

**REPLACEMENT BY-LAWS OF  
CONDOMINIUM CORPORATION NO. 151 2348**

*Guardian Residential Condominium Bylaws*

**REPLACEMENT BY-LAWS OF  
CONDOMINIUM CORPORATION NO. 151 2348**

**TABLE OF CONTENTS**

<b>1.</b>	<b>APPLICATIONS AND DEFINITIONS .....</b>	<b>1</b>
<b>2.</b>	<b>APPLICATION .....</b>	<b>6</b>
<b>3.</b>	<b>DUTIES OF AN OWNER.....</b>	<b>6</b>
	(a) PERMIT CORPORATION ACCESS TO UNIT .....	6
	(b) GOVERNMENT WORK ORDERED .....	7
	(c) PERMIT CORPORATION TO REPAIR AND MAINTAIN COMMON PROPERTY AND/OR MANAGED PROPERTY .....	7
	(d) USE/RESTRICTION OF USE OF COMMON PROPERTY AND/OR MANAGED PROPERTY .....	7
	(e) USE OF UNIT .....	8
	(f) NOTICE OF TITLE CHANGE .....	8
	(g) COMPLY WITH BY-LAWS .....	8
	(h) PAYMENT OF CONDOMINIUM FEES .....	8
	(i) PRIVACY AREA OR EXCLUSIVE USE AREA .....	8
	(j) WINDOW WASHING .....	9
	(k) REPAIRS, ADDITIONS, OR ALTERATIONS .....	9
	(l) PROHIBITION OF SATELLITE DISHES .....	10
	(m) RENTALS.....	10
	(n) LIABILITY FOR DAMAGE .....	10
	(o) LIABILITY and ALL-RISK INSURANCE.....	10
	(p) PROHIBITION AGAINST SMOKING ON COMMON PROPERTY .....	11
<b>4.</b>	<b>DUTIES OF THE CORPORATION .....</b>	<b>11</b>
	(a) MANAGE COMMON PROPERTY .....	11
	(b) MAINTAIN AND REPAIR COMMON PROPERTY AND/OR MANAGED PROPERTY.....	11
	(c) WINDOW CLEANING.....	13
	(d) MAINTENANCE/REPAIR OF LANDSCAPING AND FENCING ON COMMON PROPERTY.....	13
	(e) OWNERSHIP AND MANAGEMENT OF COMMON PROPERTY.....	13
	(f) GARBAGE AND RECYCLING.....	13
	(g) SNOW AND ICE REMOVAL.....	13
	(h) INSURANCE.....	13
	(i) PROVIDE INSURANCE PARTICULARS.....	13
	(j) INITIAL GENERAL MEETING .....	14
	(k) GENERAL MEETING.....	14

(l)	CAPITAL REPLACEMENT RESERVE FUND STUDY .....	14
(m)	CAPITAL REPLACEMENT RESERVE FUND PLAN .....	15
(n)	CAPITAL REPLACEMENT RESERVE FUND .....	15
(o)	MISCELLANEOUS .....	15
(p)	COMPLIANCE BY CORPORATION .....	16
(q)	ESTOPPEL CERTIFICATES AND OTHER INFORMATION .....	16
<b>5.</b>	<b>POWERS OF THE CORPORATION.....</b>	<b>17</b>
(a)	ACQUIRE PROPERTY .....	17
(b)	CAPITAL REPLACEMENT RESERVE FUND .....	17
(c)	BORROW .....	17
(d)	GIVE SECURITY/MORTGAGE COMMON PROPERTY AND/OR CORPORATION'S UNIT(S).....	18
(e)	INVEST .....	18
(f)	AGREEMENT WITH OWNER OR OCCUPIER .....	18
(g)	EXCLUSIVE USE OF UNIT .....	18
(h)	EXCLUSIVE USE OR PRIVACY AREAS .....	18
(i)	RIGHT OF ACCESS OR EGRESS OVER COMMON PROPERTY .....	19
(j)	BOARD OF DIRECTORS — HONORARIUM.....	19
(k)	APPOINTMENT OF AUDITOR(S) .....	19
(l)	GUIDING PRINCIPLES FOR APPORTIONMENT OF EXPENSES .....	19
(m)	COLLECTION OF ASSESSMENTS, CONTRIBUTIONS AND/OR SPECIAL ASSESSMENTS FROM OWNER .....	20
(n)	COLLECTION OF ASSESSMENTS, CONTRIBUTIONS AND/OR SPECIAL ASSESSMENTS FROM THE DEVELOPER .....	21
(o)	SANCTIONS FOR FAILURE TO COMPLY WITH BY-LAWS.....	21
(p)	ALTERNATE DISPUTE RESOLUTION .....	21
<b>6.</b>	<b>THE BOARD OF DIRECTORS .....</b>	<b>22</b>
(a)	POWERS VESTED AND SIZE.....	22
(b)	ELIGIBILITY .....	22
(c)	VOTING .....	22
(d)	BOARD PRIOR TO FINAL TURNOVER DATE .....	22
(e)	BONDING .....	23
<b>7.</b>	<b>REMOVAL OR DISQUALIFICATION FROM THE BOARD.....</b>	<b>23</b>
(a)	REMOVAL OF MEMBER OF BOARD .....	23
(b)	GROUND FOR REMOVAL OF MEMBER OF BOARD .....	23
<b>8.</b>	<b>CASUAL VACANCY.....</b>	<b>24</b>
<b>9.</b>	<b>QUORUM.....</b>	<b>24</b>
<b>10.</b>	<b>OFFICERS .....</b>	<b>24</b>
<b>11.</b>	<b>MAJORITY VOTE .....</b>	<b>25</b>

<b>12.</b>	<b>CASTING VOTE OF CHAIRMAN .....</b>	<b>25</b>
<b>13.</b>	<b>WRITTEN RESOLUTIONS .....</b>	<b>25</b>
<b>14.</b>	<b>SEAL .....</b>	<b>25</b>
<b>15.</b>	<b>SIGNING AUTHORITY .....</b>	<b>25</b>
<b>16.</b>	<b>POWERS OF THE BOARD.....</b>	<b>25</b>
	(a) BOARD MEETINGS .....	25
	(b) EMPLOY AGENTS .....	26
	(c) DELEGATE POWERS .....	26
	(d) EXERCISE POWERS .....	26
	(e) CHARGE FEES.....	26
<b>17.</b>	<b>DUTIES OF THE BOARD .....</b>	<b>26</b>
	(a) MINUTES OF PROCEEDINGS .....	26
	(b) MINUTES AT GENERAL MEETINGS.....	26
	(c) GENERAL MEETINGS.....	26
	(d) BOOKS OF ACCOUNT .....	26
	(e) CORPORATION ACCOUNTS .....	27
	(f) ACCESS TO RECORDS.....	27
	(g) DETAILS OF CONTRIBUTION.....	27
	(h) ASSESSMENTS.....	27
	(i) INSURANCE.....	27
	(j) MANAGEMENT CONTRACTS.....	27
	(k) INTENTIONALLY LEFT BLANK.....	28
	(l) RESERVES .....	28
	(m) SPECIAL ASSESSMENTS OR CONTRIBUTIONS.....	28
	(n) GENERAL.....	28
	(o) MISCELLANEOUS .....	28
<b>18.</b>	<b>INDEMNITY OF BOARD.....</b>	<b>29</b>
<b>19.</b>	<b>GENERAL.....</b>	<b>29</b>
	(a) PROCEDURE.....	29
	(b) EXTRAORDINARY GENERAL MEETINGS .....	29
<b>20.</b>	<b>CONVENE EXTRAORDINARY GENERAL MEETINGS .....</b>	<b>29</b>
<b>21.</b>	<b>NOTICE OF MEETINGS.....</b>	<b>29</b>
<b>22.</b>	<b>SPECIAL BUSINESS.....</b>	<b>29</b>
<b>23.</b>	<b>QUORUM AT GENERAL MEETING .....</b>	<b>30</b>
<b>24.</b>	<b>PROCEDURE IF NO QUORUM.....</b>	<b>30</b>
<b>25.</b>	<b>ORDER OF BUSINESS .....</b>	<b>30</b>
<b>26.</b>	<b>SHOW OF HANDS .....</b>	<b>31</b>
<b>27.</b>	<b>TAKING A POLL .....</b>	<b>31</b>

28.	CHAIRMAN HAS CASTING VOTE.....	31
29.	NUMBER OF VOTES.....	31
30.	MANNER OF VOTING.....	31
31.	PROXY .....	31
32.	RESTRICTIONS ON VOTING .....	31
33.	VOTE BY CO-OWNERS .....	32
34.	VOTE WHEN SUCCESSIVE INTERESTS.....	32
35.	VOTE OF TRUSTEE.....	32
36.	SIGNED RESOLUTION .....	32
37.	ESTOPPEL CERTIFICATE.....	33
38.	BY-LAW AMENDMENT .....	33
39.	BY-LAWS BINDING .....	34
40.	FINANCIAL STATEMENTS .....	34
41.	EXPENDITURES BY MANAGER .....	34
42.	BONDING OF MANAGER.....	34
43.	MORTGAGEES REPRESENTED ON BOARD .....	34
44.	NOTICE OF DEFAULT TO MORTGAGEE .....	34
45.	NOTICE.....	35
46.	INSURANCE.....	35
47.	DEDUCTIBLE .....	41
48.	SEVERABILITY .....	42
49.	OWNER'S USAGE.....	42
50.	ONE-FAMILY RESIDENCE .....	42
51.	RESTRICTED COMMERCIAL USE OF RESIDENTIAL UNIT .....	42
52.	MAINTENANCE BY OWNERS .....	43
53.	FIRE HAZARD.....	44
54.	WATER .....	44
55.	PLUMBING.....	44
56.	COMBUSTIBLE MATERIALS .....	45
57.	SIGNS .....	45
58.	EMERGENCY .....	45
59.	ANTENNAS .....	45
60.	LAUNDRY.....	45
61.	AWNINGS.....	46
62.	OCCUPANTS OR TENANTS.....	46
63.	APPEARANCE OF UNITS .....	46
64.	GARBAGE .....	46
65.	NOISE .....	47

66.	<b>PRIVACY .....</b>	<b>47</b>
67.	<b>PERSONAL BELONGINGS.....</b>	<b>47</b>
68.	<b>HEALTH .....</b>	<b>47</b>
69.	<b>ELECTRICAL CIRCUITS .....</b>	<b>47</b>
70.	<b>DAY CARE CENTRE.....</b>	<b>48</b>
71.	<b>SIDEWALKS AND WALKWAYS.....</b>	<b>48</b>
72.	<b>DAMAGE TO THE COMMON PROPERTY AND THE MANAGED PROPERTY.....</b>	<b>48</b>
73.	<b>STRUCTURES ON COMMON PROPERTY .....</b>	<b>48</b>
74.	<b>LIABILITY FOR DAMAGE.....</b>	<b>48</b>
75.	<b>AUCTION.....</b>	<b>49</b>
76.	<b>TRAFFIC SPEED AND DIRECTIONAL CONTROL .....</b>	<b>49</b>
77.	<b>COMMON EXPENSES OF OWNER(S) .....</b>	<b>49</b>
78.	<b>ASSESSMENT OF COMMON EXPENSES .....</b>	<b>50</b>
79.	<b>ASSESSMENTS IN ARREARS .....</b>	<b>51</b>
80.	<b>DEFAULT OF PAYMENTS .....</b>	<b>52</b>
81.	<b>INDEMNITY.....</b>	<b>53</b>
82.	<b>ENFORCEMENT AND FINANCIAL PENALTIES FOR BREACH OF BY- LAWS.....</b>	<b>53</b>
83.	<b>DEVELOPER'S USE OF PROPERTY .....</b>	<b>53</b>
84.	<b>PETS .....</b>	<b>53</b>
85.	<b>UNIMPROVED UNITS .....</b>	<b>54</b>
86.	<b>EASEMENTS.....</b>	<b>54</b>
87.	<b>PARTY WALL AGREEMENT .....</b>	<b>56</b>
88.	<b>RESTRICTED DEVELOPMENT OF EXTERIOR OF UNITS .....</b>	<b>57</b>
89.	<b>RESTRICTIVE COVENANTS AFFECTING TITLE .....</b>	<b>57</b>
90.	<b>MANAGED PROPERTY .....</b>	<b>58</b>
	(a) DUTIES AND RESTRICTIONS ON OWNERS REGARDING MANAGED PROPERTY.....	58
	(b) POWERS, DUTIES AND RESTRICTIONS OF THE CORPORATION.....	59
91.	<b>DEVELOPER'S OBLIGATION IN REGARD TO THE COMMON PROPERTY, CORPORATION'S UNIT(S).....</b>	<b>59</b>
92.	<b>RELEASE AND DISCHARGE OF THE DEVELOPER FOR COMMON PROPERTY.....</b>	<b>60</b>
93.	<b>CONSENTS AND ASSURANCES BY THE CORPORATION .....</b>	<b>60</b>
94.	<b>USE OF COMMON PROPERTY.....</b>	<b>61</b>
95.	<b>POWER OF ATTORNEY .....</b>	<b>61</b>
96.	<b>PRIVACY POLICY .....</b>	<b>62</b>
97.	<b>AMENDMENT OF BY-LAWS .....</b>	<b>63</b>

**REPLACEMENT BY-LAWS OF  
CONDOMINIUM CORPORATION NO. 151 2348**

**1. APPLICATIONS AND DEFINITIONS**

These By-Laws have been enacted by Condominium Corporation No. 151 2348 to replace the By-Laws set out in the Schedule to the Condominium Property Act, being chapter C-22, of the Revised Statutes of Alberta, 2000, and amendments thereto. The following definitions shall apply to all parts of these By-Laws:

"**Act**" shall mean *The Condominium Property Act*, being Chapter C-22 of the Revised Statutes of Alberta, 2000 as amended from time to time, or any statute or statutes which may be passed in substitution for or replacement of the Act;

"**Amenities**" means the improvements made to the Common Property;

"**Board**" means the Board of Directors elected pursuant to the By-Laws;

"**Board Member**" means duly elected members of the Board;

"**Buildings**" means the residential apartment buildings constructed or to be constructed on the Parcel, which comprises the Residential Units and all associated Amenities structures, improvements and common property;

"**By-Laws**" means the by-laws of the Corporation, as amended from time to time;

"**Capital Replacement Reserve Fund**" means the fund established by the Board to be used for the repair or replacement of the Common Property, the Managed Property, and any real and personal property owned by the Corporation;

"**Capital Replacement Reserve Fund Plan**" means the plan adopted by the Board in order to establish a Capital Replacement Reserve Fund for the purposes of providing sufficient funds which can reasonably be expected to cover the cost of major repairs, maintenance, or replacement of the Common Property and the Managed Property, or the components thereof;

"**Capital Replacement Reserve Fund Study**" means the study to be undertaken by the Board in order to prepare a report in respect of the Common Property and the Managed Property, for the purposes of determining the life expectancy of the Common Property and the Managed Property, and the estimated costs of repair or replacement of the Common Property or the Managed Property, or components thereof;

"**Commercial Retail Units**" means the commercial, office, or retail units located within the Parkade;

"**Common Expenses**" means all Corporation expenses incurred in the performance of the objects and duties of the Corporation including the management, control and administration of the Common Property and Amenities and the Corporation's Units and

includes any and all expenses specified as common expenses or condominium fees in the By-Laws;

