elements, in order to promote the safety, security and/or welfare of the owners and of the property and assets of the Condominium, or to prevent unreasonable interference with the use and enjoyment of the common elements and/or the assets of the Condominium. The rules shall be reasonable and consistent with the provisions of the Act, the declaration and the by-laws of the Condominium. Every rule made by the board shall be effective thirty (30) days after notice thereof has been given to each owner, unless the board is in receipt of a written requisition requiring a meeting of the owners to consider same, or unless the rule (or an amendment to a rule) that has substantially the same purpose or effect as a rule that the owners have previously amended or repealed within the preceding two years, in which case such rule or the amendment thereto is not effective until the owners approve it, with or without amendment, at a meeting duly called for that purpose. If such a meeting of owners is requisitioned or otherwise called and convened, then those rules which are the subject matter of said requisition or meeting shall become effective only upon the approval of a majority of the owners (represented in person or by proxy) at such meeting.

The rules shall be complied with and enforced in the same manner as the by-laws of the Condominium, but the owners may, at any time, and from time to time, amend or repeal a rule at a meeting of owners duly called for that purpose, and for greater certainty, each of the rules shall be observed by all owners, and by all residents, tenants, invitees and licensees of the units.

Purchasers should pay specific attention to the proposed rules of the Condominium accompanying this Disclosure Statement, which will be adopted and approved by the board of directors of the Condominium following the registration of the declaration, in accordance with the provisions of the Act. Amongst other things, these rules restrict, regulate or otherwise deal with alterations to the common elements, the disposal of garbage, the emission of noise, the obstruction of walkways and the parking of vehicles.

Purchasers should also note that all costs and damages incurred by the Condominium as a result of a breach of any of the rules committed by any owner (or by such owner's tenants or guests) shall be borne by such owner and be recoverable by the Condominium against such owner in the same manner as common expenses.

XXIV. MISCELLANEOUS MATTERS

NOTE: That for the purposes of this paragraph the term Developer, Owner and Vendor shall be held to mean the Declarant herein.

- 24.1 Purchasers and/or tenants are advised that the planting of trees on City of Vaughan (the "**City**") boulevards in front of residential units is a requirement of the City and a conceptual location Plan is included in the subdivision agreement

or site plan agreement, as applicable. While every attempt will be made to plant trees as shown, the City reserves the right to relocate or delete any boulevard tree without further notice.

The City has not imposed an amount of a tree fee or any other fee, which may be charged as a condition of purchase for the planting of trees. Any tree fee paid by purchasers for boulevard trees does not guarantee that a tree will be planted on the boulevard in front or on the side of the residential dwelling.

- 24.2 Purchasers and/or tenants are advised that proper grading of all lots in conformity with the Subdivision Grading Plans is a requirement of the subdivision agreement or site plan agreement, as applicable.

The City has taken a Letter of Credit from the Owner and/or Subdivision Developer for the security to ensure all municipal services including, but not limited to lot grading, are constructed to the satisfaction of the City. Direct cash deposit from the Purchasers to the City and/or Owner, for lot grading purposes, is NOT a requirement of a site plan agreement or subdivision agreement, as applicable. The City of Vaughan does not control the return of such deposits and purchasers/tenants must direct inquiries regarding this return to their vendor.

- 24.3 Purchasers and/or tenants are hereby put on notice that the Telecommunications Act and the Canadian Radio and Telecommunications Commission ("**CRTC**") authorize telephone and telecommunication facilities and services to be provided by telecommunication carriers other than traditional carriers for such services and those purchasers and tenants are advised to satisfy themselves that such carriers servicing the project lands provide sufficient service and facilities to meet their needs.

- 24.4 Purchasers and/or tenants are advised that driveway widths and curb cut widths are governed by City of Vaughan Zoning By-law 1-88, as amended, as follows:

- i) Driveways in either front or exterior side yards shall be constructed in accordance with the following requirements:

Lot Frontage	Maximum Driveway Width
Less than 6m	3m
6m – 6.99m	3.5m

The Front Yard for Lots less than 6.99 meter frontage shall be comprised of a minimum of thirty-three percent (33%) landscaped front or exterior side yard and a minimum fifty percent (50%) of the minimum landscaped front or exterior side yard shall be soft landscaping in accordance with Paragraph 4.1.2 of Zoning By-law 1-88.

- 24.5 Purchasers and/or tenants are advised that mail delivery will be from a designated community mailbox as per requirements dictated by Canada Post. The location of the mailbox shall be shown on the community plan provided by the Owner in its Sales Office.
- 24.6 Purchasers and/or tenants are advised that despite the inclusion of noise control features within both the development area and the individual building units, noise levels, including from construction activities, may be of concern and occasionally interfere with some activities of the building occupants.
- 24.7 Purchasers and/or tenants are advised that fencing and/or noise attenuation features along the lot lines of lots and blocks abutting public lands, including public highways, laneways, walkways or other similar public space, is a requirement of this subdivision and that all required fencing and barriers shall be constructed with all fencing materials, including foundations, completely on private lands and totally clear of any 0.3m reserve.
- 24.8 The City has taken a Letter of Credit from the Owner and/or Subdivision Developer for security to ensure all fencing including, but not limited to privacy fencing, chain link fencing and acoustic fencing, are constructed to the satisfaction of the City. Direct cash deposit from the Purchasers to the City and/or Owner, for fencing, is not a requirement of the site plan agreement or subdivision agreement, as applicable.
- 24.9 Purchasers and/or tenants are advised that fencing along the lot lines of Lots and Blocks abutting public lands is a requirement of the site plan agreement or subdivision agreement, as applicable, and that all required fencing, noise attenuation feature and barriers shall be constructed with all fencing materials, including foundations, completely on private lands and totally clear of any 0.3 metre reserve.

The maintenance of the noise attenuation features or fencing shall not be the responsibility of the City, or the Region of York and shall be maintained by the Owner or Subdivision Developer until assumption of the services of the Plan. Thereafter the maintenance of the noise attenuation feature or fencing shall be the sole responsibility of the lot owner or Condominium Corporation. Landscaping provided on Regional Road right of-ways by the Owner or the City for aesthetic purposes shall be approved by the Region and maintained by the City with the exception of the usual grass maintenance.

- 24.10 Purchasers and/or tenants are advised that this plan of subdivision/development is designed to include rear lot catch basins. The rear lot catch basin is designed to receive and carry only clean stormwater. It is the homeowner's responsibility to maintain the rear lot catch basin in proper working condition by ensuring that the grate is kept clear of ice, leaves and other debris that would prevent stormwater from entering the catch basin. The rear lot catch basins are shown on the Construction Drawings and the location is subject to change without notice.

- 24.11 Purchasers and/or tenants are advised that the Owner and/or Subdivision Developer has made a contribution towards recycling containers for each residential unit as a requirement of the site plan agreement or subdivision agreement, as applicable. The City has taken this contribution from the Owner to off-set the cost for the recycling containers, therefore, direct cash deposit from the Purchasers to the Owner for recycling containers purposes is not a requirement of the City of Vaughan. The intent of this initiative is to encourage the home Purchasers to participate in the City's waste diversion programs and obtain their recycling containers from the Joint Operation Centre (the "JOC"), 2800 Rutherford Road, Vaughan, Ontario, L4K 2N9, (905) 832-8562. The JOC is located on the north side of Rutherford Road just west of Melville Avenue.
- 24.12 Purchasers and/or tenants of lots abutting or in proximity of any open space, valleylands, woodlots or stormwater facility are advised that such adjacent open space, valleylands, woodlots or stormwater facility may be left in a naturally vegetated state condition and receive minimal maintenance.
- 24.13 Purchasers and/or tenants abutting or in proximity of any parkland or walkway are advised that the lot abuts a "Neighbourhood Park" of which noise and lighting may be of concern due to the nature of the park for active recreation.
- 24.14 Purchasers and/or tenants are advised that any encroachments and/or dumping from the lot to a school site, park, open space, woodlot or stormwater management facility are prohibited.
- 24.15 Purchasers and/or tenants are advised that the installation of any gate of access point from the lot to a school site, open space, stormwater management facility, watercourse corridor, woodlot and/or park is prohibited.
- 24.16 Purchasers and/or tenants are advised that a future grade separation is anticipated to be constructed between the Canadian Pacific Railway track and Rutherford Road. Grading of Rutherford Road may be modified because of the anticipated constructions works to facilitate grade separation.
- 24.17 Purchasers and/or tenants of a lot within 300 metres of the Canadian Pacific Railway ("**CPR**") right-of-way are advised of the existence of CPR's operating right-of-way, and that alteration of operations are possible including the expansion of operations which may affect the living environment of residents, notwithstanding the inclusion of noise and vibration attenuating measures in the design of the subdivision and individual units. CPR will not be responsible for complaints or claims arising from the use of its facilities and/or operations.
- 24.18 Purchasers and/or tenants are advised that any noise and vibration attenuation measures located on a lot, including any berm, fencing, or vibration isolation features implemented on a lot, are not to be tampered with or altered, and further that the purchaser shall have the sole responsibility for and shall maintain these features.



BUDGET STATEMENT
FOR THE FIRST YEAR OF OPERATIONS

March , 2022



Budget statement for the common expenses for the year following registration of the Declaration and Description of the proposed Common Elements Condominium Corporation at Rutherford Road and Highway 27 in Vaughan, Ontario.

REVENUE

Annual Common Element Fees	\$109,162	
TOTAL REVENUE		\$109,162

OPERATING EXPENSES

UTILITIES

Electricity	\$2,000	
TOTAL UTILITIES		\$2,000

INSURANCE

Insurance Premium	\$9,000	
TOTAL INSURANCE		\$9,000

SERVICE AGREEMENTS

Management Agreement	\$27,120	
Waste Removal	500	
Landscaping & Snow Clearing	31,600	
Shared Roadway Maintenance	5,300	
TOTAL SERVICE AGREEMENTS		\$64,520

PERFORMANCE AUDIT

Performance Audit	\$7,910	
Less Declarant Subsidy	(7,910)	
TOTAL PERFORMANCE AUDIT		\$0

MAINTENANCE / REPAIRS & SUPPLIES

Maintenance / Repairs	\$3,100	
Maintenance Supplies	1,500	
TOTAL MAINTENANCE / REPAIRS & SUPPLIES		\$4,600



Budget statement for the common expenses for the year following registration of the Declaration and Description of the proposed Common Elements Condominium Corporation at Rutherford Road and Highway 27 in Vaughan, Ontario.

GENERAL ADMINISTRATION

Legislative Expenses	\$2,600	
Financial Audit / Turnover Audit	5,966	
Less Declarant Subsidy	(2,983)	
Office Expenses	1,900	
Website & Communication	2,800	
Legal Counsel	565	
TOTAL GENERAL ADMINISTRATION EXPENSES		\$10,848

RESERVE FUND

Reserve Fund Provision	\$13,900	
Reserve Fund Provision for Reserve Fund Study	4,294	
TOTAL RESERVE FUND		\$18,194

TOTAL OPERATING EXPENSES		\$109,162
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If registration of the Declaration and Description occurs after September 30, 2023, then the First Year Budget Statement and Schedule of Monthly Common Expenses shall be read as increased by an escalation rate of 7.5% per annum and compounded annually. The date contained in this clause is not a guarantee that registration will take place on this date.



NOTES TO THE BUDGET

1. INDIVIDUAL POTL ASSESSMENT:

The monthly common element charge for each POTL is determined by dividing the total budgeted common element fees attributed to the property by twelve (12) to determine the monthly assessment. This amount is multiplied by the POTL's percentage contribution to common expenses, as shown in Schedule "D" of the proposed Declaration, to find the monthly individual common element charges.

A. Total Monthly Common Element Assessment:

$$\$109,162 \text{ divided by } 12 \text{ months} = \$9,097 \text{ per month}$$

B. Monthly Individual Common Element Assessment:

Individual POTL monthly common element assessments are determined by multiplying the total monthly common element assessment (\$9,096.50) by the percentage contribution to common expenses of each POTL. Please see the Schedule at the back of this Budget Statement for the individual POTL monthly common element assessment.

2. OPERATING EXPENSES:

A UTILITIES		\$2,000
i.	Electricity	\$2,000

The budget is based on comparable property requirements and the current rates from the Alectra Utilities website of 11.3 cents per kilowatt hour and administrative/distribution charges have been escalated by 5% and compounded annually. The budget includes electricity for common element condominiums for the common areas only, such as for street lights. Each POTL will be separately metered or check metered and the cost of electricity used by the POTL will be the responsibility of the respective POTL owner and will not form part of the common expenses. Should the rates for hydro at time of registration be greater than 12.5 cents per kilowatt hour or the administrative/distribution charges have increased from current charges, then the budget will be adjusted accordingly to reflect the rates at the time of registration.

B. INSURANCE		\$9,000
i.	Insurance Premium	\$9,000

This amount covers all insurance costs, including fire (all risk), comprehensive general liability, all major equipment, insurance trustee and directors and officers liability coverage, as applicable. This provision does not include any insurance coverage within each POTL and will be the responsibility of the POTL owner.



NOTES TO THE BUDGET

C.	SERVICE AGREEMENTS	\$64,520
i.	Management Agreement	\$27,120
	<p>The estimated cost for a licensed property management company to oversee the affairs of the condominium corporation. A detailed property management agreement is included in the Disclosure Statement Package. The contract for the first year is set at \$2,000 per month, plus the H.S.T. for part time portfolio property management.</p>	
ii.	Waste Removal	\$500
	<p>The estimated contract cost to remove waste and recycling from the community for the year. It is currently anticipated that municipal waste collection will be required for the condominium. If municipal waste collection is not achievable, the budget will be updated and fees will increase by approximately \$60.00 per POTL, per month.</p>	
iii.	Landscaping & Snow Clearing	\$31,600
	<p>The estimated cost to maintain the common element landscaping and clear snow and ice from the roadways in the winter from the common element areas only.</p>	
iv.	Shared Roadway Maintenance	\$5,300
	<p>Provision to maintain the roadway shared with the property to the north as may be required.</p>	
D.	PERFORMANCE AUDIT	\$0
i.	Performance Audit	\$7,910
	<p>The cost of the engineering study, to be conducted by the Declarant Board of Directors, to examine the common element areas and to file with the Tarion Warranty Program during the first year. This is a one time expense.</p>	
	<p>The Declarant shall arrange for an Agreement on behalf of the Corporation with an independent engineering consultant to prepare a Performance Audit within one (1) year immediately following registration of the Declaration and the Description. The Performance Audit shall be conducted by professional consulting engineers who shall make a thorough examination of the common element areas and assess the as-constructed condition of the various systems and components of the common element areas in order to provide the corporation with a report on the common element areas which will assist the corporation in assessing repair and maintenance requirements and in preserving any rights which the corporation may have under the Ontario New Home Warranties Plan Act. The Declarant has negotiated a price for the Performance Audit (the "Contracted Price") which has been included in the Budget as a first year expense of the corporation.</p>	



NOTES TO THE BUDGET

The Corporation is not restricted to the consulting engineers for the Performance Audit being prepared as set out herein. However, in the event that the corporation retains an alternate and/or additional consulting engineer to undertake the Performance Audit, at a higher cost than the Contracted Price negotiated by the Declarant then, the Declarant shall only be responsible for the amount of the Contracted Price, pursuant to Section 75 of the Condominium Act 1998, and any expenses in excess of this stated amount shall be the sole responsibility of the condominium corporation.

- ii.
- Less Declarant Subsidy
- (\$7,910)

The initial cost of the Performance Audit at the Contracted Price will be paid by the Declarant. The Declarant will pay the specified amount up to a maximum of \$7,000 plus the H.S.T. as stated in the Budget Notes above upon presentation of a valid invoice approved by the Condominium Corporation.

E.

MAINTENANCE / REPAIRS & SUPPLIES

\$4,600

- i.
- Maintenance / Repairs
- \$3,100

This is the estimated cost for minor repairs to the common element areas only. This account is also used for the normal day-to-day maintenance to the common element areas, any fire hydrants, and stormceptors.

- ii.
- Maintenance Supplies
- \$1,500

This is the estimated cost for supplies, such as light bulbs, for the common area lights.

F.

GENERAL ADMINISTRATION

\$10,848

- i.
- Legislative Expenses
- \$2,600

The estimated cost for the annual expenses associated with the Condominium Authority of Ontario (CAO), licensing, and the cost of preparing prescribed information certificates.

- ii.
- Financial Audit / Turnover Audit
- \$5,966

The estimated cost for an independent auditor to undertake the Year End Audit in accordance with Section 43(7) of the Condominium Act 1998 and a Turnover Audit in accordance with Section 67 of the Condominium Act 1998.

- iii.
- Less Declarant Subsidy
- (\$2,983)

The initial cost of theTurnover Financial Audit at the Contracted Price will be paid by the Declarant. The Declarant will pay the specified amount up to a maximum of \$2,640 plus the H.S.T. as stated in the Budget Notes above upon presentation of a valid invoice approved by the Condominium Corporation.



NOTES TO THE BUDGET

- iv.

Office Expenses

\$1,900
- The estimated budgeted amount provides for any office expenses directly related to the operation of the corporation including the services of a minute taker for board meetings, any virtual meetings, various office supplies, photocopying, mailings, the annual general meeting, C.C.I membership, provision for a photocopier lease, status certificates that may be required by the Declarant, bank charges and other such expenses.
- v.

Website & Communication

\$2,800
- The estimated cost to host a community website, including the cost of an electronic communication platform.
- vi.

Legal Counsel

\$565
- Provision for independent legal counsel for the Corporation at the discretion of the Board of Directors and to a maximum amount of \$500 plus the H.S.T.

3.

RESERVE FUND

\$18,194

- i.

Reserve Fund Provision

\$13,900
- The Condominium Act 1998 of Ontario defines the reserve fund as a fund set up by the corporation in a special account for the major repair and replacement of common elements and assets of the corporation. The provision is calculated at 20.0%, including the cost of the reserve fund study, of the estimated operating expenses. Future allocations will be dictated by the reserve fund study, to be completed in the first year after registration.
- ii.

Reserve Fund Provision for Reserve Fund Study

\$4,294
- The Condominium Act 1998 of Ontario (Section 94 (4)) requires every condominium corporation to establish a reserve fund based on a study to be conducted in the first year after registration. Section 94(7) allows for the reserve fund study to be expensed from the reserve fund.

4.

GENERAL NOTES TO THE BUDGET

- i.

The total common expenses of this proposed Condominium Corporation, including the provision to the Reserve Fund is \$109,162 as shown on the Budget Statement.
- ii.

The cost of each expense item is shown on the Budget Statement. The cost of the Reserve Fund Study is \$3,800 plus H.S.T.; the cost of the Performance Audit is \$7,000 plus H.S.T.; the cost of both the turn over and year end financial audits is \$5,280 plus H.S.T.
- iii.

The cost, type, level and frequency of services is detailed in the Notes above.
- iv.

The monthly common element fee for each POTL is shown on the attached schedule to the Budget Statement.
- v.

As stated in the Notes above, 20.0% of the operating expenses will be paid into the Reserve Fund account. The provision is \$18,194 for the first year.
- vi.

At the time of preparation of the Budget Statement, March 2022, there are no judgments, with respect to the property, against the Declarant nor is the Declarant a party to any lawsuit material to the within property.



NOTES TO THE BUDGET

- vii. There are no services not included in the foregoing Budget Statement that the Declarant provides, or expenses that the Declarant pays and that might reasonably be expected to become, at a subsequent time, a common expense prior to the turn-over meeting, except for the possibility of private waste collection and removal and if this occurs, the projected common expense contribution for this service may result in an increase in the common expenses by approximately \$61.00 per POTL, per month.
- viii. There are no services not included in the foregoing Budget Statement that the Declarant provides, or expenses that the Declarant pays and that might reasonably be expected to become, at a subsequent time, a common expense, except for the estimated contract cost of common area WiFi throughout the common element amenity areas which is expected to increase common expenses by approximately \$4.04 per POTL, per month.
- ix. As at the date of the foregoing Budget Statement, the Condominium Corporation has not been created and accordingly, there are no amounts in the Reserve Fund. At the end of the first year after registration, there should be \$13,900 in the Reserve Fund account.
- x. As at the date of the foregoing Budget Statement, March 2022, the Condominium Corporation has not been created and accordingly, there is no Reserve Fund Study. As stated in the Notes above, the Reserve Fund Study will be completed after registration by an independent engineer.
- xi. The Harmonized Sales Tax is included in all applicable expense items on the Budget Statement.
- xii. There are no current or expected fees, charges, rents or other revenue to be paid to or by the Condominium Corporation or by any of the owners for the use of the common elements.
- xiii. Purchasers are advised that the cost of consumption of hydro, water and gas / propane within each POTL are not included in the monthly common element fees. As such, these costs are in addition to POTL monthly common expense
- xiv. Inflation rate of 7.5% is to be applied per annum (unless otherwise stated) each year after September 30, 2023. Provided however, that due to the significant fluctuation in gas, hydro and water utility rates recently, in respect to which the Declarant has no control, in the event that the relevant utility company/provider obtains relevant government approval for, or in any other way effects a significant annual increase in the utility rates above the assumed inflation rate of 3%, the Declarant reserves the right to revise the first year budget statement to reflect such significant increase in the cost of supplying these utilities from the relevant utility company/provider, and to provide each POTL purchaser with a revised copy of the condominium Corporation's first year budget statement. In such event, purchasers acknowledge and agree that they shall be bound by such revised budget, and the acceptance of such revised budget should not be considered nor be construed as a material change to the Disclosure Statement.



NOTES TO THE BUDGET

- xv. Purchasers are advised that the Budget Statement, dated March 2022, includes the additional costs associated with the recently enacted legislation by the Ontario government The Fair Workplaces, Better Jobs Act, 2017. This new legislation includes broad ranging amendments to Ontario's Employment Standards Act and Labour Relations Act. These legislative changes seek to create more opportunity and security for workers across Ontario and increase minimum wage rates..The Declarant has used their best estimates in this First Year Budget Statement to accurately forecast these costs, however should subsequent phases of the aforementioned legislation be enacted, that causes the Condominium Corporation to incur additional costs,Purchasers are advised that the Budget Statement may need to be updated based on the actual cost and implication of these additional legislative changes, at the time of registration, in the event that this cost increases significantly. Purchasers are further advised, and expressly agree that such change to the Budget will not constitute, nor be deemed to be, a material change as that term is defined in the Condominium Act, 1998 (Ontario).
- xvi. Purchasers are advised that the Budget Statement, dated March 2022, includes the additional costs associated with the recently enacted legislation by the Ontario government for both the Condominium Management Services Act, 2015, and Bill 106, Protecting Condominium Owners Act, 2015 SO 2015. These legislative enactments introduce the mandatory licensing of Condominium managers and also introduce the Condominium Authority of Ontario.The Declarant has used their best estimates in this First Year Budget
- xvii. Each POTL owner will be required to purchase their own insurance to cover the replacement value of their respective POTL, as well as provide evidence of coverage to the condominium for general liability. Please refer to the Disclosure Statement for further details.
- xviii. Purchasers are advised that the monthly common expenses payable by each POTL owner, do not include the cost of the supply of Electricity, Water or Gas to each POTL, as and such, each owner will be required to pay these costs, in addition to the their monthly common expense payments
- xix. Purchasers are advised that the Declarant has used their best estimates in this First Year Budget Statement to accurately forecast the cost of the insurance premium. However, due to significant increases in claims and losses over the past year, many insurance companies have severely reduced their capacity to insure condominiums, leading to a shortage of carriers willing to provide coverage. As a result, purchasers are advised that the Budget Statement may need to be updated based on the actual cost of Insurance, at the time of registration, in the event that this cost increases significantly. Purchasers are further advised, and expressly agree that such change to the Budget will not constitute, nor be deemed to be, a material change as that term is defined in the Condominium Act, 1998 (Ontario).
- xx. Purchasers are advised that the Declarant has used their best estimates in this First Year Budget Statement to accurately forecast the cost of natural gas, used to heat common areas and hot water. However, due to the Federal Governments recently enacted Greenhouse Gas Pollution Pricing Act, 2018. the impact of the resulting Carbon Tax is still unknown. As a result, Purchasers are advised that the Budget Statement may need to be updated based on the actual cost and implication of the Carbon Tax, at the time of registration, in the event that this cost increases significantly. Purchasers are further advised, and expressly agree that such change to the Budget will not constitute, nor be deemed to be, a material change as that term is defined in the Condominium Act, 1998 (Ontario).
- xxi. This proposed First Year Budget Statement has been prepared by an Ontario Licensed Condominium Manager (OLCM) in accordance with the Condominium Management Services Act, 2015.

[illegible]

[illegible]

[illegible]



SCHEDULE OF MONTHLY COMMON ELEMENT FEES

POTL NO.	POTL DESCRIPTION	MONTHLY COMMON ELEMENT FEES BY UNIT
64	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 64 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
65	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 65 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
66	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 66 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
67	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 67 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
68	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 68 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
69	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 69 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
70	In the City of Vaughan, Regional Municipality of York, Provice of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 70 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	\$129.95
TOTAL		\$9,096.50

THIS DECLARATION (hereinafter called the "**Declaration**") is made and executed pursuant to the provisions of the *Condominium Act*, 1998, S.O. 1998, C.19, and the regulations made thereunder, as amended from time to time (all of which are hereinafter collectively referred to as the "**Act**"), by:

RUTHERFORD HEIGHTS INC.
(hereinafter called the "**Declarant**")

WHEREAS:

- A. The Declarant is the owner in fee simple of certain lands and premises situate in the City of Vaughan, in the Province of Ontario and being more particularly described in Schedule "A" annexed hereto and in the description submitted herewith by the Declarant (hereinafter called the "**Description**") for registration in accordance with the Act and which lands are sometimes referred to as the "**Lands**" or the "**Property**"; and
- B. The Declarant intends that the Property shall be governed by the Act and that the registration of this Declaration and the Description will create a freehold condominium that constitutes a common elements condominium corporation.

NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:

ARTICLE I
INTRODUCTORY

1.1 Definitions

The terms used in the Declaration shall have the meanings ascribed to them in the Act unless this Declaration specifies otherwise or unless the context otherwise requires and in particular:

- (a) "**Abutting Condominium**" means the expected condominium to be registered on the adjacent lands to the north of the Property;
- (b) "**Board**" means the Corporation's Board of Directors;
- (c) "**By-Laws**" means the by-laws of the Corporation enacted from time to time;
- (d) "**Common Elements**" means all the Property;
- (e) "**Corporation**" or "**Condominium Corporation**" means the Condominium Corporation created by the registration of this Declaration;
- (f) "**Developed Potl**" means a Potl upon which a dwelling has been constructed which is actually occupied by an Owner (other than the Declarant) or title to which has been transferred by the Declarant to another Owner;
- (g) "**Development Agreements**" means any development, site plan, site servicing, condominium, or similar agreement entered into by the Declarant (and any of its predecessors in title) with the City of Vaughan, Region of York, the owner or operator of the adjacent railway or with any other relevant Governmental Authority dealing with any aspect of the development or operation of the Condominium;
- (h) "**Fifth Fiscal Year of the Condominium**" means the fiscal year ending on the fifth anniversary of the date prior to the date of the registration of the Condominium;
- (i) "**First Fiscal Year of the Condominium**" means the period of time commencing on the day of the registration of the Condominium and ending on the first anniversary of the date prior to the registration of the Condominium;
- (j) "**First Year Budget**" means the budget of the Condominium in effect as of the date of the registration of the Condominium;
- (k) "**Licence Agreement**" means the agreement between the Condominium and the Declarant described in the Disclosure Statement and as set out in proposed By-Law No. 2;
- (l) "**Limited Recourse and Indemnity Agreement**" means the agreement between the Condominium and the Declarant described in the Disclosure Statement and as set out in proposed By-Law No. 3;

- (m) **"Metered Utilities"** has the meaning ascribed thereto in subsection 1.1(a);
- (n) **"Meter Reading Company"** has the meaning ascribed thereto in subsection 1.1(a);
- (o) **"Owner"** means the Owner or Owners of the freehold estate(s) in a Potl and who owns, pursuant to the Act, a common interest in the Common Elements, but does not include a mortgagee of a Potl unless in possession;
- (p) **"Parkette"** means a parkette to be located within the Condominium.
- (q) **"Potl"** or **"Potls"** means one or more of the seventy (70) parcel(s) of tied land to which a common interest is attached as described in Schedule "D" to this Declaration, individually or collectively as the context may require;
- (r) **"Related Entity"** means a subsidiary body corporate, holding body corporate or affiliated body corporate (as those terms are defined in the Ontario Business Corporations Act) of the Declarant;
- (s) **"Rules"** means the Rules passed by the Board;
- (t) **"Shared Facilities Agreement"** means the agreement governing the use and sharing of costs of the Shared Roadway between the Condominium and the Abutting Condominium, as it may be amended from time to time;
- (u) **"Shared Roadway"** or **"Shared Facilities"** shall mean the roadway to the north of the Property, together with any shared municipal services and utilities located thereon or thereunder, to be shared with the Abutting Condominium as shared facilities, which roadway is anticipated to be a common elements roadway on the Abutting Condominium plan;
- (v) **"Undeveloped Potl"** means a Potl that is not a Developed Potl.
- (w) **"Visitor Parking Space"** means the Common Element parking spaces forming part of the Condominium and which are designed as visitor parking spaces.

1.2 Act Governs the Property

The Lands described in Schedule "A" annexed hereto and in the Description together with all interests appurtenant to the Lands are governed by the Act.

1.3 Common Elements Condominium

The registration of this Declaration and the Description will create a freehold condominium that constitutes a common elements condominium corporation.

1.4 Division of Potls

A Potl may not be divided into two (2) or more parcels unless an amendment is registered to the Declaration that takes into account the division of a Potl.

1.5 Consent of Encumbrancers

The consent of every person having a registered mortgage against the Property or interests appurtenant thereto and against each Potl is contained in Schedule "B" attached hereto.

1.6 Common Interest and Common Expenses

- (a) Each Owner shall have an undivided interest in the Common Elements as a tenant in common with all other Owners in the proportions set forth opposite each Potl in Schedule "D" attached hereto and shall contribute to the Common Expenses in the proportion set forth opposite each Potl in Schedule "D" attached hereto. The total of the proportions of the common interests and proportionate contribution to Common Expenses shall each be one hundred (100%) percent.
- (b) Notwithstanding the provisions of paragraph 1.6(a), until the end of the First Fiscal Year of the Condominium, the Owner(s) shall contribute to the Common Expenses as follows:

- (i) Owners of Developed Potls shall contribute to the Common Expenses in the proportion set forth opposite each Potl in Schedule "D" attached hereto based on the First Year Budget;
 - (ii) the Declarant, in its capacity as the Owner of Undeveloped Potls, shall contribute proportionately, in relation to the number of Undeveloped Potls such party may own, to the operating component of the Common Expenses (i.e. exclusive of the reserve fund component) in respect of the Undeveloped Potls an amount equal to the difference, if any, between the amount payable by Owners of the Developed Potls under paragraph 1.6(b)(i) hereof and the amount of budgeted operating expenses actually incurred by the Corporation during the First Fiscal Year of the Condominium; and
 - (iii) the Declarant, in its capacity as the Owner of Undeveloped Potls, shall pay to the Corporation, proportionately, in relation to the number of Undeveloped Potls such party may own, for deposit into the Corporation's reserve fund account, an amount equal to the difference between the amount payable by Owners of the Developed Potls under paragraph 1.6(b)(i) hereof in respect of the reserve fund contribution required by the First Year Budget and the total budgeted amount for the reserve fund in the First Year Budget.
- (c) Notwithstanding the provisions of paragraph 1.6(a), after the end of the First Fiscal Year of the Condominium, the Owner(s) shall contribute to the Common Expenses as follows:
- (i) Owners of Developed Potls shall contribute to the Common Expenses in the proportion set forth opposite each Potl in Schedule "D" attached hereto;
 - (ii) the Declarant, in its capacity as the Owner of Undeveloped Potls, shall pay to the Corporation, proportionately, in relation to the number of Undeveloped Potls such party may own, for deposit into the Corporation's reserve fund account, only the portion of the common expenses that would otherwise be payable in respect of the Undeveloped Potls that relate to the reserve fund. No other common expense contributions shall be payable by the Declarant in respect of Undeveloped Potls owned by it.

1.7 Address for Service, Municipal Address and Mailing Address of the Corporation

The Corporation's address for service shall be c/o Melbourne Property Management, 1244 Caledonia Road, Suite 100, Toronto, Ontario, M6A 2X5, or such other address as the Corporation may by resolution of the Board determine, and the Corporation's mailing address shall be c/o Melbourne Property Management, 1244 Caledonia Road, Suite 100, Toronto, Ontario, M6A 2X5. The Corporation consists of a common element road and does not have a municipal address.

1.8 Approval Authority Requirements

There are no conditions imposed by the approval authority to be included in this Declaration. In the event the approval authority requires the inclusion of certain conditions in this Declaration, they will be added prior to registration.

1.9 Architect/Engineer Certificates

The certificate(s) of the architect and/or engineer(s) that all buildings and structures that the Declaration and Description show are included in the Common Elements and have been constructed in accordance with the regulations is/are contained in Schedule "G" attached hereto.

ARTICLE II COMMON EXPENSES

2.1 Specification of Common Expenses

The common expenses shall comprise the expenses of the performance of the objects and duties of the Corporation and such other expenses, costs and sums of money incurred by or on behalf of the Corporation that are specifically designated as (or collectible as) common expenses pursuant to the provisions of the Act and/or this

Declaration and without limiting the generality of the foregoing, shall include the specific expenses set out in Schedule "E" attached hereto.

2.2 Payment of Common Expenses

- (a) Subject to the provisions of paragraph 1.6 hereof, each Owner shall pay to the Corporation his/her proportionate share of the common expenses and the assessment and collection of contributions toward common expenses may be regulated by the Board pursuant to the By-laws. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of a breach of any provision of this Declaration, or in any By-laws or Rules in force from time to time by any Owner, or by members of his/her family and/or their respective tenants, invitees or licensees shall be borne and paid for by such Owner and may be recovered by the Corporation against such Owner in the same manner as common expenses.
- (b) Water:
 - (i) The consumption within the dwellings of water (the "**Metered Utility**") will be submetered or by one or more third party companies (collectively, the "**Meter Reading Company**"), in order to apportion and bill attributable costs amongst the individual Owners and the Corporation.
 - (ii) The Corporation and each Owner has or shall enter into or assume an agreement with the Meter Reading Company (the "**Meter Reading Agreement**"). The Meter Reading Agreement shall state, among other things, and the Owners and Corporation shall comply with the following:
 - (1) The Meter Reading Company shall be responsible for operating the utility distribution system in accordance with the terms of the Meter Reading Agreement. In this regard, the Meter Reading Company (and employees, agents, contractors, consultants and other personnel) shall have the right in the nature of an easement to access the Condominium and each Potl for the purpose of complying with its obligations pursuant to the Meter Reading Agreement, which rights may be reflected in an easement to be registered against title to the Property.
 - (2) Each Owner or occupant of a dwelling shall enter into a separate supply and services agreement with the Meter Reading Company on or before taking occupancy of their dwelling in accordance with the Meter Reading Company's standard form agreement.
 - (3) Each Owner or occupant of a dwelling may be required to pay a security deposit to the Meter Reading Company on or before taking occupancy of their dwelling and the Meter Reading Company shall have the right to conduct credit checks on each owner or occupant of a dwelling.
 - (4) In the event that an owner or occupant fails to pay any amount owing to the Meter Reading Company when due, the Meter Reading Company shall employ normal collection practices which includes terminating the supply of utilities to the dwelling until all amounts owing by such owner or occupant to the Meter Reading Company have been paid in full.
 - (5) The Meter Reading Agreement will provide that if such agreement is terminated pursuant to Section 112 of the Act, or otherwise, the Meter Reading Company shall be permitted to remove its meters (or any part thereof) from the Condominium and the subject Potl and/or recover its capital investment in the utility distribution system and all associated termination, disconnection and removal costs.
 - (iii) Each Owner and the Corporation shall receive from the Meter Reading Company and be responsible for, payment of the invoice with respect to the water consumption for his/her dwelling and the Common Elements, respectively. The Owner shall remit payment to the Meter Reading Company for water consumption, equipment and administrative fees, separate from any other obligations the Owner has with respect to payment of Common Expenses as an Owner within the Condominium.