**"Common Property"** means all the areas shown on the Residential Condominium Plan which are not comprised of Residential Units or Exclusive Use Areas, the responsibility of which shall be the Corporation's to administer, manage and control. Without restricting the generality of the foregoing, the entrance features, all roadways, curbs, sidewalks, common entrances, lighting, fencing, patios, balconies, terraces, walkways, the exterior of the Building (including roof, exterior cladding, and external windows), internal hallways, garbage facilities, utility rooms, and the landscaping and all the Corporation's Units shall be deemed to be included in the definition of Common Property;

**"Corporation"** means the condominium corporation constituted under the Act by the registration at the Land Titles Office of the Residential Condominium Plan;

**"Corporation's Unit(s)"** means any Residential Units which will be transferred by the Developer to the Corporation to be owned as Common Property;

**"Developer"** means Hon Towers Ltd. and its successors or assigns;

**"Equipment"** means the heating, ventilating, elevating, and other equipment to be installed by the Developer in the Building, or required for the maintenance and repair of the Building, and necessary for the operation thereof;

**"Fitness Facilities"** means the Parkade area designated for the use by owners of units in the Parkade and Owners of units in the Buildings as a fitness facility situated in the Parkade;

**"Final Turnover Date"** means the date determined by the Developer for collection of Common Expenses;

**"Insurance Trustee"** means a trust company authorized to carry on the business of a trust company under the laws of Alberta selected, if and when necessary, from time to time by the Board;

**"Insured Hazard"** means fire, tempest, storm, act of God or other hazard required hereunder to be insured against by the Corporation;

**"Interest Rate"** means the Prime Rate of interest from time to time of the Royal Bank of Canada plus three (3%) per cent per annum or such other rate as may be approved from time to time by Ordinary Resolution calculated from date due until payment;

**"Live/Work Units"** means the residential live/business and work units located in the Parkade, which Live/Work Units shall be described in the Parkade Condominium Plan by reference to floors, walls and ceiling within the Parkade, and all interior doors and windows of a Live/Work Unit or part of that Live/Work Unit, and which Live/Work Units may be used for a business;



**"Lounge Areas"** means the 7<sup>th</sup> floor areas in Tower I designated for the non-exclusive use by Parkade Owners and the Owners for the purpose of a social lounge area;

**"Maintenance Fees"** means the expenses incurred by the Developer prior to the Final Turnover Date which, but for the provisions of By-Law 3(h) hereof, would be construed as **"Common Expenses"** (if paid by the Corporation and incurred after the Final Turnover Date) and also means any Capital Replacement Reserve Fund contribution (as assessed and determined by the Developer in its sole discretion). The Developer may pay the maintenance fees directly to the invoicing supplier, contractor or third party and obtain reimbursement from the Owners of the Units, proportionally based upon the respective Owners Unit Factors, as more particularly set forth herein;

**"Managed Property"** means the Common Property, and all those parts of the Unit(s) which, pursuant to the By-Laws or any other agreement that the Corporation is required or has a right to administer, control, manage, maintain, repair and replace as if the same were Common Property;

**"Manager"** means the professional manager first retained by the Developer or its successor person, firm or corporation contractually appointed by the Board;

**"Mortgagee"** means the holder of a mortgage registered against the title to one or more Units;

**"Occupation"**, **"Occupied"** or **"Occupant"** means a regular and ordinarily present in the Unit whether permanent or temporary, and whether or not the person is frequently absent by reason of employment or ill health, and includes owners, guests, invitees and tenants of a Unit. A person shall be deemed to be an Occupant if his or her occupation of the Unit exceeds thirty (30) consecutive days, or a cumulative total of sixty (60) days within any 365 day period. However, a person whose primary purpose for residing in the Unit is to provide medical assistance to an Occupant shall be deemed not to be an Occupant within the meaning of this definition;

**"Owner"** means a person who is registered as the owner of the fee simple estate in a Unit;

**"Parcel"** means the land which comprises the Building and the Parkade and which may also include Tower I;

**"Parkade"** means the above and below ground parkade and the Podium constructed on the Parcel and housing the Parking Units, Live/Work Units and Commercial Retail Units, and which may also include the Fitness Facilities, Storage Lockers, and all accesses and associated improvements;

**"Parkade Condominium By-Laws"** means the by-laws, as amended from time to time, of the Parkade condominium corporation constituted under the Act by the registration at the Land Titles Office of the Parkade Condominium Plan;

**"Parkade Condominium Corporation"** means the condominium corporation which will be created on the registration at the Land Titles Office of the Parkade Condominium Plan;

**"Parkade Condominium Plan"** means the proposed condominium plan showing the Parkade, which plan is subject to revision by the Developer, in its sole discretion;

**"Parking Units"** means the parking stalls separately titled as parking units in the Parkade;

**"Person"** includes the heirs, executors, administrators or other legal representatives of an individual or a corporation and its successors;

**"Podium"** means the above ground portion of the Parkade constructed on the Parcel and housing Parking Units, Live/Work Units and Commercial Retail Units, and which may also include the Fitness Facilities, Storage Lockers, and all accesses and associated improvements;

**"Privacy Areas"** or **"Exclusive Use Areas"** means those areas, being part of the Common Property, which comprise garden terraces, patio areas and/or balconies immediately adjacent to each Unit, the rooftop pool area, the Lounge Areas and the areas required by the Developer for construction projects, including those areas used for storage of materials or equipment on top of the Parkade and easements for crane swings, the area and location of which are shown on the Parkade Condominium Plan or Residential Condominium Plan or if not shown shall be determined by the Board from time to time, and which are areas suitable for exclusive use of Owners and Occupants of the Units;

**"Property Management Company"** means a professional management company, whose main business shall be the management of the Building;

**"Regulations"** means the Condominium Property Regulation 168/2000 (Alberta);

**"Residential Condominium Plan"** means the condominium plan for Tower I and associated Amenities, structures and improvements, which plan is subject to revision by the Developer in its sole discretion;

**"Residential Units"** means the residential living units described in the Residential Condominium Plan by reference to floors, walls and ceiling within the Buildings, and all interior doors and windows of a Residential Unit or part of that Unit. These Residential Units are to be considered "residential units" as defined in the Act;

**"Resolutions"**

- (i) **"Ordinary Resolution"** means a resolution:
  - a) passed at a properly convened meeting of the Corporation, of which at least seven (7) days' notice has been given, by a majority

of all of the persons present or represented by proxy at the meeting entitled to exercise the powers of voting conferred by the Act or the By-Laws; or

- b) signed by not less than 51% of all the persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or the By-Laws and representing not less than 51% of the total Unit Factors for all the Units;

(ii) "**Special Resolution**" means a resolution:

- a) passed at a properly convened meeting of the Corporation, of which at least seven (7) days' notice specifying the proposed resolution has been given, by a majority of not less than 75% of all of the persons entitled to exercise the powers of voting conferred by the Act or the By-Laws and representing not less than 75% of the total Unit Factors for all the Units; or
- b) signed by not less than 75% of all the persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or the By-Laws and representing not less than 75% of the total Unit Factors for all of the Units;

"**School Parcels**" means the parcels on which the Sandstone School and Bungalow School are located, legally described as Strata Lots 46 and 47, Block •, Plan 151\_\_\_\_\_;

"**Security Services**" means the provision of building caretaking and security to the Building from 10:00 a.m. to 8:00 p.m. (or such other time as determined by the Board) seven (7) days per week for the purpose of monitoring and ensuring the security of the lobby areas within the Common Property leading to the Units together with related television monitors and video surveillance systems;

"**Storage Lockers**" means the storage locker units intended to be designated for the owners of units in the Parkade, owners of Buildings and the Developer for the sole purpose of storage and to be assigned by the Developer or the Manager;

"**Tenant**" or "**Occupier**" means a person residing in a Unit owned by another person under either a lease agreement, or with the permission of the Owner of the Unit;

"**Tower I**" means the residential condominium building which is currently being constructed on the northwest corner of the Parcel;

"**Unimproved Unit**" means a Unit to which either no construction has been commenced, or construction has commenced but has not yet been completed;

"**Unit**" means any one or more Residential Units; and

"Unit Factor" means the unit factor for each Unit, as more particularly described in the Residential Condominium Plan.

## 2. APPLICATION

Words and expressions which have a special meaning assigned to them in the Act have the same meaning in the By-Laws and other expressions used in the By-Laws have the same meaning as may be assigned to them in *The Land Titles Act* of Alberta, being Chapter L-4 of the Revised Statutes of Alberta, 2000, or in any statute or statutes passed in substitution therefor or in replacement thereof, unless the context otherwise requires.

The By-Laws are to be read with all changes to number and gender required by the context.

The headings in the body of each By-Law form no part of the By-Laws but shall be deemed to have been inserted solely for convenience of reference only.

The rights and obligations given or imposed on the Corporation by the Owners under the By-Laws are in addition to any rights or obligations given or imposed on the Corporation under the Act and if there is any conflict between the By-Laws and the Act, the By-Laws shall prevail to the extent permitted by law.

## 3. DUTIES OF AN OWNER

An Owner shall:

### (a) PERMIT CORPORATION ACCESS TO UNIT

Permit the Manager, security personnel, concierge agents or any contractors and their employees, at all reasonable times on notice (except in case of emergency when no notice is required, and except for access to Unit #309 where notice will be not less than 30 days' notice), to enter the Unit for the purpose of inspecting the same and maintaining, repairing or renewing pipes, wires, cables, ducts, conduits, plumbing, mechanical, heating, window cleaning, ventilation, air-conditioning, sewer, water, gas, electrical transmission, telephone and telecommunication lines and other facilities for the furnishing of services located within the Unit or behind the boundaries of the Unit and capable of being used in connection with or affecting the enjoyment of any other Unit or the Common Property, or the Managed Property, or for the purpose of maintaining, repairing or renewing either the Unit, the Common Property, or the Managed Property, or for the purpose of ensuring that the By-Laws are being observed, or allowing the Developer to repair or rectify any deficiencies to the Unit required to be conducted by the Developer or its agents/subcontractors. Notwithstanding the foregoing, no board members of the Corporation shall have access to any Unit, without the prior consent of the Owner, and the Owner of Unit #309, may elect, by notice to the Corporation, to replace or change fan coil filters, from time to time, contained in Unit #309 at its own cost.

**(b) GOVERNMENT WORK ORDERED**

Forthwith carry out all work that may be ordered by any municipality or public authority in respect of his Unit; and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Unit.

**(c) PERMIT CORPORATION TO REPAIR AND MAINTAIN COMMON PROPERTY AND/OR MANAGED PROPERTY**

Permit the Manager, security personnel, concierge agents or any contractors and their employees, at all reasonable times on notice (except in case of emergency when no notice is required, and except for access to Unit #309 when required for window cleaning, notice will be not less than 30 days' notice), to enter an Owner's Unit for the purposes of accessing, inspecting, repairing, maintaining and cleaning the Common Property and/or the Managed Property, including, but without limiting the generality of the foregoing, exterior doors, roofing materials and exteriors of roofs, eavestroughs and exterior drainage, exterior beams and trim, exterior windows (including sliding glass doors), siding, stucco, or other finishes, all exterior painting, fencing, decks, patios, sidewalks, driveways, landscaping, and the removal of snow and ice from sidewalks, driveways, or other surface improvements, located on the Building, the Common Property, or the Unit. Common Property and Managed Property shall be deemed to include entrance signs, entrance gates, doors to the parking levels, doors to the Residential Units, or entrance features located on the Common Property including the Common Property components of the mechanical, heating, ventilating, air conditioning except the Owner of Unit # 309, may elect, by notice to the Corporation, to replace or change fan coil filters, from time to time, contained in Unit #309 and fire systems, including thermostats, zone valves, radiant heating lines, fan coil units, filters, fire system strobe and enunciator speaker (but not the in-suite (local) smoke alarm which shall be the responsibility of the Unit Owner to maintain, service and replace, as required). The quality of the repair and maintenance shall be consistent with the standards of the design, quality, and state of repair of the rest of the Building, and the standards of repair and maintenance shall also comply with any rules or regulations made by the Corporation in regard to the standards of repair and maintenance.

**(d) USE/RESTRICTION OF USE OF COMMON PROPERTY AND/OR MANAGED PROPERTY**

Not use and enjoy the Common Property and/or Managed Property in any unreasonable manner nor interfere with the use and enjoyment of the Common Property and/or Managed Property by other Owners, Tenants, or Occupiers, or their families or visitors.

**(e) USE OF UNIT**

Not use his Unit or permit it to be used in any manner or for any purpose which may be illegal or injurious, or that will cause any insurance maintained by the Corporation to be cancelled or declined or its premium rates increased or that will or might cause a nuisance or hazard to any Occupier of a Unit (whether an Owner or not) or the family of such an Occupier.

Not use any portion of the Unit for the storage of personal belongings or other goods and chattels except those that may be permitted by the Board.

**(f) NOTICE OF TITLE CHANGE**

Notify the Corporation forthwith upon any change of ownership or of any mortgage or other dealing in connection with his Unit in order to assist the Corporation in maintenance of its corporate records.

**(g) COMPLY WITH BY-LAWS**

Comply with and cause all his Tenants, family, visitors and other Occupants of his Unit to comply with the By-Laws and the regulations (if any) of the Corporation in force from time to time.

**(h) PAYMENT OF CONDOMINIUM FEES**

(i) Pay when due all Common Expenses, Maintenance Fees, and special assessments or contributions (collectively, the "**Condominium Fees**") levied or assessed by the Developer or the Corporation on the Owner with respect to his Unit and all other monies payable to the Corporation hereunder, including costs of maintenance and repair of the Common Property, or the Managed Property, and taxes or assessments against the Common Property, whether or not that Unit is occupied by the Owner, a Tenant or Occupier, and to pay interest on any arrears of such payments at the Interest Rate.

(ii) The preceding sub-by-law 3(h) (i) shall not apply to exclude payment of any Maintenance Fees.

**(i) PRIVACY AREA OR EXCLUSIVE USE AREA**

Outdoor furnishings, plants, flowers, and decorative accessories are permitted on any Privacy or Exclusive Use Area provided that such items are kept in good condition and are compatible with the general character and aesthetics of the Building. An Owner shall not use any Privacy Area or Exclusive Use Area for the storage of personal belongings or other goods and chattels except those that may be permitted by the Board. Except with the written consent of the Board, no alterations, additions, decoration, redecoration, changes, installation, or construction shall be made on, to, or adjoining any Privacy Area or Exclusive Use

Area, provided always that where plants and flowers are permitted, landscaping must be maintained by the Owner enjoying the Exclusive Use/Privacy Area.

**(j) WINDOW WASHING**

Wash and keep clean the exterior of all external windows of his Unit to the extent that such windows are accessible from the sidewalk, patio, or balcony of the Unit.

**(k) REPAIRS, ADDITIONS, OR ALTERATIONS**

Not make any repairs, additions, or alterations to the exterior of his Unit, the Common Property, any interior or exterior walls, including floors and floor coverings, forming part of his Unit, or any part of the plumbing, heating, mechanical or electrical systems within his Unit, including, without limitation to the foregoing, anything which is the Corporation's responsibility, without first complying with each of the following requirements:

- (i) the plans and specifications, as well as a name of the contractor or trades to be utilized for such purposes, shall be submitted to the Board no less than sixty (60) days prior to the proposed commencement of the work, and no work may be commenced without obtaining the prior written consent of the Board, which consent may be withheld in the Board's sole discretion if it determines the work to be adverse, detrimental or otherwise not in the best interest of the Owners, the Corporation and/or the Building and its Occupants;
- (ii) all such work, materials and installations must be in accordance with all building codes, rules and regulations enforced from time to time, and must be in accordance with best practices and shall not interfere with the original intent of the design for the Building, the Common Property, the Units and/or the Equipment;
- (iii) the materials, methods of construction, and resulting improvements after completion of the work must ensure that the Unit has been constructed in accordance with sound attenuation levels and performance ratings, as established by either the Developer or the Board, from time to time;
- (iv) the Owner acknowledges that the use of either hardwood or ceramic flooring may be permitted in only certain areas of the Unit, or, in some circumstances, the use of hardwood or ceramic flooring, may be prohibited in its entirety;
- (v) no Owner shall be entitled to tint the windows of his Unit or to utilize or install any blinds on either side of any exterior windows of his Unit other than those blinds initially supplied by the Developer or replacement blinds of the same type, quality and color as those supplied by the Developer. Additionally, there shall be no flags, tin foil or other items covering, in whole or in part, any exterior window of the Unit.

**(l) PROHIBITION OF SATELLITE DISHES**

Not install any satellite dish on the Unit nor on any Privacy Area or Exclusive Use Area or any part of the Common Property.

**(m) RENTALS**

Subject to the provisions of the Act, an Owner may only lease or grant possession of his Unit to any tenant or Occupant on the conditions that:

- (i) the Owner shall not be released of any obligation herein and shall be jointly and severally liable with the proposed lessee or Occupant with respect to all obligations relating to the Unit;
- (ii) the Owner has given written notice to the Corporation of his intention to rent the Unit, setting forth the address at which he may be served with a notice given by the Corporation with respect to the tenancy;
- (iii) it is a condition of the tenancy that the persons residing in the Unit shall not cause damage to the real or personal property of the Corporation or to the Common Property or to contravene these By-Laws;
- (iv) the Owner gives the Corporation written notice of the name of the tenant residing in the Unit prior to, or not less than immediately upon, occupancy of its Unit, including all necessary information as may be required by the Corporation in order that the Corporation can contact the Tenant, if necessary, immediately upon commencement of the Tenancy. In addition, the Owner and the Tenant shall provide the Corporation with written notice, signed by both the Owner and the Tenant, confirming that the Owner has provided the Tenant with a copy of the By-Laws and any rules and regulations of the Corporation, and the Tenant agrees to comply with the By-Laws and the rules and regulations;
- (v) the Owner gives the Corporation written notice that the Unit is no longer rented immediately upon termination of the Tenancy.

**(n) LIABILITY FOR DAMAGE**

Be personally liable for any and all damage, including any insurance deductible charged by the Corporation's insurers, caused to any elements of the Common Property which results, directly or indirectly, from any act or omission, whether negligent or otherwise, caused by the Owner or any of his Occupants, visitors, invitees, guests or tenants.

**(o) LIABILITY AND ALL-RISK INSURANCE**

An Owner shall carry personal liability insurance on his own Units and insurance (including theft and other perils) on his personal possessions and chattels,



provided that the liability of the insurers issuing insurance obtained by the Board shall not be affected or diminished by reason of insurance carried by an Owner. In addition, the Owner shall carry "deductible insurance coverage" in an amount not less than the amount of the Corporation's insurance deductible (and in any event not less than \$5,000.00) in order to cover the Corporation's insurance deductible where the Owner (or his Tenant and Occupier) is liable for the loss caused to the Corporation.

**(p) PROHIBITION AGAINST SMOKING ON COMMON PROPERTY**

Except while in the Unit, or on any balcony, patio or deck attached to a Unit, smoking in any area of the Building designated as Common Property is strictly prohibited. Without restricting the generality of the foregoing, smoking is prohibited in all hallways, elevators, or the lobby and entrance to the Building. Owners, Tenants, Occupiers, and their families and guests who breach the provisions of this prohibition on smoking are subject to financial and other sanctions as determined by the Board, from time to time. Smoke or the smell of smoke is not permitted to migrate from the Unit or any balcony, patio or deck attached to the Unit, to any other Unit(s) or Common Property area where such smoke or smell of smoke causes another Occupant nuisance, discomfort or ill-effect as brought to the attention of the Board, in writing. In such case the offending party shall be required to remedy the situation immediately and prevent further occurrences or be subject to possible financial sanctions as determined by the Board.

**4. DUTIES OF THE CORPORATION**

The Corporation shall have the exclusive right and obligation to:

**(a) MANAGE COMMON PROPERTY**

Control, manage and administer the Common Property and all property owned by the Corporation for the benefit of all the Owners and for the benefit of the whole Building.

Do all things required of it by the Act, these By-Laws, and any other rules and regulations enforced from time to time.

Control, manage, administer, repair and maintain all Equipment and chattels, real property and other property whatsoever owned by the Corporation.

**(b) MAINTAIN AND REPAIR COMMON PROPERTY AND/OR MANAGED PROPERTY**

Keep in a state of good and serviceable repair and properly control, manage, administer and maintain the fixtures, Equipment, and fittings used in connection with the Common Property, and/or the Managed Property and all property, both real and personal, owned by the Corporation.

Subject to the obligations imposed by these By-Laws or the Corporation upon any Owners in respect of any part of the Common Property over which such Owners are granted exclusive rights of use by the Corporation, maintain and keep in a state of good repair the Common Property and/or the Managed Property, notwithstanding that maintenance may be required as a result of reasonable wear and tear, or otherwise including the following:

- (i) all outside surfaces of the Residential Units (but not the interior of the Units or the interior doors and interior windows of the Units which shall be the responsibility of the Unit Owners) or of the Building and without limiting the generality of the foregoing, exterior doors, exterior windows (including sliding glass doors) roofing materials and exteriors of roofs, eavestroughs and exterior drains, and exterior beams and trim, exterior cladding of the Building, including siding and stucco and trellises overhanging any entrance of the Building, which form part of the Common Property of the Building;
- (ii) all fencing, decks, patios, balconies, driveways and sidewalks;
- (iii) all other outside hardware and accouterments affecting the appearance, usability, value or safety of the Building;
- (iv) all utility services within, in, under and throughout the Building and capable of being used in connection with the enjoyment of more than one Unit or the Common Property, unless such items are solely for the enjoyment of only one Unit;
- (v) all curbs, sidewalks, elevators, common entrances, and other common facilities;
- (vi) all hallway doors and entrance hardware to the Unit, and all demising walls, floors, and ceilings of the Building, which shall be deemed to be included in the definition of the Common Property;

Provided however that the Corporation shall not be responsible for such care and maintenance of any Privacy Areas which is the specific responsibility of individual Owners pursuant to these By-Laws.

The Corporation shall maintain all structural components of the Common Property, and shall repair any reasonable wear and tear to those portions of the Common Property and all costs incurred by the Corporation shall be the responsibility of the Corporation, and shall form part of the Common Expenses.

The quality of the repair and maintenance shall be consistent with the standards of the design, quality and state of repair of the remainder of the Building and the standards of repair and maintenance shall also comply with any rules or regulations made by the Corporation in regard to the standards of repair and maintenance.

**(c) WINDOW CLEANING**

Clean and keep in a good state of cleanliness all exterior surfaces of the external windows of the Building (except those external windows of a Unit, which are accessible by an Owner from the sidewalk, patio, or balcony of a Unit, for which cleaning the Owner is responsible, provided always that if an Owner fails to clean such external window, the Corporation has the right to clean the same).

**(d) MAINTENANCE/REPAIR OF LANDSCAPING AND FENCING ON COMMON PROPERTY**

Erect, plant, maintain and repair (including renewal where reasonably necessary) all fencing and landscaping located on the Common Property.

**(e) OWNERSHIP AND MANAGEMENT OF COMMON PROPERTY**

The Corporation is the Owner of the Common Property, including the Corporation's Units. The Corporation is responsible for the maintenance of such units, and all expenses associated therewith.

**(f) GARBAGE AND RECYCLING**

To arrange for garbage collection for use by all of the Owners of Residential Unit(s) and provide for the regular collection therefrom.

If required by any statute or municipal by-law, to arrange for recycling services for use by all of the Owners of Residential Unit(s) and provide for the regular collection therefrom.

**(g) SNOW AND ICE REMOVAL**

The Corporation shall maintain, and remove ice and snow from steps, sidewalks, driveways, and parking structures and/or parking stalls on the Building, including the Common Property and/or the Managed Property, within a reasonable period of time, if and when reasonably necessary.

**(h) INSURANCE**

Provide and maintain in full force all such insurance as is required by the Act and by the provisions of these By-Laws to be maintained by the Corporation. Further, enter into insurance trust agreements (if and when necessary) from time to time as required by Ordinary Resolution of the Corporation in a form approved by the Board.

**(i) PROVIDE INSURANCE PARTICULARS**

Upon written request therefore made by an Owner or the holder of any mortgage registered against a Unit, or the duly authorized agent of such Owner or

mortgagee, provide such Owner or mortgagee with either a duplicate original or certified copy of all fire and other perils, and all liability insurance policies and endorsements maintained by the Corporation, as well as all renewal certificates or certified copies of replacing policies.

**(j) INITIAL GENERAL MEETING**

Call a general meeting of the Owners within:

- (i) 90 days from the day that 50% of the Residential Units are occupied, or
- (ii) 180 days from the day that the first Unit is sold;

whichever is sooner, and convene a meeting of the Corporation at which a Board of Directors shall be elected.

**(k) GENERAL MEETING**

Call a general meeting of the Owners once in each calendar year and in all cases allow no more than fifteen (15) months to lapse from one general meeting to the next.

**(l) CAPITAL REPLACEMENT RESERVE FUND STUDY**

Within two (2) years from date of registration of the Residential Condominium Plan, to authorize and conduct, on behalf of the Corporation, a Capital Replacement Reserve Fund Study, and every five (5) years thereafter, in order to prepare a report in regard to the Common Property and the Managed Property and any other property owned by the Corporation (for the purposes of the Capital Replacement Reserve Fund, collectively called the "**Common Property**"), in order to:

- identify what Common Property may need to be repaired or replaced within the next twenty-five (25) years;
- assess the present condition of the Common Property and estimate when the Common Property will need to be replaced or repaired;
- estimate the cost of repair or replacement of the Common Property at no less than the current replacement cost;
- identify the life expectancy of the components of the Common Property when the components are replaced or repaired;
- identify the current level of funds in the Capital Replacement Reserve Fund (if any);

- recommend the amount of money, if any, that should be included in or added to the Capital Replacement Reserve Fund; and
- describe the basis for making the recommendation.

**(m) CAPITAL REPLACEMENT RESERVE FUND PLAN**

To prepare and adopt a Capital Replacement Reserve Fund Plan based upon the recommendations contained in the Capital Replacement Reserve Fund Study and to present the Capital Replacement Reserve Fund Plan to the Owners.

**(n) CAPITAL REPLACEMENT RESERVE FUND**

To establish and maintain a Capital Replacement Reserve Fund to be used to provide sufficient funds that can reasonably be expected to provide for major repairs and replacement of:

- (i) any real and personal property owned by the Corporation;
- (ii) the Common Property; and
- (iii) the Managed Property,

where such repair or replacement is of a nature that does not normally occur annually.

The Capital Replacement Reserve Fund shall be maintained in a segregated trust bank account and shall not be commingled with other funds of the Corporation. The Board shall prepare and present the Owners before each annual general meeting with a report on the Capital Replacement Reserve Fund including the opening and closing balances, monies in and out, lists of property repaired or replaced, and the costs incurred for repair or replacement.

**(o) MISCELLANEOUS**

At all times keep and maintain for the benefit of the Corporation and all Owners, copies of all warranties, guarantees, drawings and specifications, plans, written agreements, certificates and approvals provided to the Corporation pursuant to Section 37 of the Act (or any provision passed in substitution therefor).

Post and keep posted, signage at the entrance to Tower I and such further identification signs, traffic signs and traffic control devices and internal signs (internal and adjacent to Tower I) in locations and of standards and design all as may be required and determined from time to time by the Council of the City of Calgary.

**(p) COMPLIANCE BY CORPORATION**

Do all things required of it by the Act, the By-Laws and any other rules and regulations of the Corporation.

**(q) ESTOPPEL CERTIFICATES AND OTHER INFORMATION**

Within ten (10) days of receipt of a written request therefore made by an Owner, purchaser or mortgagee registered against a Unit who has notified the Corporation thereof, or the duly authorized agent of such Owner, purchaser or mortgagee, and upon payment to the Corporation of the costs of reproducing and providing copies of same, as determined by the Board from time to time, provide such Owner, purchaser or mortgagee with documents and information required by the Act, including, without limitation, the following:

- (i) a statement setting forth the amount of any installments, payments or assessments due and payable in respect of a Unit;
- (ii) the particulars of, or a copy of
  - a) any action commenced against the Corporation and served upon the Corporation;
  - b) any unsatisfied judgment or order for which the Corporation is liable, and;
  - c) any written demand made upon the Corporation for an amount in excess of \$5,000.00 that, if not met, may result in an action being brought against the Corporation;
  - d) a copy of any subsisting management agreement;
  - e) a copy of any subsisting recreational agreement, if any;
  - f) a copy of the budget of the Corporation;
  - g) a copy of the most recent financial statements of the Corporation;
  - h) a copy of these By-Laws;
  - i) a copy of any minutes of proceedings of a general meeting of the Corporation or of the Board;
  - j) the amount of the Reserve Fund;
  - k) a statement setting forth the amount of the monthly contributions and the basis on which that amount was determined;

- l) a statement setting forth the Unit Factors and the criteria used to determine Unit Factor allocation;
- m) a statement setting forth any structural deficiencies of the Corporation has knowledge of at the time of the request in respect of the Building;
- n) any subsisting insurance trust agreement; and
- o) any lease agreement or exclusive use agreement with respect to the possession of a portion of the Common Property.

## **5. POWERS OF THE CORPORATION**

The Corporation may:

### **(a) ACQUIRE PROPERTY**

- (i) Purchase, hire or otherwise acquire personal property for use by the Corporation or the Owners in connection with their enjoyment of Units and/or Common Property, and to manage, sell, assign, lease, or otherwise deal with or dispose of the same;
- (ii) Provided that the same has been approved by Special Resolution, purchase, hire or otherwise acquire real property for use by the Corporation or the Owners in connection with their enjoyment of Units and/or Common Property, and to manage, sell, mortgage, assign, lease or otherwise deal with or dispose of the same;
- (iii) Provided that the same has been approved by Special Resolution, to mortgage the Common Property;

### **(b) CAPITAL REPLACEMENT RESERVE FUND**

To undertake a Capital Replacement Reserve Fund Study, to develop a Capital Replacement Reserve Fund Plan, and to establish and maintain a Capital Replacement Reserve Fund.

### **(c) BORROW**

Borrow monies required by it in the performance of its duties or the exercise of its powers provided that the Corporation shall not borrow in excess of Fifty Thousand (\$50,000.00) Dollars on any single occasion or incur aggregate indebtedness at any time exceeding One Hundred Thousand (\$100,000.00) Dollars without such borrowing or incurring of debt being approved by Special Resolution of the persons entitled to vote at meetings of the Corporation, or in the event of an emergency as determined by the Board. In the case of an emergency,

the Board shall be entitled to borrow funds not exceeding ten percent (10%) of the yearly Common Expenses as set forth the most recently approved Budget.