- (iv) Any monies owing with respect to invoices for water consumption and not paid to the Meter Reading Company by the Owner according to the terms of the invoice, may be paid by the Corporation to the Meter Reading Company, and may thereupon be a debt owed by the Owner of the dwelling whose occupants have consumed the water, and shall be collectable by the Corporation as if same were Common Expenses in arrears and for such purposes only shall be considered Common Expenses. Payment to the Corporation and/or the Meter Reading Company shall be made in such manner and with such frequency as determined by the Board of Directors and/or the Meter Reading Company from time to time acting reasonably in the event of such default. Interest will accrue on arrears of money owing for water consumption at a rate as determined by the Corporation and/or the Meter Reading Company.
- (v) Notwithstanding any other provisions of this Declaration, the Owner and the Corporation authorizes entry to dwellings, Potls, and the Common Elements by the Meter Reading Company or its subcontractors from time to time, as deemed necessary by the Meter Reading Company for the purposes of conducting inspection, maintenance, repair and reading of the submeters. Work that is required within a dwelling or Common Elements in order to facilitate the usage and operation of any submetering system is also permitted and authorized upon not less than twenty-four (24) hours' notice to the Owner of the dwelling if access to the dwelling is required except in the case of emergency, whereupon no notice is required.
- (vi) The Corporation and/or Meter Reading Company shall be entitled, subject to complying with all other laws and regulations, to either stop the supply of water to any dwelling where payments owing for same are in arrears and/or to register a Common Expense lien against the dwelling.

2.3 Reserve Fund

- (a) The Corporation shall establish and maintain one or more Reserve Funds and shall collect from the Owners as part of their contribution towards the common expenses, amounts that are reasonably expected to provide sufficient funds for major repair and replacement of Common Elements and assets of the Corporation all in accordance with the provisions of the Act; and
- (b) No part of any Reserve Fund shall be used except for the purpose for which the fund was established. The Reserve Fund(s) shall constitute an asset of the Corporation and shall not be distributed to any Owner(s) except on termination of the Corporation in accordance with the provisions of the Act.
- (c) However, for the purposes of the Act, this Declaration and/or the Shared Facilities Agreement, any and all portions of the Shared Roadway not comprising part of the registered description plan of this Condominium shall be deemed to be an "asset" of the Corporation for the purposes of utilizing any of its Reserve Fund(s) in connection with this Corporation's responsibility to share in the cost of repairing and/or maintaining the Shared Roadway.

2.4 Status Certificate

The Corporation shall provide a status certificate to any requesting party who has paid (in advance) the applicable fees charged by the Corporation for providing same in accordance with the provisions of the Act, together with all accompanying documentation and information prescribed by the Act. The Corporation shall forthwith provide the Declarant (and/or any purchaser, transferee or mortgagee of a Potl from the Declarant) with a status certificate and all such accompanying documentation and information, as may be requested from time to time by or on behalf of the declarant (or by any such purchaser, transferee, or mortgagee) in connection with the Declarant's sale, transfer or mortgage of any Potls, all at no charge or fee to the Declarant or the person requesting same on behalf of the Declarant.

ARTICLE III COMMON ELEMENTS

3.1 Use of Common Elements

Subject to the provisions of the Act, this Declaration, the By-laws and any Rules, each Owner has the full use, occupancy and enjoyment of the whole or any parts of the Common Elements, except as herein otherwise provided.

However, save and except as expressly provided or contemplated in this Declaration to the contrary, no condition shall be permitted to exist, and no activity shall be carried on, within any Potl or upon any portion of the Common Elements that:

- (a) will result in a contravention of any term or provision set out in the Act, this Declaration, the By-laws and Rules of the Corporation;
- (b) is likely to damage the property of the Condominium, injure any person, or impair the structural integrity of any Potl or Common Elements area;
- (c) will unreasonably interfere with the use and enjoyment by the other Owners of the Common Elements and/or their respective Potls;
- (d) may result in the cancellation (or threatened cancellation) of any policy of insurance obtained or maintained by the Corporation, or that may significantly increase any applicable insurance premium(s) with respect thereto, or any deductible portion in respect of such policy;
- (e) breaches the Shared Facilities Agreement, or any other agreements entered into or assumed by the Corporation related to the use and operation of the Common Elements. No one shall, by any conduct or activity undertaken in or upon any part of the Common Elements, impede, hinder or obstruct any right, privilege, easement or benefit given to any party, person or other entity pursuant to this Declaration, any By-law and/or the Rules;
- (f) would lead to a contravention by the Corporation or by other owners of the applicable zoning by-laws or of any terms or provisions of any agreements with any municipal or other governmental authority and which are registered on title to the Property or which otherwise affect the Property, including but not limited to, any Development Agreements or which would require obtaining the consent or approval of any person pursuant to the terms of the Development Agreements; and
- (g) violates any municipal by-law, law, rule, ordinance or will result in the City either holding back or drawing upon any letter of credit which has been provided to the City as security pursuant to any Development Agreements, or alternatively, will require that the Declarant repair or replace any installation, facility or service within the Condominium.

In the event that the use of the Common Elements by any Owner contravenes any of the foregoing provisions, then such Owner shall indemnify and save the Corporation and the Declarant harmless from and against any and all costs, losses, damages, expenses and/or liabilities that the Corporation and/or the Declarant may suffer or incur as a result of said action, contravention and/or the cancellation of any insurance policy arising therefrom (including without limitation, any costs incurred to redress, rectify and/or relieve said contravention), and such Owner shall also be personally liable to pay and/or fully reimburse the Corporation and/or the Declarant for any and all costs associated with the increased insurance premiums payable by the Corporation as a result of such Owner's use, and all such costs and expenses may be recovered by the Corporation against such Owner in the same manner as Common Expenses, and if due and owing to the Declarant, shall be collected by the Corporation as aforesaid and paid to the Declarant. All payments pursuant to this Section are deemed to be additional contributions towards Common Expenses and recoverable as such.

No one shall, by any conduct or activity undertaken in or upon any part of the Common Elements, impede, hinder or obstruct any right, privilege, easement or benefit given to any party, person or other entity pursuant to this Declaration, any By-law and/or the Rules.

Notwithstanding anything to the contrary herein, the Owners and the Board are absolutely prohibited from altering the landscaping, grading and/or drainage patterns

established by the Declarant in respect of the Condominium for a period of four (4) years from the date of registration of the Condominium.

3.2 Exclusive Use Common Elements

There are no exclusive use common elements.

3.3 Restricted Access

Without the consent in writing of the Board, no Owner shall have the right of access to those parts of the Common Elements used from time to time for the care, maintenance or operation of the Property or any part thereof as designated by the Board, from time to time.

3.4 Modifications of Common Elements, Assets and Services

(a) General Prohibition

No owner shall make any change or alteration to the Common Elements whatsoever, including any installation(s) thereon, nor alter, decorate, renovate, maintain or repair any part of the Common Elements (except for maintaining those parts of the Common Elements which he or she has a duty to maintain in accordance with the provisions of this Declaration) without obtaining the prior written approval of the Board and having entered into an agreement with the Corporation in accordance with Section 98 of the Act.

(b) Non-Substantial Additions, Alterations and Improvements by the Corporation

The Corporation may make a non-substantial addition, alteration, or improvement to the Common Elements, a non-substantial change in the assets of the Corporation or a non-substantial change in a service that the Corporation provides to the Owners in accordance with subsections 97(2) and (3) of the Act.

(c) Substantial Additions, Alterations and Improvements by the Corporation

The Corporation may, by a vote of Owners who own at least sixty-six and two thirds (66²/₃%) percent of the Potls make a substantial addition, alteration or improvement to the Common Elements, a substantial change in the assets of the Corporation or a substantial change in a service the Corporation provides to the Owners in accordance with subsections 97 (4), (5) and (6) of the Act.

3.5 Declarant Rights

Notwithstanding anything provided in this Declaration to the contrary, and notwithstanding any Rules or By-laws of the Corporation hereafter passed or enacted to the contrary, it is expressly stipulated and declared that:

- (i) the Declarant and its authorized agents, representatives and/or invitees shall have free and uninterrupted access to and egress from the Common Elements, for the purposes of implementing, operating and/or administering the Declarant's marketing, sale, construction and/or customer-service program(s) with respect to any unsold Potls from time to time;
- (ii) the Declarant and/or any Related Entity and its authorized agents or representatives shall be entitled to erect and maintain signs and displays for marketing/sale purposes, as well as model suites and one or more offices for marketing, sales, construction and/or customer service purposes, upon any portion of the Common Elements, and within or outside any unsold Potls, at such locations and having such dimensions as the Declarant may determine in its sole and unfettered discretion, all without any charge to the Declarant for the use of the space(s) so occupied, nor for any utility services (or any other usual or customary services) supplied thereto or consumed thereby, nor shall the Corporation (or anyone else acting on behalf of the Corporation) prevent or interfere with the provision of utility services (or any other usual or customary services) to the Declarant's marketing/sales/ construction/customer-service office(s) and said model suites;
- (iii) the Declarant and its authorized agents, representatives and/or invitees shall together have the right to use the Visitor Parking Spaces to be

designated by the Declarant in its sole discretion, without any charge to the Declarant for the use of same, for the purposes of implementing, operating and/or administering the Declarant's marketing, sale, construction and/or customer service program(s) with respect to the Condominium, from time to time;

- (iv) the Declarant and its employees, agents, contractors and invitees shall have the right to access the common element areas of the Condominium for special event marketing relating to the Condominium. In this event, the Condominium shall have no right to charge any rent, license or other fee. The Declarant shall be responsible for all reasonable insurance, property management and cleaning costs; and
- (v) the Corporation shall ensure that no actions or steps are taken by anyone which would prohibit, limit or restrict the access and egress of the Declarant and its authorized agents, representative and/or invitees over the Common Element areas of this Condominium;

until such time as all of the Potls in this Condominium have been transferred by the Declarant.

3.6 Visitor Parking

Eighteen (18) visitor parking spaces form part of the Common Elements for use by visitors of Owners of Potls and their tenants only (the "**Visitor Parking Spaces**"). The Visitor Parking Spaces may not be leased or sold to any Owner or otherwise assigned. The Visitor Parking Spaces shall be maintained by the Corporation, and the Visitor Parking Spaces shall be used by visitors to owners of Potls for the parking of their motor vehicles and shall not be used by Owners of Potls or for any other purpose whatsoever. The Visitor Parking Spaces shall be designated by means of clearly visible signs. Provided that the Declarant and its sales and management personnel agents, sub-trades, invitees and prospective purchasers, may park motor vehicles within the Visitor Parking Spaces until such time as all of the Potls have been sold and conveyed by the Declarant. No parking whatsoever shall be permitted on the roadways which comprise portions of the Common Elements except in designated visitor parking areas.

3.7 Pets

No animal, livestock or fowl, other than those household domestic pets as permitted pursuant to Section 3.7 of this Declaration, are permitted to be on or about the Common Elements, including the exclusive use Common Elements, except for ingress to and egress from a Potl. All dogs and cats must be kept under personal supervision and control and held by leash at all times during ingress and egress from a Potl and while on the Common Elements. Notwithstanding the generality of the foregoing, no pet deemed by the Board, in their sole and absolute discretion, to be a nuisance or a danger to the residents of the Corporation is permitted to be on or about the Common Elements.

ARTICLE IV MAINTENANCE AND REPAIRS

4.1 Responsibility of Owner for Maintenance and Damage

Each Owner shall be responsible for the maintaining and repair of his or her own Potl and improvements located thereon, including landscaping and lawn maintenance, retaining walls, fencing including privacy fences and metal decorative fences with stone columns and stormwater infiltration trenches and galleries.

Each Owner shall moreover be responsible for snow and/or ice removal within the Potl and on the sidewalks in front of, adjacent to, or otherwise abutting a Potl, notwithstanding that such sidewalks are part of the Common Elements.

Each Owner shall be responsible for all damage to the Common Elements or the Shared Facilities, which is caused by the negligence or willful misconduct of the Owner, his or her tenants, licensees or invitees, save and except for any such damage for which the cost of repairing same may be recovered under any policy of insurance held by the Corporation.

4.2 Repair and Maintenance by Corporation

- (a) Subject to each Owner's obligations under Section 4.1, the Corporation shall maintain and repair the Common Elements at its own expense and shall also

maintain and repair all facilities (including without limitation, water mains, storm and sanitary sewers and chambers, street lights, noise attenuation fencing, barriers, berms and retaining walls, landscape buffers, pedestrian access connections, if any, curbs and sidewalks) which services more than one Potl, whether located within the Common Elements or wholly or partly within a Potl, or within the adjacent road allowance, save and except for snow and/or ice removal on the sidewalks in front of, adjacent to, or otherwise abutting a Potl, which shall be the responsibility of the Owner of such abutting Potl. The Corporation and its designated agents shall have full access to a Potl to carry out its obligation pursuant to this paragraph.

- (b) Save as otherwise provided in this Declaration to the contrary, the Corporation shall maintain and repair the Shared Facilities located within the Condominium.

4.3 Repair and Maintenance of the Shared Facilities and Common Elements

The Corporation shall, with respect to any damage to any portion of the Shared Roadway or any portion of the Common Elements of this Condominium, make (or arrange for) any repairs that any Owner is obligated to make and that he or she does not make within a reasonable time, after written notice is given to such Owner by the Corporation. In such event, an owner shall be deemed to have consented to having repairs done by the Corporation. The Owner shall reimburse the Corporation in order to collect the costs of such repairs, and all such costs shall bear interest at the rate of twenty-four (24%) percent per annum, calculated monthly not in advance, until paid by the owner. The Corporation may collect such costs in such installments as the Board may decide upon, which installments shall be added to the monthly contributions towards the common expenses of such owner, after receipt of written notice from the Corporation thereof, and shall be treated in all respects as common expenses, and be recoverable as such.

ARTICLE V INDEMNIFICATION

- 5.1 Each Owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act or omission of such Owner, his family, guests, visitors or tenants to or with respect to the Common Elements, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation. All payments to be made by an Owner pursuant to this Article shall be deemed to be additional contributions toward common expenses payable by such Owner and shall be recoverable as such.

ARTICLE VI INSURANCE

6.1 By the Corporation

The Corporation shall obtain and maintain to the extent obtainable, at reasonable cost, the following insurance, in one or more policies:

- (a) "All Risk" Insurance

Insurance against "all risks" (including fire and major perils as defined in the Act) as is generally available from commercial insurers in a standard "all risks" insurance policy and insurance against such other perils or events as the Board may from time to time deem advisable, insuring:

- (i) the Property and buildings (if any); and
- (ii) all assets of the Corporation, but not including anything supplied or installed by the Owners;

in an amount equal to the full replacement cost of such real and personal property, without deduction for depreciation. This insurance may be subject to a loss deductible clause as determined by the Board from time to time, and which deductible shall be the responsibility of the Corporation in the event of a claim with respect to the Common Elements (or any portion thereof), provided however that if an owner, tenant or other person residing in a Potl with the knowledge or permission of the owner, through an act or omission causes damage to any portion of the Common Elements, in those circumstances where such damage was not caused or contributed by any act or omission of the Corporation (or any

of its directors, officers, agents or employees), then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's Potl.

(b) Policy Provisions

Every policy of insurance shall insure the interests of the Corporation and the Owners from time to time, as their respective interests may appear (with all mortgagee endorsements subject to the provisions of the Act, this Declaration and the Insurance Trust Agreement, if any) and shall contain the following provisions:

- (i) waivers of subrogation against the Corporation, its directors, officers, manager, agents, employees and servants and against the Owners, and the Owners' respective residents, tenants, invitees or licensees, except for damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused by any one of the above;
- (ii) such policy or policies of insurance shall not be terminated or substantially modified without at least sixty (60) days prior written notice to the Corporation;
- (iii) waivers of the insurer's obligation to repair, rebuild or replace the damaged property in the event that after damage the government of the Property is terminated pursuant to the Act;
- (iv) waivers of any defence based on co-insurance (other than a stated amount co-insurance clause); and
- (v) waivers of any defence based on any invalidity arising from the conduct or act or omission of or breach of a statutory condition by any insured person.

(c) Public Liability Insurance

Public liability and property damage insurance, and insurance against the Corporation's liability resulting from breach of duty as occupier of the Common Elements insuring the liability of the Corporation and the Owners from time to time, with limits to be determined by the Board, but not less than FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence and without right of subrogation as against the Corporation, its directors, officers, manager, agents, employees and servants, and as against the Owners and any member of the household or guests of any Owner or occupant of a Potl.

(d) Other Insurance

All insurance which the Corporation is obligated to take out and maintain pursuant to the Development Agreements and/or any Shared Facilities Agreement.

6.2 General Provisions

- (a) The Corporation, its Board and its officers shall have the exclusive right, on behalf of itself and as agents for the Owners, to adjust any loss and settle any claims with respect to all insurance placed by the Corporation, and to give such releases as are required, and any claimant, shall be bound by such adjustment.
- (b) Every mortgagee shall be deemed to have agreed to waive any right to have proceeds of any insurance applied on account of the mortgage where such application would prevent application of the insurance proceeds in satisfaction of an obligation to repair. This subparagraph 6.2(b) shall be read without prejudice to the right of any mortgagee to exercise the right of an Owner to vote or to consent if the mortgage itself contains a provision giving the mortgagee that right;
- (c) A certificate or memorandum of all insurance policies, and endorsements thereto, shall be issued as soon as possible to each Owner, and a duplicate original or certified copy of the policy to each mortgagee who has notified the Corporation of its interest in any Potl. Renewal certificates or certificates of new insurance policies shall be furnished to each Owner and to each mortgagee noted on the Record of the Corporation who have requested same. The master policy for any

insurance coverage shall be kept by the Corporation in its offices, available for inspection by any Owner or mortgagee on reasonable notice to the Corporation;

- (d) No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation. No insured shall be entitled to direct that the loss shall be payable in any manner other than as provided in the Declaration and the Act;
- (e) Where insurance proceeds are received by the Corporation or any other person, they shall be held in trust and applied, utilized and distributed in accordance with the Act; and
- (f) Prior to obtaining any new policy or policies of insurance and at such other time as the Board may deem advisable and in any event, at least every three (3) years, the Board shall obtain an appraisal from an independent qualified appraiser of the full replacement cost of the assets for the purpose of determining the amount of insurance to be effected and the cost of such appraisal shall be a common expense.

6.3 By the Owner

It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that the following insurance must be obtained and maintained by each Owner at such Owner's own risk:

- (a) Insurance on the Owner's Potl and all buildings constructed thereon. Every such policy of insurance shall contain waiver of subrogation against the Corporation, its manager, agents, employees and servants and against the other Owners and any members of their household or guests except for any damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused or contributed by any of the aforementioned parties.
- (b) Public liability insurance covering any liability of any Owner or any resident, tenant, invitee or licensee of such Owner, to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation.
- (c) Insurance covering the deductible on the Corporation's main policy for which an owner may be responsible.

6.4 Indemnity Insurance for Directors and Officers of the Corporation

The Corporation shall obtain and maintain insurance for the benefit of all of the directors and officers of the Corporation, if such insurance is reasonably available, in order to indemnify them against the matters described in the Act, including any liability, cost, charge or expense incurred by them in the execution of their respective duties (hereinafter collectively referred to as the "**Liabilities**"), provided however that such insurance shall not indemnify any of the directors or officers against any of the Liabilities respectively incurred by them as a result of a breach of their duty to act honestly and in good faith, or in contravention of the provisions of the Act.

ARTICLE VII SHARED FACILITIES

7.1 The Control, Operations, Budgeting and Cost-Sharing of the Shared Facilities

- (a) The Condominium will share the Shared Roadway with the Abutting Condominium. The maintenance, repair and improvement of the Shared Roadway shall be governed by the Shared Facilities Agreement.
- (b) The use of the Shared Roadway shall be subject to all restrictions imposed by the Act, this Declaration, the By-laws, the Rules and the Shared Facilities Agreement. The general provisions regarding the use of common elements expressed in this Declaration shall also apply to the use of the Shared Facilities.
- (c) Save as otherwise provided in this Declaration to the contrary and without limiting any easement that the Condominium enjoys or is subject to, the Shared Roadway shall be used only by the Declarant and the owners of the Potls, and by their respective residents, tenants and invitees ("**Other Responsible Parties**"). Save as otherwise provided in this Declaration to the contrary, no provision contained in any of the By-laws or Rules of this Corporation shall restrict the

access to, egress from and/or use of the Shared Roadway by the persons entitled thereto, save for any reasonable controls or restrictions imposed on access thereto by the Board (and the Declarant, prior to the transferring of title thereto).

- (d) The Corporation's share of costs in connection with the Shared Roadway shall be calculated and paid as will be provided in the Shared Facilities Agreement. The budget for the Corporation shall incorporate any budget for the same period for such costs prepared in accordance with the Shared Facilities Agreement by or on behalf of the owners or parties for the time being to the Shared Facilities Agreement.

ARTICLE VIII DUTIES OF THE CORPORATION

8.1 In addition to any other duties or obligations of the Corporation set out elsewhere in this Declaration and/or specified in the by-laws of the Corporation, the Corporation shall have the following duties, namely:

- (a) To ensure that no actions or steps are taken by or on behalf of the Corporation, or by any Potl Owner or their respective tenants or invitees which would prohibit, restrict, limit, hinder or interfere with the Declarant's ability to utilize portions of the Common Elements of this Condominium for its marketing/sale/construction programs in connection with any of the Condominium, as more particularly set out in the foregoing provisions of this Declaration.
- (b) When the Corporation formally retains an independent consultant (who holds a certificate of authorization within the meaning of the *Professional Engineers Act*, R.S.O. 1990, c. P.28 or alternatively a certificate of practice within the meaning of the *Architects Act*, R.S.O., c. A.26, as amended) to conduct a performance audit of the Common Elements on behalf of the Corporation, in accordance with the provisions of section 44 of the Act and section 12 of O.Reg.48/01 (hereinafter referred to as the "**Performance Audit**") at any time between the 6th month and the 10th month following the registration of this Declaration, then the Corporation shall have a duty to:
 - (i) permit the Declarant and its authorized employees, agents and representatives to accompany (and confer with) the consultant(s) retained to carry out the Performance Audit for the Corporation (hereinafter referred to as the ("**Performance Auditor**") while same is being conducted, and to provide the Declarant with at least fifteen (15) days written notice prior to the commencement of the Performance Audit; and
 - (ii) permit the Declarant and its authorized employees, agents and representatives to carry out any repair or remedial work identified or recommended by the Performance Auditor in connection with the Performance Audit (if the Declarant chooses to do so);

for the purposes of facilitating and expediting the rectification and audit process (and bringing all matters requiring rectification to the immediate attention of the Declarant, so that same may be promptly dealt with), and affording the Declarant the opportunity to verify, clarify and/or explain any potential matters of dispute to the Performance Auditor, prior to the end of the 11th month following the registration of this Declaration and the corresponding completion of the Performance Audit and the concomitant submission of the Performance Auditor's report to the Board pursuant to section 44(9) of the Act.

- (c) To take all reasonable steps to collect from each Potl owner his or her proportionate share of the common expenses and to maintain and enforce the Corporation's lien arising pursuant to the Act, against each Potl in respect of which the owner has defaulted in the payment of common expenses.
- (d) To grant, immediately after registration of this Declaration, if required, an easement in perpetuity in favour of utility suppliers or cable television operators, over, under, upon, across and through the Common Elements, for the purposes of facilitating the construction, installation, operation, maintenance and/or repair of utility or cable television lines or equipment (and all necessary appurtenances thereto) in order to facilitate the supply of utilities and cable television service to each of the Potls in the Condominium and if so requested by the grantees of such easements, to enter into (and abide by the terms and provisions at) an agreement with the utility and/or cable television suppliers pertaining to the

provision of their services to the Condominium and the Potls and for such purposes shall enact such by-laws or resolutions as may be required to sanction the foregoing.

- (e) To take all actions reasonably necessary as may be required to fulfill any of the Corporation's duties and obligations pursuant to this Declaration.
- (f) To enter into and comply with the terms and provisions of the Licence Agreement as amended from time to time.
- (g) To assume, enter into and comply with the terms and provisions of all Development Agreements or other agreements with the City and all other governmental authorities and utility companies which are registered against title to the Property as of the date of registration of the Condominium and/or which are entered into by the Declarant for and on behalf of the Condominium (as well enter into a formal assumption agreement with the City or other governmental authorities or utilities relating thereto, if so required by the City or other governmental authorities or utility);
- (h) To assume, enter into and comply with the terms and provisions of the Limited Recourse and Indemnity Agreement;
- (i) To register with the Condominium Authority of Ontario (the "**CAO**") and pay all applicable fees and assessments levied from time to time pursuant to the Act;
- (j) To prepare and file all prescribed returns and notices in accordance with the Act, Regulation 377/17, and the requirements of the CAO from time to time;
- (k) To assume and/or enter into the Shared Facilities Agreement as soon as reasonably possible after the registration of this Declaration and to observe and comply (and insofar as possible, compel the observance and/or compliance by all Owners and the Other Responsible Parties) with all terms and provisions contained in the Shared Facilities Agreement in addition to complying (and insofar as possible compelling the observance and/or compliance by all Owners and the Other Responsible Parties) with all of the requirements set forth in the Act, and all of the terms and provisions set forth in this Declaration, By-laws and Rules of this Corporation.
- (l) To pay on a monthly basis, or as otherwise required, the Corporation's share of all monies owing under the Shared Facilities Agreement, all as more particularly set out in the foregoing provisions of this Declaration and as provided for in the Shared Facilities Agreement;
- (m) To adopt without amendment and be bound by all decisions of the parties to the Shared Facilities Agreement in connection with the matters contained therein, as if such decisions were made by the Board, including decisions with respect to the determination of costs;
- (n) To forthwith, upon request, provide the requesting party with a certificate of compliance with respect to the Shared Facilities Agreement; and
- (o) To execute forthwith upon being requested to do so by the Declarant, such agreements or other documents as the Declarant in its sole discretion may require in order to amend the Shared Facilities Agreement.

ARTICLE IX GENERAL MATTERS AND ADMINISTRATION

9.1 Invalidity

Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability in whole or in part of anyone or more of such provisions shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

9.2 Waiver

The failure to take action to enforce any provision contained in the Act, this Declaration, the Bylaws or any other Rules and regulations of the Corporation, irrespective of the number of violations or breaches which may occur, shall not constitute a waiver of the right to do so thereafter, nor be deemed to abrogate or waive any such provision.

9.3 Interpretation of Declaration

This Declaration shall be read with all changes of number and gender required by the context.

9.4 Headings

The headings in the body of this Declaration form no part of the Declaration but shall be deemed to be inserted for convenience of reference only.

IN WITNESS WHEREOF the Declarant has hereunto affixed its corporate seal under the hands of its proper officer duly authorized in that behalf.

DATED at Vaughan this ____ day of _____, 20__.

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)
)
)

RUTHERFORD HEIGHTS INC.

Per:

Name:

Title:

I/We have the authority to bind the corporation

SCHEDULE “A”

IN THE CITY OF VAUGHAN, Regional Municipality of York, being composed of part of Block 1, Plan 65M- designated as Part 71, on a plan of survey of record deposited in the Land Registry Office for the Land Titles Division of York (No. 65) as Plan 65R- , hereinafter referred to as the “Condominium Lands”.

Being all of P.I.N. 03318- (LT).

TOGETHER WITH rights-of-way or rights in the nature of easements, in favour of the owners, their successors and assigns of the Condominium Lands in, over, along and upon that part of Block 1, Plan 65M- designated as Parts 1 to 70, both inclusive, on Plan 65R- (being P.I.N.s 03318- (LT) to (LT) inclusive) for the access of persons, materials, vehicles and equipment necessary for the maintenance, repair, reconstruction and operation of any utility or service, and mechanical or electrical installations appurtenant thereto, including but not limited to water mains, gas mains, storm or sanitary sewers, electrical cables, wires and ducts, telephone and cable television, cables, wires, ducts and street light standards, retaining walls, perimeter fences, curbs, catch basins, manholes, fire hydrants and hydro vaults all of which are situate or to be situate within that part of Block 1, Plan 65M- designated as Parts 1 to 70 , both inclusive, on Plan 65R- and which are the responsibility of the Condominium Corporation to maintain and repair pursuant to the Declaration to which this Schedule "A" is attached.

Note: The Declarant, at his sole discretion, may enter into agreements or transfers of easements with other land owners or utilities to facilitate the servicing and access to and from these lands.

Note: The Declarant, at his sole discretion, reserves the right to transfer portions of the subject lands which may be required by municipal or regional authorities for road widenings, reserves or environmental purposes as well as reserving the right to transfer servient interests or accept transfer of appurtenant interests which may provide for access or service to the subject or adjoining lands.

In our opinion, based on the parcel register and the plans and documents recorded therein, the legal description set out above is correct, the easements hereinbefore described exist in Law or will exist in Law upon the registration of the Declaration and the Description and the Declarant is the registered owner of the land and appurtenant easements.

Miller Thomson LLP
Solicitors and duly authorized representatives of the Declarant:

RUTHERFORD HEIGHTS INC.

Dated _____ Per: _____
Robert J. Gray

SCHEDULE "B"
CONSENT

(under clause 7(2)(b) of the *Condominium Act*, 1998)

- 1. I(We) _____ have a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act*, 1998 registered as Number YR_____ in the Land Registry Office for the Land Titles Division of York Region (No. 65).
- 2. I(We) consent to the registration of this declaration, pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
- 3. I(We) postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the Declaration.
- 4. I am (We are) entitled by law to grant this consent and postponement.

DATED this ____ day of _____ , 20__.

)
) Company Name
)
) Per: _____
) Name: Name
) Title: Title
)
)
) Per: _____
) Name: Name
) Title: Title
)
) I/We have the authority to bind the corporation

SCHEDULE "B"
CONSENT TO ATTACHMENT OF A COMMON INTEREST

(under clause 140(c) of the *Condominium Act*, 1998)

- 1. I (We) _____ have a registered mortgage as Number YR _____ in the Land Registry Office for the Land Titles Division of York Region (No. 65) against a parcel of land (known as the "Parcel") to which a common interest in a common elements condominium corporation (known as the "Corporation") will attach upon the registration of the attached declaration (known as the "Declaration") dated _____, 20____, and the description (known as the "Description") creating the Corporation.
- 2. I(We) acknowledge that, upon the registration of this Declaration and Description, the Parcel will become subject to all encumbrances, if any, outstanding against the property described in Schedule "A" to the Declaration.
- 3. I(We) consent to the registration of a notice in the prescribed form indicating that a common interest in the Corporation, as the common interest is set out in Schedule "D" to the Declaration, attaches to the Parcel upon the registration of the Declaration and Description.
- 4. I am (We are) entitled by law to grant this consent and postponement.

DATED this ____ day of _____, 20__.

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the Corporation.

SCHEDULE "C"
BOUNDARIES OF UNITS

NOT APPLICABLE

SCHEDULE D

POTL NO.	POTL DESCRIPTION	PERCENTAGE CONTRIBUTION TO COMMON EXPENSES	PERCENTAGE INTEREST IN COMMON ELEMENTS
1	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 1 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
2	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 2 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
3	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 3 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
4	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 4 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
5	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 5 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
6	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 6 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
7	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 7 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
8	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 8 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
9	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 9 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
10	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 10 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
11	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 11 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
12	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 12 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
13	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 13 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
14	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 14 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
15	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 15 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
16	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 16 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571
17	In the City of Vaughan, Regional Municipality of York, Provce of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 17 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428571	1.428571

SCHEDULE D

[illegible]

SCHEDULE D

[illegible]

SCHEDULE D

[illegible]

SCHEDULE D

POTL NO.	POTL DESCRIPTION	PERCENTAGE CONTRIBUTION TO COMMON EXPENSES	PERCENTAGE INTEREST IN COMMON ELEMENTS
69	In the City of Vaughan, Regional Municipality of York, Provence of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 69 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428572	1.428572
70	In the City of Vaughan, Regional Municipality of York, Provence of Ontario, being comprised of part of Block 1, Plan 65M-XXXX, designated as PART 70 on Reference Plan 65R-XXXX, being all of P.I.N. XXXX-XXXX (LT).	1.428572	1.428572
TOTALS		100.000000	100.000000

Common Elements are intended for the use and enjoyment of the owners of the Parcels of tied land for the purpose of Clause 140(a) of the Act.

In my opinion, each parcel of tied land described in this Schedule "D" will, upon the registration of the Declaration and description, be capable of being individually conveyed, or otherwise dealt with, without contravening Section 50 of the Planning Act.

Miller Thomson LLP

Per:

Robert Gray
Solicitor and duly authorized agent for
Rutherford Heights Inc.

SCHEDULE "E"

SPECIFICATION OF COMMON EXPENSES (Common Elements Condominium)

Common expenses, without limiting the definition ascribed thereto, shall include the following:

1. All sums of money paid or payable by the Corporation in connection with the performance of any of its objects, duties and powers whether such objects, duties and powers are imposed by the Act or this Declaration and By-laws of the Corporation or other law or by agreement (including all agreements authorized by any of the By-laws of the Corporation) and effecting compliance therewith by all dwelling unit Owners and their respective residents, tenants, licensees and/or invitees;
2. All sums of money payable by the Corporation for the obtaining and maintenance of any insurance coverage required or permitted by the Act or the Declaration as well as the cost of obtaining from time to time, an appraisal from an independent qualified appraiser of the full replacement cost of the Common Elements and assets of the Corporation for the purposes of determining the amount of insurance to be effected.
3. All sums of money payable for utilities and services serving the dwelling units or Common Elements from time to time including, without limiting the generality of the foregoing, monies payable on account of the following, if applicable:
 - (a) insurance premiums;
 - (b) water, gas and hydro-electricity (for each of the Potls (unless separately metered), as well as the Common Elements, on the express understanding that the Corporation shall ultimately be reimbursed for that portion of any bulk invoice for water, gas and hydroelectricity representing the amount attributable to such Potl, pursuant to the Corporation's periodic reading of the check or consumption meters appurtenant to such Potls);
 - (c) garbage sorting, storing, recycling and disposal (to the extent not provided by the municipality without charge) from one or more central garbage areas;
 - (d) energy and utility monitoring and information services (profiling);
 - (e) maintenance and landscaping materials, tools and supplies;
 - (f) amounts related to the Shared Facilities Agreement;
 - (g) snow removal from common element roads (but not from walkways, stairs or driveways associated with the Potls or from sidewalks directly in front of, adjacent to, or otherwise abutting a Potl) and to remove same from the site, if required, and landscaping of common element areas (but not any exclusive use common element areas, if any, associated with the Potls);
 - (h) security.

Provided, however, that each of the dwellings on Potls shall be separately metered and invoiced for cable television and telephone services and accordingly the cost of said services (and for gas and hydro if separately metered) so consumed or utilized by each of said Potls shall not constitute or be construed as a common expense, but rather shall be borne and paid for by each Owner thereof.

4. all sums of money paid or payable by the Corporation pursuant to any management contract which may be entered into between the Corporation and a manager;
5. all sums of money required by the Corporation for the acquisition or retention of real property for the use and enjoyment of the property or for the acquisition, repair, maintenance or replacement of personal property for the use and enjoyment in or about the common elements;
6. all sums of money paid or payable by the Corporation to any and all persons, firms, or companies engaged or retained by the Corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the objects, duties and powers of the Corporation including, without limitation, legal, engineering, accounting, auditing, expert appraising, advising, maintenance, managerial, secretarial or other professional advice and service required by the Corporation;

7. the cost of equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
8. the cost of borrowing money for the carrying out of the objects, duties and powers of the Corporation;
9. the cost of maintaining fidelity bonds as provided by By-law;
10. all sums required to be paid to the reserve fund as required by the Declaration or in accordance with the agreed upon annual budget of the Corporation.
11. All sums of money payable on account of realty taxes (including local improvement charges) levied against the property (until such time as such taxes are levied against the individual Potls) and against those parts of the Common Elements that are leased for business purposes upon which the lessee carries on an undertaking for gain.
12. All sums of money paid or payable by the Corporation together with all other costs and expenses incurred by the Corporation arising from or in connection with any agreements entered into by the Corporation including any agreements for utility servicing.

SCHEDULE "F"
EXCLUSIVE USE COMMON ELEMENTS

There are no parts of the common elements that are to be used by Owners of one or more designated common interests and not by all the owners.

SCHEDULE "G"

CERTIFICATE OF ARCHITECT OR ENGINEER

(Schedule G to Declaration for a Common Elements or Vacant Land
Condominium Corporation)
(under clause 8(1)(e) and (h) or clauses 157(1) (c) and (e)
Of the *Condominium Act, 1998*)

I certify that:

1. Each building and structure that the declaration and description show are included in the common elements has been constructed in accordance with the regulations made under the *Condominium Act 1998* with respect to the following matters:

[Check whichever boxes are applicable:]

- 1,2,3

☐

The declaration and description show that there are no buildings or structures included in the common elements.
- OR
1.