**(d) GIVE SECURITY/MORTGAGE COMMON PROPERTY AND/OR CORPORATION'S UNIT(S)**

Secure the payment of monies borrowed by it, and the payments of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by combination of those means.

The Corporation shall have the right and authority to register a mortgage against the Common Property and/or the Corporation's Unit(s). All costs associated with such mortgages, including mortgage payments, shall be included in the definition of Common Expenses.

**(e) INVEST**

Invest as it may determine any monies in the funds for administrative expenses to the extent permitted by law for trustees under the *Trustee Act* of Alberta.

**(f) AGREEMENT WITH OWNER OR OCCUPIER**

Make an agreement with any Owner or Occupier of a Unit for the provision of Amenities or services by the Corporation to the Unit, or to the Owner or Occupier thereof.

**(g) EXCLUSIVE USE OF UNIT**

(i) Subject to the Corporation's obligations to maintain the Common Property and/or the Managed Property, the Owner has the right to exclusive use and enjoyment of the Unit.

(ii) Subject to receipt of notice pursuant to Bylaw 3, the Manager, security personnel, concierge agents or any contractors and their employees shall have and enjoy free and uninterrupted right upon reasonable notice at any and all times and from time to time to enter upon, pass and repass over, and occupy any and all parts of the Common Property and/or the Managed Property for the purpose of carrying out any of the duties or functions of the Corporation.

**(h) EXCLUSIVE USE OR PRIVACY AREAS**

(i) May grant to an Owner a lease of any Exclusive Use or Privacy Area, or designate to an Owner the Exclusive Use of any Privacy Area, adjoining or relating to such Unit, or designate to an Owner the Exclusive Use of a terrace, patio area, rooftop pool area or balcony, on such terms and conditions as are set out herein and as may be determined by the Board



from time to time. Such rights shall be available for the benefit only of Owners, purchasers, Tenants and other lawful Occupants of such Unit, shall not be assignable to anyone who is not an Owner or purchaser by agreement for sale of such Unit, and shall be terminable on thirty (30) days notice by the Corporation as against any grantee, lessee or assignee who ceases to be an Owner or purchaser by agreement for sale of such Unit. An Owner has no right to use any portion of the Common Property leased by the Corporation, or designated by the Corporation, for the exclusive use of another Owner;

- (ii) May otherwise grant to an Owner special privileges and enjoyment of part of any Exclusive Use or Privacy Areas excluding any patio areas or balconies attached to a Unit;
- (iii) Subject to receipt of notice pursuant to Bylaw 3, the Manager, security personnel, concierge agents or any contractors and their employees shall, notwithstanding the terms of any lease or grant herein, have the right at any and all times and from time to time to enter upon, pass and repass over, and occupy any and all parts of such Exclusive Use or Privacy Areas for the purpose of carrying out any of the duties or functions of the Corporation except as otherwise provided herein.

**(i) RIGHT OF ACCESS OR EGRESS OVER COMMON PROPERTY**

The Corporation hereby grants to the Owner, Tenant or Occupier of a Unit, such right of access or egress over those portions of the Common Property as is necessary in order that the Owner, Tenant or Occupier has free and unrestricted access via the Common Property to the Unit.

**(j) BOARD OF DIRECTORS — HONORARIUM**

Pay an annual honorarium or salary, or stipend, to a member or members of the Board as may be determined from time to time by Ordinary Resolution of the Corporation.

**(k) APPOINTMENT OF AUDITOR(S)**

Appoint an auditor or auditors who must be a Chartered Accountant or Certified General Accountant and who may be an Owner or Owners.

**(l) GUIDING PRINCIPLES FOR APPORTIONMENT OF EXPENSES**

Common Expense costs shall be incurred and levied upon Unit Owners based upon the principle of maintaining the structural integrity of the Building and the operational integrity of the Building and shall be based upon the principle that where a distinct group of Units (herein called "**Distinct Group of Units**"), receives exclusive benefit of any service or utility to the exclusion of all or some other Distinct Group of Units, such costs should not be borne by the non-

benefiting Distinct Group of Units. Furthermore, where a Distinct Group of Units benefits significantly less from any particular Common Expense, that Distinct Group of Units shall contribute such lesser amount as properly reflects the benefit afforded to the owners of that Distinct Group of Units.

The Corporation shall maintain a separate budget for all such costs for services and utilities servicing or substantially serving a Distinct Group of Units and shall allocate such expenses between that Distinct Group of Units by applying the following formula (adjusted as the Board thinks fit for where the benefit to a Distinct Group of Units is not exclusive but is substantially dominant); i.e. the sum of:

$$\frac{a}{b} \times c$$

Where:

a	=	With reference to the unit factor of a Unit, 'a' is the individual 'numerator' of the Unit Factor of Unit in the Distinct Group
b	=	With reference to the unit factor of a Unit, 'b' is the total sum of all the numerators of the units in the Distinct Group
c	=	Total Common Expenses allocated to the Common Property in that Distinct Area

For further clarity it is stated that in looking at a unit factor e.g.  $\frac{x}{y}$

the numerator is 'x'

Notwithstanding the foregoing principles, it is acknowledged that the structure of the Building is integral and interconnected and that the maintenance of the structural integrity of all areas of the Building benefits, indirectly all other parts of the Building. For the avoidance of doubt, the structure of the Building shall be deemed to include, but not limited to, the foundations, load-bearing walls and columns of the Building.

**(m) COLLECTION OF ASSESSMENTS, CONTRIBUTIONS AND/OR SPECIAL ASSESSMENTS FROM OWNER**

Collect the contributions of Owners (other than for the Developer) on account of Common Expenses for the Common Property and/or the Managed Property (including any mortgage payments, taxes or other levies assessed against the Common Property or the Corporation's Unit(s) owned by the Corporation), and to collect the contributions of Owners in order to maintain the Capital Replacement Reserve Fund and/or other obligations of the Corporation, including special assessments approved by the Board, by monthly installments and in that regard the Corporation may require post-dated cheques or pre-authorized chequing. The

Board shall charge interest on any assessments, contributions, or Condominium Fees owing to a Corporation by an Owner at the Interest Rate or such other rate as may be determined by the Board from time to time, and permitted pursuant to the Act.

**(n) COLLECTION OF ASSESSMENTS, CONTRIBUTIONS AND/OR SPECIAL ASSESSMENTS FROM THE DEVELOPER**

The Developer shall not be required to pay condominium fees or assessments on finished unit(s) owned by the Developer until such time as the unit(s) are transferred to Purchasers. Notwithstanding, upon 75% of the units of the Building being transferred to Purchasers, the Developer will then be required to commence payment of condominium fees to the Corporation on any finished unit(s) owned by the Developer. Notwithstanding, condominium fees on units owned by the Developer shall be reduced by the amount of the monthly Management Fees, or any assessments in regard to the Capital Replacement Reserve Fund. In addition, the Developer shall have the right to cause the Corporation to waive the cost of preparation of any estoppel certificate in connection with the sale of any unit by the Developer to a purchaser.

**(o) SANCTIONS FOR FAILURE TO COMPLY WITH BY-LAWS**

To impose monetary or other sanctions on Owners, Tenants or Occupiers of a Unit who fail to comply with the By-Laws. In the event that it becomes necessary to enforce the By-Laws or to apply the sanctions against an Owner, Tenant or Occupier of a Unit, the Corporation shall be entitled to proceed with court application for enforcement of the sanctions (in a court having the appropriate jurisdiction), and the Corporation shall be entitled to recover all of its costs of enforcement on a solicitor and his own client basis from the Owner, Tenant, or Occupier and to charge the title of the Owner for any such unpaid sanctions and costs.

**(p) ALTERNATE DISPUTE RESOLUTION**

Any dispute respecting any matter arising under the By-Laws may, with the agreement of the parties to this dispute:

- (i) be dealt with by means of mediation, conciliation or similar techniques to encourage settlement of the dispute, or
- (ii) be arbitrated under the *Arbitration Act* of Alberta.

Any dispute over a failure of the Board to properly implement the allocation of costs between Distinct Groups of Owners must be referred to an independent study for the calculation of the appropriate reallocation of the adjustment of Common Expense assessments and further resolved in accordance with By-Law 38.

## **6. THE BOARD OF DIRECTORS**

The following shall apply with respect to the board:

### **(a) POWERS VESTED AND SIZE**

The Board, for the benefit of the Corporation and all Owners, shall have vested in it all the powers of the Corporation and shall enforce the provisions of the By-Laws. The Board shall consist of not less than two (2) nor more than nine (9) persons, each having attained the age of majority and who shall be elected at each annual general meeting (although Directors may also be elected at an extraordinary general meeting).

In order to provide continuity to the Board, not less than fifty percent (50%) nor more than sixty percent (60%) of members of the Board shall be elected for a period of two (2) years and the remaining members of the Board for a period of one (1) year. Thereafter, at each subsequent general meeting those elected shall be elected for a period of two (2) years.

### **(b) ELIGIBILITY**

Ownership of a Unit is not necessary for election and membership on the Board provided that:

- (i) if a Unit has more than one Owner, only one such Owner may sit on the Board at any one time; and
- (ii) no Owner who is indebted to the Corporation for a contribution levied and which is overdue by more than thirty (30) days shall be eligible for election or membership on the Board.

### **(c) VOTING**

At any election of Board Members each person entitled to vote shall be entitled to vote for as many nominees as there are vacancies to be filled on the Board.

### **(d) BOARD PRIOR TO FINAL TURNOVER DATE**

Notwithstanding any other provision contained in these By-Laws to the contrary, or otherwise, prior to the meeting to be held on the Final Turnover Date, the Board shall consist of two (2) directors all of whom shall be representatives or nominees of the Developer, and until the Final Turnover Date, the Owners shall vote their shares in such a manner as will elect all persons so nominated by the Developer to the Board, unless the Developer fails or otherwise elects, in its sole discretion, not to nominate any or a sufficient number of persons for such positions.

**(e) BONDING**

All Board Members (except those elected pursuant to Bylaw 6(d)) when there has been no Property Management Company nor Manager appointed by the Board shall be bonded by a recognized bonding institution unless otherwise resolved by Special Resolution of the Corporation, the cost of such bonding to be paid for by the Corporation.

Where the Board has appointed a Manager, then the Manager shall be bonded by a recognized bonding institution unless otherwise resolved by Special Resolution of the Corporation, the cost of such bonding to be paid for by the Corporation.

Where the Board has appointed a Property Management Company, the Corporation shall ensure that the Corporation has obtained bonding on behalf of the Property Management Company, the cost of such bonding to be paid for by the Corporation.

For the purposes of this By-Law, the amount of the bonding shall be the greater of either \$100,000.00 or the combined totals of twenty percent (20%) of the annual budget, the Capital Replacement Reserve Fund, and any liquid assets held by the Corporation, unless otherwise resolved by Special Resolution of the Corporation, with the amount of bonding to be reviewed annually by the Corporation.

**7. REMOVAL OR DISQUALIFICATION FROM THE BOARD**

**(a) REMOVAL OF MEMBER OF BOARD**

Except where the Board consists of all the Owners, the Corporation may by resolution at an extraordinary general meeting remove any member of the Board before the expiration of his term of office and appoint another person in his place to hold office until the next annual general meeting.

**(b) GROUNDS FOR REMOVAL OF MEMBER OF BOARD**

The office of a Board Member shall, *ipso facto*, be vacated:

- (i) If he becomes insolvent, or being more than thirty (30) days in arrears in payment of any payments required to be made by him as an Owner as herein set forth, he fails to cure his default within the ten (10) days after written notice to him from any other Board Member requiring him to cure such default;
- (ii) If he becomes the subject of a Certificate of Incapacity issued under the *Dependent Adult Act*, or dies;
- (iii) If he resigns his office in writing, served upon the Corporation;

- (iv) If he is convicted of an indictable offence, or if he is convicted of a criminal offence involving financial, fiduciary or moral turpitude;
- (v) If he is absent from three (3) consecutive meetings of the Board without prior written approval of the Board; or
- (vi) If a recognized bonding institution refuses to bond him at a reasonable premium.

## **8. CASUAL VACANCY**

Any casual vacancy of the Board may be filled by resolution of the remaining Board Members until the next annual general meeting of the Corporation.

## **9. QUORUM**

Except where there is only one Owner, a quorum of the Board is two (2) where the Board consists of three (3) or less members, and three (3) where it consists of four (4) or five (5), and four (4) whenever it consists of six (6) or seven (7) members, and five (5) whenever it consists of eight (8) or nine (9) members. Any member of the Board may waive notice of a meeting before, during or after the meeting and such waiver shall be deemed the equivalent of receipt of due notice of the meeting.

## **10. OFFICERS**

At its initial meeting each Board shall elect from its members a President, a Vice-President, and a Secretary-Treasurer to be the officers of the Corporation. The duties of the officers shall be as determined by the Board from time to time but without limiting the generality of the foregoing, the following shall apply:

- (a) The President, and in his absence or disability the Vice-President shall be charged with the general organization of the business and affairs of the Corporation and shall act as chairman at meetings of the Corporation;
- (b) The Secretary-Treasurer, and in his absence or disability, such officer or Board Member as may be appointed by the Board, shall accurately keep all necessary minutes and shall have charge of all correspondence of the Corporation and be under the direction of the President and the Board. The Secretary shall also keep records of the Corporation and shall send all notices as required; and
- (c) Unless there is a Property Management Company, then the Secretary-Treasurer shall receive all monies paid to the Corporation and shall be responsible to deposit same in whatever bank the Board may order. He shall properly account for the funds of the Corporation and keep such books as may be directed. He shall present a fully detailed account of receipts and disbursements to the Board whenever requested and shall assist the Manager to prepare for submission to the annual meeting a duly audited statement and shall submit a copy of same to the President for the records of the Corporation.

**11. MAJORITY VOTE**

At meetings of the Board all matters shall be determined by simple majority vote.

**12. CASTING VOTE OF CHAIRMAN**

The President, and in his absence the Vice-President (if any) shall act as chairman at meetings of the Board and shall have a casting vote as well as an original vote. In the absence of both the President and the Vice-President, a chairman of the meeting shall be elected by the Board. If any chairman elected at a meeting vacates the chair during the course of the meeting, the Board shall choose in his stead another chairman who has the same rights of voting.

**13. WRITTEN RESOLUTIONS**

A resolution of the Board in writing signed by all of the Board Members shall be as effective as a resolution passed at a meeting of the Board duly convened and held.

**14. SEAL**

The Corporation shall have a seal which shall at no time be used except as authorized by resolution of the Board and in the presence of at least two (2) members of the Board, who shall sign the instrument to which the seal is affixed, provided, however, that if all Units are owned by one person, then the affixing of the corporate seal need be attested by only one (1) member of the Board who is or represents the Owner of all the Units.

**15. SIGNING AUTHORITY**

The Board shall determine, by resolution from time to time, which officer or officers shall sign cheques, drafts and other instruments and documents not required to be under corporate seal and may authorize the Manager, if any, to sign the same with or without co-signing by any officer or officers.

**16. POWERS OF THE BOARD**

The Board may:

**(a) BOARD MEETINGS**

Meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, but it shall meet when any Board Member gives to the other Board Members not less than seven (7) days notice of a meeting proposed by him, specifying the reason for calling the meeting and the time and place of the meeting.