☐

The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
2.

☐

Floor assemblies of the buildings and structures are constructed and completed to the final covering.
3.

☐

Walls and ceilings of the buildings and structures are completed to the drywall (including taping and sanding), plaster or other final covering.
4.

☐

All underground garages have walls and floor assemblies in place.
- OR
- ☐

There are no underground garages.
5.

☐

All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a license, except for elevating devices contained wholly in a unit and designed for use only within the unit.
- OR
- Three are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.
6.

☐

All installations with respect to the provision of water and sewage services are in place and operable.
- OR
- ☐

There are no installations with respect to the provision of water and sewage services.
7.

☐

All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.
- OR
- ☐

There are no installations with respect to the provision of heat and ventilation.
8.

☐

All installations with respect to the provision of air conditioning are in place.
- OR
- ☐

There are no installations with respect to the provision of air conditioning.
9.

☐

All installations with respect to the provision of electricity are in place and operable.
- OR

- ☐ There are no installations with respect to the provision of electricity.
10. ☐ All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.
- OR
- ☐ There are no indoor or outdoor swimming pools.

[Strike out whichever is not applicable]

11. The following facilities and services that the declaration and description show are included in the common elements:
- Item 2(a) and (b) as listed in Schedule "H" have been installed and provided in accordance with the requirements of the municipalities in which the land is situated or the requirements of the Minister of Municipal Affairs and Housing, if the land is not situated in a municipality.

DATED this ____ day of _____, 20__.

[signature]

(Print name)
[Strike out whichever is not applicable:
Architect
Professional Engineer]

SCHEDULE H

1. Buildings and Structures included in the Common Elements
 - (a) There are no structures within the Common Elements
2. Facilities and Services included in the Common Elements
 - (a) Storm sewer service and appurtenances
 - (b) Sanitary sewer service and appurtenances
 - (c) Electrical distribution system, street light system and appurtenances
 - (d) Gas mains and supply services
 - (e) Water distribution service and appurtenances
 - (f) Roadways and parking areas to base coat asphalt
 - (g) Sidewalks
 - (h) Visitor parking spaces
 - (i) Transformers
 - (j) Cable services (including telephone, cable TV, internet)
 - (k) Landscaped areas
 - (l) Mail kiosk
 - (m) Retaining walls
 - (n) Acoustic fences and berms
 - (o) Parkette

SCHEDULE I

CERTIFICATE OF OWNER

- 1. I am (We are) the owner(s) of the freehold estate in Part of Block 1, Plan 65M-XXXX, City of Vaughan, designated as Parts 1 to 70, inclusive, Plan 65R-_____, City of Vaughan (known as the "Parcel").
- 2. I (We) consent to the registration of the attached declaration to create a Common Elements Condominium Corporation (known as the "**Corporation**") on Part of Block 1, Plan 65M-XXXX, City of Vaughan, designated as Part 71, Plan 65R-_____, City of Vaughan.
- 3. I (We) acknowledge that, upon registration of the declaration and the description, the Parcel will become subject to all encumbrances, if any, outstanding against the property described in Schedule "A" to the declaration.
- 4. I (We) consent to the registration of a notice in the prescribed form against the Parcel indicating that a common interest in the Corporation, as the common interest is set out in Schedule "D" to the declaration, attaches to the Parcel upon the registration of the declaration and description.

Dated this _____ day of _____, 20__.

RUTHERFORD HEIGHTS INC.

Per: _____
Name:
Title:
I have the authority to bind the Corporation

SCHEDULE J
NOTICE OF ATTACHMENT OF A COMMON INTEREST

Take notice that:

- 1. The attached declaration and the description creates a common elements condominium corporation (known as the "**Corporation**").
- 2. A common interest in the Corporation, as the common interest as set out in Schedule "D" to this declaration, attaches to the following parcels of land (known as the "**Parcels**"), being Part of Block 1, Plan 65M-XXXX, City of Vaughan, designated as Parts 1 to 70, inclusive, Plan 65R-_____, City of Vaughan
- 3. The common interest cannot be severed from the Parcels upon the sale of the Parcels or the enforcement of an encumbrance registered against the Parcels.
- 4. A copy of the certificate of the owner of the Parcels consenting to the registration of the declaration and this notice is attached to this declaration as Schedule "I".
- 5. If the owner of the Parcels defaults in the obligation to contribute to the common expenses of the Corporation, the Corporation has a lien against the Parcels.

Dated this ____ day of _____, 20__.

(signature)

(print name)

Condominium Act, 1998

CERTIFICATE IN RESPECT OF A BY-LAW
(under Subsection 56(9) of the *Condominium Act*, 1998)

York Region Common Elements Condominium Corporation No. _____ (known as the "**Corporation**") certifies that:

- 1. The copy of By-law No.1 attached as Schedule "A" is a true copy of the By-law.
- 2. The By-law was made in accordance with the *Condominium Act*, 1998.
- 3. The owners of a majority of the parcels of tied land of the Corporation have voted in favour of confirming the By-law.

DATED this __ day of _____, 20__.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. _____**

Per: _____
Name:
Title

Per: _____
Name:
Title

I/We have the authority to bind the Corporation.

SCHEDULE "A"

YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. _____

BY-LAW NO. ONE

BE IT ENACTED as a by-law of York Region Common Elements Condominium Corporation No. _____ (hereinafter referred to as the "Corporation") as follows:

ARTICLE I DEFINITIONS

- 1.1 In addition to those words, terms and/or phrases specifically defined in this by-law, the words, terms and/or phrases used herein which are defined in the *Condominium Act*, 1998, S.O. 1998, C.19 as amended and the regulations made thereunder (hereinafter referred to as the "**Act**") and in the declaration of the Corporation (hereinafter referred to as the "**Declaration**") shall have ascribed to them the meanings set out in the Act or the Declaration, unless the context requires otherwise.

ARTICLE II SEAL

- 2.1 The corporate seal of the Corporation shall be in the form impressed hereon. Notwithstanding that the Corporation has a seal, any document that would otherwise require a seal need not be executed under seal, provided the statement "I/We have the authority to bind the Corporation" is noted below the signature(s) of the person(s) duly authorized to sign the document and such a document has the same effect for all purposes as if executed under seal.

ARTICLE III RECORDS

- 3.1 The Corporation shall keep and maintain all records required by section 55 of the Act, including the following records (hereinafter called the "**Records**"):
- (a) the financial records of the Corporation for at least six (6) years from the end of the last fiscal period to which they relate;
 - (b) a minute book containing the minutes of owners' meetings and the minutes of board meetings;
 - (c) a copy of the registered Declaration, registered by-laws and current rules;
 - (d) a copy of all applications made under section 109 of the Act to amend the Declaration, if applicable;

- (e) the seal of the Corporation;
- (f) copies of all agreements entered into by the Corporation or by the Declarant or the Declarant's representatives on behalf of the Corporation, including all management contracts, deeds, leases, licences, easements and any agreements entered into pursuant to Section 98 of the Act;
- (g) copies of all policies of insurance and the related certificates or memoranda of insurance and all insurance trust agreements;
- (h) bills of sale or transfers for all items that are assets of the Corporation but not part of the property;
- (i) the names and addresses for service of each owner and mortgagee that the Corporation receives, in writing, from owners and mortgagees in accordance with subsection 47(1) of the Act;
- (j) all written notices received by the Corporation from owners that the common interest appurtenant to their respective parcel of tied land have been leased together with the lessee's name, the owner's address, a copy of the lease or renewal or a summary of same, pursuant to subsection 83(1) of the Act;
- (k) all written notices received by the Corporation from owners that a lease of the owner's common interest appurtenant to his/her parcel of tied land has terminated and has not been renewed pursuant to subsection 83(2) of the Act;
- (l) all records that the Corporation has related to employees of the Corporation;
- (m) all existing warranties and guarantees for all equipment, fixtures and chattels included in the common elements;
- (n) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
- (o) the as-built specifications indicating all substantive changes, if any, from the original specifications;
- (p) all existing plans for underground site services, site grading, drainage and landscaping, and television, radio or other communication services;
- (q) all other existing plans and information that are relevant to the repair or maintenance of the property;

- (r) a table that the Declarant has delivered pursuant to clause 43(5)(g) of the Act setting out the responsibilities for repair after damage and maintenance, and indicating whether the Corporation or the owners are responsible;
- (s) all reserve fund studies and all plans to increase the reserve fund;
- (t) a copy of the most current disclosure statement delivered by the Declarant to a purchaser prior the turnover meeting;
- (u) a copy of the written performance audit report received by the Corporation;
- (v) a copy of any order appointing an inspector or administrator, if applicable, pursuant to section 130 or 131 of the Act, together with any report that the Corporation receives from an inspector in accordance with subsection 130(4) of the Act;
- (w) a copy of all status certificates issued within the previous ten (10) years;
- (x) a copy of all notices of meetings sent by or on behalf of the Corporation within the previous ten (10) years;
- (y) all proxies, for not more than ninety (90) days from the date of the meeting at which the proxies were utilized;
- (z) a copy of all notices of lien issued by the Corporation to delinquent owners pursuant to subsection 85(4) of the Act, in respect of which the corresponding certificates of lien have not been discharged or vacated by court order;
- (aa) all records relating to actual or pending litigation (or insurance investigations) involving the Corporation [as contemplated in clause 55(4)(b) of the Act], together with copies of all outstanding judgements against the Corporation [as contemplated in clause 76(1)(h) of the Act];
- (bb) a copy of the budget of the Corporation for the current fiscal year, together with the last annual audited financial statements and auditor's report on such statements;
- (cc) a copy of all minutes of settlement and/or written decisions made by any mediator or arbitrator appointed pursuant to section 132 of the Act, regarding any issue(s) in dispute involving the Corporation (or to which the Corporation is a party), together with copies of all court orders issued in

those circumstances where the Corporation was a party to the proceeding or otherwise directly affected thereby; and

- (dd) all other records as may be prescribed or specified in any other by-laws of the Corporation, together with copies of all other materials received by the Corporation that the regulations to the Act may hereafter require the Declarant to deliver on or shortly after the turnover meeting [as contemplated in clause 43(5)(m) of the Act].

ARTICLE IV

THE CORPORATION

4.1. Duties of the Corporation

The duties of the Corporation shall include, but shall not be limited to the following:

- (a) the operation, care, upkeep, maintenance and repair of the common elements as provided for in the Act and in the Declaration;
- (b) the collection of contributions toward common expenses from the owners;
- (c) the arranging for the supply of all requisite utility services to the common elements (unless separately metered) except where prevented from carrying out such duty by reason of any event beyond the reasonable control of the Corporation. The Corporation shall not be liable for indirect or consequential damage or for damages for personal discomfort or illness by reason of the breach of such duty;
- (d) obtaining and maintaining insurance for the property as may be required by the Act, the Declaration or the By-laws;
- (e) the retention of legal counsel to prepare, register and discharge, following payment, certificates of lien for arrears of common expenses;
- (f) the preparation and delivery of status certificates as required by the Act;
- (g) the preparation of a yearly budget;
- (h) the supervision of all public or private service companies which enter upon the property for the purpose of supplying, installing, replacing and servicing their systems;
- (i) the obtaining and maintaining of fidelity bonds for any person dealing with Corporation monies and in such amounts as the board may deem reasonable;

- (j) the purchase and maintenance of insurance for the benefit of all directors and officers in respect of anything done or permitted to be done by them in respect of the execution of the duties of their offices except insurance against a liability, cost, charge or expense of such directors or officers incurred as a result of a contravention of any of the duties imposed upon them pursuant to the Act;
- (k) the preparation and maintenance of the records to be kept by the Corporation in accordance with Article III hereof;
- (l) the calling and holding of meetings and the delivery of notices, as required;
- (m) the consistent and timely enforcement of the provisions of the Act, the Declaration, the By-laws and the rules of the Corporation; and
- (n) establishing and maintaining adequate reserve funds for the major repair or replacement of the common elements and of the assets of the Corporation in accordance with the Act.

4.2 Powers of the Corporation

The powers of the Corporation shall include, but shall not be limited to the following:

- (a) the employment and dismissal of personnel necessary for the maintenance and operation of the common elements;
- (b) the investment of reserve monies held by the Corporation in accordance with the Act;
- (c) the settling, adjusting or referring to mediation and/or arbitration of any claim or claims which may be made upon or which may be asserted on behalf of the Corporation;
- (d) entering into the following agreements as required from time to time:
 - (i) a management agreement with an individual or corporation to manage the affairs and assets of the corporation at such compensation and upon such terms as the board may determine in its sole discretion;
 - (ii) an insurance trust agreement with an insurance trustee as permitted by the Act at such compensation and upon such terms as the board may determine in its sole discretion;
 - (iii) an agreement required by the supplier of any utility or service to the Corporation upon such terms as the board may determine in its sole discretion;

- (iv) any other agreements which may be permitted by the Act and the Declaration and which are deemed advisable, desirable or necessary by the board;
- (e) the authority to object to assessments under the *Assessment Act* on behalf of owners if it gives notice of the objections to the owners and to authorize the defraying of costs of objections out of the common expenses;
- (f) the borrowing of such amounts in any fiscal year as the board determines are necessary or desirable in order to protect, maintain, preserve or ensure the due and continued operation of the property in accordance with the Act, Declaration and by-laws of the Corporation and the securing of any loan of any amount by mortgage, pledge or charge of any asset (other than the reserve fund) of the Corporation, subject in each case to approval of each such borrowing, loan or security by a majority vote of the owners at a meeting duly called for that purpose or as required by the Act, provided however, the board may maintain overdraft protection, in its general account, in an amount not exceeding one-twelfth (1/12) of the Corporation's current budget without requiring the approval of the Owners;
- (g) leasing any part of the non-exclusive use common elements, or granting or transferring any easement, right-of-way or license over, upon, under or through (or otherwise affecting) any part or parts of the common elements, and/or releasing and abandoning any appurtenant easement(s) or right(s)-of-way heretofore or hereafter granted to (or created in favour of) the Corporation, in respect of any servient tenement burdened or encumbered thereby, on the express understanding that to the extent that subsection 21(1) of the Act requires a by-law to authorize such a lease, licence, easement or right of way, or such a release and abandonment of easement, then this by-law shall accordingly be deemed and construed for all such purposes to be (and constitute) the by-law providing the board with the requisite authority to enter into any such lease, licence, easement or right of way, or any such release and abandonment of easement, and any such lease, license, easement, right of way or release of easement may be executed on behalf of the Corporation by the authorized signing officer(s) of the Corporation, with or without the seal of the Corporation affixed thereto, and same shall be valid and binding on the Corporation without requiring the consent or concurrence of (or the written authorization or signature of) any owner(s) thereto;

ARTICLE V

MEETINGS OF OWNERS

5.1 Annual Meeting:

The annual meeting of owners shall be held within six (6) months following the Corporation's fiscal year end at such place and on such day and time in each year as the board may from time to time determine for the purpose of receiving

reports and statements required by the Act, the Declaration and By-laws of the Corporation, electing directors, appointing the auditor and fixing or authorizing the board to fix the auditor's remuneration, and for the transaction of such other business as may be set out in the notice of meeting.

5.2 The First Annual General Meeting:

Pursuant to subsection 45(2) of the Act, the board shall hold the first annual general meeting of owners not more than three (3) months after the registration of the Declaration, and subsequently within six (6) months of the end of each fiscal year of the Corporation. The owners shall, at such first meeting, appoint one or more auditors to hold office until the close of the next annual meeting, and if the owners fail to do so, the board shall forthwith make such appointment. The remuneration of an auditor shall be fixed by the owners (if the auditor is appointed by the owners), or fixed by the board (if authorized to do so by the owners, or if the auditor is appointed directly by the board). The Corporation shall then give notice in writing to an auditor of his or her appointment forthwith after such appointment is made.

5.3 Special Meetings:

The board shall, upon receipt of a requisition in writing made by owners who together own not less than fifteen (15%) per cent of the common interests (parcels of tied land), call and hold a meeting of the owners within thirty-five (35) days of the receipt of the requisition or if the requisitionists so request in the requisition or consent in writing, add the business to be presented at the requisitioned meeting to the agenda for the next annual general meeting. If the meeting is not called and held within thirty-five (35) days of receipt of the requisition, any of the requisitionists may call the meeting, which meeting shall be held within forty-five (45) days of the day on which the meeting is called. The board may at any time call a special meeting of the owners for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

5.4 Notices:

At least fifteen (15) days written notice of every meeting specifying the place, the date, the hour and the nature of the business to be presented shall be given to the auditor of the Corporation and to each owner and mortgagee entitled to vote and entered on the record twenty (20) days before the date of the meeting in accordance with subsection 47(5) and 70(2) of the Act. The Corporation shall not be obligated to give notice to any Owner who has not notified the Corporation that he/she has become an Owner nor give notice to any mortgagee who has not notified the Corporation of his/her entitlement to vote and address for service.

5.5 Reports:

A copy of the financial statement and a copy of the auditors report shall be furnished to every owner and mortgagee entered on the record at least twenty (20) days before the date of any annual general meeting of Owners. A copy of the minutes of meetings of owners and of the board, shall be furnished to any owner or mortgagee who has requested same, within thirty (30) days of such request upon payment to the Corporation of a reasonable charge for labour and photocopying.

5.6 Persons Entitled to Be Present:

The only persons entitled to attend a meeting of owners shall be the owners and mortgagees entered on the Record, and any others entitled to vote thereat, the auditor of the Corporation, the directors and officers of the Corporation, a representative of the property manager, and others who, although not entitled to vote, are entitled or required under the provisions of the Act or the Declaration and By-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chairperson of the meeting or with the consent of the meeting.

5.7 Quorum:

At any meeting of owners, a quorum shall be constituted when persons entitled to vote and owning not less than twenty-five (25%) percent of the common interests (parcels of tied land) are present in person or represented by proxy. If thirty minutes after the time appointed for the holding of any meeting of owners, a quorum is not present, the meeting shall stand adjourned and if the meeting was an annual general meeting, the board shall call a further meeting of the owners in accordance with the Act.

5.8 Right to Vote:

Subject to the restrictions in paragraphs 5.11 and 5.13 of this Article V, every owner of a common interest (parcel of tied land) that has the right to vote in accordance with the Act shall be entitled to vote who is entered on the Record as an owner or has given notice to the Corporation, in a form satisfactory to the Chairperson of the meeting that he/she is an owner. If a common interest (parcel of tied land) has been mortgaged, and the person who mortgaged such common interest (parcel of tied land) (or his/her proxy) has expressly authorized or empowered the mortgagee to vote and exercise the right of the owner to vote in respect of such common interest (parcel of tied land) and such mortgagee has, at least four (4) days before the date specified in the notice of meeting, notified the owner and the Corporation of his/her intention to exercise such right, such mortgagee shall be entitled to vote upon filing with the Secretary of the meeting sufficient proof of same. Any dispute over the right to vote shall be resolved by

the chairperson of the meeting upon such evidence as the chairperson may deem sufficient. Each owner or mortgagee shall be entitled to only one (1) vote per common interest (parcel of tied land).

5.9 Conduct of Meetings and Method of Voting:

At any meeting of owners, the president of the Corporation (or to whomever the president may delegate the responsibility) or failing him/her, the vice-president, or failing him/her, some other person appointed by the board or failing such appointment, such other person elected at the meeting shall act as chairperson of the meeting and the secretary of the Corporation shall act as secretary of the meeting or, failing him/her, the chairperson shall appoint a secretary. Any question shall be decided by a show of hands unless a poll is required by the chairperson or is demanded by an owner or mortgagee present in person or by proxy and entitled to vote, and unless a poll is so required or demanded, a declaration by the chairperson that the vote upon the question has been carried, or carried by a particular majority, or not carried, is prima facie proof of the fact without proof of the number of votes recorded in favour of or against such question; provided, however, that voting for the election of directors shall be by ballot only, other than in the case of acclamation. A demand for a poll may be withdrawn. If a poll is so required or demanded and the demand is not withdrawn, a poll upon the question shall be taken in such manner as the chairperson shall direct.

5.10 Representatives:

An estate trustee, committee of a mentally incompetent person, or the guardian or trustee of an owner or mortgagee (and where a corporation acts in such capacity any person duly appointed a proxy for such corporation) upon filing with the Secretary sufficient proof of his/her appointment, shall represent the owner or mortgagee at all meetings of the owners, and may vote in the same manner and to the same extent as such owner or mortgagee. If there be more than one estate trustee, committee, guardian or trustee, the provisions of paragraph 5.11 of this Article V shall apply.

5.11 Co-Owners:

If a common interest (parcel of tied land) or a mortgage on a common interest (parcel of tied land) is owned by two or more persons, any one of them present or represented by proxy may in the absence of the other or others vote, but if more than one of them are present or represented by proxy, the majority of the owners of the common interest (parcel of tied land) shall decide how the vote is exercised.

5.12 Votes to Govern:

At all meetings of owners every question shall, unless otherwise required by the Act, Declaration or By-laws be decided by a majority of the votes duly cast on the question.

5.13 Entitlement to Vote:

Save and except in those instances where the Act provides or stipulates that the unanimous vote of all owners is required on any matter, issue, resolution or motion, an owner or mortgagee is not entitled to vote at any meeting if any common expenses or other monetary contributions that are payable in respect of the owner's or mortgagee's common interest (parcel of tied land) are in arrears for more than thirty (30) days prior to the meeting, provided however that such an owner or mortgagee may nevertheless vote if the Corporation receives payment, by way of a certified cheque, of all the arrears (and all other costs and expenses owing to the Corporation) before the meeting is held.

5.14 Proxies:

Every owner or mortgagee entitled to vote at any meeting of the owners may, by instrument in writing, appoint a proxy, who need not be an owner or mortgagee, to attend and act at the meeting, in the same manner, to the same extent and with the same power, as if the owner or mortgagee were present at the meeting. The instrument appointing a proxy shall be in writing signed by the appointor or his/her attorney authorized in writing, and shall be effective for a particular meeting only. The instrument appointing a proxy shall be deposited with the secretary prior to the start of the meeting.

5.15 Minutes:

While the Corporation may produce, circulate and/or maintain minutes of any meeting that contain a more detailed narrative description of the proceedings at any meeting of Owners, the Corporation shall prepare, circulate and maintain a minute record of each meeting which records the following, and only the following, information:

- (a) the date, time and place of the meeting;
- (b) those present in person and by proxy at the meeting;
- (c) the identity and method of appointment of the Chair and the Secretary of the meeting;
- (d) confirmation of the due calling of the meeting;
- (e) confirmation of a quorum;
- (f) the disposition of each agenda item, including a record of the mover, seconder (where necessary) and disposition of every motion made and vote held pursuant to the agenda;

- (g) a record of the mover, seconder (where necessary) and disposition of every other motion made at the meeting;
- (h) a record (by brief description only) of any matter raised or discussed in addition to agenda items;
- (i) adjournment of the meeting; and
- (j) certification of the Secretary and Chair of the meeting.

ARTICLE VI

BOARD OF DIRECTORS

6.1 The Corporation:

The affairs of the Corporation shall be managed by a board of directors.

6.2 Number of Directors and Quorum:

The number of directors shall be three (3) of whom two (2) shall constitute a quorum for the transaction of business at any meeting of the board. Notwithstanding vacancies, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

6.3 Qualifications:

Each director shall be 18 or more years of age and need not be an owner of a common interest (parcel of tied land) in the Corporation. No undischarged, bankrupt or mentally incompetent person shall be a director and if a director becomes a bankrupt or mentally incompetent person, he thereupon ceases to be a director. A director immediately ceases to be a director if a certificate of lien has been registered against a common interest (parcel of tied land) owned by the director and the director does not obtain a discharge of the lien within ninety (90) days of the registration of the lien.

6.4 Consent: No election or appointment of a person as a director shall be effective unless:

- (a) he/she consents in writing to act as a director before his/her election or appointment or within ten (10) days thereafter; or
- (b) he/she was present at the meeting when he/she was elected or appointed and did not refuse at that meeting to act as a director.

6.5 Election and Term:

- (a) The directors of the Corporation shall be elected in rotation and shall be eligible for re-election. At the turnover meeting held pursuant to Section 43 of the Act, one (1) director shall be elected to hold office for a term of one (1) year; one (1) director shall be elected to hold office for a term of two (2)

years; and one (1) director shall be elected to hold office for a term of three (3) years. Such directors may, however, continue to act until their successors are elected. If more than one (1) of such directors whose terms are not of equal duration shall resign from the board prior to the expiration of their respective terms, and shall be replaced at a meeting of owners called for that purpose, the director or directors receiving the greater number of votes shall complete the longest remaining terms of the resigning directors. At each annual meeting thereafter a number of directors equal to the number of directors retiring in such year shall be elected for a term of three (3) years.

- (b) If at least fifteen (15%) percent of the common interests (parcels of tied land) are owner occupied (as defined in subsection 51(5) of the Act), no persons other than the owners of owner-occupied common interests (parcels of tied land) may elect a person to one of the positions on the board. If fifteen (15%) percent of the common interests (parcels of tied land) are owner-occupied at the turnover meeting, the position on the board to be elected by owners of owner-occupied common interests (parcel of tied land) shall be the director elected for the one (1) year term and thereafter when that position becomes vacant (either because of resignation or the term has expired) the director for that position shall be voted upon only by the owners of owner-occupied common interests (parcel of tied land). If at least fifteen (15%) percent of the common interests (parcel of tied land) are not owner-occupied at the turnover meeting, but in any subsequent year more than fifteen (15%) percent of the common interests (parcel of tied land) become owner-occupied, the position of a director whose terms expires in that year shall be designated the director to be elected by owners of owner-occupied common interests (parcel of tied land) and thereafter when that position becomes vacant (either because of resignation or the term has expired), the director for that position shall be voted upon only by the owner of owner-occupied common interests (parcel of tied land).

6.6 Filling of Vacancies and Removal of Directors:

- (a) If a vacancy in the membership of the board occurs, other than by way of removal by the owners or as a result of the number of directors being increased, subject to subparagraph (c) of this paragraph 6.6, the majority of the remaining members of the board may appoint any person qualified to be a member of the board to fill the vacancy until the next annual meeting at which time the vacancy shall be filled by election of the owners.
- (b) Where the number of directors is increased, the vacancies resulting from such increase shall be filled only by election at such meeting of the owners and the director(s) so elected shall not act until the by-law increasing the number of directors is registered.

- (c) When there is not a quorum of directors in office, the director(s) then in office shall forthwith call a meeting of owners to fill the vacancies and, in default or if there are no directors then in office, the meeting may be called by an owner.
- (d) Any director may be removed before the expiration of his term by a vote of owners who together own a majority of the common interests (parcel of tied land) and the owners may elect, in accordance with the by-laws dealing with the election of directors, any person qualified to be a member of the board for the remainder of the term of the director removed provided the director elected by owners of owner-occupied common interests (parcel of tied land) may only be removed by a vote of the owners of owner-occupied common interests parcel of tied land) in accordance with the Act.

6.7 Calling of Meetings:

Meetings of the board shall be held from time to time at such place and at such time and on such day as the President or any two directors may determine, and the Secretary shall call meetings when authorized by them. Notice of any meeting so called shall be delivered personally, by prepaid mail, courier delivery or electronic communication to each director addressed to him at his latest address, entered on the Record of the Corporation not less than forty-eight (48) hours (excluding any part of a Sunday or of a holiday as defined by the Interpretation Act of Canada for the time being in force) before the time when the meeting is to be held save that no notice of a meeting shall be necessary if all the directors are present and consent to the holding of such meeting, or if those absent have waived notice of or otherwise signified in writing their consent to the holding of such meeting.

6.8 Regular Meetings:

The board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the board fixing a place and time of regular meetings of the board shall be given to each director forthwith after being passed, but no other notice shall be required for any such regular meeting.

6.9 Teleconference:

A meeting of the board may be held or convened by way of teleconference, or any other form of communication system that allows all of the directors to participate concurrently and to communicate with each other simultaneously and instantaneously, provided that all of the directors participating in a meeting held or convened by such means have consented thereto, and a director so

participating in any such meeting held or convened by such means shall be deemed [for the purposes of subsection 35(5) of the Act and this by-law] to be present at such meeting. The board may, by resolution signed by all the directors, provide their consent, in advance, to have meetings of the board conducted in the manner contemplated herein, without the necessity of requiring new consents prior to each and every meeting, provided that such resolution (and the standing consent referred to therein) shall be automatically rendered ineffective from and after (but not prior to) the delivery to the board by any director of a written notice revoking his or her consent to such resolution.

6.10 First Meeting of New Board:

The board may without notice hold its first meeting for the purpose of organization and the election and appointment of officers immediately following the appointment of the directors of the first board provided a quorum of directors be present.

6.11 Conflict of Interest:

A director shall not be disqualified by reason of his office from contracting with the Corporation. Subject to the provisions of the Act, a director shall not by reason only of his office be accountable to the Corporation or to its owners for any profit or gain realized from a contract or transaction in which he has an interest, and such contract or transaction shall not be voidable by reason only of such interest, provided that the provisions in the Act relating to a declaration of interest have been followed.

6.12 Protection of Directors and Officers:

No director or officer of the Corporation shall be liable for the acts, neglect or default of any other director or officer or for any loss or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by order of the board for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, securities or effects of the Corporation shall be deposited or for any loss occasioned by an error of judgment or oversight on his part or for any other loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his/her office or in relation thereto, unless the same shall happen through his/her own dishonest or fraudulent act or acts.

6.13 Indemnity of Directors and Officers:

Every director and officer of the Corporation and their respective heirs, estate trustees, successors, and other legal personal representatives shall at all times be indemnified and saved harmless by the Corporation from and against:

- a) any liability and all costs, charges and expenses that the director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or her for or in respect of anything done, permitted to be done, or omitted to be done, by him or her, in respect of the execution of the duties of his or her office; and
- b) all other costs, charges and expenses that such director or officer sustains or incurs in respect of the affairs of the Corporation;

excluding however all costs, charges and expenses incurred directly or indirectly as a result of such director's or officer's own dishonest or fraudulent act or acts, or through or by such director's or officer's gross negligence, recklessness, wilful blindness or intentional misconduct (with all of the liabilities and costs for which each director and officer shall be indemnified being hereinafter collectively referred to as the "**Liabilities**"), unless the Act or the by-laws of the Corporation provide otherwise, on the express understanding that:

- i) no director or officer shall be indemnified by the Corporation in respect of any liabilities, costs, charges and/or expenses that he or she sustains or incurs arising from any action, suit or other proceeding in which such director or officer is adjudged to be in breach of his or her duty to act honestly and in good faith;
- ii) the Corporation is advised of any such action, suit or other proceeding (and of all liabilities, costs, charges and expenses in connection therewith) forthwith after the director or officer receives notice thereof or otherwise becomes aware of same; and
- iii) the Corporation is given the right to join in the defence of any such action, suit or proceeding.

6.14 Insurance:

Subject to the limitations contained in the Act, the Corporation shall purchase and maintain such insurance for the benefit of the directors and officers as the board may from time to time determine.

6.15 Standard of Care:

Every director and officer shall exercise the powers and discharge the duties of his or her office honestly and in good faith, and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

6.16 Consent of Director at Meeting:

A director who is present at a meeting of directors, or committee of directors, is deemed to have consented to any resolution passed at such meeting or to any action taken thereat, unless such director:

- a) requests that his or her dissent is entered in the minutes of the meeting; or
- b) delivers a written dissent to the secretary of the meeting before the meeting is terminated.

A director who votes for (or consents to) a resolution is not entitled to dissent under or pursuant to the foregoing provisions hereof.

6.17 Deemed Consent of a Director:

A director who was not present at a meeting at which a resolution was passed or any action taken is deemed to have consented thereto unless within seven (7) days after becoming aware of the resolution, the director:

- a) causes his or her dissent to be entered into (or annexed to) the minutes of the meeting; or
- b) delivers a written dissent to the Corporation, personally or by registered mail.

6.18 Minutes

While the Corporation may produce, circulate and/or maintain minutes of any meeting that contain a more detailed narrative description of the proceedings at any meeting of Directors, the Corporation shall prepare, circulate and maintain a minute record of each meeting which records the following, and only the following, information:

- (a) the date, time and place of the meeting;
- (b) those present in person and by proxy at the meeting;
- (c) the identity and method of appointment of the Chair and the Secretary of the meeting;
- (d) confirmation of the due calling of the meeting;

- (e) confirmation of a quorum;
- (f) the disposition of each agenda item including confirmation of the moving, seconding (where necessary) and disposition of every motion made and vote held pursuant to the agenda;
- (g) confirmation of the moving, seconding (where necessary) and disposition of every other motion made at the meeting;
- (h) adjournment of the meeting; and
- (i) certification of the Secretary and Chair of the meeting.

ARTICLE VII

OFFICERS

7.1 Elected President:

At the first meeting of the board, after each election of directors and whenever a vacancy in the office occurs, the board shall elect from among its members a President. Until such elections, the then incumbent (if a member of the board) shall hold office.

7.2 Other Elections and Appointments:

The board shall appoint or elect a secretary, a treasurer and such other officers as the board may determine, including one or more assistants to any such officers. The officers so elected may, but need not be, members of the board. One person may hold more than one office.

7.3 Term of Office:

The board may by resolution remove at its pleasure any officer of the Corporation.

7.4 President:

The President, shall, when present unless he/she has delegated the responsibility, preside at all meetings of the owners and of the board, and shall be charged with the general supervision of the business and affairs of the Corporation. Except when the board has appointed a General Manager or Managing Director, the President shall also have the powers and be charged with the duties of that office.

7.5 Vice-President:

During the absence of the President his/her duties may be performed and his/her powers may be exercised by the Vice-President, or if there are more than one, by the Vice-Presidents, in order of seniority as determined by the board. If a Vice-President exercises any such duty or power the absence of the President shall

be presumed with reference thereto. A Vice-President shall also perform such duties and exercise such powers as the board may prescribe.

7.6 General Manager:

The General Manager, if one be appointed, shall have the general management and direction, subject to the authority of the board and the supervision of the President, of the Corporation's business and affairs, and the power to appoint and remove any and all employees and agents of the Corporation not elected or appointed directly by the board, and to settle the terms of their employment and remuneration. The terms of employment and remuneration of the General Manager appointed by the board shall be settled from time to time by the board.

7.7 Secretary:

The Secretary shall give or cause to be given all notices required to be given to the owners, directors, auditors, mortgagees and all other entitled thereto; he/she shall attend all meetings of the directors and owners and shall enter or cause to be entered in records kept for that purpose minutes of all proceedings at such meetings; he/she shall be the custodian of all books, paper, records, documents and other instruments belonging to the Corporation, and he/she shall perform such other duties as may from time to time be prescribed by the board.

7.8 Treasurer:

The Treasurer shall keep or cause to be kept full and accurate books of account in which shall be recorded all receipts and disbursements of the Corporation and under the direction of the board shall control the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation; he/she shall render to the board whenever required of him/her an account of all his/her transactions as Treasurer, and of the financial position of the Corporation; and he shall perform such other duties as may from time to time be prescribed by the board. The offices of Secretary and Treasurer may be combined.

7.9 Other Officers:

The duties of all other officers of the Corporation shall be as set out in the terms of their employment or as the board further declares. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant unless the board otherwise directs.

7.10 Agents and Attorneys:

The board shall have power from time to time to appoint agents or attorneys for the Corporation with such powers of management or otherwise (including the power to subdelegate) as may be thought fit.

7.11 Committees

In order to assist the board in managing the affairs of the Corporation, the board may from time to time establish or constitute such advisor committees to advise and make recommendations to the board in connection with any activities undertaken (or under consideration) by the board, including those related to management, budgets, rules and/or any other matters related to the common elements or any facilities, services or amenities (or any portion thereof). The members of such committees shall be appointed by the board to hold office, and may be removed at any time by resolution of the board.

ARTICLE VIII **BANKING ARRANGEMENTS AND CONTRACTS**

8.1 Arrangements:

The banking business of the Corporation or any part thereof shall be transacted with such bank or trust company as the board may designate or appoint from time to time by resolution, and all such banking business, or any part thereof, shall be transacted on the Corporation's behalf by such one or more officers or other persons as the board may designate, direct or authorize from time to time by resolution and, to the extent therein provided, including without restricting the generality of the foregoing, the operation of the Corporation's accounts, the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders relating to any property of the Corporation; the execution of any agreement relating to any such banking business and defining the rights and powers of the parties thereto; and the authorizing of any officer of such bank to do any act or thing on the Corporation's behalf to facilitate such banking business.