**(b) EMPLOY AGENTS**

Employ for and on behalf of the Corporation such other agents and servants as it thinks fit in connection with the control, management and administration of the Common Property and/or the Managed Property, and the exercise and performance of the powers and duties of the Corporation.

**(c) DELEGATE POWERS**

Subject to any restriction imposed or direction given at a general meeting, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke such delegation.

**(d) EXERCISE POWERS**

Exercise all of the rights, powers and duties conferred on the Corporation by the Act and the By-Laws of the Corporation unless otherwise directed by the Board through duly convened meetings.

**(e) CHARGE FEES**

Set and charge reasonable fees to compensate the Corporation for the expenses it incurs in producing and providing any documents or copies thereof required under the Act or hereunder.

**17. DUTIES OF THE BOARD**

The Board shall:

**(a) MINUTES OF PROCEEDINGS**

Keep minutes of its proceedings which shall unless the Board otherwise decides, be kept by the Secretary-Treasurer.

**(b) MINUTES AT GENERAL MEETINGS**

Cause minutes to be kept of general meetings which shall, unless the Board otherwise decides, be kept by the Secretary-Treasurer.

**(c) GENERAL MEETINGS**

Call a general meeting of the Owners once in each calendar year and in all cases allow no more than fifteen (15) months to elapse from one general meeting to the next.

**(d) BOOKS OF ACCOUNT**

Cause proper books of account, including the Capital Replacement Reserve Fund, to be kept in respect of all sums of money received and expended by it, and the



matters in respect of which such receipt and expenditures take place, the keeping of said books, unless the Board otherwise decides, to be the responsibility of the Secretary-Treasurer.

**(e) CORPORATION ACCOUNTS**

Prepare proper accounts relating to all monies of the Corporation and the income and expenditures thereof, including the Capital Replacement Reserve Fund, for each annual general meeting, such preparation, unless the Board otherwise decides, to be the responsibility of the Secretary-Treasurer.

**(f) ACCESS TO RECORDS**

On application of an Owner or any person authorized in writing by an Owner, make the books of account and all minutes of the meetings of the Corporation and the meetings of the Board available for inspection at all reasonable times.

**(g) DETAILS OF CONTRIBUTION**

Upon the written request of an Owner, purchaser or mortgagee of a Unit, provide the particulars and materials required to be provided under Sections 39(6), 44, 45 and 48 of the Act (or any provisions passed in substitution therefor).

**(h) ASSESSMENTS**

Cause to be assessed to each Owner in proper proportion his contribution towards the amounts due under Common Expenses, including the Capital Replacement Reserve Fund and the cost of maintenance and repair of the Common Property and/or the Managed Property, and other Common Expenses (including improvements to the Common Property and the Managed Property), and enforce payment of same as more particularly hereinafter set forth.

**(i) INSURANCE**

At all times keep and maintain in force all insurance required by the By-Laws and the Act to be maintained by the Corporation and from time to time settle, determine and enter into insurance trust agreements as directed by the Corporation.

**(j) MANAGEMENT CONTRACTS**

Unless and except as otherwise resolved by Special Resolution of the Corporation, employ for and on behalf of the Corporation an independent professional management agency, agent or manager (herein referred to as the "**Manager**") to supervise, manage, carry out and perform any and all of the duties of the Corporation and such other duties as the Board may determine from time to time, subject always to the control and direction of the Corporation and the Board, such Manager to be reasonably fit and suited to perform such duties. Without

limiting the generality of By-Law 20 hereof, if any group of persons entitled to vote representing twenty-five (25%) percent of the total Unit Factors of the Units shall at any time be dissatisfied with the fitness or suitability of such Manager employed as aforesaid or the adequacy of the work or service performed by him, such group of persons may by requisition addressed to the Corporation require the calling of an extraordinary general meeting; and upon such a requisition being made as aforesaid, the Board shall forthwith call an extraordinary general meeting of the Corporation to consider the complaint or complaints of such group of persons, and the continuance or termination of the employment of such Manager and/or terms thereof and/or the employment of a replacement shall be considered and determined by Ordinary Resolution at such meeting and the Board shall govern itself according to such resolution. The Manager employed by the Board as aforesaid need not devote his full time to the performance of duties of the Corporation so long as those duties are performed in good and sufficient fashion.

**(k) INTENTIONALLY LEFT BLANK**

**(l) RESERVES**

Create, maintain and exact by Common Expense assessments or contributions, a Capital Replacement Reserve Fund for the purpose of repair, replacement and refurbishment of Common Property and/or the Managed Property including any portion of a Unit, which, pursuant to these By-Laws of the Corporation is responsible to maintain, and apply such funds and the proceeds thereof from time to time to such purposes. The amount of the levy made each year for the Capital Replacement Reserve Fund shall be no less than ten per cent (10%) of the amount of the total Common Expense levy made in such year but in any event, shall not be less than the minimum amount as stipulated in the Act or in the Capital Replacement Reserve Fund Plan.

**(m) SPECIAL ASSESSMENTS OR CONTRIBUTIONS**

Where required for the purpose of either the maintenance or repair of Common Property, the Managed Property, or to assist in the establishment, maintenance, or replenishment of the Capital Replacement Reserve Fund, the Board shall have the power to levy and collect special assessments or contributions, and shall have the power and duty to collect the special assessments or contributions in the same manner as any other assessment levied by the Board.

**(n) GENERAL**

Without limitation of its other duties and powers, exercise and perform the powers and duties of the Corporation under By-Law 4 hereof.

**(o) MISCELLANEOUS**

Cause all the obligations of the Corporation hereof to be well and truly observed and performed.

**18. INDEMNITY OF BOARD**

Every member of the Board and his personal representatives and estate and effects respectively shall from time to time and at all times be indemnified and saved harmless out of the funds of the Corporation from and against all costs, charges, losses and expenses whatsoever which such member may incur or become liable for by reason of any contract entered into or act or thing whatsoever made, done or permitted by him, as a Board Member, or in any way in the discharge of his duties, except such costs, charges, losses and expenses as are occasioned by his own dishonesty, willful neglect or willful default.

**19. GENERAL**

**(a) PROCEDURE**

All meetings of the Board and general meetings shall be conducted according to the parliamentary rules of procedure as set out in the most recent (from time to time) edition of Roberts Rules of Order.

**(b) EXTRAORDINARY GENERAL MEETINGS**

All general meetings other than annual general meetings shall be called extraordinary general meetings.

**20. CONVENE EXTRAORDINARY GENERAL MEETINGS**

The Board may, whenever it thinks fit, and shall upon a requisition in writing made by persons entitled to vote representing twenty-five (25%) percent of the total Unit Factors for all the Units, convene an extraordinary general meeting. The Board will convene annual general meetings as and whenever required by the provisions of these By-Laws and the Act.

**21. NOTICE OF MEETINGS**

Subject to By-Law 36(b) hereof, seven (7) days notice of every general meeting specifying the place, the date and the hour of the meeting and, in the case of special business, the general nature of that business, shall be given to all Owners and first Mortgagees, but accidental omission to give that notice to any Owner or Mortgagee does not invalidate any proceedings at any such meeting. Notice of any meeting may be waived by persons entitled to vote before or after the meeting and such waiver shall cure any defect in the giving of or any failure to give notice.

**22. SPECIAL BUSINESS**

All business shall be deemed special that is transacted at an annual general meeting with the exception of the consideration of accounts and reports of officers, ratification of prior acts and proceedings of the Board and officers, appointment of auditors, election of

members to the Board, and all business whatsoever that is transacted at any extraordinary general meeting shall be deemed special.

**23. QUORUM AT GENERAL MEETING**

Except as otherwise provided in these By-Laws, no business shall be transacted at any meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business. Persons entitled to vote present in person or by proxy representing no less than one-quarter (1/4) of the Units constitute a quorum at any general meeting.

**24. PROCEDURE IF NO QUORUM**

If within one-half (1/2) hour from the time appointed for a general meeting a quorum is not present, the persons entitled to vote who are present shall be deemed to constitute a quorum.

**25. ORDER OF BUSINESS**

The order of business at general meetings and, as far as practical, at all extraordinary general meetings, shall be:

- (a) If neither the President nor the Vice-President shall be present, then a chairman of the meeting shall be elected;
- (b) Calling of the roll and certifying proxies;
- (c) Proof of notice of meeting or waiver of notice;
- (d) Approval of agenda of meeting;
- (e) Reading and disposal of any unapproved minutes;
- (f) Reports of Officers;
- (g) Reports of Committees;
- (h) Election of Board Members, if necessary;
- (i) Financial Reports;
- (j) Appointment of Auditors;
- (k) Unfinished Business;
- (l) New Business; and
- (m) Adjournment.

**26. SHOW OF HANDS**

At any meeting a resolution moved or proposed at the meeting shall be decided on a show of hands, unless a poll is demanded by a person entitled to vote present in person or by proxy, and unless a poll is so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive proof of the fact, without proof of the number or proportion of votes recorded in favour of or against such resolution, but a demand for a poll may be withdrawn.

**27. TAKING A POLL**

A poll, if demanded, shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

**28. CHAIRMAN HAS CASTING VOTE**

In the case of equality in the votes, whether on the show of hands or on a poll, the chairman of the meeting is entitled to a casting vote in addition to his original vote.

**29. NUMBER OF VOTES**

On a show of hands each person entitled to vote shall, subject to the provisions of the next following paragraph, have one vote; on a poll the votes of persons entitled to vote shall correspond with the Unit Factors for the respective Units owned by or mortgaged to them. Except for those matters requiring a Special Resolution or unanimous resolution all matters shall be determined by a simple majority vote.

**30. MANNER OF VOTING**

On a show of hands or on a poll, votes may be given either personally or by proxy; and on a show of hands, the person entitled to vote and voting may indicate that he is showing hands with respect to a number of votes, and the votes shall so be counted provided that his proxy is in order.

**31. PROXY**

An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting, but a proxy need not be an Owner or mortgagee.

**32. RESTRICTIONS ON VOTING**

There are no restrictions or limitations on the right to vote other than the following:

- (a) Such restrictions (if any) as are set out in the Act;

- (b) Where an Owner's interest in a Unit is subject to a registered mortgage, notice of which mortgage has been given to the Corporation a power of voting conferred upon such Owner by the Act or by these By-Laws:
  - (i) if a unanimous resolution is required, may not be exercised by the Owner, but is exercisable by the registered Mortgagee first entitled to priority; and
  - (ii) in other cases, is exercisable by the Mortgagee first entitled to priority, and may not be exercised by the Owner, if such Mortgagee is present personally or by proxy;

and this provision shall apply whether or not Section 26 of the Act continues in force in its form at the time of the registration of the Residential Condominium Plan, unless the Act is amended to require otherwise.

### **33. VOTE BY CO-OWNERS**

Co-owners may vote by proxy jointly appointed by them, and in the absence of such a proxy are entitled to vote on a show of hands, by raising only one (1) hand, except when a unanimous resolution of Owners is required by the Act, but any one Co-owner may demand a poll, and on any poll or unanimous resolution of Owners each Co-owner is entitled to such part of the vote applicable to a Unit as is proportionate to his interest in the Unit; and the joint proxy, if any, on a poll has a vote proportionate to the interest in the Unit of such of the joint Co-owners as do not vote personally or by individual proxy.

### **34. VOTE WHEN SUCCESSIVE INTERESTS**

Where Owners are entitled to successive interests in a Unit, the Owner entitled to the first interest (or if his interest is mortgaged by registered first mortgage notified to the Corporation, the Mortgagee) is alone entitled to vote, whether on a show of hands or a poll, and this By-Law is applicable whether by the Act a unanimous resolution of the Owners is required or not.

### **35. VOTE OF TRUSTEE**

Where an Owner is a trustee he shall exercise the voting rights in respect of the Unit to the exclusion of persons beneficially interested in the trust, and the latter persons may not vote.

### **36. SIGNED RESOLUTION**

- (a) By the Board

A resolution of the Board in writing signed by all Board Members shall be as effective as a resolution passed at a meeting of the Board duly convened and held.

(b) By the Owners

Subject to the provisions of the Act, any resolution of the Corporation determined upon or made without a general meeting and evidenced by writing, signed in person or by proxy shall be as valid and effectual as a resolution duly passed at a meeting of the Corporation and shall take effect as and be an Ordinary Resolution, or a Special Resolution, (as the case may be).

**37. ESTOPPEL CERTIFICATE**

Upon written request from an Owner or a Mortgagee, the Corporation shall provide a certificate signed by the appropriate signing officers or the Manager and under the corporate seal and certifying all those matters provided for in Section 39(6) or Section 44 of the Act, and the Corporation and all of the Owners shall be estopped from denying the accuracy of such certificate against any mortgagee, purchaser or other person dealing with the Owner; but this shall not prevent the enforcement against the Owner of all obligations of the Owners whether improperly stated in such estoppel certificate or not.

**38. BY-LAW AMENDMENT**

The By-Laws or any of them may be added to, amended or repealed by Special Resolution of the Corporation and not otherwise. Except where By-Laws are amended by a signed Special Resolution under By-Law 36(b) hereof, thirty (30) days prior notice of any proposed changes to the By-Laws must be given to all Unit Owners and Mortgagees, such notice to specify the changes that are proposed or to be considered, PROVIDED ALWAYS THAT any Special Resolution passed by the members:

- (a) to effect a change to the By-Laws to reallocate the proportionate shares of the Common Expenses, whether as a result of any recommendation of the Board, or otherwise, and
- (b) which is considered by any Owner to be unduly prejudicial by imposing an unreasonable and unfair burden upon any Unit Owner may, within ninety (90) days of passing such Special Resolution, be referred to arbitration pursuant to the Arbitration Act R.S.A. 2000 by any Owner. The arbitrator shall review the Special Resolution with reference to the By-Laws, and in particular the Guiding Principles for Common Expense Apportionment contained in By-Law 5(l), and any recommendations of professional consultants pursuant to By-Law 5(p) and determine the reasonableness and fairness of the Special Resolution and may substitute therefore, his/her own determination of the proper adjustment of Common Expense assessments which shall take effect as if it were a Special Resolution of the Corporation. The costs of such arbitration are to be determined by the arbitrator.

Any Special Resolution passed which is referred to in sub-paragraph (a) of this By-Law, shall not take effect for a period of ninety (90) days or until the final determination of the arbitrator is issued, whichever is later.

**39. BY-LAWS BINDING**

The Corporation, the Board and all Owners, Tenants, invitees, licensees and other Occupants of Units shall be bound by and shall observe, obey and take such steps as are reasonably necessary to enforce all the By-Laws, and such rules and regulations as are applicable to each of them and as amended from time to time, whether or not such By-Laws, rules and regulations are registered at the Land Titles Office. If any provision or provisions of these By-Laws are or become illegal or not enforceable, it or they shall be deemed to be and shall be separate and severable from these By-Laws and the remaining provisions of these By-Laws shall remain in full force and effect as if the severable provision or provisions had not been included in these By-Laws.

**40. FINANCIAL STATEMENTS**

If required by any general meeting, the annual financial statements produced by the Board shall be audited and certified by auditors appointed by the Board.

**41. EXPENDITURES BY MANAGER**

Any Manager appointed by the Board may, without specific approval of the Board, from time to time, make expenditures for items not included in the budget provided that the expenditure is subsequently approved by the Board at the next following Board meeting, and provided that the expenditure does not exceed Five Thousand (\$5,000.00) Dollars. Except for emergencies, any expenditure not included in an approved budget of the Board and in excess of \$5,000.00 must have the prior approval of the Board.