8.2 Execution of Instruments:

Subject to the provisions of the Act, and subject to the provisions of any other by-law(s) of the Corporation specifically designating the person or persons authorized to execute any type or class of documents on behalf of the Corporation, all deeds, transfers, assignments, contracts and obligations on behalf of the Corporation may be signed by any two directors of the Corporation. Any contract or obligation within the scope of any management agreement entered into by the Corporation may be executed on behalf of the Corporation in accordance with the provisions of such management agreement. The manager of the Corporation, any two members of the board, or the Corporation's solicitor, may execute a certificate of lien or discharge thereof. Subject to the provisions of the Act and the Declaration, but notwithstanding any provisions to the contrary contained herein or in any other by-laws of the Corporation, the board may at any

time (and from time to time) by resolution direct the manner in which, and the person or persons by whom, any particular deed, transfer, assignment, contract, cheque or obligation, or any class of deeds, transfers, assignments, contracts, cheques or obligations of the Corporation may or shall be signed.

8.3 No Seal

Despite anything contained in this by-law to the contrary, any document or instrument that would otherwise require a seal need not be executed under the seal of the Corporation, provided that same has been duly executed by the person or persons expressly authorized and empowered to execute same on behalf of the Corporation, nor shall any such document or instrument be duly witnessed, in order to be valid, effective and binding upon the Corporation, provided that the name of the signatory, his or her office in the Corporation, and the phrase "I/We have the authority to bind the Corporation" are clearly set out below the signature(s) of the person(s) expressly authorized and empowered to execute same on behalf of the Corporation, and any such duly executed document or instrument shall have the same validly and binding effect on the Corporation (for all purposes) as if same had been duly executed under the seal of the Corporation.

8.4 Execution of Status Certificates:

Status certificates may be signed by any officer or any director of the Corporation provided that the board may by resolution direct the manner in which, and the person by whom, such certificates may or shall be signed from time to time.

ARTICLE IX **FINANCIAL YEAR END**

9.1 Financial Year End:

The financial year end of the Corporation shall end on the last day of the preceding month in which the declaration and description creating the Corporation were registered, in each year, or on such other day as the board by resolution may determine.

ARTICLE X **NOTICE**

10.01 Method of Giving Notices

Except as otherwise specifically provided in the Act, the Declaration, this by-law, or any other by-law(s) of the Corporation hereafter enacted, any notice(s), communication(s) or other document(s), including budgets and notices of

assessment required to be given, served or delivered shall be sufficiently given or served if given in accordance with the following provisions:

- a) to an owner: [who has notified the Corporation in writing of his or her ownership interest in any common interest (parcel of tied land), and of his or her name and address for service], by giving same to such owner (or to any director or officer of such owner, if the owner is a corporation) either:
 - (i) personally, by courier, or by ordinary mail, postage prepaid, addressed to such owner at the address for service given by such owner to the Corporation; or
 - (ii) by facsimile transmission, electronic mail, or by any other method of electronic communication (if the owner agrees in writing that the party giving the notice may do so in this manner); or
 - (iii) delivered at the owner's parcel of tied land or at the mail box for the owner's parcel of tied land, unless:
 - (A) the party giving the notice has received a written request from the owner that the notice not be given in this manner; or
 - (B) the address for service that appears in the Records is not the address of the parcel of tied land of the owner.
- b) to a mortgagee who has notified the Corporation in writing of his or her interest as mortgagee in any common interest (parcel of tied land), and of his or her name and address for service, and of his or her right under the terms of the mortgage to vote at a meeting of owners (or to consent in writing) in the place and stead of the mortgagor/owner, by giving same to such mortgagee (or to any director or officer of such mortgagee, if the mortgagee is a corporation) either:
 - (i) personally, by courier, or by ordinary mail, postage prepaid, addressed to such mortgagee at the address for service given by such mortgagee to the Corporation; or
 - (ii) by facsimile transmission, electronic mail, or by any other method of electronic communication (if the mortgagee agrees in writing that the party giving the notice may do so in this manner).
- c) to the Corporation by giving same personally to any director or officer of the Corporation, or by courier or by registered mail, postage prepaid, addressed to the Corporation at its address for service as set out in the Declaration, or as changed in accordance with the requirements of the Act.

10.02 Receipt of Notice

If any notice is mailed as aforesaid, then such notice shall be deemed to have been received (and to be effective) on the second (2nd) day following the day on which same was mailed. If any notice is delivered personally, by courier, or by facsimile transmission or by any other method of electronic communication, then such notice shall be deemed to have been received (and to be effective) on the next day following the day on which same was personally delivered, couriered, telefaxed, or sent by any other method of electronic communication, as the case may be.

10.03 Omissions and Errors

Except as may otherwise be provided in accordance with the Act, the accidental omission to give any notice to anyone entitled thereto, or the non-receipt of such notice, or any error in any notice not affecting the substance thereof, shall not invalidate any action taken at any meeting of owners or directors held pursuant to such notice or otherwise founded thereon.

ARTICLE XI **ASSESSMENT AND COLLECTION OF COMMON EXPENSES**

11.1 Duties of the Board:

All expenses, charges and costs of maintenance of the common elements and any other expenses, charges or costs which the board may incur or expend pursuant hereto shall be assessed by the board and levied against the owners in the proportions in which they are required to contribute to the common expenses as set forth in the Declaration. The board shall from time to time, and at least annually, prepare a budget for the property and determine by estimate, the amount of common expenses for the next ensuing fiscal year, or remainder of the current fiscal year, as the case may be, which shall include provision for a reserve fund as required by the Act. The board shall advise all owners promptly in writing of the amount of common expenses payable by each of them respectively determined as aforesaid, and shall deliver copies of each budget on which common expenses are based to all owners and mortgagees entered in the Record.

11.2 Owner's Obligations:

Each owner shall pay to the Corporation the amount of such assessment in equal monthly payments on the first day of each and every month next following notice of such assessment by way of twelve (12) postdated cheques or execution of pre-authorized payment plan, until such time as a new assessment has been provided to such owner.

11.3 Extraordinary Expenditures:

In addition to the annual assessment, extraordinary expenditures not contemplated in the foregoing budget and for which the board shall not have sufficient funds, may be assessed at any time during the year by the board serving notice of such assessment on all owners, as an additional common expense. The notice shall include a written statement setting out the reasons for the assessment. The assessment shall be payable by each owner within ten (10) days after the delivery thereof to him, or within such further period of time or in such instalments as the board may determine.

11.4 Default in Payment of Assessment:

- (a) Arrears of payments required to be made under the provisions of this article shall bear interest at a rate determined by the board from time to time and in default of such determination shall bear interest at the rate of eighteen (18%) per cent per annum and shall be compounded monthly until paid.
- (b) In addition to any remedies or liens provided by the Act, if any owner is in default in payment of an assessment levied against him/her for a period of fifteen (15) days, the board may retain a solicitor on behalf of the Corporation to enforce collection and there shall be added to any amount due all costs of such solicitor as between a solicitor and his/her own client and such costs may be collectible against the defaulting owner in the same manner as common expenses.
- (c) The board when giving notice of default in payment of common expenses or any other default to the owner of the common interest (parcel of tied land), shall concurrently send a copy of such notice to each mortgagee of such common interest (parcel of tied land) who has requested that such notices be sent to him/her.

ARTICLE XII **LIABILITY FOR COSTS**

12.1 Abatement and Restraint of Violations by Owners and Liability for Costs:

The owner of a common interest (parcel of tied land) is responsible for any cost incurred to repair:

- (a) damage to the common elements or other common interest (parcel of tied land) that may, have been caused by either the Owner's use or his/her residents or their visitors use of same; and

- (b) damage to the common elements that has been caused by the deliberate or negligent conduct of any owner, resident or their invited guests.

In those cases where it has been determined that the responsibility for payment of the cost to repair is that of an owner, or where an owner requests to repair a common element him/herself, the board of directors shall approve the selection of the contractor and/or the method of repair. This decision, at the discretion of the board, shall be based on a minimum of two (2) bids, the method of repair, the meeting of standards of uniformity and consideration of the convenience of the owner(s) involved.

12.2 Additional Rights of Corporation:

The violation of any provisions of the Act, the Declaration, the By-laws, and/or the rules adopted by the board of directors, shall give the board the right, in addition to any other rights set forth in these by-laws:

- (a) to enter the parcel of tied land in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the board shall not thereby be deemed guilty in any manner of trespass; or
- (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, including without limiting the generality of the foregoing, an application for an order for compliance by implementing such proceedings as provided for in Part IX of the Act.

12.3 Insurance Deductible:

Pursuant to subsections 105(2) and (3) of the Act, where any insurance policy obtained or maintained by the Corporation contains a deductible clause that limits the amount payable by the insurer, then the portion of any loss that is excluded from coverage shall be deemed a common expense, provided however that if an owner, tenant or any other person residing in the owner's parcel of tied land with the permission or knowledge of the owner, by or through any act or omission causes damage to such owner's parcel of tied land, or to any other parcel(s) of tied land, or to any portion of the common elements, in those circumstances where such damage was not caused or contributed by any act or omission of the Corporation (or any of its directors, officers, agents or employees), then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's common interest (parcel of tied land), together with all costs and expenses incurred by the Corporation (either directly or indirectly) in resolving such claim and/or having such damage fully rectified (including the increase in

insurance premiums, if any, charged or levied against the Corporation by its insurer as a result of such claim or damage, together with all legal costs incurred by the Corporation: on a solicitor and client basis), and shall be recoverable from such owner in the same manner (and upon the same terms) as unpaid common expenses.

ARTICLE XIII **PROCEDURES FOR MEDIATING DISPUTES**

13.1 Mediation Procedures

For the purposes of complying with sections 125 and 132 of the Act (if and where applicable), the procedure with respect to the mediation of disputes or disagreements between the Corporation and any owner(s) shall be conducted in accordance with the rules of procedure for the conduct of mediation attached hereto as Appendix "A".

ARTICLE XIV - MISCELLANEOUS

14.1 Invalidity:

The invalidity of any part of this by-law shall not impair or affect in any manner the validity, enforceability or effect of the balance thereof.

14.2 Gender:

The use of the masculine gender in this by-law shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires, and vice versa.

14.3 Waiver:

No restriction, condition, obligation or provision contained in this by-law shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

14.4 Headings:

The headings in the body of this by-law form no part thereof but shall be deemed to be inserted for convenience of reference only.

14.5 Alterations:

This by-law or any part thereof may be varied, altered or repealed by a by-law passed in accordance with the provisions of the Act, and the Declaration.

14.6 Conflicts:

In the case of a conflict between the provisions of the Act and any provision in the Declaration, By-laws or Rules, the Act shall prevail. In the case of a conflict between the provisions in the Declaration and any provision in the By-laws or Rules, the Declaration shall prevail. In the event the provisions of the Act or in the Declaration are silent the provisions of the By-laws shall prevail.

DATED at _____ this _____ day of _____, 20__.

YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. __

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have the authority to bind the
Corporation.

APPENDIX "A" TO BY-LAW #1

ARTICLE 1 **PRE-MEDIATION PROCEEDINGS**

Prior to submitting a dispute on any question or matter to a mediator appointed by the parties in accordance with Section 132 of the *Condominium Act, 1998* as set forth below, and within fourteen (14) days of the dispute first arising, the owner (or owners) and the board of directors shall meet on at least one occasion, and shall use their best efforts to resolve the question or matter in dispute through good faith negotiations conducted at such meeting and, if the parties are able to agree upon the selection of a neutral person who may be and include the Corporation's property manager and/or a highly regarded member of the community, the meeting shall include such neutral person(s), all acting with a view to securing a resolution of the question or matter in dispute without further proceedings, including the conduct of mediation with the assistance of an outside mediator.

If one of the parties to the question or matter in dispute is unable or unwilling to participate in the initial meeting described in the preceding paragraph, then either party to the dispute may within 5 business days give written notice to the other that it is submitting the question or matter in dispute to the mediation and arbitration procedures set forth below.

If the parties, having met and used their best efforts to resolve the question or matter in dispute through good faith negotiation, have been unable to resolve the question or matter in dispute, then either party may, thereafter, give notice to the other that it is submitting the question or matter in dispute to mediation.

ARTICLE 2 **MEDIATION**

Within 30 days following the giving of notice by one party to the other party or parties as set forth above, the question or matter in dispute shall be settled, initially, by mediation proceedings in accordance with Section 132 of the *Condominium Act, 1998*.

Selection and Role of the Mediator:

The party serving notice of mediation shall set forth in the notice to the other party the names, qualification and experience of two or more mediators from whom the other party may select one, or alternatively, may furnish to the first party its own list of two or more persons qualified to act as a mediator, and within 7 days thereafter, the parties shall communicate directly with one another to select a mediator. If the parties are unable to agree upon the selection of a mediator within 7 days, or within such longer period of time as may be agreeable to the parties, then the parties shall apply to the

Ontario Court of Justice, whose decision in the appointment of a qualified mediator for this purpose shall be final and binding upon the parties.

The mediator selected by the parties or, failing their agreement, appointed by the Ontario Court of Justice, shall not have had any current or past relationship of any kind with any of the parties that might otherwise give rise to justifiable doubts as to his or her impartiality or independence in assuming a neutral role as a mediator to assist the parties in the resolution of their dispute.

The mediator's role is to assist the parties to negotiate a resolution of their dispute. The mediator will not make decisions for the parties about how the matter should or must be resolved.

Party Confidentiality:

The parties to the question or matter in dispute acknowledge that mediation is a confidential settlement process, and that they are participating in the process with the understanding that anything discussed in the mediation cannot be used in any other proceeding.

Pre-mediation information:

Each of the parties shall provide to the mediator a brief description of the dispute in writing in order to facilitate a more complete understanding of the controversy and the issues to be mediated not less than two (2) days prior to the first mediation session, which date the mediator shall have authority to establish at the earliest possible and convenient date to the parties.

Authority to Settle:

The parties or those representing them at the mediation shall have full, unqualified authority to settle the controversy.

Mediator Confidentiality:

The mediator shall not disclose to anyone who is not a party to the mediation anything said or any materials submitted to the mediator except when ordered to do so by judicial authority or where required to do so by law.

Legal Representation:

The parties may seek legal representation or advice prior to or during the mediation. They may have lawyers present at the mediation, if they so desire. If the mediator selected by the parties is a qualified lawyer, he or she will not provide legal representation or legal advice to any party at any time, and the mediator has no duty to assert or protect the legal rights and responsibilities of any party, or to raise any issue

not raised by the parties themselves, or to determine who should participate in the mediation.

Right to Withdraw:

In accordance with Section 132 of the *Condominium Act*, 1998, it is mandatory that each party to the dispute attend the initial mediation session. Prior to such attendance, each party shall provide the mediator with a brief description of the dispute in writing. Subject to the foregoing requirements, each party shall be entitled to withdraw at and from the initial mediation session.

Costs of the Mediation:

In accordance with Section 132 of the *Condominium Act*, 1998, each party shall pay the share of the mediator's fees and expenses that the settlement specifies, if a settlement is obtained, or the mediator specifies in the notice stating that the mediation has failed, if the mediation fails.

Notice and Report:

In the event that the parties are unable, with the assistance of the mediator, to settle their dispute, the mediator shall deliver a notice to the parties stating that the mediation has failed, and the parties shall thereafter resolve their dispute by arbitration under the *Arbitration Act*, 1991 and in the manner set forth below.

Settlement:

In accordance with Section 132 of the *Condominium Act*, 1998, upon obtaining a settlement between the parties with respect to the disagreement submitted to mediation, the mediator shall make a written report of the settlement which shall form part of the agreement or matter that was the subject of the mediation.

Condominium Act, 1998

CERTIFICATE IN RESPECT OF A BY-LAW
(under Subsection 56(9) of the *Condominium Act, 1998*)

York Region Common Elements Condominium Corporation No. _____ (known as the "**Corporation**") certifies that:

- 1. The copy of By-law No. 2 attached hereto is a true copy of the By-law.
- 2. The By-law was made in accordance with the *Condominium Act, 1998*.
- 3. The owners of a majority of the parcels of tied land ("Potls") of the Corporation have voted in favour of confirming the By-law.

DATED this _____ day of _____, 20____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. _____**

Per: _____
Name:
Title

Per: _____
Name:
Title

I/We have the authority to bind the Corporation.

YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ●

BY-LAW NO. 2

Be it enacted as a By-law of York Region Common Elements Condominium Corporation No. ____ (hereinafter referred to as this or the "**Corporation**") as follows:

1. That the Corporation enter into an agreement with RUTHERFORD HEIGHTS INC. (the "**Declarant**") generally or substantially in the form of agreement annexed hereto as Schedule "A" (hereinafter referred to as the "**Licence Agreement**"), for the purposes, amongst other things, of granting the Declarant and/or any other company related, affiliated and/or associated with the Declarant (hereinafter referred to as the "**Permitted Party**") a licence to enter upon the common element areas of the Corporation for the purposes of allowing the Permitted Party to conduct its/their construction, marketing, sales, customer service, leasing programs, and to erect and maintain marketing, sales, construction, customer service, leasing offices therein and/or model suites (as permitted by the applicable zoning by-laws) at such location within a dwelling or upon the common elements as the Permitted Party may select, in its sole discretion, as well as to use the visitor parking, all until the lesser of 21 years less one day, or such time as the Permitted Party has sold all of the dwellings owned by it in the Condominium (hereinafter referred to as the "**Marketing Termination Date**"). In addition, the Licence Agreement shall provide a licence to the Declarant to enter upon the common element areas of the Corporation for the purposes of enabling the Declarant to complete and fulfil all of the terms and conditions set out in any development agreement, site plan agreement and/or servicing agreement (collectively called the "**Outstanding Municipal Agreements**"). Lastly, the Licence Agreement shall oblige the Corporation to assume and be responsible for all continuing obligations and aspects provided for in the Outstanding Municipal Agreements.
2. That the Corporation be and it is hereby authorized to execute the Licence Agreement and any further documents or assurances as may be required from time to time by the Declarant and that all terms, provisions and conditions set out in the Licence Agreement (including without limitation, all covenants and agreements by or on behalf of the Corporation therein set out), are hereby authorized, ratified, sanctioned and confirmed.
3. That the President and/or Secretary and/or Director of the Corporation be and he/she is hereby authorized to execute, on behalf of the Corporation, the Licence Agreement, together with all other documents and instruments which are ancillary thereto, including without limitation, all instruments, applications and/or affidavits which may be required in order to register the Licence Agreement on title to the condominium property. The affixation of the corporate seal of the Corporation to all such documents and instruments is hereby authorized, ratified, sanctioned and confirmed.
4. That all terms, provisions and conditions set out in the Licence Agreement (including without limitation, all covenants and agreements by or on behalf of the Corporation therein set out), are hereby authorized, ratified, sanctioned and confirmed.

York Region Common Elements Condominium Corporation No. ____ hereby enacts the foregoing by-law, having been duly approved by all of the directors of the Corporation and confirmed, without variation, by the Declarant who owns 100 percent of the dwelling units in the Corporation, pursuant to the provisions of the *Condominium Act, 1998*, and any amendments thereto.

Dated this _____ day of _____, 20____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO.____**

Per: _____
Name:
Title:

I have authority to bind the Corporation.

SCHEDULE "A"

LICENCE AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20____

B E T W E E N:

RUTHERFORD HEIGHTS INC.

(hereinafter called the "**Declarant**")

OF THE FIRST PART

- and -

YORK REGION COMMON ELEMENTS

CONDOMINIUM CORPORATION NO.

(hereinafter called the "**Condominium**" or the "**Corporation**")

OF THE SECOND PART

WHEREAS the Declarant warrants that it is the owner of all parcels of tied land ("**Potls**") of York Region Common Elements Condominium Plan No. _____, together with their appurtenant common interests;

AND WHEREAS the Declarant requires the use of certain portions of the common elements in connection with its ongoing construction/customer service/marketing/sales/leasing programs;

NOW THEREFORE THESE PRESENTS WITNESSETH that in consideration of the sum of \$10.00 of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged by all parties hereto).

1. The Condominium hereby formally grants to the Declarant and/or any corporation related or affiliated thereto or associated therewith (the "**Permitted Party**"), its employees or agents, a licence to enter upon, construct and utilize portions of the common element areas of the Condominium, for the purposes, amongst other things, of:
 - a) allowing the Permitted Party to conduct its/their construction, marketing, sales, customer service, leasing programs, and to erect and maintain marketing, sales, construction, customer service, leasing offices therein and/or model dwellings (as permitted by the applicable zoning by-laws) at such location within or upon the common element areas of the Condominium and/or Potls owned by the Permitted Party, as the Permitted Party may select, in its sole discretion, until the earlier of the expiry of this licence or the date that the Permitted Party has sold and transferred title to all of the Potls in the Condominium owned by it (hereinafter referred to as the "**Marketing Termination Date**");
 - b) erecting and maintaining signs for marketing/sales/leasing purposes (as permitted by the applicable zoning by-laws) upon any part of the common elements, and within or outside any Potls owned by the Permitted Party, pursuant to the Permitted Party's on-going marketing program for the developments owned or being undertaken by it, at such locations and having such dimensions as the Permitted Party may determine in its sole discretion, until the Marketing Termination Date, all without any charge for the use of the space so occupied, nor for any utility services supplied thereto;
 - c) using the common element visitor parking spaces. This licence use shall be

extended to all invitees of the Permitted Party; and

- d) carrying out and/or fulfilling all of the terms and conditions contained in any development agreements, utility agreements, site plan agreements, servicing agreements registered against and/or binding the Potls and common elements of the Corporation (the “**Outstanding Municipal Agreements**”), entered into by the Declarant and/or any predecessor in title and any governmental authority and/or public and/or private service and/or utility commission.
2. The Corporation shall ensure that no actions or steps are taken by the Corporation, or by any Potl owner, which would prohibit, limit or restrict the access and egress of the Permitted Party and its/their employees, agents and invitees over the common element areas of this Condominium, to and from the aforementioned sales/marketing/construction/customer service/leasing offices and/or the temporary model dwellings, if applicable, at all times during the opening hours of such offices, subject however to such reasonable and customary restrictions on access thereto as may be implemented by the board of directors.
 3. The cost of erecting, maintaining and ultimately dismantling the said marketing, sales, construction, customer service, leasing offices (and model dwellings, if any) shall be borne by the Permitted Party using same, but such party shall not be charged for the use of the space so occupied in or upon the common elements, nor for any utility services supplied thereto, nor shall the Corporation (or anyone else acting on behalf of the Corporation) prevent or interfere with the provision of utility services to the said marketing, sales, construction, customer service, leasing offices, used by the Permitted Party within the Condominium.
 4. The Corporation further agrees to execute such further documents or assurances as the City of Vaughan and/or the Declarant may hereafter require in order to evidence and confirm the Corporation’s obligations to comply with the Outstanding Municipal Agreements.
 5. The Corporation hereby covenants and agrees to assume and be responsible for all obligations under the Outstanding Municipal Agreements of a continuing and maintenance nature and to indemnify and save the Declarant harmless from and against all suits, claims, damages, losses, expenses or otherwise arising or resulting from the Condominium not complying with the Outstanding Municipal Agreements and further agrees not to make any alteration, addition or modification to the common elements of the Corporation until such time as the Declarant has received a release from all applicable parties of any securities held by such parties securing any obligations of the Declarant under such agreements.
 6. The foregoing licence above shall automatically expire upon the earlier of the Marketing Termination Date or 21 years, less one day, following the date of registration of the Condominium. The foregoing licence in paragraph 1(d) above shall automatically expire upon the earlier of the date that the Declarant has completed all of its obligations under the Outstanding Municipal Agreements, and received the release of its securities provided thereunder or 21 years, less one day, following the date of registration of the Condominium.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals, duly attested to by their respective proper signing officers.

RUTHERFORD HEIGHTS INC.

Per: _____
Name:
Title:

I have authority to bind the Corporation.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. __**

Per: _____
Name:
Title:

I have authority to bind the Corporation.

CERTIFICATE IN RESPECT OF A BY-LAW
(under subsection 56 (9) of the *Condominium Act, 1998*)

York Region Common Elements Condominium Corporation No. _____ (known as the "**Corporation**")
certifies that:

- 1. The copy of By-law Number 3, attached as a schedule hereto, is a true copy of the By-law.
- 2. The By-law was made in accordance with the *Condominium Act, 1998*.
- 3. The owners of a majority of the parcels of tied land ("Potls") of the Corporation have voted in favour of confirming the By-law.

Dated this _____ day of _____, 20____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. __**

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

We have the authority to bind the Corporation.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ●**

BY-LAW NO. 3

Be it enacted as a By-law of York Region Common Elements Condominium Corporation No. ____ (hereinafter referred to as this or the “**Corporation**”) as follows:

- 1. That the Corporation enter into an agreement with RUTHERFORD HEIGHTS INC. (“**Declarant**”) generally or substantially in the form of agreement annexed hereto as Schedule "1" (hereinafter referred to as the “**Limited Recourse and Indemnity Agreement**”), for the purposes of, amongst other things:
 - a) covenanting with the Declarant that the Corporation’s remedies as against the Declarant and any party that may seek indemnity and contribution from the Declarant, for design and construction deficiencies and/or incomplete work with respect to the parcels of tied land (“**Potls**”) and common elements shall be limited to the relief, protocols and procedures as set out in the *Condominium Act, 1998*, S.O. 1998, C.19, as amended, and/or its regulations (“**Permitted Claims**”);
 - b) indemnifying the Declarant from and against all actions, suits, claims, damages, expenses and/or liabilities arising from any breach by the Corporation of its covenant;
- 2. That the Corporation be and it is hereby authorized to execute the Limited Recourse and Indemnity Agreement and any further documents or assurances as may be required from time to time by the Declarant and that all terms, provisions and conditions set out in the Limited Recourse and Indemnity Agreement (including without limitation, all covenants and agreements by or on behalf of the Corporation therein set out), are hereby authorized, ratified, sanctioned and confirmed;
- 3. That the President and/or Secretary and/or Director of the Corporation be and he/she is hereby authorized to execute, on behalf of the Corporation, the Limited Recourse and Indemnity Agreement, and amendments thereto as the Board of Directors shall approve, together with all other documents and instruments which are ancillary thereto, including without limitation, all instruments, applications and/or affidavits which may be required in order to register the Limited Recourse and Indemnity Agreement on title to the condominium property. The affixation of the corporate seal of the Corporation to all such documents and instruments is hereby authorized, ratified, sanctioned and confirmed; and
- 4. That all terms, provisions and conditions set out in the Limited Recourse and Indemnity Agreement (including without limitation, all covenants and agreements by or on behalf of the Corporation therein set out), are hereby authorized, ratified, sanctioned and confirmed.

York Region Common Elements Condominium Corporation No. ____ hereby enacts the foregoing by-law, having been duly approved by all of the directors of the Corporation and confirmed, without variation, by the Declarant who owns 100 percent of the Potls in the Corporation, pursuant to the provisions of the *Condominium Act, 1998*, and any amendments thereto.

Dated this ____ day of _____, 20__.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ____**

Per: _____
Name:
President

Per: _____
Name:
Secretary

We have authority to bind the Corporation.

SCHEDULE “1”

LIMITED RECOURSE AND INDEMNITY AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20____.

B E T W E E N:

RUTHERFORD HEIGHTS INC.
(hereinafter called “**Declarant**”)

OF THE FIRST PART

- and -

YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. **
(hereinafter called the “**Condominium**” or the “**Corporation**”)

OF THE SECOND PART

WHEREAS the Corporation is authorized and has agreed to enter into an agreement with the Declarant limiting its legal rights and rights of recourse as against the Declarant and all parties that may seek indemnity and relief from the Declarant (“**Permitted Claims**”);

NOW THEREFORE THESE PRESENTS WITNESSETH that in consideration of the sum of \$10.00 of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged by all parties hereto).

1. The effective date of this agreement notwithstanding its authorization and execution shall be deemed to be the date of registration of the Corporation.
2. The Corporation covenants and agree that its rights of action and/or claim and/or damages of any nature against the Declarant or any party whom may seek contribution or indemnity from the Declarant, for construction and design deficiency claims and/or incomplete work with respect to the parcels of tied land (“**Potls**”) and common elements of the Corporation (“**Deficiency Claims**”) shall be limited to those rights, remedies and avenues of recourse specifically granted to the Corporation pursuant to the Condominium Act, 1998, S.O. 1998, C. 19, as amended (the “**Act**”) and/or its regulations (collectively referred to as “**Permitted Claims**”).
3. The Corporation’s only recourse and remedy against the Declarant for a final and binding resolution in respect of any Permitted Claims and/or Deficiency Claims for any outstanding, incomplete or deficient construction items and any other related matters relating to the Potls and common elements of the Condominium shall be through the process established and administered under the Act.
4. The Corporation agrees to indemnify and save the Declarant harmless from all losses, liabilities, losses, costs expenses, actions, causes of actions, suits claims, demands for damages or loss which are brought by the Corporation in contravention of this Agreement.
5. This Agreement shall neither be terminated nor terminable by the Corporation following the meeting held in accordance with Section 43 of the Act.
6. This agreement shall enure to the benefit of and shall bind the successors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals, duly attested to by their respective proper signing officers.

RUTHERFORD HEIGHTS INC.

Per: _____
Name:
Title:

I have authority to bind the Corporation.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ____**

Per: _____
Name:
President

Per: _____
Name:
Secretary

We have authority to bind the Corporation.

CERTIFICATE IN RESPECT OF A BY-LAW

(Under subsection 56(9) of the *Condominium Act, 1998*)

York Region Common Elements Condominium Corporation No. _____ (known as the "**Corporation**") certifies that:

- 1. The Copy of By-law No. 4, attached as Schedule "A", is a true copy of the By-law.
- 2. The By-law was made in accordance with the *Condominium Act, 1998*.
- 3. The owners of a majority of the parcels of tied land ("Potls") of the Corporation have voted in favour of confirming the By-law.

Dated this _____ day of _____, 20____.

YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ____

Per: _____
Name :
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the
corporation

YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. ●
(the “Corporation”)

BY-LAW NO. 4

A by-law respecting the assumption by the Corporation of certain obligations of Rutherford Heights Inc. (the “**Declarant**”), and in particular (but without limiting the generality of the foregoing) pertaining to any restrictive covenant, site plan, development or like or similar agreements pertaining to the lands comprising the Corporation (collectively, the “**Assigned Agreements**”) between the Declarant, or the Declarant’s predecessors in title, and the respective parties to each of the Assigned Agreements.

WHEREAS the Assigned Agreements run with the lands comprising this Corporation and bind the owners, from time to time, of the parcels of tied land (“**Potls**”) and common elements of the Corporation;

BE IT ENACTED as a by-law of York Region Common Elements Condominium Corporation No.● as follows:

1. That all the terms, provisions and conditions set forth in the Assigned Agreements which are intended to bind the owner and its successors and assigns are hereby assumed, sanctioned and ratified by the Corporation in the same manner as if it were an original signatory to the Assigned Agreements in this regard.
2. That the Corporation is further authorized to enter into an assignment agreement (the “**Assignment Agreement**”) in the general form annexed hereto, with the Declarant and the parties to the Assigned Agreements to assume all of the obligations and liabilities of the Assigned Agreements. Pursuant to the Assignment Agreements, the Corporation shall indemnify and save harmless the Declarant (its officers, directors and shareholders) from any and all claims, causes of action, damages and costs whatsoever, including legal costs (on a substantial indemnity basis) arising from any breach, default or omission by the Corporation of the ongoing obligations of an owner as set forth in the Assigned Agreements, together with an obligation of this Corporation to execute any further documents or assurances that the Declarant and/or the other parties to the Assigned Agreements may require in order to give full effect to the provisions pertaining to the obligations and responsibilities set forth in the Assigned Agreements.
3. The President or the Vice President and any director of the Corporation be and are hereby authorized to enter into the Assignment Agreement for and on behalf of the Corporation. The affixing of the corporate seal of the Corporation to all such documents and instruments is hereby authorized, ratified, sanctioned and confirmed.

WITNESS the corporate seal of the Corporation this day of , 20____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ●**

Per: _____
Name :
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the corporation

A SCHEDULE TO BY-LAW NO. 4

YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. _____
(the “Corporation”)

ASSIGNMENT AGREEMENT

To: The Benefiting Parties (hereinafter defined)

And To: Rutherford Heights Inc. (the “Declarant”)

A. **WHEREAS** the Corporation is required to assume certain obligations of the Declarant, as set forth in the registered Declaration of this Corporation, regarding various agreements pertaining to the lands comprising this Corporation including:

1. Instrument No. ● registered ●, being a Site Plan Agreement with the City of Vaughan, together with any amendments thereto; and
2. **[TO BE UPDATED PRIOR TO REGISTRATION TO REFLECT ANY FURTHER AGREEMENTS TO BE ASSUMED].**

(collectively the “**Assigned Agreements**”), between the Declarant, or the Declarant’s predecessors in title, and the parties to the Assigned Agreements (the “**Benefiting Parties**”);

NOW THEREFORE this Agreement witnesseth in consideration of the mutual covenants and agreements hereinafter set forth and of further good and valuable consideration and the sum of Ten Dollars (\$10.00) of lawful money of Canada, paid by each party to the other (the receipt and sufficiency of which is hereby acknowledged by each of the parties), the parties hereto hereby covenant and agree to and with each other and each of them as follows:

1. The Corporation hereby agrees to assume and be bound by all of the covenants, agreements and ongoing obligations of an owner pursuant to the Assigned Agreements in the same manner as if the Corporation were an original signatory thereto.
2. The Corporation further agrees to indemnify and save harmless the Declarant, its officers, directors and shareholders, from any and all claims, causes of action, damages and costs whatsoever arising from or in respect to any breach or omission or default by this Corporation of the obligations of an owner as set forth in the Assigned Agreements, and of its obligations to the Declarant under this Agreement.
3. The Corporation covenants and agrees to provide to the Declarant and/or to the Benefiting Parties, forthwith upon request of any of them, any and all further written assurances regarding the obligations by this Corporation relating to the Assigned Agreements, at no cost to the Declarant and/or to the Benefiting Parties.

Dated this _____ day of _____, 20____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. ●**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the
corporation

RUTHERFORD HEIGHTS INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the
corporation

Condominium Act, 1998

CERTIFICATE IN RESPECT OF A BY-LAW
(under Subsection 56(9) of the *Condominium Act, 1998*)

York Region Common Elements Condominium Corporation No. _____ (known as the "**Corporation**") certifies that:

1. The copy of By-law No.5 attached as Schedule "A" is a true copy of the By-law.
2. The By-law was made in accordance with the *Condominium Act, 1998*.
3. The owners of a majority of the parcels of tied land of the Corporation have voted in favour of confirming the By-law.

DATED this ____ day of _____, 20__.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. _____**

Per: _____
Name: _____
Title _____

Per: _____
Name: _____
Title _____

I/We have the authority to bind the Corporation.

YORK REGION COMMON ELEMENTS CONDOMINIUM NO. _____

BY-LAW NO. 5

WHEREAS Rutherford Heights Inc. (the “**Declarant**”), as owner of the lands comprising the Condominium, entered into an Agreement (the “**Shared Facilities Agreement**”) with ●, as owner of the lands comprising the Abutting Condominium (as that term is defined in the Declaration) for the purposes of providing for the mutual use, maintenance, repair and cost sharing of shared facilities for the mutual benefit of the parties who own the property described in the Shared Facilities Agreement, which Shared Facilities Agreement was registered on the ● day of ●, 20__ as Instrument No. ●;

AND WHEREAS York Region Common Elements Corporation No. _____ (the “**Corporation**”) has agreed to assume all of the obligations and liabilities of the Declarant as set out in the Shared Facilities Agreement as they relate to the Condominium and the Condominium’s property;

BE IT ENACTED as a By-law of York Region Common Elements Condominium Corporation No. _____ as follows:

1. The Corporation assumes all of the rights and obligations of the Declarant as set out in the Shared Facilities Agreement, as same may be amended from time to time, in relation to the Condominium and enters into an Assumption Agreement substantially in the form annexed hereto as Schedule “1” (the “**Assumption Agreement**”) to formally assume all of the rights, terms, provisions, benefits and obligations of the Declarant with respect to the Corporation’s property.
2. The Corporation does hereby confirm that all terms, provisions and conditions contained in the Shared Facilities Agreement including all covenants and obligations of the Corporation are hereby authorized, ratified, sanctioned and confirmed.
3. The President or Secretary be and is hereby authorized to execute on behalf of the Corporation, the Assumption Agreement and the Shared Facilities Agreement, together with all other documents as may be necessary to more effectively carry out the intent of this By-law, including but not limited to the granting and acceptance of easements which form part of or which are ancillary to the Shared Facilities Agreement. The affixing of the corporate seal of the Corporation to all such documents and instruments is hereby authorized, ratified, sanctioned and confirmed.