Notwithstanding the above, the Manager may, on behalf of the Corporation, without prior consent, expend any amount required to deal with emergency conditions which may involve a danger to life or property or may threaten the safety of the Building, or the Unit Owners and Occupants thereof, or may threaten the suspension of any necessary service to the Building.

**42. BONDING OF MANAGER**

Any Manager shall be bonded in accordance with By-Law 6(d) herein.

**43. MORTGAGEES REPRESENTED ON BOARD**

Notwithstanding By-Law 6(b) hereof, a Mortgagee or Mortgagees of a Unit or Units (or a nominee or other representatives of the Mortgagee(s)) may sit on the Board of Directors whether or not there shall be arrears in the assessments against the Unit or Units on which his (or their) mortgage or mortgages are held.

**44. NOTICE OF DEFAULT TO MORTGAGEE**

Any notice of default sent to an Owner shall also be sent to all those Mortgagees holding registered mortgages of such Owner's Unit who have notified the Corporation of their mortgages.



**45. NOTICE**

Unless specifically provided otherwise, every notice, demand or request permitted or required to be given or served hereunder shall be deemed to be properly and effectively given or served:

- (a) upon the Corporation if given as set out in the Act;
- (b) upon an Owner, by delivery by hand to the Owner (and if there is more than one Owner then to any one of such Owners) or by mail by depositing the notice in a post box, enclosed in a postage-prepaid envelope addressed to the Owner at the municipal address of his Unit; and
- (c) upon a Mortgagee of a Unit, by delivery by hand to the Mortgagee (or if a Corporation to a person in authority with such Mortgagee) or by mail by depositing the notice in a post box, enclosed in a postage prepaid envelope addressed to the Mortgagee at the municipal address of such Mortgagee as notified to the Corporation.

The Corporation may change its address for service by resolution of the Board and the filing of a Notice of Change in the prescribed form at the Land Titles Office. A Mortgagee may change its address for service by giving notice in writing of the change to the Corporation in the manner aforesaid. Any notices, demands or requests served by mail as aforesaid shall be deemed to have been received seventy two (72) hours after the time of mailing; provided however, that if there shall be an interruption of mail service, the notice shall not during such interruption be given by mail but shall be given by personal delivery or personal service.

**46. INSURANCE**

- (a) The Corporation shall obtain and maintain at all times, in an amount sufficient to cover the full replacement value and to the full extent obtainable, insurance on all insurable Common Property (both real and personal of any nature whatsoever) of the Corporation, and on behalf of all of the Owners of the Corporation, the Corporation shall obtain and maintain at all times, and in an amount sufficient to cover full replacement value, insurance against loss resulting from destruction or damage caused by any peril prescribed by or otherwise required by the Regulations to be insured against (including all improvements and betterments to the Units which shall include floor covering materials, cabinets, appliances, plumbing fixtures, and window coverings) without deduction for depreciation, and without restricting the generality of the foregoing such insurance shall provide and include the following:
  - (i) coverage for fire, extended perils and such other perils to the Units and the Common Property as from time to time the Board shall deem advisable;
  - (ii) coverage to the full replacement value of any building and other fixed improvements belonging to the Corporation, and all chattels and other

property belonging to the Corporation or forming part of the Common Property;

- (iii) coverage to the full replacement value of any Unit and other fixed improvements belonging to the Owner including, but without restricting the generality of the foregoing, the following coverages:
- coverage for loss or damage caused by leakage from fire protection equipment;
  - loss or damage caused by lightning;
  - loss or damage caused by smoke;
  - loss or damage caused by wind storm;
  - loss or damage caused by hail;
  - loss or damage caused by explosion of natural, coal, or manufactured gas;
  - loss or water damage caused by flood;
  - loss or water damage caused by sewer back-up or sudden or accidental escape of water or steam from or within a plumbing, heating, sprinkler, or a domestic appliance that is located within an insured building;
  - loss or damage caused by impact by aircraft, spacecraft, watercraft and land vehicles;
  - loss or damage caused by riot, vandalism or malicious acts;
- (iv) public liability and Board of Directors insurance, including, without restricting the generality of the foregoing, the following coverages:
- Director's and Officer's liability insurance (including errors and omissions insurance);
  - Public Liability Insurance on behalf of the Corporation in regard to the Common Property or the Managed Property;
  - any loss or damage arising out of the ownership, use or operation of machinery, equipment, pressure vessels, or vehicles.
- (v) coverage for such other risks or causes as the Board may determine or as may be determined by Special Resolution of the Corporation;

- (vi) provision that no breach of any statutory condition or other condition of any policy by any Owner or the Corporation shall invalidate the insurance or forfeit the insurance and in the event of such breach by any Owner or the Corporation the insurance may only be subject to forfeiture or defence of breach of condition insofar as the separate interest of the person or party in breach are concerned;
  - (vii) that no breach of any statutory or other condition of any policy by the Corporation or an Owner shall invalidate the policy as against any mortgagee in any way or to any extent;
  - (viii) standard mortgage endorsements in favour of all mortgagees who have notified their interests to the Corporation; and
  - (ix) an Inflation Guard endorsement providing for automatic increase of the policy coverage limits in accordance with increases in replacement costs.
- (b) In order to ensure that adequate insurance coverage is maintained by the Corporation, no Owner shall undertake any improvements or renovations, or add betterments, to his Unit without first obtaining the prior written consent of the Board, on behalf of the Corporation (which consent will not be unreasonably withheld) and the Owner shall notify the Board, in writing, on behalf of the Corporation, after completion of such improvements or renovations, or installment of betterments, in order that the Corporation can, if the Board determines it to be necessary, have the improvements, renovations, or betterments appraised for insurance purposes.
- (c) In the event of partial or complete destruction of a Unit, the Corporation shall commence repair and/or reconstruction of the partial or complete destruction of the Unit in a timely and reasonable manner, and complete the reconstruction as soon as practical.
- (d) The Board on behalf of the Corporation shall cause a separate loss payable endorsement to be issued in respect of any policies issued pursuant to paragraph (b) of this By-Law in favour of the Insurance Trustee, if any. Subject to the provisions of the Act, which shall govern in all circumstances, insurance proceeds realized under any policy of insurance obtained and maintained by the Corporation and insuring against fire and any other supplemental perils or other perils shall be paid as follows:
- (i) if the proceeds are less than One Million (\$1,000,000.00) Dollars, to the Corporation which shall apply such proceeds to the repair and restoration of the damage or loss, and
  - (ii) if the proceeds are equal to or in excess of One Million (\$1,000,000.00) Dollars, to the Insurance Trustee if one has already been appointed by the Board on behalf of the Corporation who shall apply such proceeds to the repair and restoration of the damage or loss (save as hereinafter provided).

In the event that it is resolved by Special Resolution of the Corporation, or is ordered by a Court under the Act that the Corporation shall not repair or restore the damage, or that the Corporation shall then be terminated as to some or all Units then the Insurance Trustee shall firstly apportion the proceeds between all those Owners whose Units or Common Property interests (or both) are affected by the loss or damage and the Corporation (as their interests may appear), and secondly shall pay such proceeds as follows:

- (i) firstly, to the Mortgagees of all Units that are affected by the damage as their interests may appear and to the extent loss is apportioned to the respective Units (the mortgagee's priorities to accord with their priorities as encumbrances against the respective Units);
- (ii) secondly, to the Owners of all the Units that are affected by the damage to the extent of the loss apportioned to each and to the Corporation to the extent of the loss apportioned to it, as their interests may appear.

In making any apportionment hereunder the Insurance Trustee shall have regard to the interests of all Owners, Mortgagees and the Corporation, and shall make a just and equitable apportionment. Any apportionment proposed by the Insurance Trustee shall first be notified to all the Owners, all the Mortgagees whose mortgages are registered at the Land Titles Office or have been notified to the Corporation, and the Corporation; and no distribution of proceeds shall be made until after the expiry of thirty (30) days after the last of such parties has been notified. Any notice under this paragraph that is given by mail shall, notwithstanding By-Law 45 hereof, be given by prepaid registered mail. If any of such parties shall dispute the apportionment made by the Insurance Trustee, then such party must notify the Insurance Trustee in writing within thirty (30) days of his receipt of notice as aforesaid. If no party disputes the proposed distribution the Insurance Trustee may proceed with the distribution as proposed. If any such party shall dispute the proposed distribution then the Insurance Trustee shall refer the matter to the Court authorized to deal with schemes and terminations under the Act (or any provisions passed in substitution thereof); and the distribution shall be settled and determined by such Court on such terms and conditions as it may deem just and equitable.

- (e) Nothing in this By-Law shall restrict the right of Owners to obtain and maintain insurance of any kind in respect of the ownership or use or occupation of their Unit or their personal liability as permitted by the Act or as otherwise permitted by law.
- (f) An Owner shall carry personal liability insurance on his own Units and insurance (including theft and other perils) on his personal possessions and chattels provided that the liability of the insurers issuing insurance obtained by the Board shall not be affected or diminished by reason of insurance carried by an Owner. In addition, an Owner shall carry "deductible insurance coverage" in an amount

not less than the Corporation's insurance deductible (and in any event, not less than \$5,000.00).

- (g) In no event shall the insurance coverage obtained and maintained by the Board be brought into contribution with insurance purchased by Owners or their mortgagees.
- (h) All fire and extended peril policies must insure the interest of the Owners and the Corporation as their respective interests may appear, with standard mortgagee endorsements attached, and shall also contain the following provisions:
  - (i) waivers of subrogation against the Corporation, its Managers, agents, employees, and servants against Owners and any member of the household or guests of any Owner or Occupant of a Unit, except for arson and fraud;
  - (ii) waivers of any defence based on co-insurance (provided that policies of physical damage insurance may contain co-insurance on a stated amount basis as long as the following appraisal requirements hereinafter stated are met), or of invalidity arising from the conduct of or any act or omission or breach of statutory condition of any insurance policies;
  - (iii) all policies of insurance of any Owner shall provide that the same shall be primary insurance in respect of any other insurance carried by the Corporation;
  - (iv) a waiver of the insurer's option to repair, rebuild, or replace in the event that after damage the government of the Common Property by the Act is terminated; and
  - (v) that loss shall be payable as aforesaid.
- (i) Policies of physical damage insurance may only contain co-insurance on a stated amount basis (and not on any other basis) and only if and as long as the requirements to appraise set out in sub-paragraph (iii) below are met. The following shall apply to policies of physical damage insurance:
  - (i) all policies of physical damage insurance shall contain waivers by the insurers of invalidity arising from any acts of the insured and of any rights of subrogation against the Corporation and the Owners or any of them. Such policies shall also provide that the Insurance Trustee shall have the right at its sole option to obtain (to the extent permitted by law) a cash settlement (without deduction for depreciation) in the event of substantial damage to the Common Property and the determination by Special Resolution of the Corporation or by order of a Court of Law having jurisdiction in that behalf, to terminate the condominium status of the Corporation, and the insurer's option to reconstruct the damaged premises shall be deleted or waived;

- (ii) the Insurance Trustee shall act as and be an agent on behalf of the Corporation and Owners for the purpose of and with authority to adjust and settle losses in respect of all policies of insurance effected by the Board; and
- (iii) prior to, or within a reasonable amount of time, of obtaining any policy of fire insurance or any renewal thereof, the Board shall obtain an appraisal from a qualified and reputable appraiser of real property of the full replacement value of the Units and the Common Property, and all property of the Corporation; and the Board shall review the insurance coverage and maintain it at the levels required by these By-Laws and suggested by the said appraisals; provided that failure to obtain a prior or any appraisal shall not invalidate or affect any insurance coverage placed by the Corporation and copies of the appraisals obtained from time to time shall be provided to any Owner, Purchaser or Mortgagee of a Unit who requests the same.
- (j) Subject to the appointment of an Insurance Trustee, the Corporation and the Board shall have the right on behalf of itself and as agent for the Corporation and the Owners, to adjust any loss and settle any claims with respect to all property loss insurance placed by the Corporation, and to give such releases as are required, and any claimant, including the Owner of the damaged Unit shall be bound by such adjustment; provided however, that the Board may in writing authorize an Owner to adjust any loss to his Unit.
- (k) Where the Board has determined that there has been substantial damage to the Units or the Common Property notice of such determination shall be given within ten (10) days thereof to all Owners and Mortgagees, with such notice to the Mortgagees to be sent by registered mail. Such notice may be combined with notice of a meeting called for the purpose of voting whether to repair.
- (l) There shall be provision for a certificate or memorandum of all insurance policies to be issued as soon as possible to each Owner; renewal certificates or certificates of new insurance policies shall be furnished to each Owner upon request.
- (m) The Board shall also obtain and maintain public liability insurance insuring the Corporation, the Board and the Owners against any liability to third parties or to the Owners and their invitees, licensees or tenants, incident to the ownership or use of the Unit and the Common Property owned by the Corporation or the Managed Property. Limits of liability under such insurance shall not be less than One Million (\$1,000,000.00) Dollars for any one person insured or for any one accident. The limits and coverage shall be reviewed at least annually by the Board and increased in its discretion. The policy or policies shall provide cross-liability endorsements whereby the rights of a named insured under the policy or policies shall not be prejudiced as respects its, his, her, or their action against another named insured.

- (n) All policies of insurance shall name as insured both the Corporation and the Owners from time to time of all Units, and the Board shall also (as aforesaid) be covered under the liability policy.
- (o) All policies of insurance shall provide that such policies may not be cancelled or substantially modified without at least sixty (60) days prior written notice to all of the insureds.
- (p) The Corporation shall, immediately upon the occurrence of any damage in excess of One Million (\$1,000,000.00) Dollars to any of the improvements forming part of the Units and the Common Property, notify the Mortgagees of such damage, such notice to be given by personal delivery or by registered mail.
- (q) The limits of coverage of all policies of insurance obtained and maintained by the Corporation shall be reviewed at least annually by the Board and increased at its discretion.
- (r) At least every two (2) years, the Board shall obtain an appraisal to determine the full replacement value of the Units, the Common Property, and all property owned by the Corporation.

**47. DEDUCTIBLE**

The Corporation, at its sole discretion, shall determine the amount of the deductible for the placement of any Corporation insurance coverage and having done so, shall pay the deductible for any claims regarding any damage to the Common Property or any other property of the Corporation, except where the loss arises by the act or omission of an Owner or an Occupant of a Unit.

For damage caused by an Owner or an Occupant of a Unit:

- (a) An Owner shall pay the insurance deductible for losses claimed where the Owner or Occupant of a Unit causes the loss. The loss may occur from an act or omission by one or more of these persons. The claim must arise under any insurance policy maintained by the Corporation. The Corporation can recover, from the Owner of that Unit, the deductible as a contribution against all other costs, charges and liabilities arising out of any loss that the Corporation may incur or sustain. The Owner shall carry "deductible insurance coverage" in an amount not less than the Corporation's insurance deductible (and in any event, not less than \$5,000.00).

For damage caused by the Corporation:

- (a) The Corporation shall pay the insurance deductible for losses claimed where the Corporation, its officers, the Board or its members, or the employees or agents, or any of them causes the loss. The loss may occur from any act or omission by one or more of these persons. The claim must arise under any insurance policy maintained by the Corporation. In all other cases, the Owner of a Unit shall pay

the deductible for claims made regarding damage to a Unit. The Owner must prove the cause of the loss where damage occurs to a Unit.

**48. SEVERABILITY**

The invalidity in whole or in part of any section of these By-Laws shall not affect the validity of the remaining portions of that section or these By-Laws.

**49. OWNER'S USAGE**

The Owner shall not:

- (a) (i) use his Unit, or any other appurtenances for any purpose that may be illegal or injurious to the regulation of other Units, the Common Property, Managed Property, or the Building;
- (ii) make undue noise (as determined by the Board) in or about any Unit, or the Common Property or Managed Property; or
- (iii) keep any animals in his Unit or on the Common Property other than the pets authorized under By-Law 84 hereof;
- (b) When the purpose for which a Unit is intended to be used is shown expressly or by necessary implication upon the Residential Condominium Plan, an Owner shall not use his Unit for any other purpose, or permit the Unit to be so used;
- (c) An Owner shall not obstruct or interfere with any other Owner's access to his Unit given to any other Owner's or third party's exclusive use by the Corporation.

**50. ONE-FAMILY RESIDENCE**

An Owner shall not use or permit the use of his Unit other than as a one-family residence or for a purpose other than for residential purposes and for purposes of this By-Law, "one-family residence" means a Unit occupied or intended to be occupied as a residence by one family alone, or by Co-owners, or Owners and their significant others.

**51. RESTRICTED COMMERCIAL USE OF RESIDENTIAL UNIT**

No Unit shall be used in whole or in part for any commercial or professional business (even if such business is allowed by municipal zoning by-laws) unless the Owner obtains the prior written consent of the Corporation to do so, which consent may be unreasonably withheld by the Corporation; provided however, that the foregoing shall not prevent the Developer from completing the Building and maintaining a Unit or Units owned by it and constructing thereon models for display and sales purposes and otherwise maintaining construction offices, sales offices, show suites, displays and signs until all Units have been sold by the Developer.



If the Corporation does provide written consent to use the Unit for any commercial or professional business, the Board may impose such restrictions as the Corporation deems reasonable, taking into account such factors as number of persons attending the business premises, hours of operation, and over-all building security. The Owner of any Unit operating a business shall be responsible for any and all damages caused by its business clientele. In the opinion of the Board, acting reasonably, the commercial operations of any Owner of a Unit cause a nuisance to either the Corporation, or to other Owners in the Building, acting reasonably, the Board shall be entitled to withdraw the consent of the Board for the Owner to carry on the commercial operations.

Notwithstanding any other right or remedy that the Corporation may have, and in particular, without restricting the remedies of the Corporation if an Owner is in breach of this clause, the Corporation may assess the Owner with a special assessment, in the sum of One Hundred (\$100.00) Dollars per day, for each and every day that the Owner carries on the commercial operations without the consent of the Corporation. All such assessments shall be payable to the Corporation, and on demand, and if not paid, the assessment shall bear interest at the Interest Rate from the due date until paid. In default of payment of the assessment, the Corporation shall be entitled to collect the said assessment pursuant to By-Law 3(h) herein.

## **52. MAINTENANCE BY OWNERS**

- (a) Each Owner shall be responsible for the repair and maintenance of the interior of his Unit (including interior doors, interior windows and the cleanliness of the interior windows), and shall also be responsible for the cleanliness, care, and maintenance of any Exclusive Use or Privacy Area assigned to his Unit and for the cleanliness of any exterior windows to the extent that such windows can be accessed (for the purpose of cleaning) from the Exclusive Use Area or Privacy Area assigned to a Unit. If any Owner should fail to clean, maintain and/or repair in a manner satisfactory to the Board or its representative those items for which he is responsible after ten (10) days written notice to do so given by the Board or its representative, then the Board or its representative may do or cause to be done the cleaning, maintenance or repair; and the Owner affected is obliged to and shall reimburse the Corporation for all monies expended for labour, materials, normal overhead and profit, and all costs incurred in collection in respect of the doing of such cleaning, maintenance or repairs; and the Board or its representative may use all or any of the remedies open to it as hereinafter set out to recover such monies for the Corporation together with interest thereon at the rate herein provided for overdue assessments and such monies shall be a charge upon his Unit to the same extent as they would be if they were Common Expense charges assessed upon his Unit.
- (b) Notwithstanding anything to the contrary herein expressed or implied, each Owner shall be responsible for damage caused to all items in the Unit, the Common Property, or the Managed Property by any willful or negligent acts of himself, members of his family, his Tenants or members of their families, his invitees, contractors or licensees that are not required by these By-Laws to be

insured against by the Corporation (or in fact insured against by it whether required or not); and should any Owner fail to repair in a manner satisfactory to the Board or its representative then the Board or its representative may do or cause to be done such repair; and the Owner affected agrees to and shall reimburse the Corporation for all monies expended for labour, materials, normal overhead and profit and all costs incurred in collection in respect of the doing of such repairs and the Board or its representative may use all or any of the remedies open to it as hereinafter set out to recover such monies for the Corporation together with interest thereon as herein provided for overdue assessments and such monies shall be a charge upon his Unit to the same extent as they would be if they were Common Expense charges assessed upon his Unit.

- (c) Each Owner shall be responsible, including payment of any insurance loss deductibles on the Corporation's insurance policy, for replacement of interior fixtures, chattels, betterments, and improvements in the Owner's Unit or caused by normal wear and tear or either in the Owner's Unit or any other Unit where such loss is caused by the willful or negligent acts of the Owner, members of his family, his Tenants or members of their families, his invitees, contractors or licensees. Each Owner shall carry "deductible insurance coverage" in an amount not less than the Corporation's insurance deductible (and in any event, not less than \$5,000.00).

### **53. FIRE HAZARD**

No Owner shall do or permit anything to be done on the Building or bring or keep anything thereon which will in any way increase the risk of fire, or the rate or availability of fire insurance on the Common Property, the Unit, or the Managed Property or on property kept therein, or obstruct or interfere with the rights of other owners or in any way injure or unreasonably annoy them or conflict with the laws relating to fires or with the regulations of the local fire department, or with any insurance policy upon any building comprising part of the Common Property or any part thereof, or conflict with any of the rules or ordinances of the municipal health department or with any statute or municipal By-Law or with any other law whatsoever, and no Unit shall be occupied or used by anyone in such manner as to result in the cancellation, or threat of cancellation, of any policy of insurance maintained by the Corporation.

### **54. WATER**

Water shall not be left running in the Unit unless in actual use for the enjoyment of the Owner or Occupant of the Unit.

### **55. PLUMBING**

Toilets, sinks, tubs, drains, sumps and other water apparatus shall not be used for any purpose other than those for which they are constructed; and no sweepings, garbage, rubbish, rags, ashes, disposable diapers or other substances shall be thrown or placed therein.

**56. COMBUSTIBLE MATERIALS**

No stores of gasoline or other combustible or inflammable goods or materials and no offensive goods, provisions or materials shall be kept in any Unit or on any part of the Common Property. Under no circumstances shall any propane-operated vehicle or equipment be allowed on the Building.

**57. SIGNS**

No signs, billboards, notices or other advertising matter of any kind shall be placed:

- (a) on any part of a Unit;
- (b) on any part of the Common Property; or
- (c) on any part of the Unit in such a manner as can be seen from the exterior of the Unit, without the written consent of the Board first being obtained; provided however, that the foregoing shall not prevent the Developer from displaying such signs, billboards, notices or advertising material as may be necessary for sale purposes until all Units have been sold by the Developer, nor will it prevent an Owner or Mortgagee in possession from displaying reasonable "FOR SALE" or "FOR LEASE" signs in respect of the offering of his Unit for sale or lease (the acceptability of such signs to be determined by the Board).

**58. EMERGENCY**

The Corporation, in the event of fire, water breaks, or other emergency situations, and in the absence of the Owner or Occupier of the Unit, may force entry to any Unit for the purpose of dealing with such emergency and for the purpose of protecting the property of the other Owners or Occupiers and the Corporation, and the Owner or Occupier of the Unit so entered shall save harmless the Corporation, its agents, and employees from any claims or damages arising from such forced entry.

**59. ANTENNAS**

No television antenna, tower, satellite dish (other than a digital satellite dish the size and location of which are subject to the prior written approval of the Board, acting reasonably and which comply with City of Calgary by-laws) or similar structure or appurtenance thereto shall be:

- (a) erected on or fastened to any Unit, except by the Corporation for or in connection with a common television cable or other distribution or reception system; or
- (b) erected on the Common Property except only by the Corporation.

**60. LAUNDRY**

No laundry shall be hung other than inside a Unit.

**61. AWNINGS**

Except with the written consent of the Board, no screen, barrier, awning, shade, partition or air conditioning unit shall be erected unless the improvement is entirely within a Unit.

**62. OCCUPANTS OR TENANTS**

An Owner who leases or grants possession of his Unit to any Tenant or Occupier shall:

- (a) Comply with the damage deposit requirement (if any) of the Corporation;
- (b) Cause the Tenant or Occupier to undertake in writing to be bound by and comply with the By-Laws of the Corporation;
- (c) Give notice in writing to the Corporation of the tenancy or other occupancy accompanied by the written undertaking of the Tenant, Tenants or Occupiers to be bound by the By-Laws of the Corporation provided that nothing herein shall in any way remove, waive or alter the responsibility of each Owner for the performance of all By-Laws by all persons using or occupying his Unit;
- (d) Provide the full names, telephone, and email contact information of all Tenants or Occupiers of his Unit.

**63. APPEARANCE OF UNITS**

Nothing shall be hung or placed on any part of the Common Property or any portion of a Unit other than drapes or window coverings which are either white or of pastel shade and which, in the opinion of the Board, is esthetically pleasant when viewed from the outside of the Unit. No portion of the Common Property or the Managed Property shall be painted, decorated, maintained, or otherwise affected by anyone other than the Corporation (or its duly authorized agents) without the consent in writing of the Board.

**64. GARBAGE**

The Owners of the Unit(s) shall wrap and tie their garbage in leak-proof bags and shall place the garbage in the metal garbage containers within the garbage enclosure on the Common Property designated for the Unit(s) or in such other garbage containers as may be directed by the Board from time to time and shall observe all By-Laws and regulations of the local authority in that regard. All costs associated with the collection and disposal of garbage for the Unit(s) shall be paid solely by the Owners of the Unit(s). No furniture, television, P.C. monitor, or other such non-compatible materials shall be left in the garbage room or on any Common or Managed Property and shall be removed from the Building by the Owner at his direct cost or effort. Nothing of a combustible, inflammable, or hazardous nature shall be disposed of within any household garbage, or deposited in any garbage compactor/bin or enclosure. All cardboard materials not suitable for deposit in the garbage compactor/bins shall be flattened and placed by the Owner into a cardboard recycling bin provided by the Corporation. All styrofoam, and

all bulky packaging materials not suitable for deposit in the garbage compactor/bins, shall be deposited by the Owner in a bulk garbage bin provided by the Corporation.

**65. NOISE**

Owners, their families, guests, Tenants, visitors and servants shall not create or permit creation of or continuation of any noise or nuisance which, in the opinion of the Board or the Manager or their representative, may or does disturb the comfort and quiet enjoyment of their Units by other Owners, their families, guests, visitors, and persons having business with them; and no noise caused by any instrument or other device or otherwise, which in the opinion of the Board may disturb the comfort of the other Owners shall be permitted.

**66. PRIVACY**

No Owner shall trespass or permit any Occupant of his Unit to trespass on any part of the Building or Common Property or the Unit of another Owner, and, without the consent in writing of the Board, no Owner shall have any right of access to those parts of the Common Property from time to time used as a utilities areas, building maintenance storage areas, operating machinery, or any other part of the Common Property used for the care, maintenance or operation of the Building or the Common Property.

**67. PERSONAL BELONGINGS**

All Owners will cause all articles belonging to their household, other than patio furniture and other like articles, to be appropriately kept within their respective Residential Units when not in actual use, and each Owner will comply with all reasonable requests of the Board or the Manager or its representative that bicycles, toys and like articles belonging to the Owner's household be put away inside such Owner's Residential Unit when not in actual use or be stored in appropriate places.

**68. HEALTH**

(a) No Owner shall do anything or permit anything to be done that is contrary to any of the provisions, rules or ordinances of any statute or municipal by-law or injurious to health or the regulation of the Units or in any way in violation of any laws whatsoever.

(b) Units and must be kept clean and in good order and free of insects and vermin.

**69. ELECTRICAL CIRCUITS**

Owners shall be responsible for all electrical circuits in their Unit and the Owners shall not overload electrical circuits, which would affect the operation of the common utilities on the Common Property.

**70. DAY CARE CENTRE**

No Owner or Occupier shall use his Unit to provide a day care centre or baby-sitting services without the prior written consent of the Board, which consent may be unreasonably withheld.

**71. SIDEWALKS AND WALKWAYS**

The Common Property, including sidewalks, walkways, driveways, roadways and laneways shall not be obstructed by any Owner, his family, guests, Tenants, or visitors or used by them for any purpose other than for ingress to and egress from their respective Units.

**72. DAMAGE TO THE COMMON PROPERTY AND THE MANAGED PROPERTY**

Owners, Tenants, Occupiers and their families, guests, and visitors shall not harm, mutilate, destroy, waste, alter or litter any part or parts of the Common Property or the Managed Property, or of the property (real or personal) of the Corporation.

**73. STRUCTURES ON COMMON PROPERTY**

- (a) No building or structure shall be erected, placed, located, kept or maintained on the Common Property except only by the Corporation.
- (b) No chattel or other item, nor any trailer, either with or without living, sleeping, or eating accommodation, and no tent, shed or portable building shall be placed, located, kept or maintained on the Common Property except with the prior written approval of the Board (which consent may be unreasonably withheld), and if any such chattel or other item has been approved by the Board, the Board may subsequently withdraw such approval in which event the chattel or other item shall be forthwith removed by the Owner.
- (c) No part of the Common Property shall be used for the erection, placing or maintenance of clotheslines, incinerators, garbage disposal equipment, recreation or athletic equipment, fences or other barriers, hedges, trees, gardens or other vegetation, or for the disposal of rubbish, garbage or waste except only by the Corporation or the Board or by an Owner with the prior written approval of the Board.

**74. LIABILITY FOR DAMAGE**

Except for negligence of the Board, its employees, agents, or servants, the Corporation will not be responsible for any damage or loss whatsoever caused by or to any property of any kind or nature whatsoever from any loss or damage to a Unit, nor will it be responsible for any loss or damage from any cause whatsoever to any Unit or any contents in any Unit. The insuring of all personal contents within the Unit is the sole responsibility of the individual Owners.

**75. AUCTION**

No auction sale or other sale shall be held in or about the Building without consent in writing of either the Manager or the Board.

**76. TRAFFIC SPEED AND DIRECTIONAL CONTROL**

All Owners shall observe and abide by all rules and regulations established from time to time by the Board for the safe and orderly flow of traffic in or on the Building including, without limiting the generality of the foregoing, speed limits and directional controls.