YORK REGION COMMON ELEMENTS CONDOMINIUM CORPORATION NO. _____ hereby enacts the foregoing By-law as By-law No. 5 of the Corporation passed by the Board and confirmed by a vote of owners who own not less than a majority of units, in accordance with the *Condominium Act, 1998*.

DATED this _____ day of _____, 20_____.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. __**

Per: _____

Name:

Authorized Signing Officer

Per: _____

Name:

Authorized Signing Officer

I/We have the authority to bind the
Corporation.

SCHEDULE "1" TO BY-LAW NO. 5

ASSUMPTION AGREEMENT

THIS AGREEMENT made the ● day of ●, 20● among

RUTHERFORD HEIGHTS INC.

(hereinafter called the "**Assignor**")

- and –

**YORK REGION COMMON ELEMENTS CONDOMINIUM
CORPORATION NO. _____**

(hereinafter called the "**Assignee**")

WHEREAS the Assignor is the declarant of a residential condominium corporation registered on those lands described in Schedule "A" annexed hereto (the "**Assignor's Lands**");

AND WHEREAS the Assignee was created by the registration of a declaration pursuant to the *Condominium Act, 1998*, as Instrument No. ● in the Land Titles Division of the York Region Land Registry Office (No. 65) (the "**Declaration**");

AND WHEREAS the Assignor, ● and ● entered into a Shared Facilities Agreement dated as at the ● day of ●, 20____ (the "**Shared Facilities Agreement**");

AND WHEREAS the Shared Facilities Agreement provides, inter alia, for reciprocal easements and licenses, if applicable, that are required between the properties, responsibility for shared facilities and the sharing of costs, a copy of which is attached hereto as Schedule "B";

AND WHEREAS the Shared Facilities Agreement provides that upon the registration of a Condominium on the Assignor's Lands, the Assignor would assign and the Assignee would assume all of the Assignor's right, title and interest in and to the Shared Facilities Agreement;

AND WHEREAS the Declaration provides that the Assignee has the right and obligation to assume the Assignor's right, title and interest in and to the Shared Facilities Agreement;

AND WHEREAS words and phrases which are capitalized herein and which are defined in the Shared Facilities Agreement shall have the same meaning in this Agreement as in the Shared Facilities Agreement except to the extent otherwise specifically provided herein.

NOW THEREFORE THESE PRESENTS WITNESSETH that in consideration of the sum of \$2.00 of lawful money of Canada now paid by each of the parties hereto to the other, and for other good and valuable consideration (the receipt and sufficiency of which is hereby expressly acknowledged), the parties hereto hereby

confirm the veracity of the foregoing recitals, both in substance and in fact, and the Assignee and Assignor hereby covenant and agree as follows, namely:

1. That the Assignee hereby assumes (and shall be bound by) all of the Assignor's obligations contained in the Shared Facilities Agreement in place of the Assignor, including without limitation, all outstanding obligations and liabilities of the Assignor;
2. That the Assignee shall execute and give such further documents and/or assurances as the Assignor may hereafter require, from time to time, in order to evidence and confirm the foregoing; and
3. As of the date hereof, the Assignor is hereby fully released, relieved and forever discharged from all obligations and/or liabilities arising under the Shared Facilities Agreement, including without limitation, the obligation to pay any portion of the Assignor's share of the costs thereunder.

IN WITNESS WHEREOF the undersigned parties have hereunto executed these presents as of the date first above-mentioned.

RUTHERFORD HEIGHTS INC.

Per: _____

Name: _____

Title: _____

I/We have the authority to bind the Corporation.

**YORK REGION COMMON ELEMENTS
CONDOMINIUM CORPORATION NO. __**

Per: _____

Name: _____

Title: _____

I/We have the authority to bind the Corporation.

Schedule “A”

York Region Common Elements Condominium Plan No. _____



Schedule “B”
Shared Facilities Agreement

THE TOWNS OF RUTHERFORD HEIGHTS

RULES

- I. GENERAL
2. QUIET ENJOYMENT
3. SECURITY
4. SAFETY
5. COMMON ELEMENTS
6. WASTE DISPOSAL
7. PARKING
8. PARKETTE

RULES

The following Rules made pursuant to the *Condominium Act*, 1998, SO. 1998, C.19 shall be observed by all owners (collectively, the **"Owners"**) of a parcel of tied land ("Potl") and any other person(s) occupying the Potl with the Owner's approval, including, without limitation, members of the Owner's family, his tenants, guests and invitees.

1. GENERAL

- (a) Use of the Common Elements and Potls shall be subject to the Rules which the Board may make to promote the safety, security or welfare of the owners and of the Property or for the purpose of preventing unreasonable interference with the use and enjoyment of the Common Elements;
- (b) Rules as deemed necessary and altered from time to time by the Corporation shall be binding on all owners and occupants, their families, guests, visitors, servants or agents.
- (C) Any repeal of, or amendment or addition to, the Rules will become effective thirty (30) days after notice of the Rules has been given to each Owner unless the Board receives a requisition in writing, made and signed by the Owners, in accordance with the Act.

2. QUIET ENJOYMENT

Owners and their families, guests, visitors, servants and agents shall not create nor permit the creation or continuation of any noise or nuisance which, in the opinion of the Board or the Manager, may or does disturb the comfort or quiet enjoyment of the Common Elements by other Owners or their respective families, guests, visitors, servants and persons having business with them.

3. SECURITY

Residents are to immediately report any suspicious person(s) seen on the Property to the manager or its staff.

4. SAFETY

- (a) No storage of any combustible or offensive goods, provisions or materials shall be kept on the Common Elements;
- (a) No owner or occupant of a Potl shall do, or permit anything to be done in respect to the Common Elements which will in any way increase the risk of fire or the rate of fire insurance or obstruct or interfere with the rights of other owners, or in any way injure or annoy them, or conflict with the laws relating to fire or with the regulations of the Fire Department or with any insurance policy carried by the Corporation or conflict with any of the rules

and ordinances of the Board of Health or with any statute or municipal by-law.

5. COMMON ELEMENTS

- (a) No one shall harm, mutilate, destroy, alter or litter the Common Elements or any of the landscaping work on the Property;
- (b) No sign, advertisement or notice shall be inscribed, painted, affixed or placed on any part of Common Elements, whatsoever, unless approved by the Board;
- (c) No equipment shall be removed from the Common Elements by, or on behalf of, any owner or occupant of a Potl;
- (d) The walkways which are part of the Common Elements shall not be obstructed by any of the owners or occupants of a Potl;
- (e) Any physical damage to the Common Elements caused by an owner or occupant, his family, guests, visitors, servants, or agents shall be repaired by arrangement and under the direction of the Board at the cost and expense of such owner or occupant;
- (f) No building or structure or tent shall be erected, placed, located, kept or maintained on the Common Elements and no trailer, either with or without living, sleeping or eating accommodations shall be placed, located, kept or maintained on the Common Elements;
- (g) Each pet owner must ensure that any defecation by such pet must be cleaned up immediately by the pet owner, so that the Common Elements are neat and clean at all times.

6. GARBAGE DISPOSAL

- (a) No Owner shall place, leave or permit to be placed or left in or upon the Common Elements any debris, refuse, garbage or recycling material, except on days designated by the municipality, the Board or the Manager as garbage pick-up days and except in areas designated by the Corporation or the Manager as designated waste disposal pads, if applicable. Such debris, refuse, garbage and recycling material shall be contained in City of Vaughan issued garbage and recycling bins, or in properly tied polyethylene or plastic garbage bags not exceeding twenty-five (25) pounds per bag in weight and shall be disposed of as directed by the Manager, if applicable. Where such debris, refuse or garbage consists of large items, crates or cartons, the Owner shall arrange with the Manager or supervisor for disposal thereof and, such crates or cartons shall not, in any event, be left outside.

- (b) Unless provided by the municipality, private refuse collection (curbside) will be provided to the Potls and this Condominium. Recycling of refuse is required by the Municipality and residents will be required to sort refuse in accordance with the recycling requirements of the municipality.

7. **PARKING**

For the purpose of these Rules, "**motor vehicle**" means a private passenger automobile, station wagon, compact van, or motorcycle as customarily understood.

- (a) No vehicles, equipment or machinery, other than motor vehicles belonging to visitors or invitees of owners or residents of Potls shall be parked or left on any part of the Common Elements.
- (b) Parking is prohibited in the following areas:
 - (i) fire zones;
 - (ii) traffic lanes;
 - (iii) delivery and garbage areas; and
 - (iv) roadways, unless in a designated parking area.
- (c) No servicing or repairs shall be made to any motor vehicle, trailer, boat, snowmobile, or equipment of any kind on the Common Elements without the express written consent of the Manager or the Board. No motor vehicle shall be driven on any part of the Common Elements other than on the road portion.
- (d) A parking permit is required with respect to any motor vehicle parked on any area of the Common Elements designated as a "Guest/Visitor Parking Area" between the hours of 2:00 a.m. and 7:00 a.m. at all times. The permit shall be an official permit authorized and issued by the Board of Directors, the Manager and/or its designated agent. Owners are responsible for obtaining a permit on behalf of their guests/visitors, in advance, from the Board of Directors, the Manager and or its designated agent, during normal business hours. A permit shall not be issued for a period in excess of three (3) days. The permit must be visibly displayed on the left front dashboard.
- (e) All motor vehicles operated by Owners must be registered with the Manager. Each Owner shall provide to the Manager the licence numbers of all motor vehicles driven by residents of that Potl.
- (f) No motor vehicle shall be driven on any part of the Common Elements at a speed in excess of the posted speed.
- (g) Mopeds and bicycles shall be operated only on the road and in such manner as not to obstruct traffic. No mopeds and bicycles are permitted to be operated on sidewalks.

- (h) No unlicensed motor vehicle including mopeds and go-carts shall be driven within the Property and no person shall operate a motorized vehicle within the Property without a proper operating licence.
- (i) No person shall park or use a motor vehicle in contravention of these Rules, otherwise such person shall be liable to be fined or to have his/her motor vehicle towed from the Property in which event neither the Corporation nor its agents shall be liable whatsoever for any damage, costs or expenses whatsoever caused to such motor vehicle or to the Owner thereof.
- (j) Guests and visitors shall park only in areas designated as guest or visitor parking.

8. PARKETTE

- (a) The parkette is open for use by residents and their guests only during daylight hours and when properly illuminated by light standards, no later than 10:00 p.m. nightly, 7 days a week.
- (b) For safety purposes, users must be properly attired.
- (c) Use of the parkette is at the user's sole risk. The Corporation and its officers, directors, property manager and employees are not responsible for lost, stolen or damaged personal property or for any injury, illness, accident or death, howsoever caused.
- (d) No smoking is allowed in the parkette.
- (e) Persons under the age of twelve (12) must be accompanied by an adult at all times. Persons over the age of sixteen (16) are only permitted in the parkette when accompanying a person under the age of twelve (12).



MELBOURNE
PROPERTY
MANAGEMENT

CONDOMINIUM MANAGEMENT AGREEMENT

BETWEEN

_____ **COMMON ELEMENTS CONDOMINIUM**
CORPORATION NO. _____

AND

MELBOURNE PROPERTY MANAGEMENT INC.

TABLE OF CONTENTS

CONDOMINIUM MANAGEMENT AGREEMENT..... 4

I. NOMENCLATURE 4

II. TERM..... 4

III. ROLE OF MANAGEMENT 5

IV. SPECIFIC DUTIES OF THE MANAGER..... 6

 (a) Corporation Funds..... 6

 (b) Maintenance and Repair of Property 6

 (c) By-law Enforcement 7

 (d) By-law Advisement..... 7

 (e) Communication to the Owners 7

 (f) Insurance and Claims..... 8

 (g) Inadequate Performance by Contractors 8

 (h) Construction Liens..... 8

 (i) Employees of the Corporation 8

 (j) Employees of the Manager..... 10

 (k) Materials, Equipment and Supplies 10

 (l) Occurrence Report and Preventative Maintenance 10

 (m) Information and Emergency Situation..... 11

 (n) Notice of Meetings..... 11

 (o) Books and Records of the Corporation..... 12

 (p) Annual Budget..... 12

 (q) Financial Reporting 12

 (r) The Register..... 13

 (s) Status Certificate 13

 (t) Manager's Report and Access to Records..... 14

 (u) Investment of Surplus & Reserve Funds 14

 (v) Crime / Fidelity Insurance - of the Manager 14

 (w) Spending Restrictions 14

 (x) Filing of Returns 15

 (y) Personal Information 15

 (z) Occupational Health and Safety Act 15

 (aa) Accessibility for Ontarians with Disabilities Act, 2005 15

 (bb) Director Training..... 15

 (cc) Condominium Authority of Ontario..... 15

 (dd) Information Certificates 16

V. LEGAL SERVICES..... 16

VI. ACCESS TO POTL OR EXCLUSIVE USE AREA 16

VII. MANAGER'S COMPENSATION 16

VIII. POTL REPAIRS, PLANS AND SPECIFICATIONS..... 17

IX. CO-OPERATION OF THE BOARD 17

X. INDEMNIFICATION 18

XI. COMPREHENSIVE LIABILITY INSURANCE 18

XII. SPENDING AUTHORITY AND DEFICIT FINANCING 18

XIII. COLLECTION OF COMMON EXPENSES AND ACCOUNT RECEIVABLE 19

XIV. FIDUCIARY RELATIONSHIPS..... 19

XV. RELATIONS WITH OWNERS AND RESIDENTS 19

XVI. TERMINATION 20

XVII. PROTECTING CONDOMINIUM OWNERS ACT, 2015 21

XVIII. NOTICE 21

XIX. PARTIAL INVALIDITY 21

XX. SUCCESSORS AND PERMITTED ASSIGNS..... 22

XXI. GENDER AND NUMBER 22

XXII. SIGNATURES 22

SCHEDULE A – Additional Costs for additional services 23

SCHEDULE B..... 25

RESOLUTION BY THE BOARD OF DIRECTORS 25

CONDOMINIUM MANAGEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2020

BETWEEN:

TORONTO COMMON ELEMENTS CONDOMINIUM CORPORATION NO.
(hereinafter called the "**Corporation**")

OF THE FIRST PART

- and -

MELBOURNE PROPERTY MANAGEMENT INC.
(hereinafter called the "**Manager**")

OF THE SECOND PART

WHEREAS the Corporation has been created pursuant to the *Condominium Act, 1998*, S.O. 1998, C.19 as amended by registration of a Declaration and a Description in the Land Registry Office of the Land Titles Division of _____, the common elements of which are located at _____, (hereinafter called the "**Property**");

AND WHEREAS the Corporation desires the Manager to manage the affairs, the Property and the assets of the Corporation, and the Manager desires to do so, in accordance with the terms and conditions of this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained and other valuable consideration, the Corporation appoints the Manager and the Manager hereby accepts appointment as the exclusive Manager of the affairs, the Property and the assets of the Corporation on the terms and conditions hereinafter set forth:

NOW THEREFORE THIS AGREEMENT WITNESS that in consideration of the premises and the mutual covenants and agreements herein contained and other valuable consideration, the Corporation appoints the Manager and the Manager hereby accepts appointment as the exclusive Manager of the Property and the assets of the Corporation on the terms and conditions hereinafter set forth;

I. NOMENCLATURE

Unless a contrary intent is expressed in this Agreement, the terms used herein shall have ascribed to them the definitions contained in the *Condominium Act, 1998*, S.O. 1998, c. 19 together with any regulations thereunder, all as amended (hereinafter called the "**Act**"); the *Condominium Management Services Act, 2015*, together with any regulations thereunder, all as amended (the "**CMSA**"); and the Corporation's Declaration, By-Laws and Rules. Any reference to the Declaration, the By-laws or the Rules is a reference to the applicable document of the Corporation and any reference to any such document or to the Act shall be deemed to include, at any given time, reference to all amendments thereto and substitutions therefor up to that time. Headings are for convenience only and shall not affect the interpretation of this Agreement.

II. TERM

The term of this Agreement shall be for a period of three (3) years from the _____ day of _____ 202_ until the _____ day of _____, 202_ and thereafter shall continue in full force and effect from month-to-month unless terminated in accordance with Article XVI hereof.

The term of this Agreement shall extend from dd/mm/yyyy to dd/mm/yyyy, and thereafter shall continue in full force and effect from month to month unless terminated by:

- (a) a notice in writing given by either party to the other not less than sixty (60) days during the term of this Agreement or any renewal thereof, provided, however that the Corporation shall be permitted to make payment in lieu of all or part of the notice period or
- (b) in accordance with the provisions of Paragraph XVI.

III. ROLE OF MANAGEMENT

The Manager acknowledges that it is familiar with the Condominium Act and applicable Regulations and with the terms of the Declaration and By-Laws registered pursuant to the Act connection with the Property as of the date of this Agreement and its management of the Property shall be subject to the specific instructions of the Corporation as expressed by its Board of Directors and to each and every term and condition in this Agreement contained, and it further agrees to carry out expeditiously the instructions of the Board of Directors. The contract documents which govern the relationship of the parties hereto consist of this Agreement, the Declaration, By-Laws, Rules and Resolutions of the Board and of the Owners (the "Owners") including all modifications, amendments and changes issued subsequent to the execution of this Agreement, except that changes materially in any such document subsequent to the date hereof shall have the concurrence of the Manager to the degree that such changes alter its responsibilities under this Agreement with respect of the said altered responsibilities

The Manager shall utilize its experience and knowledge to assist the Board of Directors of the Corporation in the management, supervision, control and administration of the Property and of the assets of the Corporation. In this regard, the Manager accepts the relationship of trust and confidence established between itself, the Board of Directors, and the Owners by virtue of entering into this Agreement. The Manager covenants to furnish its best skill and judgment and to cooperate in furthering the interests of the Corporation.

The Manager agrees to furnish efficient business administration and supervision of a high quality and experienced condominium manager and to perform its responsibilities, both administrative, financial and advisory, in the best manner, consistent with effective management techniques and in the most expeditious and economical manner consistent with the best interests of the Corporation.

The Manager shall conduct its duties consistent with the requirements of the Act, the Declaration, By-Laws and Rules of the Corporation specifically, and, in general, consistent with federal, provincial and municipal laws and regulations as they pertain to the operation of the Corporation and of the property and to the employment of all staff employed by the Corporation who are under the supervision of the Manager. In the event the Manager is instructed to take any action which, in the Manager's opinion, is contrary to the Legal Requirements, the Manager shall advise the Corporation so in writing immediately.

In addition to the indemnity provisions otherwise contained in this Agreement, in the event that any damages are incurred by the Manager by virtue of such instructions given after the Manager has given written notice of disagreement, the Corporation shall fully indemnify the Manager for any loss, cost or damage resulting from such instructions Agreement (if any) and the resolutions of the Board that affect, directly or indirectly, any obligation, authorization or right imposed or conferred on the Manager by this Agreement. Changes to any Agreement Documents (including any new resolution of the Board which constitutes an Agreement Document) made or passed subsequent to the date hereof require the concurrence of the Manager insofar as such changes increase its obligations, authorizations or rights under this Agreement.

The Corporation and the Manager acknowledge that the Manager is an independent contractor. Nothing in this Agreement shall be construed to constitute the parties as in an employment relationship, partnership or agency relationship. All contracts of the Corporation shall be executed by an authorized signing officer (or officers) of the Corporation. Notwithstanding the foregoing, the Manager may be appointed as an agent of the Corporation with limited authority. Such an appointment may only be made by a valid resolution of the Board under the express terms of this Agreement. Should the Board adopt such a resolution, there shall be no change in the Manager's status until such time as the Manager has received written notification from the Board of such change in its legal relationship, and the Manager's status as agent shall be limited only to those matters expressly set out in the Board's resolution referenced herein.

The Manager also acknowledges that the Manager is familiar with and shall comply with the Condominium Management Services Act, 2015, S.O. 2015 c.28, Sch. 2, as amended, and the regulations made thereunder (collectively, the "CMSA").

IV. SPECIFIC DUTIES OF THE MANAGER

The Manager shall immediately become familiar with all of the provisions set out in the major agreements, resolutions, policies and professional opinions applicable to the Corporation. The Manager shall perform, in particular, the following specific duties, subject to the direction of the Board:

(a) Corporation Funds

to collect and receive in trust for the Corporation using appropriate collection procedures, all monies payable pursuant to the Declaration and By-Laws by the Owners or others and to deposit the same forthwith in a separate account with a Canadian chartered bank and maintained by the Manager in the name of the Corporation. All such monies shall thereafter be held in trust by the Manager and be used to perform the duties of the manager, which include but are not limited to:

- (i) pay for insurance coverage and any appraisals in connection therewith required of the Corporation in accordance with the provisions of the Act, the Declaration and By-laws, including Director's Liability Insurance and Crime / Fidelity Insurance covering the Corporation's signing officers;
- (ii) pay the expenses of operating, maintaining and repairing the Property as provided in this Agreement. If the Manager has signing authority for all utility bills, and should the Manager fail to pay any properly incurred utility bills by their due date and such late payment result in a financial penalty or interest charge to the Corporation, the Manager shall be directly liable to the Corporation for such penalty or interest charge;
- (iii) deposit to the credit of the Corporation in a separate bank account for major repair and replacement of the common elements and assets of the Corporation, on a monthly basis or as otherwise directed by the Board, the proportionate amount of the total budgeted expenditure allocated by the Corporation in its budget statement to the Reserve Fund, as well as any cash arising from the investment of Reserve Fund monies (whether as interest, payment at maturity or redemption, proceeds of sale or otherwise); and ensure that the monies so deposited are used only for Reserve Fund expenditures in accordance with subsection 93(2) of the Act, and that such monies are not used in the payment of operating expenses and that such monies shall only be invested in eligible securities prescribed in accordance with an investment plan developed in conjunction with the Board pursuant to subsections 115 (6), (7) and (8) of the Act;
- (iv) pay such other costs or expenses properly chargeable to a bank account of the Corporation as are contemplated in the other provisions of this Article IV; and
- (v) prepare cheques or transfer funds by electronic means, for the payment of all expenses properly incurred by or on behalf of the Corporation, accompanied by an invoice, receipt, work order or such other documentation identifying the particulars of the expense for which payment is being made and submitting them to the Board for approval and signature at least one (1) week in advance of the due date, where feasible. Should the Manager fail to pay and properly incurred accounts by their due date through no fault of the Corporation and such late payments result in a financial penalty or interest charge to the Corporation, the Manager shall be directly liable to the Corporation for such penalty or interest charge.

(b) Maintenance and Repair of Property

Arrange to establish a long-term preventive maintenance program in consultation with the Board relating to all aspects of the physical components of the Property and to prepare for the Board's approval general maintenance procedures and schedules, including, without limiting the generality of the foregoing:

- (i) arrange for the supply, as required, of natural gas, electricity, water and other utilities services;

- (ii) endeavor to comply with the enforcement of any regulations and requirements of the Federal, Provincial and Municipal Authorities having jurisdiction (including, without limitation, Police and Fire Departments and the local Board of Health), as well as with all binding court or tribunal orders, judgments or decrees, which affect the Property and of which the Manager should be aware or has been notified;
- (iii) maintain and repair, or cause to be maintained and repaired, those parts of the Property and the assets of the Corporation which require maintenance and repair in accordance with the Act and the Agreement Documents; including where applicable, litter removal, waste disposal, snow and ice removal, landscaping and grounds maintenance, fire hydrant servicing, alterations necessary in connection with maintaining the Property in a functional condition;
- (iv) carry out the foregoing duties by means of employees of the Manager or the Corporation and/or independent contractors, in each instance, as may be more effective or economical for the Corporation;
- (v) maintain and manage, on behalf of and at the expense of the Corporation, such staff personnel, contractors or subcontractors (in the latter's capacity as the employers or contracting party) as may be required at all times to carry on, promptly and efficiently the foregoing duties and any requirements and instructions of the Board;
- (vi) use its best efforts to ensure that any common element deficiency required by the Corporation to be repaired or rectified is corrected and, if applicable, to pursue the correction of any common element deficiency short of legal action under any warranty applicable to the property; and in this regard the Manager represents and warrants that it is familiar with the filing requirements of the *Ontario New Home Warranty Plan Act* R.S.O. 1990, Chapter O.31, as amended and of the procedures to be followed under that statute in order to protect the interest of the Corporation; Any legal action initiated by the Corporation or against the Corporation by another party and/or any action initiated by the Corporation or another party in the connection with inherent common element defects, Declaration, By-law and/or Rule infractions which results in additional time, labor and material required by Melbourne Property Management Inc. as the manager shall be billed to the Corporation as additional charges in excess of the terms as specified in the management agreement hereby provided; and
- (vii) the Manager shall also recommend and arrange for the performance of Reserve Fund Studies as may be required from time to time pursuant to Section 94 of the Act, subject to the approval of the Board.

(c) By-law Enforcement

Take such action within its power short of legal action to enforce the terms of the Act, the Declaration, the By-Laws, and the Rules and amendments to any of the foregoing which may be in force from time to time subject to the direction of the Board, and to initiate legal action as directed by the Board at the expense of the Corporation.

(d) By-law Advisement

Advise and consult with the Board with respect to any further By-laws or Rules which in the opinion of the Manager ought to be established to further the harmonious and satisfactory operation of the Property and the Corporation for the common benefit of the Owners.

(e) Communication to the Owners

Prepare and distribute newsletters to all owners at regular intervals upon being directed to do so by the Board, provided that the content of such newsletter shall be supplied by the Board. To forthwith after their enactment communicate to all Owners the text and import of any further By-Laws or rules and regulations or amendments thereto provide

(f) Insurance and Claims

- (i) On direction from the Board, obtain for submission to the Board a minimum of two (2) quotations by the Corporation's selected broker for all insurance policies of the Corporation due to expire; make arrangements to ensure that the policies of insurance are properly placed without lapse in coverage; and arrange for any appraisal in connection therewith which may be required by the Agreement Documents or the Board;
- (ii) Ensure that such coverage conforms with all the requirements of the Agreement Documents;
- (iii) Take prompt action to deal with any occurrence of personal injury (including death) or property damage of which the Manager or its on-site employees are made aware and which may result in:
 - 1) any claim by the Corporation under any of its insurance policies;
 - 2) any claim by the Corporation against an owner for damage resulting from the owner's default in the performance of an obligation to maintain and repair; or
 - 3) any other claim by or against the Corporation

Such action shall include, without limitation, taking steps appropriate in the circumstances to end the cause of the injury or damage and locating and preserving the evidence of the cause of the occurrence; and

- (iv) Monitor and report to the Board, or if prompt action is required, to an appropriate officer of the Corporation, developments in the processing of insurance or other claims by or against the Corporation and see that the rights of the Corporation in respect of such claims are protected, including the filing of a notice of claim but excluding the adjusting of any loss.

(g) Inadequate Performance by Contractors

Use reasonable diligence, by direct inspection or giving direction to certified contractors if any, to ensure that contracts and agreements between the Corporation and any supplier of materials, goods and/or services are performed in accordance with their terms; inform the Board and hold back full payment to the contractor in the event performance is considered by the Manager to be inadequate or contrary to the agreed terms; and take advantage of all trade discounts by prompt payment of trade invoices where services are properly performed and/or materials provided in accordance with the contract.

(h) Construction Liens

Retain or cause to be retained holdbacks required by the *Construction Act*, R.S.O. 1990, as amended and use its best efforts to ensure that no claim or lien shall be filed against the title to the Property in respect of any work which may be carried out on behalf of the Corporation and, if a claim or lien shall be filed in respect of such work, inform the Board and forthwith take all necessary steps to have the same removed and discharged as directed by the Board.

(i) Employees of the Corporation

Save and except for those employees described in Paragraph IV (j) whose wages and employment expenses shall be borne by the Manager, the Manager shall

- (i) on the basis of budget allocation and job description approved by the Board and observance of applicable legal requirements, advertise for, recruit, interview, investigate, evaluate and hire at the expense of the Corporation qualified and competent applicants for on-site employment required for the efficient operation and maintenance of the Property and the physical assets of the Corporation,

including, without limitation, administration, supervision, security, repair and cleaning unless such functions have been contracted with independent contractors;

- (ii) in the name of the Corporation, hire as employees of the Corporation such of these applicants as are approved, with authority to dismiss them, only after the approval of the Board; instruct and train such employees (including where appropriate, technical instruction in the operation and maintenance of equipment on the Property); and monitor the performance of such employees (including an annual performance review) and ensure the proper carrying out of their duties. All persons hired as employees of the Corporation to perform services for the Corporation are employees of the Corporation, except the Condominium Manager, the Assistant Condominium Manager and the Site Administrator who are the employee of the Manager. The Corporation assumes all risk and liability in respect of its employees. The Corporation fully indemnifies the Manager for any Loss suffered by the Manager with respect to the settlement or satisfaction of claims, either by adjudication or compromise, which occur as a result of the Corporation's role in the employment of any employee of the Corporation. Notwithstanding the foregoing, where such claims relate to the alleged wrongful termination of such employee, the Corporation shall not be obligated to indemnify the Manager for any Loss with respect to such claims unless the Manager terminated such employee on the express written instruction of the Board. Where such employee has been terminated by the Manager without the express written instruction of the Board, the Manager shall indemnify the Corporation for any Loss with respect to the settlement or satisfaction of claims relating to such employee. For the purpose of this paragraph, Loss includes the amount of any principal sum, award, settlement or verdict, actually paid or payable, after making proper deduction for all recoveries and salvages. Loss also includes those costs incurred by the Manager or the Corporation in the investigation and defense of actions, claims or proceedings and appeals therefrom. Loss includes all costs taxed against the Manager or the Corporation in any civil suit defended by the Manager and any interest accruing after judgment. Notwithstanding the foregoing, Loss as it relates to any claim that the Manager may have against the Corporation pursuant to this subparagraph shall not include any risk or liability resulting from or related to negligence, fraud, illegal or dishonest act or omission or intentional harm or breach of this Agreement by the Manager;
- (iii) arrange for payment by the Corporation, as part of its operating expenses, the wages salaries, benefits and all other employment costs of the employees of the Corporation, including, without limitation, unemployment insurance, Workers' Compensation, Employer's Health Tax and Canada Pension Plan contributions and other employment costs and benefits as herein provided and the Corporation hereby acknowledges its liability in respect of such payments;
- (iv) at the option of the Board, provide to the employees of the Corporation the employment benefits as are provided by the Manager for other Condominium Corporations' employees and bill the Corporation for the cost of such benefits and any applicable taxes;
- (v) indemnify the Corporation for any claim for additional compensation, damages and/or other payments that may be made against the Corporation by the Condominium Manager, upon the termination of employment of such persons or otherwise, the Manager hereby acknowledges that it, and not the Corporation, shall bear any liability arising from such claim and that this provision shall survive the termination of this Agreement; and
- (vi) maintain proper payroll records with respect to all employees of the Corporation; make payroll reports and returns required by law; and remit promptly to the proper authorities all deductions and payments for income tax, unemployment insurance, hospitalization, medical and other group coverage, Canada Pension Plan, Workers' Compensation, Employers' Health Tax, and any other deductions or payments which, from time to time, may be applicable to any such persons and/or the Corporation as the employer.

(j) Employees of the Manager

The Manager shall comply with the following terms and conditions with respect to the employees of the Manager:

- (i) Supply at its own expense the services of a General Licensed Condominium Manager as need to administer the affairs of the corporation.
- (ii) The Corporation agrees that it shall reimburse the Manager for obtaining any necessary licenses and permits for the benefit of the Corporation, including any management licensing required under the *CMSA*. The Manager shall be responsible for complying with any applicable federal, provincial and municipal laws pertaining to the employees, servants, or own agents it employs in carrying out the services under this Agreement and shall, where applicable, pay, deduct, and remit to the appropriate government authority income tax and employer and employee contributions, premiums and assessments for Canada Pension, Employment Insurance, Employer Health Tax and Workers Compensation in respect of its employees who provide services under this Agreement, and any similar deductions or payments which may from time to time be applicable to such employee
- (iii) The Corporation hereby expressly acknowledges and agrees that the Manager has affected considerable monetary and non-monetary input and investment in its infrastructure organization, employees and business, and that the centerpiece of its effective management, continuing expertise, service and improvements is its employees. Accordingly, the Corporation hereby covenants and agrees that it will not knowingly solicit, hire, or engage, either directly or indirectly, any person that the Corporation knew or ought to have known was an employee of the Manager, and that was involved in the management of the Corporation immediately prior to the termination of this Agreement, for a period extending for twelve (12) months after the cessation or termination of this Agreement and/or the Manager's arrangements or relationship with the Corporation, regardless of the manner in which that this Agreement and/or any such arrangements or relationship has ceased or terminated. In the event of the Corporation's breach of the preceding provision, then in addition to any other remedies available to the Manager at law or in equity, it is acknowledged and agreed that the Manager shall be entitled, as a matter of right, to injunctive relief in any court of competent jurisdiction, in pursuit of the enforcement of said provision.

(k) Materials, Equipment and Supplies

Subject to Article XII hereof, purchase subject to (m) above and on behalf of the Corporation such equipment, tools, appliances, materials and supplies as are necessary for the proper operation and maintenance of the Property. All such purchases and contracts shall be in the name of and at the expense of the Corporation.

(l) Occurrence Report and Preventative Maintenance

- (i) The Manager shall prepare for the Board an occurrence report in respect of any significant accident, emergency, breakdown or other situation or occurrence which in the opinion of the Manager ought to be brought to the attention of the Corporation or its Board of Directors. The Manager shall further follow up the occurrence so reported and report to the Board of Directors of the Corporation on the disposition of the said occurrence or as required by the Board. One copy of the occurrence report and any related material will be forwarded to the Board at the Managers expense.
- (ii) Arrange with a third party pursuant to a contract with the Corporation, for the preventative maintenance to equipment, including major technical and electrical equipment and plumbing systems, in accordance with the recommendations of manufacturers or suppliers thereof. The Manager shall also maintain general maintenance procedures and schedules to be followed by any employees of the Corporation. The Corporation shall make available to the Manager all shop drawings,

as-built architectural and structural plans, maintenance and operating manuals for mechanical and electrical equipment and plumbing systems and such other documents as the Manager reasonably requires to carry out its duties that are in the Corporation's possession from time to time.

(m) Information and Emergency Situation

- (i) Receive communications from Owners, residents, mortgagees, Government agencies and other interested parties to the Corporation, which communications, when action is required by the Manager or the Board, shall be requested to be in writing, except in case of emergency; to the extent that the subject matter of any such communication is within the scope of the responsibilities and duties of the Manager under this Agreement, deal with and dispose of, or co-ordinate the dealing with and the disposition of, such matter, provided, however, that any matter involving a policy decision or an interpretation of the Agreement Documents shall be referred to the Board; and, refer to the Board any communications other than those which the Manager is required to receive and deal with;
- (ii) Keep the Board and Owners and Residents advised of the current telephone number or numbers at which an agent or employee of the Manager may be reached, at any time during normal business hours in respect of any infraction of the Agreement Documents or at any time during the day or night, in respect of any emergency involving any part of the Property or any assets of the Corporation; make all arrangements to deal promptly with such infractions and immediately with any such emergency arising in connection with the maintenance and operation of the Property and assets of the Corporation; deal in the first instance with minor emergencies and infractions and forthwith report to the Board any major emergency or persistent, flagrant or serious violation of the Agreement Documents; it being understood that, if the Corporation informs the Manager of an occurrence which the Corporation considers to be an emergency of a major nature, the Manager shall take immediate steps to deal with such occurrence to the extent practicable, whether or not the Manager considers it to be correctly characterized as being of a major nature.
- (iii) Fire and Safety Procedures

Cause to be prepared, by a qualified third-party consultant, and then put into practice, a formal Fire Safety Plan which shall at the minimum include:

- 1) Compliance with the Ontario Fire Code;
- 2) Identification of all residents requiring assistance in the event of an emergency;
- 3) The formation and introduction of response team(s); and
- 4) Identification and elimination on a planned basis of hazards to safety.

(n) Notice of Meetings

- i) An authorized representative of the Manager shall attend meetings of the Board for the whole of such meetings (of no more than three hours in duration) and shall be limited to weekday days or evenings and to no more than four (4) Board meetings annually, plus one meeting of owners/annum. All meetings in excess of the above noted paragraph shall be billed at a rate of One hundred and Fifty dollars (\$250.00) per hour for each Regional or executive in attendance and eighty dollars (\$125.00) per hour for each management representative in attendance.
- ii) At the request of the Board, schedule, arrange facilities and prepare all Notices and accompanying materials for all annual or special meetings of the Owners and deliver to the Owners and Mortgagees entitled thereto within the time(s) prescribed under the Act and the By-laws such notices and other information as are required in connection with the holding of such meetings; and at the expense of the Corporation, copy, distribute or post all notices, other information and other announcements to Owners or residents and distribute or post them in adequate time prior to the applicable event; announcement of work to be performed in the common elements,

and cause an authorized representative of the Manager to attend all meetings of the Board and all meetings of owners unless otherwise directed by the Board.

(o) Books and Records of the Corporation

- (i) Keep the Corporation's books of account and retain full and proper records regarding all financial transactions involved in the management of the Property and to forward to the Corporation (Board of Directors) each month a statement of receipts and disbursements summarizing the transactions made during the preceding month and as, more particularly described in paragraph (c) herein below. All books and records including but not limited to contracts, files, plans, drawings, specifications, architectural and engineering documents, manuals, maintenance and repair logbooks and correspondence, in all forms including those stored electronically kept in relation to the management of the Corporation shall be the property of the Corporation and upon termination of this Agreement shall be forthwith surrendered to the Corporation or to a representative of the Corporation, designated in writing.
- (ii) The Manager will maintain current comprehensive electronic records in the form of an electronic database including, but not limited to:
 - (a) Individual unit records to be maintained in detail including maintenance inquiries, tenders and quotes, work completed and when along with specific authorization if necessary;
 - (b) Records of all general inquiries made by owners of the Corporation either verbally or in writing.

(p) Annual Budget

Prepare and present to the Board with a conservative effort of at least one (1) month before the commencement of each fiscal year during the term of this Agreement an estimated budget, the Manager shall furnish to the Board, in writing, an estimated budget for such year, setting forth by categories, the Manager's best estimate of all expenses of the operation of the property for the coming year including, without limiting the generality of the foregoing, (if applicable) any taxes payable by the Corporation, insurance premiums, water, gas and electric rates and costs of all repairs, renewals, maintenance and supervision of the property. Upon request of the Board or whenever, in the opinion of the Manager, any change from the expenditure forecast in the Annual Budget makes it desirable to do so, the Manager will submit to the Board a supplementary Budget covering the expenses of the operation of the property for the then remaining portion of the current fiscal year. Upon request of the Board, the Manager shall assist the Board with preparation of a long-range budget for the Corporation.

(q) Financial Reporting

- (i) Provide the Board with quarterly and year-to-date itemized unaudited financial statements of each month showing:
 - 1) Corporation income on an accrual basis;
 - 2) dollar amount of common expense assessment collected;
 - 3) dollar amount of expenses by category on an accrual basis, as compared with budgeted expenses;
 - 4) the names of the Owners who are delinquent in payment of their required contribution to common expenses and the amount of each delinquency;
 - 5) the names and amounts of all other delinquent accounts;
 - 6) particulars of accounts, term deposits, certificates and any other information respecting investment income and other assets and liabilities of the Corporation in accordance with generally accepted accounting principles as at the date of the financial statement;
 - 7) particulars of significant variations from budget;
 - 8) an income and expense statement; and
 - 9) a balance sheet.

- (ii) All accounting and financial reporting which is required under the terms of this Agreement to be provided by the Manager to the Corporation shall be in accordance with the reasonable requests of the Corporation's auditors as to format and shall be provided within the reasonable time limit prescribed by the Corporation's auditors
- (iii) If requested by the Treasurer, provide the Treasurer of the Corporation on a monthly basis with a copy of the following
 - 1) A general bank statement summary;
 - 2) A reserve fund bank statement summary;
 - 3) A bank reconciliation for the General Account;
 - 4) A bank reconciliation for the Reserve Account; and
 - 5) A detailed general ledger analysis.
- (iv) If so requested by the directors or any of them, provide copies of the financial documentation referred to in this Article IV(q) in printed form to such directors at the Corporation's expense.

(r) The Register

Maintain a register in accordance with the Act; use its best efforts to keep an up-to-date record of the names and addresses of all Owners and the e-mail addresses of those Owners that have agreed to receive notice by e-mail, those mortgagees who have notified the Corporation of their interest and of any tenants or other occupants of which the Manager has knowledge including any notices of summary of leases, copies of leases and renewal of leases provided in accordance with the Act (the Corporation hereby acknowledges that it is responsible for forwarding forthwith to the Condominium Manager any written notice or other communication received by any Director or Officer of the Corporation from mortgagees or other person claiming an interest in any unit).

(s) Status Certificate

- (i) Upon receipt of a written request from any person and receipt of the fee, prepare for execution by the Board or, where a resolution of the Board authorizes the Manager to do so, by the Manager, and under the seal of the Corporation, a certificate with respect to such unit in the form and with the contents prescribed by such regulations (a "**Status Certificate**") and to issue such Status Certificate within the time limit prescribed by the Act;
- (ii) The Manager shall not be obligated or responsible for inspecting any of the POTLS which are the subject of a request for a status certificate (nor any portion of the exclusive use common element areas appurtenant thereto), in order to determine whether any violation of the provision of the Act, or Corporation's Declaration, By-laws and/or Rules exists, prior to issuing any status certificate in connection therewith. It is expressly understood and agreed that the purchaser, mortgagee or other party or parties requesting a status certificate shall be solely responsible for undertaking any such inspections and the Manager shall ensure that such obligation of the purchaser, mortgagee or other party or parties requesting a status certificate, is clearly stated in the status certificate.
- (iii) Be responsible for the accuracy and completeness of all information included in a Status Certificate and related documentation, provided, however, that the Manager shall not be held liable for any error or omission in any Status Certificate if the same results from the failure of the Board to communicate to the Manager pertinent information that it has, either with respect to the specific unit or with respect to the Corporation in general, which should be taken into account in the preparation of a Status Certificate. Save as aforesaid, and notwithstanding the provisions of Article X, the Manager shall indemnify and save the Corporation and its directors and officers harmless from any damages, demands, claims, costs, losses, actions, suits or obligations whatsoever arising out of any error or omission in the information contained in any Status Certificate of which the Manager had or ought to have had knowledge or arising out of the Manager's failure to issue any Status Certificate within the prescribed time limits prescribed by the Act; this provision shall survive the termination of this Agreement; and

- (iv) Be entitled to the fee prescribed by Regulation pursuant to the Act for the preparation and issuance of Status Certificates and related documentation and such other costs that may be incurred from time to time as a result of the preparation and issuance of same.

(t) Manager's Report and Access to Records

(i) Manager's Report

Present to the Board in writing at each regularly scheduled Board meeting with the Manager a Managers Report, to serve as a written form of communication from the Manager to the Board. This Managers Report shall reflect the directives of the Board to the Manager and shall cause to show the actions of the Manager with respect to those directives of the Board. One copy of any and all correspondence received by the Manager with respect to the operation of the Corporation shall be available for examination by the Board of Directors at the expense of the Manager.

The minutes of meetings of the Board shall be distributed to each Board member by the Manager, provided the contents of the minutes are provided by the independent secretarial, Secretary of the Board or such other Director or Officer appointed by the Board. At the Board's request, independent secretarial services required to be provided by the Manager under this Agreement shall be at a cost to the Corporation of Two Hundred and Fifty Dollars (\$250.00) per meeting or such other rate to be negotiated.

When extra copies of correspondence or reports are requested by the Board of the costs incurred shall be at the expense of the Corporation.

(ii) Access to Records

Make available all books and records pertaining to the operation of the Property and business of the Corporation, at reasonable times, and upon reasonable notice, whenever requested, to the Corporation, its auditors, any officer of the Corporation, any representative of the Board duly authorized in writing, and any Owner, purchaser or mortgagee or his or her agent duly authorized in writing in accordance with s. 55 of the Act and its related regulations.

(u) Investment of Surplus & Reserve Funds

The Manager shall invest capital surplus and reserve account monies in suitable securities and investments permitted under the Act as approved by the Board in order to obtain the acceptable return on such monies for the benefit of the Corporation unless a designated funds manager has been appointed by the Board to oversee such activities.

(v) Crime / Fidelity Insurance - of the Manager

Arrange, obtain and maintain Crime / Fidelity Insurance coverage, covering the Manager's own employees for, in the name, and at the expense of the Manager in an amount of not less than one million dollars (\$1,000,000) per occurrence with loss payable to the Corporation, which Crime / Fidelity Insurance shall not be terminated by either the insurer or the Manager unless at least sixty (60) days prior written notice of cancellation has been delivered by Registered Mail to the Corporation, all members of the Board and, if applicable, to the Corporation's auditors. The Manager shall provide evidence of such Crime / Fidelity Insurance coverage being in place prior to this Agreement becoming effective, annually thereafter as long as this Agreement is in force, and at any time a request for such evidence is made by the Corporation, acting reasonably.

(w) Spending Restrictions

Where the cost of performing work or services (other than utilities) and/or goods or materials to be furnished to the Corporation exceeds the sum of Three Thousand Five Hundred Dollars (\$3,500), for any one item or series of related items or to have a duration in excess of one (1) year, obtain and submit at least three (3) written tenders unless the Board is satisfied with a fewer number, for presentation to the Board and obtain the approval of the Board prior to entering into the contract.

(x) Filing of Returns

In connection with all contracts to perform work or services entered into by the Manager, execute and file necessary documents and do and perform all acts required under the laws of any Federal, Provincial, Municipal or other Government body or authority, provided, however, that Corporation Tax Returns are to be filed by the Corporation's Auditor.

(y) Personal Information

- (i) The term "personal information" shall mean all information about an identifiable individual as set out in all applicable privacy laws, including but not limited to the *Personal Information Protection and Electronic Documents Act* (Canada) (Personal Information). The Manager shall protect and keep confidential all Personal Information about or pertaining to all individuals that is disclosed by the Corporation or otherwise obtained by the Manager under this Agreement. During and after the term of the Agreement, the Manager shall collect and use Personal Information of the Corporation's unit owners and residents only to exercise the rights and perform the obligations for which such information was disclosed to the Manager, as specifically set forth in or clearly implied by this Agreement;
- (ii) The Manager may not disclose Personal Information to another party unless such disclosure is (i) permitted under this Agreement; (ii) authorized by the Corporation, or (iii) required by law, in which case the Manager will provide prior notice of such disclosure to the Corporation.

(z) Occupational Health and Safety Act

The Manager covenants and agrees to comply with the provisions of the *Occupational Health and Safety Act* ("OHSA") including monitoring the Corporation's policies with respect to workplace violence and harassment. and/or sourcing appropriate staff training as authorized by the Corporation, at the Corporation's expense. The Manager shall act reasonably to ensure the safety of the Property as a workplace for those who attend the Property to provide services.

(aa) Accessibility for Ontarians with Disabilities Act, 2005

The Manager covenants and agrees to comply with the provisions of the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA"), and without limitation, and acknowledges that its employees are familiar with the customer service standard under AODA. The Manager will also use reasonable efforts to require that all third- party contractors comply with AODA.

(bb) Director Training

The Manager shall make reasonable efforts to ensure that all persons elected or appointed to the Board of Directors complete the mandatory director training within six (6) months of election or appointment, as required by the Condominium Act. The Manager shall request evidence of the director's completion of the mandatory training and shall ensure said evidence is retained as a record of the Corporation.

(cc) Condominium Authority of Ontario

The Manager shall pay the Condominium Authority of Ontario ("CAO") assessment fees, on behalf of and at the expense of the Corporation, in accordance with the provisions of the Act.

The Manager shall file with the Registrar all Returns and Notices of Change on behalf of the Corporation as prescribed by the Act, and any related filing fees shall be borne by the Corporation except that the Manager shall indemnify and save harmless the Corporation from any fees or financial penalties arising from the late filing of any returns or notices required to be filed with the Registrar.

(dd) **Information Certificates**

Prepare and deliver Periodic Information Certificates, Information Certificate Updates and New Owner Information Certificates, as required in accordance with the Act, at the expense of the Corporation.

V. **LEGAL SERVICES**

The services of the Manager shall not include the provision of legal services of any kind but shall include the procuring of such services upon the express instructions of the Board.

VI. **ACCESS TO POTL OR EXCLUSIVE USE AREA**

Subject to compliance with any applicable requirement, condition or restriction imposed by the Act, the Declaration and the By-laws, the Manager, its employees and agents may enter into any POTL or exclusive use area of the common elements for the purpose of carrying out the Manager's duties and responsibilities under this Agreement.

VII. **MANAGER'S COMPENSATION**

- (a) Unless terminated in accordance with the provisions of Article XVI, the Manager shall be compensated as follows, the current fees being due and payable from the current common expense assessments collected each month and payable monthly in advance, on the first day of each and every month:

Unless terminated in accordance with the provisions of Article XVI, a fee of _____ Thousand and _____ Hundred Dollars (\$ _____) per month from _____, 202_ to _____, 202_, a fee of _____ Thousand and _____ Hundred Dollars (\$ _____) per month from _____, 202_ to _____, 202_, and a fee of _____ Thousand and _____ Hundred Dollars (\$ _____) per month from _____, 202_ to _____, 202_.

is payable monthly in advance, on the first day of each and every month. The Manager's fee includes all management staff salaries and all office expenses directly related to the business of the Manager with respect to the performance of the duties of the Manager hereunder, but does not include any expenses directly related to the business offices of the Corporation; provided that any additional expenses or costs shall be payable to the Manager by the Corporation hereunder only if agreed to in writing by the Corporation.

If this Agreement is renewed following the expiration of the initial term, the compensation shall be subject to adjustment agreed upon in writing between the Parties and, in any event, the compensation shall not be less than the Year 5 compensation amount plus 3.0%.

It is understood and agreed that all payments to the Manager shall be made through a Preauthorized Payment Plan (PAP) on the first (1st) day of the month in which they are due, which will be facilitated by all necessary banking documentation to be completed by all Parties

Notwithstanding any other provision of this Agreement to the contrary, in addition to the management fees noted above, the Corporation shall pay to the Manager an amount equal to any and all goods and services taxes, sales taxes, value added taxes or any other taxes imposed on the Manager with respect to the Management fees or any other amounts payable by the Corporation to the Manager under this Agreement, whether characterized as goods and services, sales tax, value added tax or otherwise, (herein called "value taxes"), it being the intention of the parties that the Manager shall be fully compensated or reimbursed by the Corporation with respect to any and all value taxes payable by the Manager. The amount of such value taxes so payable by the Corporation shall be calculated by the Manager in accordance with the applicable legislation and shall be paid at the same time as the amounts to which the value taxes apply are payable to the Manager under the terms of this Agreement or upon demand at such other time or times as the Manager may determine from time to time. Notwithstanding any other provision in this Agreement to the contrary, the Manager will have all the same remedies for the rights and recovery of such amount as it has for the recovery of the management fees under the Agreement.

- (b) The Corporation shall provide, without charge, for the exclusive use of the Manager and its

on-site staff working for the Corporation, such office accommodation as is designated by the Board as the "Management Office" and such common element parking spaces or other parking spaces necessary or desirable in order to permit the Manager's staff to attend at the Property to carry out and perform the Manager's management functions.

- (c) Subject to Article XVI, the parties agree that at the expiration of the term of the Agreement resulting in a renewal, the Manager's fee will be renegotiated with the Corporation within sixty (60) days of the expiration of the original term and the revised and agreed upon fee shall be acknowledged in writing by both parties and such acknowledgement shall be deemed to amend accordingly the second paragraph of this Article VII for such renewal term and shall be appended to this Agreement.
- (d) Records Request:
 - (i) Notwithstanding any other provisions in this Agreement to the contrary, where records are requested by an owner/mortgagees and/or their designated representative and the records request would require expending a significant amount of time and/or resources by the Manager, the Manager may charge the Corporation \$45.00/hour to properly compensate for time spent in labour relating to the records requested, except where the Act prohibits the Corporation to charge a fee for the production of a record (i.e. the production of a core record by electronic copy) in which case the Corporation shall not be charged. It is the intention of the Parties that such charge, if any, will be recovered by the Corporation from the requester of the records in accordance with the Act.
 - (ii) The Manager shall be responsible for estimating the cost of labor and copying charges (which copying charges shall be charged in accordance with the Act) for the requested records, where applicable. In the event that the actual cost of labor and copying charges exceed the estimated costs, the Manager shall: (i) for labor costs, only be entitled to charge the Corporation 10% more than the estimated labor cost; and (ii) for copying costs, be responsible to reimburse the Corporation for any amounts which the Corporation is not permitted to recover from the owner.

VIII. POTL REPAIRS, PLANS AND SPECIFICATIONS

- (a) Notwithstanding any other provision of this Agreement, the Manager is given no authority or responsibility for maintenance of or repairs to the POTL which shall be the sole responsibility the Owners individually, save and except in those circumstances where the Corporation has a legal obligation to repair the POTL after damage or in accordance with Sections 89, 90, 91, 92 of the Act upon the express written direction of the Board.
- (b) Any plans, drawings, specifications and architectural or engineering assistance which may be necessary or desirable to enable the Manager to discharge its duties pursuant to this Agreement, shall be provided at the expense of the Corporation, provided, however, that the Board or its designated representative from time to time shall authorize the retaining of any such architectural or engineering assistance before any such expense is incurred.

IX. CO-OPERATION OF THE BOARD

The Corporation acknowledges that the Board must cooperate with the Manager to the extent required to enable the Manager to perform expeditiously, efficiently and economically the management services required under this Agreement and must provide such evidence of authority by way of certified resolution or otherwise and such specific directions as the Manager may reasonably require. In particular, the Board may designate, from time to time, the person who, with respect to any specific matter, or category of matters, relating to the management of the Property or the affairs of the Corporation, is authorized to represent the Board when the Manager wishes to consult with, or obtain the approval of, the Board before proceeding with any work, act or action; or for the purpose of giving directions or instructions to, or otherwise dealing with, the Manager; with respect to such matter or category of matters. If such designation is made, the Manager is directed not to consult with, obtain approval of, or accept directions or instructions with respect to such matter or matters from any other person. In the absence of designation, or if a designation is revoked, the President of the Corporation shall be deemed to be the person who has such authority.

X. INDEMNIFICATION

The Corporation shall, during and after the termination of this Agreement, indemnify and save the Manager and its partners and affiliates and their respective directors, officers, securityholders, employees and agents completely free and harmless from any and all claims, suits, actions, obligations, liabilities, demands, costs, expenses and fees arising out of damage or injury to person or property in or about or in any way connected with the Property, or arising out of the payment or non-payment of any debts incurred or owing by the Corporation by reason of carrying out the provisions of this Agreement or acting upon the directions of the Corporation, except in the case of any act or omission of the Manager or any of its employees or agents, any default of the Manager in complying with the provisions of this Agreement or any negligence, fraud, illegal or dishonest act, willful misconduct or intentional harm on the part of the Manager, its employees or agents.

The Manager shall, during and after the termination of this Agreement, indemnify and save the Corporation, its directors, officers, agents, employees, Owners and residents completely free and harmless from any and all claims, suits, damages, actions, obligations, liabilities, demands, costs, expenses and fees arising out of any act or omission of the Manager or any of its employees or agents, the default of the Manager in complying with the provisions of this Agreement or any gross negligence, fraud, illegal or dishonest act, willful misconduct or intentional harm caused by the Manager, its employees or agents in the carrying out of the provisions of this Agreement.

XI. COMPREHENSIVE LIABILITY INSURANCE

- (a) The Corporation shall obtain, or authorize the Manager to arrange for, comprehensive general liability insurance on the Property to a limit of not less than five million dollars (\$5,000,000) inclusive, under the terms of which:
 - (i) the Manager shall be named as an insured together with the Corporation, as their interest may appear, in each policy providing protection against any claims for personal injury, death, property damage or loss for which either the Corporation or the Manager might be held liable as a result of their respective obligations; and
 - (ii) the insurer undertakes to provide the Manager at least thirty (30) days prior written notice of cancellation or of any material change in the provisions of any such policy. The Corporation, upon request, will provide to the Manager a certificate of insurance in respect of any such policy.
- (b) The Manager shall also place and maintain at its sole costs and expense in the name of the Manager, professional liability (errors and omissions) insurance showing a limit of not less than two million dollars (\$2,000,000).

Prior to the effective date of this Agreement, the Manager shall provide the Corporation with certificates of insurance in accordance with the requirements of the *CMSA* and regulations made thereunder, for the insurance required under subsections XI (b) and (c), and subsection IV (v). The Manager hereinafter, agrees when requested agrees, to provide the Corporation with a certificate of insurance prior to the effective date of this Agreement and thereafter annually as evidence that it is maintaining such insurance.

XII. SPENDING AUTHORITY AND DEFICIT FINANCING

The annual budget shall constitute the major control under which the Manager shall operate, and there shall be no substantial deviations therefrom, excluding such expenses as utilities, insurance and other expenses not within the control of the Manager, except as may be approved in writing by the Board. No expenses may be incurred or commitments made by the Manager in the name of the Corporation in connection with the maintenance and operation of the Property in excess of the amounts allocated to the various classifications of expense in the approved budget or in excess of the spending restrictions set out in Article IV(w) except with the written approval of the Board; provided, however, that emergency repairs involving manifest danger to life or property, or immediately necessary for the preservation and safety of the Property, or for the safety of the Owners and residents, or required to

avoid the suspension of any necessary services to the Property, or required to avoid the imposition of penalties, fines, imprisonment or any other substantial liability may be made by the Manager irrespective of the cost limitation imposed by this paragraph and Article IV(w). Notwithstanding this authority as to emergency repairs, the Manager shall, if at all possible, confer immediately with the Board regarding every such expenditure.

Unless the Board has specifically authorized such procedure, under no circumstances shall the Manager advance funds to the Corporation on a temporary loan basis whether interest is charged to the Corporation or not in the event of a cash deficit occurring in the Corporation's current account. The Manager shall notify the Board of any anticipated cash deficit and the Board shall take immediate steps to obtain the necessary funds to cover any such deficit in accordance with the By-laws by either the levying of a special assessment, the delivery of a revised budget, or the exercise of its borrowing authority on behalf of the Corporation.

XIII. COLLECTION OF COMMON EXPENSES AND ACCOUNT RECEIVABLE

The Manager, in addition to its covenant to enforce the Declaration and By-Laws as herein provided, shall actively pursue the collection of unpaid common expenses assessments from the Owners with a view to reducing these receivables to the minimum monthly balance and without incurring additional cost save in those instances where legal action, including the registration of Certificates of Lien pursuant to the Act, is required. It is understood that the Manager shall instruct the Corporation's solicitor to serve the owner with a Notice of Lien in the prescribed form, pursuant to Subsection 85(4) of the Act, and then instruct to register the Certificate of Lien in the appropriate Land Registry Office within the time prescribed by the Act after the date on which the Owner first defaults.

It is understood that the Manager shall instruct the Corporation's solicitor to file a notice of lien in the appropriate Land Registry Office at least three (3) weeks prior to the limitation prescribed in the Act or as directed by the Board of Directors, after the date on which the Owner first defaults. Within forty five (45) days of the arrears first arising, the Manager shall send, by way of regular mail, at least one (1) letter to any Owner in default of his/her contributions, in the form prescribed under the Condominium Act 1998, and shall forward a copy of same, with evidence that notice was sent, to the Corporation's solicitor with instructions to lien the unit.

In the event that the Manager fails to notify or instruct the Corporation's solicitor to serve the owner with a Notice of Lien in the prescribed form and/or to register a Certificate of Lien within the time prescribed by the Act covering the arrears of common expenses, interest charges and legal costs within the time specified under the Act resulting in any loss or any additional cost to the Corporation, the Manager shall be directly liable for same to the Corporation. This provision shall survive the termination of this Agreement.

XIV. FIDUCIARY RELATIONSHIPS

The Manager may engage any parent or subsidiary Corporation or any persons, firm or Corporation affiliated or otherwise connected with the Manager (hereinafter called the "Affiliate") to perform any work or services for the Corporation within the scope of the Manager's duties under the provisions of this Agreement, without being in breach of any fiduciary relationship with the Corporation; provided, however, that the Manager may engage an Affiliate if it has made disclosure to the Corporation that the Manager intends to engage an Affiliate and the Manager has obtained at least two additional quotations from other competent suppliers or contractors who are not Affiliates of the Manager and prior written approval of the Board in each and any such instance is obtained and subject further to the provisions of Article XII hereof.

XV. RELATIONS WITH OWNERS AND RESIDENTS

- (a) The Manager shall promptly and courteously deal with all reasonable requests or complaints by the Board, any Owner or resident or any mortgagee of a unit relating to the management of the Property or the duties or obligations of the Manager pursuant hereto, and record in writing any such requests or complaints and the eventual disposition thereof;
- (b) The Manager shall maintain businesslike relations with Owners and residents whose service requests relating to the common elements shall be received, considered and recorded in systematic fashion in order to show the action taken with respect to each request. Complaints relating to common elements, the maintenance and repair of which are the

responsibility of the Corporation, shall be attended to by the Manager in as prompt and diligent a manner as possible; and

- (c) The Manager shall acknowledge the receipt of a request or complaint within one (1) business day.

XVI. TERMINATION

- (a) Either party may terminate this Agreement, without cause, with effect as at the last day of a calendar month, upon giving at least sixty (60) days written notice to the other party specifying the termination date or payment in lieu thereof. Upon expiration of such notice period or payment in lieu thereof, the Manager shall surrender to the Corporation the corporate seal, all contracts, records, files and other documents or information which may be pertinent to the continuing operation of the Property and such transfer of records shall be in accordance with the CMSA and all regulations made thereunder, and the Corporation shall pay to the Manager any monies due to it as of the date of termination. For a period of twelve (12) months after such termination and for the purpose of settling any dispute or defending any claim, the Corporation shall provide to the Manager at all reasonable times and upon reasonable notice access to all such contracts, records, files and other termination documents or information.
- (b) The parties agree that the term of this Agreement shall not be allowed to lapse without notice of termination in writing given by either party to the other not less than sixty (60) days prior to the expiration of the term of this Agreement. Should notice of termination not be given sixty (60) days prior to the expiration of the term of this Agreement, as provided herein, the Agreement shall continue on a month to month basis until terminated upon sixty (60) days written notice, as provided herein, and the Manager's fee shall immediately increase by 5% and if a full year has occurred since the commencement of the automatic extension period, the Manager's fee shall increase by another 3% per annum and further, shall increase by 2% for each subsequent year thereafter until this Agreement is terminated or re-negotiated.
- (c) In addition to the rights of the parties described in paragraph (a), this Agreement shall terminate immediately without the requirement of the Corporation to give notice upon the happening of any of the following events:
 - (i) the insolvency or bankruptcy of the Manager; or
 - (ii) the termination of the government of the Property by the Act; or
 - (iii) the Manager or any of the Manager's employees is insubordinate, reckless or grossly negligent in performing its duties hereunder.
- (d) Upon termination of this Agreement and in addition to the Manager's obligations described in paragraph (a) above,
 - (i) the Manager shall as soon as possible thereafter and 20 days after the date of effective termination pay over any balance in the Corporation's bank account managed by the Manager remaining to the credit of the Corporation (less any amounts due or owing to the Manager for fees and/or disbursements, and any amounts necessary to satisfy commitments properly made by the Manager to others prior to the date of termination), all post-dated cheques, and shall as soon as possible thereafter render a final accounting to the Corporation;
 - (ii) and in any event, the Manager shall no later than fifteen (15) days after the date of termination, forthwith surrender to the Corporation or to the Corporation's representative designated in writing all the keys to the Property or any part thereof held by the Manager or any of its employees and all the books and records, in whatever format and media the same may be recorded and maintained, kept by the Manager in relation to the management of the Corporation which are the property of the Corporation, or that are in the possession of any employees of the Manager, including, without limitation, post-dated common expense assessment cheques, contracts, files, plans, drawings, specifications, architectural or engineering documents, manuals, maintenance and repair logbooks, and correspondence,

provided however that the Manager's own files relating to the Corporation shall be excluded;

- (iii) all accounting books and records, in whatever format and media the same may be recorded and maintained, kept by the Manager in relation to the Management of the Corporation which are the property of the Corporation, or that are in the possession of any employees of the Manager, will be surrendered within fifteen (15) days after the termination date, or after an audited statement is presented. The Manager shall provide the Corporation with unaudited financial statements for the last month of the term within no later than 30 days after the date of termination if such. Notwithstanding the foregoing, any accounting books or records that do not exist at the time the Agreement is terminated; shall be provided to the Corporation no later than thirty (30) days after the termination of the Agreement; (iv) the Corporation shall assume the obligations under any and all contracts which the Manager has properly made for the purpose of arranging the services to be provided pursuant to this Agreement; and
- (v) any liability incurred under this Agreement by either party to the other up to and including the date of termination of this Agreement or which arises from a claim made after such termination with respect to any occurrence prior to the termination, as well as all obligations of each party hereto to the other under this Article XVI, shall survive the termination of this Agreement.

XVII. PROTECTING CONDOMINIUM OWNERS ACT, 2015

- (a) Amendments to the *Condominium Act, 1998*

Notwithstanding any provision herein to the contrary the Manager shall perform its obligations in accordance with the Act and shall take all necessary steps to ensure the Corporation's compliance with same. The provisions of this Agreement are subject to the provisions of the Act. In the event of any conflict between the provisions of this Agreement and the Act, the Act shall prevail, and this Agreement shall be deemed amended accordingly.

- (b) *Condominium Management Services Act, 2015 ("CMSA")*

The Manager acknowledges that the Manager and its on-site staff are familiar with and shall comply with the provisions of the CMSA and all regulations made thereunder.

XVIII. NOTICE

Any notice required to be given by either party to the other shall be sufficiently given if delivered by email at the email address provided by the party from time to time or mailed by prepaid registered post addressed to the Corporation, c/o the President at his/her address from time to time, and to the Manager, c/o the President at 1244 Caledonia Road, Suite 100, Toronto, Ontario M6A 2X5 and any such notice shall be conclusively deemed to have been given and received at the time of email delivery or personal delivery by one party to an Officer or Director of the other or in the case of the Manager to any person at the Manager's address, or in the event of service by mail, on the fifth (5th) working day after the day of such mailing, provided that if normal mail service is disrupted by reason of strikes, walkouts, slowdowns or other irregularities then so long as such disruptions exist, any notice required or permitted to be given hereunder shall be delivered personally or otherwise shall be deemed to be ineffective for all purposes hereof. Either party may by notice in writing to the other designate another address to which notices mailed more than ten (10) days after the giving of such notice of change of address shall be addressed.

XIX. PARTIAL INVALIDITY

If any portion of this Agreement shall be for any reason declared invalid or unenforceable, the validity of any of the remaining portions of this Agreement shall not be thereby affected, and such remaining portions shall remain in full force and effect as if this Agreement had been executed with such invalid portion eliminated, and it is hereby declared the intention of the parties hereto that they would have executed the remaining portion of this Agreement without including therein any such portions thereof that might be declared invalid.

XX. SUCCESSORS AND PERMITTED ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto, provided always that this Agreement may only be assigned by the Manager with the express written consent of the Corporation. Such consent shall not be unreasonably withheld.

XXI. GENDER AND NUMBER

Where applicable, or where required by the context, all references herein in the singular shall be construed to include the plural and references to masculine shall be construed to include the feminine and neuter genders.

XXII. SIGNATURES

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective corporate seals, attested by the hands of their respective Officers duly authorized in that behalf, this _____ day of _____, 2020.

_____ **COMMON ELEMENTS CONDOMINIUM CORPORATION NO.** _____

Per: _____

Per: _____

We have the authority to bind the Corporation

MELBOURNE PROPERTY MANAGEMENT INC.

Per: _____

Per: _____

We have the authority to bind the Corporation.

SCHEDULE A – Additional Costs for additional services

The following is a summary of additional costs not included in the management agreement whereby such cost are included in the office expenses of the First Year Budget Statement.

Additional Services:

A. ADMINISTRATIVE EXPENSE

i. Electronic Expense

Digital Service (Per Unit)	\$1.75
Digital Signature (Per Document)	\$1.75

ii. Envelope / Postage Expense (Per Envelope)

Large Envelope	\$0.75
Small Envelope	\$0.50
Postage - Canadian (Up to 25g)	\$1.00
Postage - Canadian (25g - 50g)	\$1.25
Postage - Canadian (50g - Above)	\$1.75
Postage - United States (Up to 25g)	\$1.25
Postage - United States (50g - Above)	\$3.00
Postage - International (Up to 25g)	\$1.25
Postage - International (50g - Above)	\$3.00

iii. Miscellaneous

Entry Pads (Per Pad)	\$3.50
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iv. Printing Expense (Per Page)

Black & White	\$0.25
Colour	\$0.75

B. BOARD AND OWNERS MEETINGS

i. Board and Owner Meeting

Board and Owners meeting in addition to normal scope of work as outlined in the above agreement (Max of two (2) hours)	\$200.00
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ii. Director or above for a Board and Owner Meeting

If a Director or above is requested to attend a Board and Owners meeting in addition to normal scope of work as outlined in the above agreement (Max of two (2) hours)	\$200.00
---	----------

C. CMSA CHARGES

i. Licensing Fee (Monthly)	\$
-----------------------------	----

This is a flow through expense charged to the condominium monthly based on the number of licensed managers dedicated to the community or a percentage of time for portfolio management dedicated to each community in their portfolio.

SCHEDULE A – Additional Costs for additional services

The following is a summary of additional costs not included in the management agreement whereby such cost are included in the office expenses of the First Year Budget Statement.

Additional Services:

D. INFORMATION CERTIFICATES	
i. Periodic Information Certificate (Per Certificate)	\$250.00
ii. Information Certificate Update (Per Certificate)	\$175.00
iii. New Owner Information Certificate (Per Certificate)	\$50.00
iv. Notice of Change Returns (Per Return)	\$175.00
 E. RECORD REQUESTS	
i. Request of Records (Per Hour)	\$45.00
Administration work to prepare non-core records in accordance with request under section 55 of the Condominium Act. Please note this fee is in addition to the printing and postage expense	
ii. Senior Level Review for Request of Records (Per Hour)	\$55.00
Senior Level work to assist with non-core records in accordance with request under section 55 of the Condominium Act. Please note this fee is in addition to the printing and postage expense Variable expense, at least 30% more then Request of Records. Rate to be approved by the Board of Directors.	
 F. STORAGE OF RECORDS	
i. Storage of Records (Monthly)	\$40.00

Please note the cost in Schedule A are based on 2020 expenses, these rates may change based on the execution date of the management agreement

SCHEDULE B

RESOLUTION BY THE BOARD OF DIRECTORS

_____ **COMMON ELEMENTS CONDOMINIUM CORPORATION NO.**_____

PASSED AT A MEETING HELD ON_____, **202_**

BE IT RESOLVED THAT:

From time to time and until otherwise instructed by this Corporation, Melbourne Property Management Inc., shall be and is hereby authorized to execute under the seal of the Corporation the following instruments in accordance with the applicable By-law of the Corporation:

Status Certificates pursuant to Subsection 1 of Section 76 of *The Condominium Act, 1998*, S.O. 1998, Chapter 26 as amended (the "Act").

BE IT RESOLVED THAT:

In order for the Corporation to meet its obligations under Ontario Regulation 48/01 subsections 13.3 to 13.10 which is to provide a timely response to Requests for Records from owners/mortgagees ("Requesters") or to Agents for Requesters, Melbourne Property Management Inc. is hereby authorized to respond to requests for records as the agent of this Corporation.

DATED at _____, Ontario this _____ day of _____, 20

_____ **COMMON ELEMENTS CONDOMINIUM CORPORATION NO.**_____

Per: _____

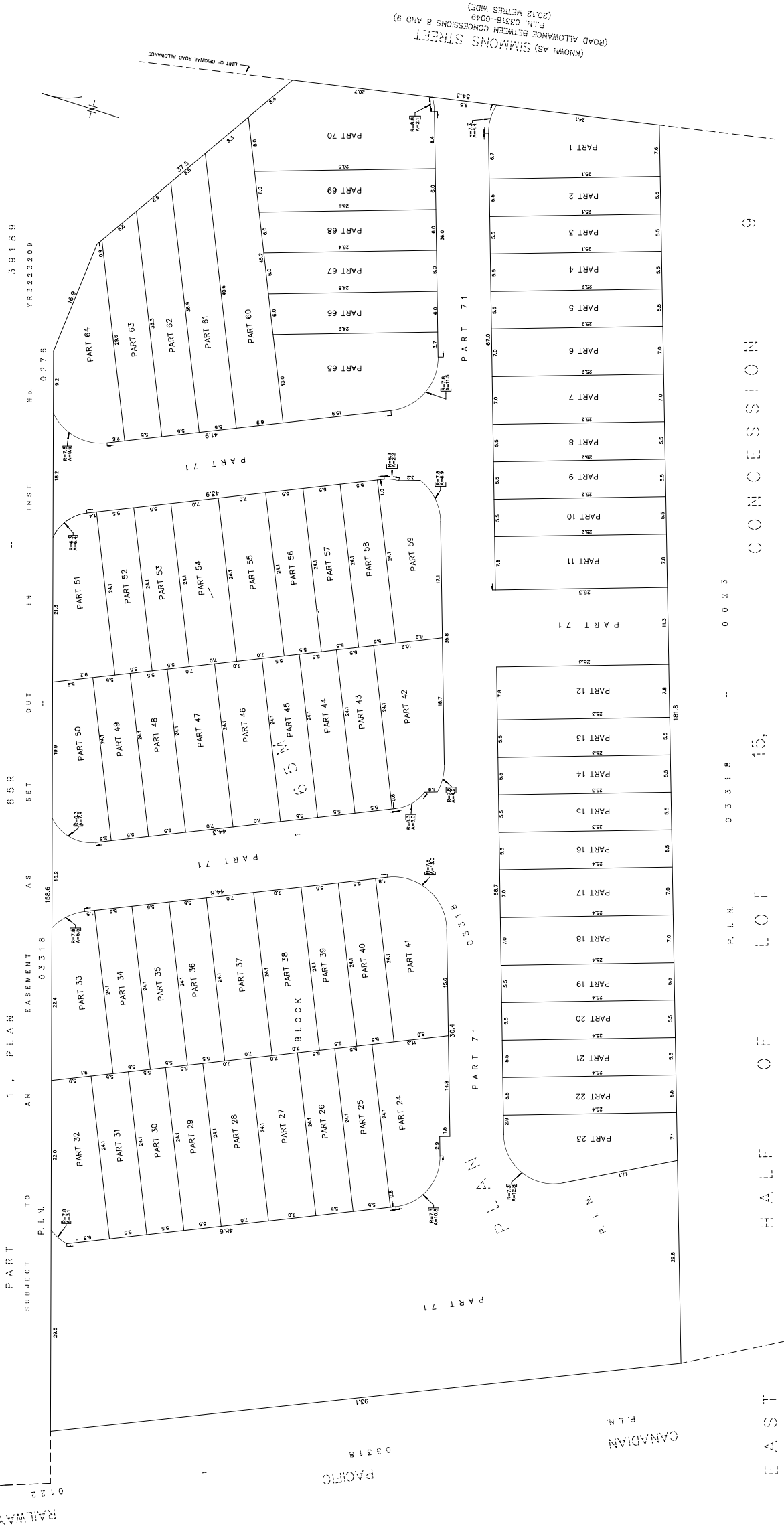
Per: _____

We have the authority to bind the Corporation

RECEIVED AND DEPOSITED

S. GOONEWARDENA

DATE _____, 2022

REPRESENTATIVE FOR LAND REGISTRAR FOR THE LAND
TITLES DIVISION OF TORONTO REGISTRY OFFICE (No.00)

R-PE SURVEYING LTD.
ONTARIO LAND SURVEYORS
645 Christie Road, Suite 204
Woodbridge, Ontario L4L 8A3
Tel. (416) 635-5000 Fax (416) 635-5001
Tel. (905) 264-0881 Fax (905) 264-2099
Website: www.r-pe.ca
DRAWN: I.A.A./Y.B.
JOB No. 21-134 CAD FILE No. 21-1

A hand holding a set of keys in front of a blurred background of a modern building. The hand is holding a white keychain with a silver key. The background shows a multi-story building with many windows, some of which are tinted blue or green. The overall scene is bright and clear.

Ontario's Residential Condominium Buyers' Guide

Last Updated: November 6, 2020

Ontario's Residential Condominium Buyers' Guide - Using the Condo Guide

Purpose

According to section 72 (1) of the Condominium Act, 1998 (the "Condo Act"), Ontario's Residential Condominium Buyers' Guide ("the Condo Guide") prepared by the Condominium Authority of Ontario (CAO) is required to be provided to buyers of residential pre-construction/new condo units by the declarant ("developer") when buyers are purchasing from the developer or a person acting on behalf of or for the benefit of the developer. Purchasers of resale residential condo units may also wish to review the Condo Guide.

This Condo Guide has been approved by the Minister of Government and Consumer Services.

The purpose of the Condo Guide is to provide condo purchasers in Ontario with information and resources to make a more informed decision when purchasing a residential condo unit ("unit").

Under section 73(2) of the Condo Act, purchasers have a 10-day cooling off period in which they may rescind their agreement of purchase and sale. This 10-day period begins on the later of the date on which you receive your agreement of purchase and sale and your disclosure documents and the Condo Guide. The CAO recommends that you carefully review the disclosure statement, agreement of purchase and sale, and the Condo Guide within the 10-day period.

The Condo Guide can be found below, commencing on page three with the table of contents, and will be updated from time-to-time. To confirm that you have the most up-to-date version, please visit the CAO website at www.thecao.ca.

Important Information Regarding Governing Documents

To make sure a particular condominium corporation ("condo corporation") is right for you, you may wish to read a condo corporation's existing or proposed governing documents, as applicable, before purchasing a unit. Information describing these governing documents, which consist of **1) the declaration; 2) the by-laws; and 3) the rules** is provided in the Condo Guide in Sections 1.1 and 3.3.

These documents, along with the rest of the disclosure statement (including the budget statement), and the agreement of purchase and sale, contain important information about what you are buying, and what you will need to pay for etc. This information may impact your decision to purchase a unit. If you have questions about the information contained in these documents, you may want to seek help from a legal professional.

Key Information for Buyers of Pre-Construction Residential Condo Units

To find information about buying a unit from a developer, you should review the following sections of the Condo Guide:

- Introduction
- Part 1.1: Before You Buy a Pre-Construction Condominium Unit
- Part 1.2: Buying a Pre-Construction Condominium Unit
- Part 1.4: Additional Considerations
- Part 2: Moving into a Pre-Construction Condominium Unit

For more information on rescission of agreements of purchase of sale within the 10-day cooling off period, please visit Part 1.2 of the Condo Guide.

Key Information for Buyers of Resale Residential Condo Units

To find information about buying a unit from an existing owner (i.e. a 'resale condo' that is not sold by the developer), you should review the following sections of the Condo Guide:

- Introduction
- Part 1.3: Buying a Resale Condominium Unit

Key Information for Condominium Owners

To find information about condo living and governance that may be helpful before or after your condo purchase, you should review the following sections of the Condo Guide:

- Part 2.3: Tarion and the Ontario New Home Warranties Plan Act
- Part 3: Condo Living
- Part 4: Resources for Issues Resolution

Next Steps

Given the importance of this buying decision and the many factors to the condo purchase process, along with your expectations for condo living, it is important that you carefully review the condo corporation's governing documents, the rest of the disclosure statement (including the budget statement), the agreement of purchase and sale, and this Condo Guide. Also, the CAO is encouraging condo owners to subscribe to our email list to receive important email updates from the CAO. You can subscribe by either clicking [here](#).

Additional information on the above can also be found on the CAO's website at www.thecao.ca.

You may also wish to consider seeking legal advice for any questions or concerns that you may have.

Please note that the material in the Condo Guide should not be interpreted as legal advice.

This Condo Guide has been approved by the Minister of Government and Consumer Services and is intended to apply to the purchase of new and pre-construction residential condominium units beginning on January 1, 2021.

Ontario's Residential Condominium Buyers' Guide

Contents

Introduction	4
Part 1: Buying a Condominium Unit	5
1.1 Before you Buy a Condominium Unit	5
1.2 Buying a Pre-Construction Condominium Unit	6
1.3 Buying a Resale Condominium Unit	9
1.4 Leasing Your Unit	11
Part 2: Moving into a Pre-Construction Condominium Unit	11
2.1 Interim Occupancy	11
2.2 Creating the Condominium Corporation	12
2.3 Tarion and the Ontario New Home Warranties Plan Act	14
Part 3: Condominium Living	16
3.1 Introduction to Condominium Living	16
3.2 Condominium Governance	17
3.3 Condominium Corporation Governing Documents	22
3.4 Condominium Finances	24
3.5 Living in Units and Using Common Elements	27
3.6 Condominium Management	29
Part 4: Resources for Issues Resolution	29
4.1 Raising Issues with your Condominium Board	29
4.2 The Condominium Authority of Ontario	30
4.3 Condominium Management Regulatory Authority of Ontario	31
4.4 Compliance and Enforcement Mechanisms	32
Part 5: Glossary of Key Terms	33

Introduction

What is a Condominium?

When most people hear the word “condo” they may think of a single residential tower or maybe a townhouse, but what “condo” really refers to is a specific kind of real estate ownership structure that involves shared ownership of common elements and community decision making. This means that a condo could resemble a park, parking lot, or even an empty field. If you are considering purchasing property in a condo corporation, it is important to understand upfront that condo living involves shared ownership and therefore a responsibility to your community.

Unlike when you own a traditional house, when you purchase a condo you become part of a condo community and become responsible for paying your share of the common expenses and complying with the condo corporation’s governing documents, among other things. You will also be able to participate in condo governance by, for example, voting for directors.

A “condo” is also a type of corporation. A condo corporation is responsible for making decisions about the condo property on behalf of the owners. A condo corporation may also get a condo manager/management services provider to help manage the property and the affairs of the corporation on the corporation’s behalf. The condo property is described in certain documents that must be completed and officially registered to establish the condo corporation. Those documents specify how the land is divided into units and common elements, as applicable. The owner of the land where the condo corporation is being established arranges for those documents to be registered with a Land Registry Office. That owner is known as a “declarant”, who may be the developer of the land. The condo owners (e.g., unit buyers) are the members of the condo corporation. The Condo Act sets out rights and responsibilities related to the management of a condo, including rights and responsibilities of condo owners and condo boards.

Condo corporations are created for many different uses including for residential, commercial, industrial, or mixed-use purposes.

Different Kinds of Condominiums

The Condo Act outlines various types of condo corporations. There are two main categories of condo corporations: freehold and leasehold. Freehold condos are condo corporations where the condo property is owned by the condo owners. Leasehold condos are condo corporations on leased land. Owners have a leasehold interest in units and common elements but do not own the land. Under the Condo Act, there are **four** different types of freehold condos:

1. Standard Condominium

- The most common type of condo corporation in Ontario.
- Has individual units.
- May include common elements, which often include areas such as a foyer, exterior walls, and amenities (e.g., pools, gardens).

2. Phased Condominium

- A condo corporation that is intended to be built and registered in phases.
- New units and common elements are constructed and added to the condo corporation.
- Upon completion, a phased condo corporation becomes a standard condo corporation.

3. Vacant Land Condominium

- The units may be vacant lots at the time of purchase, and the layout of the lands may resemble a subdivision. Common elements are often things such as roadways, sewer systems, and amenities such as parks or recreation facilities.
- The developer can sell the lots as vacant or build (e.g., homes) on the lots and sell the lots with buildings on them.

4. Common Elements Condominium

- There are no units in this type of condo corporation. Instead, ownership is of a common interest in the common elements of the condo corporation by a separate parcel of land that is “tied” to the common elements corporation.
- Owners purchase a part of a common elements. Examples include shared roads, golf courses, or ski hills.

Leasehold Condominium

- Developed on land that is leased for a term between 40 and 99 years.
- Common expenses include a portion of the rent payable to the landowner.
- Once the lease expires, the owners’ rights to occupy their units are automatically terminated.
- Leasehold condo corporations may be less common in Ontario.

It is important to note that the Condo Act has some different requirements for different types of condo corporations.

Part 1: Buying a Condominium Unit

1.1 Before you Buy a Condominium Unit

One of the most important steps you can take before you buy is to educate yourself and get the help you need to make an informed decision. Consulting this Condo Guide is a good start, but it is also important to seek legal advice before you buy. Buying a condo is a complex process and involves reviewing lengthy and sometimes difficult-to-understand documents. Seeking legal advice is the best way to ensure you are making an informed decision.

Reviewing a condo corporation’s governing documents provides an opportunity to learn important information about the condo corporation you are considering. The information found in a condo corporation’s governing documents may be key to your enjoyment of your unit and could have an impact on your buying decision. For more information on governing documents, including the 1) the declaration; 2) the by-laws; and 3) the rules, see section 3.3.

Researching builders is another important step you may wish to take before purchasing a pre-construction unit. It is important to ensure that the builder you plan to buy a unit from is licensed by Tarion (Ontario's new home warranties and protections administrator – for more information see section 2.3 of this Condo Guide).

Tarion's [Ontario Builder Directory](#) is a useful resource for confirming the status of the builders before you buy. Please note that the Ontario Builder Directory will be available through The Home Construction Regulatory Authority (HCRA) starting in early 2021.

The HCRA is an independent, not-for-profit corporation that is preparing to potentially be designated as the new regulator of new home builders and vendors under the *New Home Construction Licensing Act, 2017*. If a regulatory authority is designated, Tarion would cease to provide this function, subject to potential exceptions during transition. At this time, it is expected that the future regulatory authority would be operational in early 2021.

1.2 Buying a Pre-Construction Condominium Unit

Documents to Review

Along with reviewing the information in this Condo Guide, it is important to review and fully understand the information in the following documents that are generally required to be provided to purchasers by developers:

1. Pre-construction Agreement of Purchase and Sale

The agreement of purchase and sale, sometimes referred to as the purchase agreement, contains important information about your rights and obligations as a condo buyer, the builder's rights and obligations, the unit, and the condo construction project. You may wish to review this document carefully with a legal professional.

2. Tarion's Information Sheet for Buyers of Pre-Construction Condominium Homes about the Possible Termination of Purchase Agreement

All buyers of residential units in a standard or phased pre-construction condominium project where the first arm's length purchase agreement for the project was signed on or after January 1, 2020 must be given an information sheet that includes an outline of the possible risks of buying a unit in a pre-construction condominium project, in addition to other information (e.g., the estimated occupancy date for your unit and the status of construction).

3. Tarion Addendum

The Tarion Addendum (expected to be a joint Tarion/HCRA addendum if the HCRA is designated in early 2021) is a required part of the agreement of purchase and sale for a residential condo and contains important information that both the builder and condo buyer are required to agree to. Information contained in the Tarion Addendum includes the delayed occupancy warranty provided by the builder, in accordance with the Ontario New Home Warranties Plan Act. The Tarion Addendum also contains a Statement of Critical Dates and early termination conditions that apply to the

agreement. In a disagreement or dispute about information contained within the agreement of purchase and sale and the Tarion Addendum, the Tarion Addendum prevails over the agreement of purchase and sale document and any other attachments to the extent of any conflict or inconsistency.

4. Disclosure Statement

Another very important document to review and understand is the disclosure statement which the builder is required to provide to condo buyers who buy directly from the developer or a person acting for the developer's benefit. This is required under section 72 of the Condo Act. Your agreement of purchase and sale is not binding on you as a buyer until you receive the disclosure statement and this Condo Guide from the developer.

The disclosure statement includes a lot of important information, including but not limited to:

- A copy of the existing or proposed declaration, by-laws, and rules for the condo corporation.
- A summary of the agreements to be entered into by the builder before the turn-over meeting, including agreements for condo management services and services like repairs and landscaping, and
- A copy of the budget statement for the first year after registration of the condo corporation.

It is important to carefully review the disclosure statement, consult with a legal professional about it and ensure that you do not have any outstanding questions.

Deposits

Generally, under the Condo Act, funds received by the builder of a condo project must be held in trust. This includes deposits and certain other payments covered by the purchase agreement.

If a project is terminated, the builder is generally required under the Tarion Addendum to refund all monies paid, plus interest, if any, calculated in accordance with the Condo Act (for information on the interest rates, see section 19 (3) of Ontario Regulation 48/01 under the Condo Act).

If the money is not refunded, then buyers may be able to make a claim to Tarion under the *Ontario New Home Warranties Plan Act*. Deposits and other payments by residential condo buyers are protected under the *Ontario New Home Warranties Plan Act* for up to a maximum of \$20,000.

[For more information about deposit protection, please click here.](#)

Cooling Off Period and Rescission of Agreement

Section 73 of the Condo Act provides you as a buyer with a cooling off period of 10 days to consider whether you want to proceed with the purchase. Section 73 allows you to rescind the purchase agreement by notifying the developer of your wish to do so within the 10-day cooling off period.

This 10-day period begins on the later of the date on which you receive your agreement of purchase and sale executed by the declarant and the purchaser and your disclosure documents and Condo Guide. Within the 10-day cooling off period, you have the right to rescind or cancel the purchase agreement that you have signed for any reason whatsoever. Generally, you should also be refunded, without penalty or charge, all money deposited toward the purchase price, along with any applicable

interest (for information on the interest rates, see section 19(3) of Ontario Regulation 48/01 under the Condo Act).

Additionally, the Condo Act provides for a further rescission right where there is a material change in the disclosure statement. If there is a material change (i.e. an important change that would have caused a reasonable buyer to no longer want to proceed with the purchase, had that information been included in the disclosure received by the purchaser), then you may be able to rescind or cancel your purchase agreement during an additional 10-day cooling off period. This 10-day cooling off period starts from the later of:

1. the date that the declarant has delivered a revised disclosure statement or a notice to you confirming the material change;
2. the date that you otherwise become aware of the material change; or
3. the date that the Ontario Superior Court of Justice has determined that a material change has occurred.

Occupancy Dates & Delayed Occupancy

A page of the Tarion Addendum within your agreement of purchase and sale contains a Statement of Critical Dates which must be signed by both the condo buyer and the builder. The Statement of Critical Dates sets out when the builder expects to finish the unit and the latest dates for permitted extensions. You should review these dates closely including the firm occupancy date and the outside occupancy date.

Note that condo construction can sometimes be delayed, which means you may not be able to take occupancy of your unit on the anticipated occupancy date set out in the agreement. This is called delayed occupancy.

Your new home warranty coverage includes delayed occupancy coverage in certain circumstances. Details on the delayed occupancy warranty are provided in the Tarion Addendum in your agreement of purchase and sale.

[For more information about occupancy dates and delayed occupancy warranty, visit Tarion's webpage.](#)

Condo Cancellations

Pre-construction condo projects can sometimes be cancelled even after you have made a deposit on your purchase. This is because there are many stages in building a condo that may remain to be completed after you have made a deposit. The Tarion Addendum forming part of your purchase agreement must set out any conditions that may result in the condo not proceeding and therefore the potential termination of the purchase agreement. In these cases, it is the vendor who would terminate the agreement.

These conditions may include, but are not limited to:

- Failure to sell enough units,

- Inability to secure financing for the project, or
- Delays in obtaining the required building or planning approvals.

It is important for you to be aware of the potential conditions when you are thinking of entering the purchase agreement. Buyers may wish to review the Tarion Addendum for identification of early termination conditions applicable to their purchase agreement.

In most cases, if a condo project is cancelled, buyers are entitled to get their deposit back, plus any accrued interest, if applicable. The Condo Act also provides for interest to be paid based on an interest rate calculation (for more information on those interest rates, see section 19(3) of Ontario Regulation 48/01 under the Condo Act).

[For more information on condo cancellations, please click here.](#)

1.3 Buying a Resale Condominium Unit

Purchasing a resale unit involves buying a unit from the current owner rather than from the developer. If you are thinking of buying a resale unit, it is important to do your research on the unit and condo corporation before making any decisions and consult a legal professional. **Before purchasing a unit, you may wish to consider the following:**

- **The status of the reserve fund and age of the building.** A reserve fund is required to ensure that the condo corporation has enough money to pay for major repairs and replacement of the common elements and assets of the condo corporation. It is important to note if the building will require any significant repair, maintenance or updating with its age and the plan for addressing those issues. You should consider the health of the reserve fund and review what is your responsibility to repair and maintain.
- **Common expenses.** This is the amount unit owners pay toward the operation of the condo corporation (e.g., security costs, cleaning costs, etc.) and contributions to the reserve fund. It is important to incorporate common expense fees into your budget when considering purchasing a condo. Common expense fees may change over time depending on the needs of the condo corporation.
- **The units and common elements.** The size, layout, and boundaries of the unit and the common elements generally will not change. You may wish to consider what is your responsibility to repair and maintain. For more information on units and common elements, see section 3.5 of this Condo Guide.
- **Amenities.** Consider that, in general, all the owners must pay for the common elements, regardless of whether you use them or not.
- **Litigation.** It is important to be aware of any litigation against the condo corporation or that the condo corporation is a party to, as owners generally will be responsible for the costs. If the condo corporation cannot cover the costs with the operating fund, a special assessment (an extra one-time charge added to an owner's common expenses) may be required. You can

learn about on-going litigation by requesting a status certificate from the condo corporation, which is described in the next section.

- **New Home Warranty Information.** You may wish to consider whether the unit is still covered by any remaining new home warranties and protections under the *Ontario New Home Warranties Plan Act*. There are three different warranty periods that cover different types of defects, the longest of which is seven years. The maximum statutory coverage available is \$300,000. More information about new home warranties and protections can be found on the [Tarion website](#). To check the status of your home's warranty you may wish to contact Tarion by phone (toll free) 1-877-982-7466 or via e-mail at ismyhomecovered@tarion.com.

Documents to Review

- **The condo corporation's governing documents.** You will be required to abide by your condo corporation's declaration, by-laws, and rules. For more information see section 3.3 of this Condo Guide.
 - The declaration is the foundational document of the condo corporation and includes, among other things, the proportion which each unit owner contributes to common expenses and the repair and maintenance responsibilities of owners vs. the condo corporation. The declaration may also include information about how units and common elements can or cannot be used. The existing or proposed declaration will be included in the disclosure statement you receive from the developer when purchasing a pre-construction/new condo.
 - The by-laws may lay out how the condo corporation governs itself and how the condo corporation operates (e.g., some of the requirements for electing directors).
 - The rules may govern what the owners and occupants can and cannot do in their specific condo community in certain circumstances (e.g., for safety reasons).
- **Status Certificates.** A status certificate is an important document for purchasers of resale condos containing information about a specific completed condo unit and the condo corporation to which it belongs. Any person can request a status certificate for a unit from a condo corporation. A condo corporation can charge up to \$100 (including all applicable taxes) for the status certificate. The condo corporation must provide the status certificate within 10 days of receipt of the request and payment for it.

Status certificates are particularly important for prospective buyers of resale units because they contain important information, such as:

- A copy of the condo corporation's current declaration, by-laws, and rules.
- A copy of the budget for the current fiscal year, the last annual audited financial statements and the auditor's report.
- A statement of the most recent reserve fund study.
- A statement of the common expenses for the unit and whether the unit is in arrears of payment.
- If the common expenses for the unit have increased since the current year's budget was prepared, a statement of the increase and the reason.

- If an assessment has been charged against the unit since the current year's budget was prepared, a statement of the assessment and the reason.
- The address for service for the condo corporation (e.g., the address where the condo corporation receives mail).
- The names and addresses for service for the directors and officers of the condo corporation.
- A certificate of insurance for each of the current insurance policies.
- Information about certain legal issues that may affect the condo corporation (e.g., whether there are outstanding legal judgments against the condo corporation, or if the condo corporation is involved in any ongoing litigation).

You can also access key information on any condo corporation in the province through the CAO's Public Registry. You may wish to consider speaking to a legal and/or real estate professional when considering purchasing a resale condo and before signing any documents.

1.4 Leasing Your Unit

Leasing out a condo unit is an option that many condo owners use at some point during their time as a condo owner, however, there are special considerations that you must keep in mind if you choose to lease out a condo unit. In Ontario, the *Residential Tenancies Act, 2006* outlines the rights and responsibilities of landlords and tenants who rent residential properties. The *Commercial Tenancies Act* applies to leasing commercial properties.

It is the responsibility of the unit owner to ensure that the renter abides by the condo corporation's declaration, by-laws, and rules. Additionally, a unit owner must, within 10 days of entering the lease or the renewal of the lease, provide the renter with these documents. Section 83 (1) of the Condo Act requires that an owner also notify the condo corporation that the unit has been leased within the same timeframe, and provide the renter's name, the unit owner's address and a copy of the lease or renewal or a summary of the lease or renewal. [A form is available on the CAO's website](#) which will allow you to easily communicate this information to a condo corporation.

If you plan on leasing your unit you must also be aware of restrictions that the condo corporation's governing documents may place on owners in relation to leases. For example, the condo corporation could have minimum terms for unit leases to prevent the units in the condo corporation from being used as short-term rentals.

Part 2: Moving into a Pre-Construction Condominium Unit

2.1 Interim Occupancy

Interim occupancy occurs in pre-construction condo projects when the developer/builder lets the buyer take occupancy in the unit before the declaration has been registered and the title can be transferred to the buyer. During interim occupancy, you cannot make mortgage payments until the condo corporation is registered.

As your building nears completion, your developer/builder will advise you of your interim occupancy date. On the interim occupancy date, you can live in your unit, but it is important to note that you do not own it yet. Ownership of your unit can only be transferred to you once the condo corporation has been registered.

During the interim occupancy period, you will be required to pay the developer/builder an interim occupancy fee, regardless of whether you move into the unit or not.

The interim occupancy fee cannot be more than the total of:

- The interest (calculated monthly) on the unpaid balance of the purchase price at the prescribed interest rate;
- The estimated monthly municipal taxes for the unit; and,
- The projected common expense fees for the unit.

[For additional information regarding interim occupancy, click here.](#)

2.2 Creating the Condominium Corporation

Condominium Registration Process

Condo corporations are created when the developer registers the declaration and description with the Land Registry Office. Some registration requirements vary by the type of condo corporation being proposed (e.g., phased, common elements etc.).

The declaration and description are legal documents that contain fundamental information about the condo corporation and the property. The proposed or existing declaration must be included in the disclosure statement provided to you by your developer. You may wish to review this carefully.

The **declaration** will contain information such as:

- The proportions, expressed in percentages, of the common interests allocated to each unit;
- How much each unit will pay for common expenses, expressed as a percentage;
- Which parts of the building will be exclusive use common elements, which are often things such as balconies; and
- The responsibilities of owners and the condo corporation to repair and maintain the units and common elements.

The **description** defines the units and the common elements and specifies the boundaries between them. The description will contain information such as:

- A survey showing the boundaries of the property;

- Diagrams showing the shape and dimensions of each unit; and
- Specification of the boundaries of each unit and what is considered part of the common elements.

The Condo Act requires developers to take all reasonable steps to finish construction and register the condo corporation without delay.

[More information about the declaration and description as well as your condo corporation's other governing documents can be found in section 3.3 of this Condo Guide, or by clicking here.](#)

Declarant-controlled boards

*Please note that, for ease-of-understanding the Condo Guide uses the term “developer” throughout in place of the term “declarant”, which is used in the Condominium Act, 1998. This section will use both as the term “declarant-controlled board” is used often in materials related to pre-construction and new condo projects.

Within ten days after the condo corporation has been registered, **the declarant (who is generally your developer/builder)** is required to appoint at least three individuals to make up the condo corporation's first board of directors. This first board is called the declarant-controlled board. The declarant-controlled board is responsible for carrying out all normal board duties until the declarant ceases to own a majority of the units in the condo corporation. For example, the declarant-controlled board may propose or make by-laws and rules. More information about condo boards and condo board duties can be found in section 3.2 of this Condo Guide.

Once the declarant ceases to own a majority of the units, the declarant-controlled board is required to call a meeting of the owners to elect a new board within 21 days. The meeting must then be held within 21 days of being called, meaning that the meeting must occur within 42 days of the declarant no longer owning a majority of the units. This meeting is called a turn-over meeting.

Turn-over Meetings

The turn-over meeting is an important meeting for the condo corporation because the turn-over meeting must cover two important items:

- The turn-over of important documents from the declarant (i.e. generally your developer or builder) to the condo corporation, and
- The election of the first owner-controlled condo board of directors.

The declarant is responsible for turning over important documents at the turn-over meeting such as:

- The condo corporation's minute book (a minute book is the primary record of a condo corporation's meetings);
- The condo corporation's declaration, by-laws, and rules;
- Agreements already entered into on the condo corporation's behalf;

The declarant must turn over other important information within 30 days of this turn-over meeting, such as:

- All financial records of the condo corporation and of the declarant for the condo corporation from the date of registration onwards;

- A copy of any reserve fund studies conducted to date (if any); and
- A copy of the most recent disclosure statement.

Within 60 days after the turn-over meeting, the declarant must also turn over audited financial statements.

Additionally, at the turn-over meeting, unit owners will vote for new board members. For certain requirements related to a turn-over meeting, see section 43 of the Condo Act.

First-Year Budget

According to section 72 of the Condo Act, the declarant (i.e. generally your developer or builder) is responsible for preparing, and including in the disclosure statement, the first-year budget (also referred to as the budget statement) which covers the one-year period immediately following the registration of the declaration and description. Information included in the first-year budget should include, among other things:

- The projected common expenses for the condo corporation;
- The particulars of the type, frequency, and level of services to be provided;
- The projected costs of the performance audit;
- The projected monthly common expense contribution for each type of unit;
- The projected cost of the first reserve fund study; and
- The costs of preparing the audited financial statements.

Overall, the first-year budget is meant to give you a good idea of the expenses you can expect to pay in addition to the cost of buying your unit.

Additionally, section 75 of the Condo Act requires that the declarant be accountable for the first-year budget. After receiving the audited financial statements for the period covered by the first-year budget, the board has 30 days to compare the actual expenses with the first-year budget prepared by the declarant. If there is a shortfall (i.e., there are less funds projected based on the first-year budget than the actual first year expenses), the declarant may be responsible for the shortfall.

2.3 Tarion and the Ontario New Home Warranties Plan Act

What is Tarion?

Tarion is an independent not-for-profit corporation with responsibility for administering the *Ontario New Home Warranties Plan Act*, including warranties and protections claims. Until early 2021, Tarion also serves the function of licensing new home builders and vendors.

[For more information on Tarion, please visit their website by clicking here.](#)

What is The Home Construction Regulatory Authority?

The Home Construction Regulatory Authority (HCRA) is an independent, not-for-profit corporation that is preparing to potentially be designated by the Ontario government as the new regulator of new home builders and vendors under the *New Home Construction Licensing Act, 2017*. If the HCRA is

designated, Tarion would cease to regulate builders and vendors, subject to potential exceptions during transition. Tarion would remain responsible for warranty administration. At this time, it is expected that the future regulatory authority would be operational in early 2021.

[For more information on the HCRA, please visit their website by clicking here.](#)

New Home Warranties Plan Act and Coverage

Tarion's legal responsibilities and mandate come from the *Ontario New Home Warranties Plan Act*. In Ontario, all new residential condos are required to be enrolled in the Ontario new home warranty and protection program, administered by Tarion. If you purchase a new condo and there are warrantable defects (e.g., construction issues, unfinished work, etc.), you can report these to Tarion and your builder. If your builder does not fix the defects, Tarion may provide warranty assistance, if the item is warrantable. Be sure to visit the Tarion website for a breakdown of new home warranty and protection coverage and more information.

[For more information about new home warranty coverage click here.](#)

[Information for purchasers of units in residential condominium conversions is available here.](#)

The common elements of most condos are also covered by Tarion's warranties. If a common element requires warranty coverage, the condo corporation will address the issue (rather than any one individual owner). Section 44 of the Condo Act requires that between the six- and ten-month mark following the registration of the declaration, the board must appoint an engineer or architect to conduct a performance audit. This audit must be submitted to Tarion which will allow the corporation to make claims regarding issues with the common elements. If the corporation does not file in time, it will be impossible to make claims under the Tarion warranty program. It is common that the condo board directors appoint an individual to manage this process on behalf of the board.

[To access more information on the common elements warranty process, please click here.](#)

Pre-Delivery Inspection

A very important step for identifying potential issues or deficiencies is the pre-delivery inspection (PDI). A PDI is your chance to raise issues you notice with your new condo, such as incomplete construction, a damaged area, or an element of poor workmanship of the unit.

During the inspection, the builder of the condo will take you to inspect the new unit and may demonstrate the internal systems (such as air conditioning) of your unit. If you identify a defect during your PDI, your builder should note it on the PDI Form to establish that it existed prior to closing and thus was something not caused by you. It is your builder's responsibility to list these items and provide you with a copy of the completed PDI Form.

The PDI form is an important document, as it will be the official record of the state of your home before you move in, so keep your copy in a safe place. However, the PDI form is not an official warranty form and any items that are not corrected by the time you move in need to be listed on a 30-Day or Year-End Form.

Builder Registration/Licensing

Under the *Ontario New Home Warranties Plan Act*, all new home builders and vendors must be registered with Tarion and enroll their homes in the Ontario new home warranty and protection program.

In early 2021, the Home Construction Regulatory Authority (HCRA) is expected to be designated as the new regulator for new home builders and vendors. As the regulator of new home builders and vendors upon designation, the HCRA would be responsible for receiving and responding to any licensing related inquiries or complaints regarding a builder or vendor. Tarion would remain responsible for any warranty-related inquiries or complaints.

Until early 2021, Tarion will maintain an Ontario Builder Directory of all new home builders and vendors. Buyers of new homes are encouraged to check the Ontario Builder Directory to ensure their builder or vendor is registered with Tarion.

In addition, the Ontario Builder Directory includes information about condominium projects retroactive to January 1, 2018, including cancelled condominium projects and the status of each condominium project (i.e., completed, in progress or cancelled).

If the HCRA is designated by the Ontario government as the new regulator for new home builders and vendors, the HCRA would become responsible for the Ontario Builder Directory once it is operational in early 2021.

Part 3: Condominium Living

3.1 Introduction to Condominium Living

Your Unit and Common Elements

In a condo corporation, as an owner, you typically own your individual unit and collectively share in the ownership of and expenses for the common elements.

Unlike units, common elements may not be for the exclusive use of a particular unit owner. Common elements may include parking garages, elevators, lobbies, and much more. They may also include structural elements like the walls between the units, doors, plumbing and electrical work.

Exclusive Use Common Elements

Certain common elements may be for the exclusive use of a particular condo owner. These are called exclusive-use common elements. An example of an exclusive-use common element may be the balcony of a unit. Although a condo owner might think of a balcony as part of their unit, it could be an exclusive-use common element.

Every condo corporation is unique in the breakdown between units and common elements. If you are unsure about what constitutes a common element in your condo corporation, you can refer to your condo declaration.

Rights and Obligations of Owners

Condo owners in Ontario have rights and obligations that you should be aware of before purchasing a unit:

Rights

- Attending and voting at owners' meetings;
- Seeking election to the condo board, if qualified under the Condo Act;
- Reviewing certain records of the condo corporation, such as certain financial statements and meeting minutes;
- Requisitioning an owners' meeting in certain circumstances;
- Using the common elements and amenities of the condo corporation in accordance with the Condo Act and the condo corporation's declaration, by-laws, and rules; and
- Requesting that an item be added to an owners' meeting agenda.

Obligations

- Complying with the Condo Act and the condo corporation's declaration, by-laws, and rules;
- Repairing and maintaining your unit in accordance with and subject to the Condo Act and the condo corporation's declaration and by-laws;
- Paying your common expense fees on time;
- Notifying the condo corporation if your unit is leased; and
- Attending and voting at certain meetings.

[Click here for more information on condo ownership.](#)

3.2 Condominium Governance

Board of Directors and Board Responsibilities

The board of directors of a condo corporation that is turned over is an elected group of people that is responsible for governing the affairs of the condo corporation. The board of directors will ideally play a critical role in supporting a positive, healthy condo community and ensure that the condo corporation and its assets are well managed and maintained.

The board has certain responsibilities such as:

- Setting the condo corporation's annual budget;
- Making most decisions about how the condo corporation will spend its money, including selecting contractors or service providers your condo corporation will work with;
- Hiring and overseeing the work of a condo manager (should your condo corporation decide to get a condo manager);
- Ensuring required maintenance and repairs are carried out;
- Hiring specialists, such as engineers, to conduct reserve fund studies;
- Proposing changes to the condo corporation's rules and/or by-laws;
- Giving various notices to owners; and
- Making decisions related to the condo corporation's finances.

A condo's board is usually made up of owners in the condo corporation (but can include non-owners depending on the provisions of the condo corporation's by-laws). Directors are elected by the owners and serve for defined terms. Directors must seek re-election when their term expires if they want to remain on the board.

Duties of Directors and Required Disclosures

Board directors are responsible under section 37 (1) of the Condo Act to exercise their power or carry out their duties for the condo corporation with a standard of care. This means directors have a duty under the Condo Act to:

- Act honestly and in good faith; and
- Exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

A condo corporation may also have a code of ethics outlined in a by-law. A code of ethics will govern matters such as conflicts of interest, confidentiality, and standards of behaviour at board meetings.

Individuals looking to become directors (i.e. candidates) must meet disclosure requirements listed under section 11.6 of Ontario Regulation 48/01 as well as any such requirements listed in the by-laws of the condo corporation. To qualify as a candidate an individual must disclose, among other things:

- Whether the candidate (or their spouse, child or parent) is party to a legal proceeding in which the condo is also a party;
- Whether the candidate has, directly or indirectly, an interest in a contract or transaction that the condo corporation is a party to;
- If the candidate is a unit owner with common expense fees in arrears for 60 days or more; and
- Whether the candidate has been convicted of an offence under the Condo Act or under the regulations within the preceding 10 years, a statement of that fact and a brief general description of the offence.

A director is immediately disqualified if they do not meet certain disclosure obligations. In addition, directors may be disqualified if they meet any of the criteria listed in section 29(2) of the Condo Act (e.g., they have the status of bankrupt).

[More information regarding director disclosure obligations can be found on the CAO website here.](#)

[For a full list of disclosure obligations, please see 11.10 of Ontario Regulation 48/01.](#)

Election Process

Aside from the developer-appointed directors, and instances where an individual is appointed to the board by the existing directors, directors are elected by the owners at a meeting, such as a turn-over meeting, an annual general meeting, a requisitioned meeting, or a meeting called specifically for elections due to loss of quorum. Directors usually serve for three-year terms, but this period may be shorter, depending on a condo corporation's by-laws. Once their term is over, they must seek re-election to continue to act as a board member.

Requirements for Being a Director

Before a candidate can become a director, there are a few requirements that must be met. The candidate must:

- Be an individual;
- Be at least 18 years old;
- Not have a status of bankrupt;
- Not have been found incapable of managing property;
- Not have been found incapable by a court; and
- Meet the required disclosure obligations, as mentioned above.

Once an individual becomes a director, they can be immediately disqualified from their position if, for example:

- They are bankrupt;
- They have been found incapable of managing property or found incapable by a court;
- They have a certificate of lien registered against their unit that has not been discharged within 90 days;
- They failed to complete the mandatory director training within six months; or
- They failed to comply with mandatory disclosure obligations.

Note that different condo corporations may have additional requirements for directors. You may wish to check your condo corporation's by-laws for more information.

Director Training Requirements

All directors appointed, elected, or re-elected on or after November 1, 2017 are required to complete the training program provided by the Condominium Authority of Ontario (CAO) within six months of their appointment, election, or re-election, and at least once every seven years. Director training is provided for free and is easily accessible online on the CAO website.

Directors who fail to complete the training within the six-month timeframe are immediately disqualified from their board and cease to be a director.

Although director training is mandatory for directors, director training is not just for condo directors. It is available to any individual and contains plenty of useful information regarding condo living and condo governance.

[If you wish to know more about director training, please click here for more information.](#)

Meetings and Quorum

Condo meetings can be divided into two types: owners' meetings and board meetings. The Condo Act requires that a minimum number of participants be present at meetings, which is called "quorum". Without quorum, voting cannot take place, however discussion on relevant business is still permitted. Note that a corporation may also be able to make by-laws with respect to meetings, including with respect to quorum and voting. For owners' meetings, owners can either attend in person or by proxy. For more information on proxies, see **Voting by Proxy and Voting Method** below.

Owners' meetings are meetings in which all condo owners are invited to attend. The following are the most common types of owners' meetings:

- **Annual General Meetings (AGM)** are annual meetings where the board has the chance to report to owners on matters such as the financial health of the condo corporation. The AGM

also gives owners the opportunity to discuss matters that are relevant to the business of the condo corporation. The following items may be on the agenda at an AGM:

- Approval of the minutes of the previous AGM;
- Review of year-end audited financial reports;
- Selection of the condo corporation's auditor for the next fiscal year;
- Report of the board of directors regarding matters like past performance;
- Major upcoming projects (e.g., repairs or renovations), potential by-law changes and ongoing issues; and
- Election of directors.

The standard quorum for an AGM is the owners of 25% of the units. If the quorum is not reached on the first two attempts to hold the AGM, the quorum is reduced to 15% on the third and on any subsequent attempts unless the by-laws specify otherwise.

- **Owner-Requisitioned Meetings** are meetings that the board is required to call at the request of the owners of the condo corporation. All owners can attend. Some examples of why owner-requisitioned meetings may be called include:
 - Voting on a proposed rule;
 - Discussion of an emerging issue (e.g., the behaviour of owners, residents, or guests); or
 - The removal and replacement of a director before the expiry of that director's term.

Information related to requisitioning a meeting of owners can be found under section 46 of the Condo Act. Other sections also may be relevant.

[More information on requisitioning a meeting can be found here.](#)

- **Board Meetings** are meetings attended by the condo board to manage the affairs of the condo corporation. The only people who are entitled to attend board meetings are the directors, however, condo boards may invite individuals to attend board meetings as guests. A condo's board of directors can only conduct condo related business at a board meeting. Before any condo business can be conducted, the board must make sure there is a quorum of directors attending the board meeting. For board meetings, quorum is a majority of the total number of positions on the board. For example, if there are 3 positions on the board, quorum would be 2 board members in attendance at the board meeting.

Voting by Proxy and Voting Method

At owners' meetings, votes may be held regarding condo business.

Unless the Condo Act provides otherwise, at a meeting, votes may be cast by:

- A show of hands, personally or by proxy
- A recorded vote that is:
 - Marked on a ballot cast personally or by a proxy;
 - Marked on an instrument appointing a proxy; or
 - Indicated by telephonic or electronic means if the by-laws so permit.

If you are an owner who cannot attend a meeting but still want to participate in decision-making, you can enable somebody who will attend the meeting to vote for you. This individual is called a proxy (who need not be an owner in your condo corporation). You can appoint a proxy by completing a legal document called a proxy form and giving the form to the proxy. You can create only one proxy per unit. If you co-own your unit, the proxy represents all owners of the unit.

[A form is available on the CAO website](#) which gives instructions on how to use a proxy, and how a proxy can vote in a meeting.

Notices

A condo corporation must provide various notices to owners to make owners aware of upcoming owners meetings. There are a variety of notices required under the Condo Act, such as:

- **Preliminary Notice of Meeting:** The Preliminary Notice of Meeting must be delivered to owners at least 20 days before a Notice of Meeting. The Preliminary Notice will, among other things, let owners know that a Notice of Meeting will be sent, state the purpose of the meeting, and, if applicable, request that individuals interested in being candidates for director positions notify the board in writing.

[More information about a Preliminary Notice of Meeting can be found by clicking here.](#)

- **Notice of Meeting:** The Notice of Meeting must be delivered to owners in writing at least 15 days prior to the day of the meeting. A Notice of Meeting of owners will include the date, time, and place of the meeting. It must also identify the business to be discussed, among other things. No vote can take place on an item, other than routine procedure, that was not disclosed in the Notice of the Meeting.
 - If an owner wishes to receive notices electronically, they must provide an Agreement to Receive Notices Electronically form, and the condo corporation must have a statement of this method of receiving notices in the record of owners and mortgagees (unless the Condo Act provides otherwise).

[More information about the Notice of Meeting can be found on the CAO website here.](#)

Information Certificates

Information Certificates help ensure that condo owners receive important information about the state of the condo corporation throughout the year. Information certificates can be broken down into three types:

- **Periodic Information Certificate (PIC).** Sent out twice per fiscal year to all owners (within 60 days of the end of the first quarter and 60 days of the end of the third quarter). Includes key information about the condo's board, finances, insurance, reserve fund, legal proceedings, and other matters.
- **Information Certificate Update (ICU).** Sent to owners if there are certain key changes before the next scheduled PIC (such as changes in the directors or officers of the condo corporation). To be distributed within 30 days of the change.

- **New Owner Information Certificate (NOIC).** Sent to new owners within 30 days after the new owner provides written notice stating their name and the unit that they own in the condo corporation. A NOIC covers the most recent PIC and any subsequent ICUs.

Condo corporations may be able to pass by-laws related to PICs and ICUs.

[More information on Information Certificates can be found on the CAO website here.](#)

Records Requirements and Process to Request or Examine Records

As a condo owner, you have the right to access certain records regarding how the condo corporation is managed. It is the condo board's duty to ensure that adequate records are kept and that they are retained for the legally required amount of time. If an owner wants to access certain records, they must use a Request for Records form. In their request, they can specify whether they wish to review records or request copies of records and they can indicate whether they would like electronic or paper copies.

As an owner, you may have the right to access:

- Your condo corporation's declaration, by-laws, and rules;
- The financial records of your condo corporation;
- The minute book containing the minutes of owners' meetings and the minutes of board meetings;
- A copy of the returns or notices of change that the condo corporation has filed with the CAO;
- All lists, items, records, and other documents from your condo corporation's turn-over meeting;
- A list of the names of the owners of each unit in the condo corporation and their address for service;
- All reserve fund studies and all plans to fund the reserve fund;
- All agreements entered by or on behalf of the condo corporation;
- All instruments appointing a proxy or ballots for a meeting of owners that are submitted at the meeting; and
- Other records as specified under the Condo Act, including in its regulations, or your condo corporation's by-laws.

[More information about records can be found on the CAO website here.](#)

3.3 Condominium Corporation Governing Documents

In addition to complying with all applicable requirements under the Condo Act, all owners, residents, employees of the condo corporation, guests and others must comply with the condo corporation's governing documents. It is very important that you read and understand a condo corporation's governing documents before purchasing a unit. If you are unfamiliar with the requirements set out in

your governing documents, you may unknowingly cause issues, requiring the condo corporation to respond to enforce the provisions found in these documents. The governing documents include:

- 1. The Declaration;**
- 2. By-laws; and**
- 3. Rules.**

The governing documents must be consistent with the Condo Act.

1. The **Declaration** is one of the foundational documents of the condo corporation. The declaration is often considered the constitution of the condo corporation and contains many important provisions. It will include:

- The proportions, expressed in percentages, of the common interests allocated to each unit;
- How much each unit will pay for common expenses, expressed as a percentage;
- Which parts of the building will be exclusive use common elements, which are often things such as balconies; and
- The responsibilities of owners and the condo corporation to repair and maintain the units and common elements.

The declaration may be changed with the consent of at least 80% or 90% of voting units depending on what the change is.

2. **By-Laws** describe how the condo corporation is to govern itself. The by-laws can be considered the administrative guide for the condo corporation. A condo corporation's by-laws often deal with a wide range of matters. For example, by-laws may govern:

- How directors are elected;
- How common expenses are collected; and
- When/how the condo corporation can borrow money.

By-laws must be both reasonable and consistent with the declaration, as well as the Condo Act. By-laws must be approved by the owners of a majority of the units, except where the Condo Act provides otherwise, and registered with the Land Registry Office.

3. **Rules** regulate the use of the units or common elements or assets in a condo corporation. The condo rules will dictate what individuals on the condo property can and cannot do. Rules must be reasonable and consistent with the declaration and by-laws, in addition to the Condo Act. Rules must either: promote the safety, security or welfare of the owners, property, or assets of the condo corporation; or prevent unreasonable interference with the use and enjoyment of units, common elements or assets. Examples may include:

- Restricting smoking, vaping and/or the growing of cannabis;
- Restricting short-term rentals; or
- Limiting the number or size of pets allowed in the building.

Upon making, amending or repealing a rule, the board shall give a notice of it to the owners that includes:

- A copy of the rule;
- A statement of the date that the board proposed the rule will become effective;
- A statement which says that the owners have a right to requisition a meeting; and
- A copy of sections 46 and 58 of the Condo Act.

Owners who disagree with the rule may be able to requisition an owners' meeting regarding the rule and then have a vote during the meeting to prevent the changes to a rule(s) from being passed. If the owners do not requisition a meeting, the rule becomes effective the day after 30 days have passed since the board gave the owners notice of the rule. For more information on owner requisitioned meetings, please see section 3.2 of this Condo Guide.

[More information about the declaration, by-laws, and rules can be found on the CAO website here.](#)

3.4 Condominium Finances

Reserve Funds

A **reserve fund** is a fund that condo corporations use for major repair or replacement of common elements and assets as needed. The Condo Act requires that all condo corporations have a reserve fund. Adequate reserve funds and proper use of those funds are critical to maintaining the structural integrity of the condo corporation's property. Reserve funds may only be used for major repairs and replacements of the common elements and assets of the condo corporation. Condo corporations must collect contributions to the reserve fund from owners as part of their common expense fees. Condo corporations must complete reserve fund studies. Reserve fund studies are completed by certain specialists (e.g., engineers) and determine how much money needs to be in the fund to be able to pay for anticipated major repairs/replacements that will be needed in the future. Generally, after the first reserve fund study, reserve fund studies are completed/updated every three years.

[More information about reserve funds and reserve fund studies can be found on the CAO website.](#)

Common Expenses

Common expenses, which are typically described in the Condo Guide as "common expense fees" (also commonly known as condo fees or maintenance fees) are collected by the condo corporation under the Condo Act. In addition to including a contribution to the reserve fund as described above, common expense fees may be used to fund:

- The cost of maintenance to the common elements (e.g., standard elevator repairs, cleaning).
- The cost of your condo manager or management service provider.
- The condo corporation's insurance policies.
- Services, such as garbage or snow removal, landscaping, security etc.

As an owner, you are required under section 84 (1) the Condo Act to pay your share of common expense fees attributed to your unit. As per section 84 (3) of the Condo Act, you are obligated to pay your common expense fees even if:

- You have waived or abandoned your right to use the common element(s);
- You have made a claim against the condo corporation; or
- The condo corporation's declaration, by-laws or rules restrict you from using the common element(s).

How are Common Expense Fees Calculated?

Condo boards make a budget every year which outlines various expenses for the fiscal year that are to be paid by the owners. The condo corporation's declaration will state the portion of the common expenses each owner is required to contribute, expressed as a percentage. The percentage may, but need not, relate to the size of your unit. The amount of common expenses you are required to contribute may fluctuate (e.g., increase) for various reasons (e.g., as the needs of the condo corporation change).

Section 56 (1) of the Condo Act also permits condo corporations to pass by-laws governing the assessment and collection of common expense fees.

Liens

If you as an owner default on your obligation to pay common expense fees, your condo corporation automatically has a lien on your unit. The lien will cover the unpaid amount owing as well as all interest, and all reasonable legal costs and expenses incurred by the condo corporation in its attempt to collect.

The condo corporation has three months from when the default occurred to register a certificate of lien, otherwise the lien will expire after three months of the default. At least ten days' notice is required to be provided to owners before the certificate of lien can be registered on title. Condo liens have priority over every other liability, including mortgages, subject to some exceptions, and may be enforced in the same manner as a mortgage.

Special Assessments

As described above, your condo corporation will create a budget for every fiscal year. Should there be a budget shortfall (i.e., where expenses exceed revenues), your condo corporation may levy a special assessment to cover expenses. A special assessment is an extra one-time charge added to your common expense fees.

Your board may need to levy a special assessment for unforeseen major expenses such as repairs related to flooding, costs related to legal proceedings, etc. Your condo corporation's by-laws may include provisions about special assessments.

Under section 84 of the Condo Act, you are required to pay your unit's share of the common expense fees, which may include special assessment fees. Your portion is calculated using the same percentage used to calculate your regular common expense fees.

[More information about special assessments can be found on the CAO website here.](#)

Chargebacks

A chargeback is an addition to an owner's common expense fees to reimburse the condo corporation for a cost it incurred. This is to ensure that certain expenses or costs incurred are not levied to all

owners, particularly where they are not all responsible for the circumstances leading to the expense or cost.

Some chargebacks are specifically authorized by the Condo Act. For example, section 92 (4) of the Condo Act allows condo corporations to add repair costs to a unit's common expenses fees, where repairs were completed on an owner's behalf after they failed to complete them within a reasonable time. Condo corporations may also have provisions within their declaration that require owners to indemnify the condo corporation for certain costs, called an indemnification clause.

If an owner does not pay the chargeback, a lien will automatically be placed on the defaulting unit, just as would occur if the owner does not pay their regular common expenses on time. If the condo corporation registers a certificate of lien and the owner does not pay the lien in full (this is known as discharging the lien), the condo corporation has the ability to attempt to have the unit sold to cover the costs.

Condo Insurance

Under the Condo Act, condo corporations are required to obtain and maintain both property insurance and liability insurance.

- **Liability Insurance:** Under section 102 the Condo Act, condo corporations are required to obtain and maintain insurance against the liability resulting from a breach of duty as the occupier of the condo corporation's common elements or certain land as well as insurance against liability arising from the ownership and use of boilers, machinery, pressure vessels and motor vehicles.
- **Property Insurance:** Section 99 (1) of the Condo Act requires condo corporations to obtain and maintain insurance for damage to the units and common elements that is caused by certain major perils, including fire, smoke, lightning, windstorm, hail, or any other peril specified in the condo corporation's declaration or by-laws.

Standard Unit

A condo corporation's obligation to insure the units does not cover "improvements" made to units. Section 99 of the Condo Act states a condo corporation's obligation to insure against damage to units from major or other perils only includes what is called a "standard unit".

What constitutes a standard unit in your condo corporation is important as it not only outlines responsibility for property insurance coverage but also partly determines what the condo corporation or the condo owner is responsible for when dealing with repairs after damage.

For more information on where to find your condo corporation's definition of a standard unit, see section 3.5 of this Condo Guide - Living in Units and Using Common Elements.

Deductibles

According to section 105 (1) of the Condo Act, if an insurance policy obtained by the condo corporation has a deductible clause that limits the amount payable by the insurer, the condo corporation is responsible for paying the portion of a loss that is excluded from coverage, and that amount must be included in the common expenses.

A single owner may be responsible for paying a deductible if a claim to the condo corporation's insurer arose due to the owner's (among others) action or inaction. In this case, the lesser of the deductible limit or the actual cost of the repairs must be charged back to that owner's unit. For more information on chargebacks, please see section 3.4 of this Condo Guide.

Your condo corporation may also have an insurance deductible by-law that would extend the circumstances in which an owner would be responsible for paying for a property insurance deductible. Common examples of extended circumstances could include:

- Where the owner, occupant, or guest of the unit, through an act or negligence causes the insured damage; and/or
- Where the insured damage is caused by accident (i.e., where no one is at fault).

3.5 Living in Units and Using Common Elements

Units vs. the Common Elements

For a description of what a common element is and what an exclusive use common element is, please refer to section 3.1 of this Condo Guide. As noted in section 3.1, common elements are elements which may not be for the exclusive use of a particular unit owner.

In a condo corporation, typically owners own their individual unit(s) and collectively share ownership of and expenses for the common elements (e.g. roof, hallways, elevators, pool).

What is considered part of a "unit" and what is considered part of the "common elements" will be outlined in the condo corporation's declaration and description. Schedule C of the declaration contains this information for most types of condo corporations, and more, as explained below. In addition, the Condo Act includes information about what is a unit vs. a common element. The term "common elements" generally means all the property except the units.

Understanding the breakdown between a unit and the common elements is important when considering repair and maintenance obligations, condo insurance, and making changes to your unit.

Repair and Maintenance Obligations

Section 89 (2) of the Condo Act requires that, subject to the Condo Act and a condo corporation's declaration:

- Condo corporations are responsible for repairing damage to both the common elements and units. This obligation to repair does not include any improvements made to units.
- Unit owners are responsible for maintaining their units (i.e., upkeep and repairing after normal wear and tear) and condo corporations are responsible for maintaining the common elements (e.g., parking, gardens, hallways, elevators, amenities, etc.).

The following documents, together with the Condo Act, are notable when it comes to figuring out repair and maintenance responsibilities:

1. Schedule C. Schedule C (within your condo corporation's declaration) typically will outline unit boundaries and therefore clarify repair and maintenance responsibilities, especially in unclear areas (e.g., plumbing, electrical, areas behind drywall, etc.).

2. Standard unit by-law. A standard unit by-law or, if none, a schedule provided by the developer, will detail which components of a unit are the "standard unit" and therefore the responsibility of the condo corporation to repair.

Also, section 91 of the Condo Act allows condo corporations to alter these repair and maintenance obligations in their declaration. This means that when determining who is responsible for repairs or maintenance it is necessary to review your condo corporation's declaration. Note, there are some different repair and maintenance requirements under the Condo Act for different types of condo corporations (e.g., vacant land condo corporations).

Making Changes to Your Unit

A condo corporation's declaration, by-laws, and rules may contain rules about making modifications to your unit or common elements (such as requiring notice to the board, restrictions on design, décor, materials to be used, restriction on days or times when renovations are permitted, etc.). You may wish to review these requirements, as well as applicable requirements under the Condo Act, before considering changes to your unit.

Modifications to the Common Elements by Owners

Changes to the common elements (e.g., exterior walls) by owners generally will require board approval. Section 98 of the Condo Act states that an agreement (often referred to as a section 98 agreement) must be entered into between the condo corporation and the owner specifying, for example:

- The allocation of cost of the proposed modification between the owner and the condo corporation; and
- The respective duties and responsibilities of the owner and condo corporation for the costs of repairs after damage, maintenance, and insurance of the modification.

The board may approve a proposed modification, and there will be no requirement to provide notice to other owners if the modification is to an exclusive use common element, and the board is satisfied that the modification will not:

- Have an adverse effect on units owned by other owners;
- Give rise to any expense to the corporation;
- Negatively impact the appearance of buildings on the property;
- Affect the structural integrity of buildings; or
- Contravene the declaration or any prescribed requirements.

Right of Entry

Section 19 of the Condo Act provides condo corporations, or a person authorized by the condo corporation, the right to enter units to perform the objects and duties or to exercise the powers of the condo corporation. They can only do so after providing reasonable notice to the owner of the unit.

Examples of when condo corporations may typically seek to enter units include:

- To perform maintenance and repairs to the common elements;
- To perform routine inspections on things such as smoke detectors; and
- To ensure compliance with the Condo Act and the condo corporation's declaration, by-laws, and rules.

Your condo corporation will also have the right to enter units in the case of an emergency, such as a fire or water leak, without any reasonable notice.

3.6 Condominium Management

Condo corporations, while not required to, may decide to hire a condo manager or a condo management company to oversee the condo corporation's day-to-day operations. Condo managers act on behalf of the condo corporation and are directed by the board of directors. A condo manager's range of responsibilities may include:

- Creating and maintaining records for the condo corporation;
- Responding to owner complaints;
- Coordinating the maintenance and repair of the property;
- Hiring and monitoring the performance of service providers;
- Preparing draft annual budgets and monitoring the reserve fund;
- Issuing meeting notices; and
- Organizing board meetings and overseeing administration of all owners' meetings.

Under section 17.0.1 of the Condo Act, condo corporations cannot enter into agreements with a condo manager or management company unless they are licensed through the Condominium Management Authority of Ontario (CMRAO). For more information about the CMRAO, see section 4.2 of this Condo Guide.

[For more information on the CMRAO, you can visit their website by clicking here.](#)

Part 4: Resources for Issues Resolution

4.1 Raising Issues with your Condominium Board

Occasionally, issues can arise with condo living. There are several options that may be available to condo owners who have concerns with their board of directors or condo corporation generally. Before raising any issues, you may wish to consult the governing documents of your condo corporation as

some condo corporations may have specific protocols for raising issues. When raising issues, you may wish to consider the following:

1. Writing a Letter to the Board

You may wish to contact your board to request formal consideration of your concern if you are experiencing a condo-related issue that you wish to raise with the board. Within the letter or email it is helpful to provide as much detail as possible about the issue.

[The CAO also has email and letter templates for writing to your board, available on the CAO website by clicking here.](#)

2. Requisitioning a Meeting of Owners

Owners may be able to requisition a meeting to discuss certain issues. For example, owners may be able to requisition a meeting to discuss:

- The removal and replacement of a director before the expiry of that director's term;
- A proposed new rule or change or repeal of an existing rule; and
- The discussion of any emerging issue (e.g., a board decision).

For more information on meetings in general, see section 3.2 of this Condo Guide.

[For more information regarding the requisitioning of meetings, please click here.](#)

3. Raising Issues at an AGM

An AGM provides another opportunity to bring up issues regarding the condo corporation and condo business to the board and other owners. Owners may be able to raise their concerns at their AGM. Section 45(3) of the Condo Act states that owners may raise any matters for discussion in the AGM, as long as they are relevant to the affairs and business of the condo corporation.

4. Seeking Legal Advice

If a particular issue cannot be resolved through any of the above options, you may wish to consider seeking legal advice.

If you require legal advice, you may wish to contact a lawyer or paralegal familiar with condo law. The names of lawyers or paralegals may be obtained from the [Law Society of Ontario Referral Service](#). They may provide a free consultation of up to 30 minutes.

Additionally, you may wish to consider reviewing the [CAO's Issues and Solutions](#) page for additional information on common issues associated condo living.

4.2 The Condominium Authority of Ontario

The CAO is a not-for-profit organization designated by the Ontario government to administer delegated provisions of the Condo Act and its regulations. The CAO's role is to support condo living by providing services and resources for condo communities and the general public. These include:

- Offering information about condo living to condo owners, residents, and other members of the public;
- Administering mandatory training for condo directors;
- Hosting and providing access to several mandatory and optional condo forms;
- Maintaining the CAO's Public Registry, which contains and displays information filed with the CAO through returns and notices of change; and
- Overseeing an online dispute resolution forum - the Condominium Authority Tribunal (CAT).

The CAT is an online tribunal that is authorized to resolve certain disputes primarily between condo corporations and owners. Part I.2 of the Condo Act and related regulations, including Ontario Regulation 179/17, set out certain provisions related to the CAT's jurisdiction.

Currently, the CAT resolves certain disputes relating to:

- the retention of and access to condo records.
- condo corporation governing document provisions about:
 - vehicles;
 - pets or other animals;
 - parking and storage; and
 - indemnification or compensation of the condo corporation, owner or mortgagee related to the above-noted governing document disputes.

[For more regarding the CAT, its function, and its jurisdiction, click here.](#)

4.3 Condominium Management Regulatory Authority of Ontario

The Condominium Management Regulatory Authority of Ontario (CMRAO) is a not-for-profit corporation that is responsible for administering provisions under the Condominium Management Services Act, 2015 (CMSA), including by licensing condo managers and management providers. The CMRAO:

- Ensures that condo managers and condo management companies are licensed, meet education standards, and comply with a code of ethics, among other requirements.
- Maintains a list of licensed condo managers and condo management providers.
- Promotes awareness of the condo management regulatory system and enforces compliance with the CMSA.

Handling Complaints

If you think your condo's manager or management service provider is in violation of the CMSA you can submit a complaint to the CMRAO. If the registrar of the CMRAO receives a complaint about a licensee, the registrar may do any of the following, as appropriate:

- Attempt to mediate or resolve the complaint;

- Give the licensee a written warning;
- Require the taking of further educational courses;
- Refer the matter, in whole or in part, to the discipline committee;
- Propose to suspend, revoke, or add conditions to a licence;
- Propose to refuse to renew a licence; or,
- Take further action as is appropriate in accordance with the CMSA.

[More information about making a complaint can be found on the CMRAO's website here.](#)

4.4 Compliance and Enforcement Mechanisms

Responsibility to Comply with the Condo Act

Section 119 of the Condo Act provides that the condo corporation, owners, directors, officers, employees, mortgagees, developer and occupants are all required to comply with the Condo Act as well as the condo corporation's declaration, by-laws, and rules.

Section 17 (3) of the Condo Act provides that condo corporations have a duty to take all reasonable steps to ensure that owners, occupiers, lessees, agents and employees of a condo corporation comply with the Condo Act, the declaration, the by-laws and the rules. Additionally, section 119 (2) of the Condo Act provides that owners are obliged to take all reasonable steps to ensure occupants and visitors of their unit also comply with the Condo Act, the declaration, the by-laws, and the rules.

Mediation, Arbitration, and Compliance Orders

Under section 132 of the Condo Act, certain disputes must be resolved through mediation or arbitration. Condo corporations may also have provisions in their declaration or by-laws establishing a procedure for resolving certain disputes and compliance.

To resolve certain disputes between an owner and the condo corporation, the first step would be mediation, and then arbitration, if required.

As per section 134 of the Condo Act, certain compliance disputes may be resolved through an application to the Superior Court of Justice, including if the mediation and arbitration process has failed to solve the issue. Condo corporations, owners, occupants of a proposed unit, and developers are all entitled to apply as set out in that section; however, it is recommended to talk to a lawyer or paralegal if considering any legal action.

Please note that sections 132 and 134 of the Condo Act do not apply to disputes that may be brought to the CAT.

Offences Under the Condo Act

Sections 136.1 and 137 of the Condo Act set out provincial offences under the Condo Act that the Ministry of Government and Consumer Services (Ministry) administers. If you have information about conduct you believe may constitute an offence under section 136.1 or section 137 of the Condo Act, you may provide that information to the Ministry.

[You can file the information by clicking here.](#)

The Ministry will review the information and determine if compliance or enforcement action would be appropriate. Please note that not every complaint will lead to compliance or enforcement action.

Section 136.2 of the Condo Act sets out provincial offences under the Condo Act which are administered by the CAO. If you have information about conduct that you believe may constitute an offence under section 136.2 of the Condo Act, you may provide that information to the CAO.

Part 5: Glossary of Key Terms

Addendum: The Tarion Addendum (expected to be a joint Tarion/HCRA addendum if the HCRA is designated in early 2021) is a required part of the agreement of purchase and sale for a residential condo and contains important information that both the builder and condo buyer are required to agree to.

Agreement of Purchase and Sale: The Agreement of Purchase and Sale contains important information about your rights and obligations as a condo buyer, the builder's rights and obligations as seller (as applicable), the unit, and the condo construction project.

Annual General Meeting: Annual owners' meeting where the board of directors presents to the owners on the financial health of the condo corporation and other business.

Board Meetings: Meetings attended by board members to manage the affairs of the condo corporation.

By-laws: By-laws are part of the condo corporation governing documents. By-laws govern how a condo corporation operates. By-laws can cover topics such as: the size of your condo board, the process for electing directors, and the format of board meetings. By-laws must be consistent with the declaration and the Condo Act as well as reasonable.

Chargebacks: Charges that are added to the amount of a unit owner's common expense fees. This may happen, for example, due to a condo corporation handling an owner's maintenance obligations or where a condo corporation incurs certain court costs in a legal proceeding against an owner to enforce compliance.

Common Elements: All condo property except units.

Common Elements Condominium: A condo corporation that creates common elements but does not divide the land into units. Owners purchase land tied to part of a common element condo corporation in which they also have an ownership interest (such as a shared road, ski hill or golf course) and pay common expense fees.

Common Expense Fees: The amount of money that an owner contributes in the proportions specified in the declaration. These go towards paying expenses (operating and reserve), including for, among other things, the maintenance and upkeep of the condo corporation's common elements.

Condo Corporation: A legal entity that comes into existence when a declaration and description are registered with the Land Registry Office. All units and common elements are part of a condominium corporation, and condominium corporations are governed by boards of directors on behalf of owners.

Condo Manager: An individual licensed by the Condominium Management Regulatory Authority of Ontario who is hired by a condo corporation to oversee a condo corporation's day-to-day operations. Condo managers are accountable to the board of directors of the condo corporation.

Condominium Act, 1998 (Condo Act): The Condo Act provides a legal framework that enables condo owners and their elected board of directors to make decisions about the governance of a condo corporation.

Condominium Authority Tribunal (CAT): an online tribunal administered by the Condominium Authority of Ontario that is authorized to resolve certain disputes primarily between condo corporations and owners.

Condominium Management Services Act (CMSA): The CMSA provides a framework for regulating condo managers and condo management providers and requires that they be licensed to provide condo management services in Ontario.

Cooling Off Period: Ten-day period within which buyers of pre-construction condos have the right to rescind, or cancel, a purchase agreement they have signed, for any reason whatsoever. Begins on the later of the date the buyer received the disclosure statement, a copy of this Condo Guide, and the copy of the agreement of purchase and sale.

Declarant: The owner of the land where the condo corporation is being established. *Note that, for ease-of-understanding, the Condo Guide sometimes uses the term “developer” in many places in place of the term “declarant”, which is used in the Condominium Act, 1998. The Ontario New Home Warranties Plan Act also uses the terms “vendor” and “builder”.

Declaration: Governing document that contains important information about the condo corporation, such as the percentage that the unit owner must contribute to the common expenses and a breakdown of the responsibilities for repairing and maintaining the units and common elements.

Description: The description defines the units and the common elements and specifies the boundaries between them.

Declarant-Controlled Board: A condo corporation board including directors appointed by the declarant (i.e. the developer).

Delayed Occupancy: When a unit buyer is unable to take possession of the new residential unit by the firm or outside occupancy dates contained in the Addendum to a purchase agreement.

Director / Board of Directors: The individuals who are appointed or elected to manage the affairs of the condo corporation. Directors are responsible for making important decisions and serve for terms of up to three years.

Director Training: Training program provided by the Condominium Authority of Ontario. All condo directors appointed, elected, or re-elected on or after November 1, 2017 are required to complete the training program within six months of their appointment, election, or re-election. Directors do not have to take the training if they have completed the program within the previous seven years.

Disclosure Statement: A document that your declarant must provide when you purchase your unit from them or someone benefiting them, and which includes important information about your unit and the condo corporation (proposed or registered).

Exclusive Use Common Elements: Are common elements that specific unit owners/occupiers have exclusive use of (e.g., a balcony connected directly to a single unit).

Governing Documents: A condo corporation's declaration, by-laws, and rules.

Information Certificates: Information Certificates help to ensure that owners receive ongoing information about their condo corporation throughout the year. There are three types: Periodic Information Certificates, Information Certificate Updates, New Owner Information Certificates.

Information Certificate Updates: are information certificates which include information on certain key changes before the next scheduled Periodic Information Certificate (such as changes in the directors or officers of the condo corporation). These are to be distributed within 30 days of the change.

Interim Occupancy: When a buyer takes occupancy of their unit before the condo corporation has been registered with the Land Registry Office, and before ownership is transferred to the buyer. The duration of the interim occupancy is called the interim occupancy period, and during that period the buyer is required to pay occupancy fees.

Interim Occupancy Fee: The amount that a buyer is required to pay the declarant during the interim occupancy period.

Interim Occupancy Period: The period from your interim occupancy date to the date ownership is transferred to you.

New Owner Information Certificates: Information certificates which are sent to new owners within 30 days after the new owner provides written notice stating their name and the unit that they own in the condo corporation.

Notices: Notices are documents containing information that an individual is entitled to receive as a unit owner. Notices will be delivered to you in either hardcopy or digitally (if the condo corporation and owner agree to electronic delivery or if that is otherwise permitted).

Owners' Meetings: Meetings which all owners are invited to. Includes annual general meetings, owner-requisitioned meetings, turn-over meetings, and meetings called by the board regarding the transaction of any condo business.

Owner-Requisitioned Meetings: Meetings requested by the owners to discuss/vote on a specific topic, such as the removal of a director or voting on a rule proposed by the board of directors.

Periodic Information Certificates: Information certificates which focus on the condo corporation's board, finances, insurance, reserve fund, legal proceedings, and other matters.

Phased Condominium: A condominium that is built and registered in phases. Once the construction is complete, it becomes a standard condominium.

Quorum: The law requires that a minimum number of owners be present (either in person or by proxy) at a meeting. Without quorum, voting cannot take place, however discussion on relevant business is still permitted.

Reserve Fund: A fund condo corporations save and use to handle the larger financial burdens, for major repair or replacements of common elements and assets as needed.

Reserve Fund Study: Determines how much money needs to be in the reserve fund to ensure the major repairs/replacements can be paid for in the future. The reserve fund study must be prepared by a specialist, like an engineer. The board of directors approves the study, then informs owners of the results of the study.

Rules: Rules are part of the condo corporation's governing documents. Rules exist for the protection of those living in the condo corporation as well as the protection of the assets of the condo corporation itself, and to prevent unreasonable interference with the use and enjoyment of the units, common elements, and assets of the condo corporation. Rules must be consistent with the Condo Act and the declaration and by-laws of the condo corporation as well as reasonable.

Special Assessment: An extra one-time charge added on top of an owner's common expense fees.

Standard Condominium: The most common type of condo corporation in Ontario, where the condo corporation is made up of units and common elements.

Statement of Critical Dates: The Statement of Critical Dates can be found in the Addendum to your purchase agreement. The Statement contains the dates you can expect to take occupancy of your unit, as well as other important information.

Status Certificate: A document that anyone can request from a condo corporation and which contains important information about the unit and condo corporation.

Turn-Over Meeting: The meeting held by the declarant-controlled board within 42 days of the declarant ceasing to own a majority of the units. At this meeting, the owners will elect a new board and the declarant-controlled board will turn over several items to the new owner-elected board.

Vacant Land Condominium: A type of condo corporation in which the units may be vacant lots at the time of purchase, and the condo corporation may resemble a subdivision. Common elements are often things such as roadways, sewer systems, and amenities such as parks or recreation facilities.