**77. COMMON EXPENSES OF OWNER(S)**

The Common Expenses of the Corporation for which the Corporation may levy contributions on an Owner shall (without limitation) include the following:

- (a) All levies or charges on account of electricity, water, gas and fuel services supplied to the Corporation;
- (b) The cost of and charges for all management fees;
- (c) Any directors fees or stipends;
- (d) All costs and charges on account of landscaping, and maintenance of landscaping of the Common Property, and landscaping those portions of the Unit which are the responsibility of the Corporation pursuant to these By-Laws;
- (e) All costs and charges on account of snow and ice removal from the Common Property, and snow and ice removal from those portions of the Common Property or Unit for which the Corporation is responsible pursuant to these By-Laws;
- (f) All costs of and charges for maintenance and repair of those portions of the Common Property for which the Corporation is responsible including the physical maintenance, repair, and periodic cleaning of the Lounge Areas designated as Exclusive Use Areas;
- (g) All costs of and charges for maintenance and repair of Common Property for which the Corporation is responsible, including the maintenance and repair of any entrance signs, entrance gates, doors to the parking levels, doors to the Units, or entrance features located on the Common Property including the Common Property components of the mechanical, heating, air conditioning and fire systems, including thermostats, zone valves, radiant heating lines, fan coil units, filters, fire system strobe and enunciator speaker (but not the in-suite (local) smoke alarm which shall be the responsibility of the Unit Owner to maintain, service and replace, as required);
- (h) All costs of and charges for insurance for which the Corporation is responsible;

- (i) All costs of and charges for all manner of consultation, professional and servicing assistance required by the Corporation including, without limiting the generality of the foregoing, all legal and accounting fees and disbursements;
- (j) All reserves for the Capital Replacement Reserve Fund, including reserves for maintenance and repair of the Common Property and the Managed Property;
- (k) All salaries and other benefits for services of any caretakers or maintenance personnel;
- (l) All costs of contractors providing services to the Corporation, including Security Services, Common Property and Managed Property janitorial cleaning, plumbing, electrical, mechanical, heating, ventilation, and air-conditioning maintenance and repair;
- (m) All fees and charges of an Insurance Trustee (if any);
- (n) The amount of all costs and expenses whatsoever, including without limitation all maintenance and repair costs, taxes, financing charges, Common Expenses, and all utilities charges for or in respect of the Common Property;
- (o) Repair and replacement of any and all party walls, whether pertaining to this condominium, including adjoining party walls with the Parkade, it being the intention of this By-Law that individual Unit Owners are not responsible for the repair and replacement of all such party walls but that the cost of such repair and replacement shall be paid by all of the Unit Owners as a Common Expense provided that the Unit Owners shall be responsible for such repair and replacement if such repair and replacement is required because of the negligence or wonton/reckless misconduct of the Unit Owner or the Unit Owner's Occupants; and
- (p) All costs associated with the mortgage on the Common Property and/or the Corporation's Unit(s).

## 78. ASSESSMENT OF COMMON EXPENSES

- (a) At least thirty (30) days prior to the beginning of each fiscal year, the Board or, at its request the Manager, shall estimate the amount of Common Expenses that will be incurred or required in such fiscal year (including a reasonable allowance for contingencies and replacements, plus any deficiencies from the previous year, and less any expected income and any surplus from the funds collected in the previous year plus any amounts required from the Capital Replacement Reserve Fund) which estimate of Common Expenses is hereby called the "**Estimated Common Expenses**". Each year's Estimated Common Expenses shall be apportioned, levied and assessed to and upon the Owners in proportion to the Unit Factors as shown on the Residential Condominium Plan. For greater clarification, any assessments attributed to the Common Property shall be paid proportionately to their Unit Factors by all Unit Owners of Units that are not designated as Common



Property. In addition thereto, the Board or Manager may levy and assess the Owners in like proportion for costs and charges for Common Expenses, estimated or incurred from the date of registration of the Residential Condominium Plan to the end of the fiscal year in which registration occurred or for such other period, not extending beyond the first anniversary of the date of registration of the Residential Condominium Plan, as the Board may determine. If the amounts so estimated prove inadequate for any reason, including non-payment of an Owner's assessment, the Board or the Manager, as the case may be, may at any time, and from time to time, levy a further assessment or such further assessments as are required in like proportions as hereinbefore provided. Each Owner shall be obligated to pay any and all assessments made pursuant to this provision to the Board or the Manager to the account of the Corporation, as directed by notice, in equal monthly installments on or before the first (1st) day of each month during the calendar year for which such assessment is made or in such other reasonable manner as the Board or the Manager (as the case may be) shall designate, and further to pay interest on all assessments or payments in arrears at the Interest Rate per annum or at such other rate of interest as the Board may from time to time determine, calculated from the date due until payment.

- (b) The omission by the Board before the expiration of any year to fix the assessments hereunder for that or for the next year shall not be deemed a waiver or modification in any respect of the provisions of these By-Laws, or release of the Owner of these By-Laws, or release of the Owner or Owners from their obligations to pay the assessments, or any installments thereof for that or any subsequent year; but the monthly installment fixed for the preceding year shall continue until new installments are fixed. No Owner can exempt himself from liability for his contributions towards the Common Expenses by waiver of use or enjoyment of any of the Common Property, or by vacating or abandoning his Unit.
- (c) The Secretary-Treasurer of the Board or the Manager shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the Common Property, or the Managed Property, or the Capital Replacement Reserve Fund specifying and itemizing the maintenance and repair expenses of the Common Property, the Managed Property, and any other expenses, including taxes, incurred. Records and vouchers authorizing the payments involved shall be available for examination by an Owner at convenient business hours on week days.

## **79. ASSESSMENTS IN ARREARS**

In the event of any assessment against an installment or payment due from an Owner remaining due and unpaid for a period of thirty (30) days, the Board, at its option, may accelerate the remaining monthly installments and payment for the fiscal year then current upon notice to the Owner in arrears, and thereupon all such unpaid and accelerated monthly installments and payments shall become payable on and as of the

date of the said notice. At no time shall there be acceleration of any Unit charges not yet estimated and levied by the Board or the Manager.

## 80. DEFAULT OF PAYMENTS

- (a) The Corporation shall and does have a lien and charge upon and against the estate or interest of the Owner for any unpaid assessment, installment or payment (including interest on arrears) due to the Corporation in respect of his Unit, which lien shall be a first paramount lien against such estate or interest, subject only to the rights of any municipal or local authority in respect of unpaid realty taxes, assessments or levies of any kind against the Unit title or interest of such Owner, but subject also to the provisions of the Act and the *Land Titles Act* of Alberta. The Corporation shall have the right to file a caveat against the Unit title or interest of such Owner in respect of the lien or charge for the amount of such unpaid assessment, installment or payment and for so often as there shall be any such unpaid assessment, installment or payment; provided that each such caveat shall not be registered until after the expiration of thirty (30) days following the due date for the first payment in arrears. The lien or charge shall be deemed to be an equitable mortgage, payable on demand, and can be enforced either as a debt, or in the same manner as a legal mortgage registered against the Unit. The Corporation shall be entitled to be paid by the defaulting Owner the costs (including without limitation legal costs on a solicitor and his own client basis) incurred in preparing and registering the caveat and realizing upon and enforcing the charge caveated, recovering the arrears and in discharging the caveat; and shall not be obliged to discharge any caveat until all arrears of the Owner (including interest and all such costs) are fully paid.
- (b) Any other Owner or person, firm or Corporation whatsoever may pay any unpaid assessment, installment or payment (plus interest and costs if any) after the expiration of thirty (30) days following the due date for payment by the Owner in default with respect to a Unit, and upon such payment being made such party, person, firm or Corporation shall have a first paramount lien, subject to the estates or interests hereinbefore mentioned; and shall be entitled to file a caveat in respect of the amount so paid on behalf of the owner in default; and shall be entitled to enforce his lien thereby created in accordance with the other terms and conditions of this provision.
- (c) Notwithstanding any other term, condition or provision herein contained or implied, each unpaid assessment, installment or payment (together with interest and costs as aforesaid) shall be a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed and such subsequent Owners as the Act may provide and collectable as such. Any action, suit or proceeding to recover such debt or to realize on any judgment therefor shall be maintainable as a separate action, suit or proceeding without foreclosing or waiving the lien, charge or security securing the same;

**81. INDEMNITY**

Each Owner shall indemnify and save harmless the Corporation from and against all loss, costs, damages, 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 or any member thereof, any other Occupant of his Unit or any guests, invitees or licensees of such Owner or resident to or with respect to the common elements and/or all other Units, except for any loss, costs, damages, injury or liability required hereunder to be insured against by the Corporation.

**82. ENFORCEMENT AND FINANCIAL PENALTIES FOR BREACH OF BY-LAWS**

Notwithstanding any other right or remedy that the Corporation may have, and in particular without restricting the remedies of the Corporation, if an Owner breaches any of the By-Laws contained herein, the Corporation may assess the owner with a special assessment, up to the sum of One Hundred (\$100.00) Dollars per day, for each and every day that the Owner remains in breach of these By-Laws after reasonable notice to the Owner from the Corporation to remedy the breach. All such assessments shall be payable to the Corporation, on demand, and if not paid, the assessment shall bear interest at the Interest Rate from the due date until paid.

**83. DEVELOPER'S USE OF PROPERTY**

The Developer shall be entitled to use of the Common Property areas for the purpose of displaying signs to indicate the sale of Units, and will be entitled to effect all other reasonable use of the Common Property and Units to assist in selling any of the Units, including the use of show suites for such purposes, and including bringing and allowing prospective purchasers in and upon the Building and portions thereof.

The Developer shall be entitled to utilize the rooftop of the Parkade to store and use materials and equipment required for any construction including the provision of access for contractors and workmen.

**84. PETS**

An Owner shall be entitled to keep in a Unit on a single floor a maximum of two (2) dogs or two (2) cats, or in a Unit on multiple floors a maximum of four (4) dogs or four (4) cats or a combination thereof not to exceed the applicable maximum provided that the pet does not create any unreasonable disturbance to other Unit Owners, or be a hazard to or harmful to any Common Property or to other Owners.

In no event shall an Owner be entitled to keep an aggressive or noisy animal, or a dangerous pet, insect, or animal (such as a poisonous snake or spider) in the Unit. In the event that the Board (acting reasonably) receives a reasonable complaint regarding any pet, including a complaint of noise, aggression, soiling, or damage to the Common Property, or in the event that any animal is found to have breached any other provision of this clause, the Condominium Corporation may give notice to the Owner of the Unit in which that pet is kept, requiring the removal of said animal from the Building. Where

such notice has been served upon an Owner, and the animal has not been removed from the Building within four (4) weeks of such notice being mailed by Canada Post to the Owner at the address of the unit in which the animal is kept, the Condominium Corporation is hereby duly and irrevocably authorized to permanently remove the said animal from the Building, charging to the Owner, all costs related thereto, including the costs of disposing of the said animal. Any Owner who fails to comply with a notice to remove an animal, shall be liable to a penalty being levied upon that Owner by the Corporation in a sum to be determined from time to time by the Corporation, which penalty shall be added to the Common Expenses payable by that Owner.

An Owner of a pet shall be required to keep the Unit in a clean and reasonable state of cleanliness (i.e., excrement from animal litters within the boundaries of the Unit) and the Owner of a pet shall keep the Common Property clean of all excrement which the pet litters on the Common Property, or if the pet causes damage to the Unit or the Common Property or the Managed Property, the Owner shall be responsible for the cost of repair of such damage.

No pet may be at large in the Common Property for any purpose whatsoever except in accordance with this By-Law.

No pet may be accompanied or carried in the Common Property other than on a short leash and then, only for the purpose of direct ingress and egress to and from the Building.

An Owner shall be entitled to keep a reasonable number of fish, birds, other small animals (such as guinea pigs and hamsters) provided that such fish, birds, or animals are kept caged, and are in reasonable numbers which will not cause any reasonable disturbance to other Unit Owners or be a hazard to or harmful to any Common Property or to other Owners.

## **85. UNIMPROVED UNITS**

Each Owner agrees as follows:

- (a) The Owner of an Unimproved Unit shall be responsible for keeping each such Unit free of debris and shall maintain the Unimproved Unit in a neat and tidy condition;
- (b) The Developer of an Unimproved Unit shall not be responsible for the payment of Common Expenses or assessments until the Unit is ready for occupancy as determined by the Developer, or until transfers of title of not less than 75% of the Units in the Building have been effected to third parties.

## **86. EASEMENTS**

Each Owner acknowledges and agrees that they are bound by the provisions of these By-Laws and of Sections 22, 23 and 24 of the Act respecting easements. In addition, each Owner further agrees that there is implied in respect of each Unit shown on the Residential Condominium Plan:

- (a) in favour of the Owner of the Unit and as appurtenant to the Unit, an easement for the subjacent and lateral support (including floors, ceilings, and demising walls) of the Unit by the Common Property and by every other Unit capable of affording support;
- (b) as against the Owner of the Unit, an easement, to which the Unit and Privacy Area are subject, for the subjacent and lateral support of the Common Property and of every other Unit capable of enjoying support;
- (c) in favour of the Owner of the Unit, and as appurtenant to the Unit, an easement for the shelter of the Unit by every other Unit and Unit capable of affording shelter;
- (d) as against the Owner of the Unit, an easement, to which the Unit and Privacy Area are subject, to provide shelter to every other Unit capable of enjoying the shelter;
- (e) in favour of the Owner of the Unit, and as appurtenant to the Unit, easements for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing in the Building to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of the Unit;
- (f) as against the Owner of the Unit, easements, to which the Unit or Privacy Areas are subject, for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio and television services through or by means of any pipes, wires, cables or ducts for the time being existing within the Unit, and Privacy Area as appurtenant to the Common Property and also to every other Unit capable of enjoying those easements;
- (g) as against Owner of the Unit, an easement, to permit the right of access and egress in, through or over the Common Property, or the Unit, as the case may be (including hallways, stairways, elevators, entrances, landscaping, etc.) for the purposes of ingress and egress to and from the Unit and the Lounge Areas;
- (h) as against the Owner of the Unit, easements, to which the Unit and Privacy Areas are subject, to the extent that any portion or part of the patio, deck, eaves footing or such other structure shall encroach upon any Unit, Common Property, Exclusive Use or Privacy Area;
- (i) as against the Owner of a Unit, an easement in favour of the Corporation and its agents, to permit a right of access upon in or through the Unit, upon reasonable notice, for the purpose of cleaning, repairing, replacing the exterior of the Building or the external windows of the Building.

The owner of any utility service who is providing its service to the Building, or to any Unit or Units on it, is entitled to the benefit of any of those easements contained in this By-Law that are appropriate to the proper provision of that service, but not to the exclusion of the owner of any other utility service.

All ancillary rights and obligations reasonably necessary to make an easement effective apply in respect of easements set out herein, including the right of an Owner of any dominant tenement to enter a servient tenement and replace, renew or restore anything the dominant tenement is entitled to benefit from.

## **87. PARTY WALL AGREEMENT**

Any Unit which has a common wall, ceiling, or floor with a Unit constructed next to an adjoining Unit and that the common wall is located as nearly as practicable upon the property line between the two adjoining Units then such structures shall be deemed a "Common Wall". Each Owner agrees with each other Owner as follows:

- (a) The common wall (whether vertical, as in the case of walls, or horizontal and lateral, as in the case of floors and ceilings) constructed on the property line between the adjoining Units has been constructed as a party wall to be used for the joint purposes of the Unit and the adjoining Units so erected by the Developer and shall be used and maintained as a party wall in such manner as to ensure to each Owner in respect of their adjoining Units has the enjoyment of a right to support and use (whether vertical, horizontal, or lateral), all to the intent that no portion or part of the party wall erected shall for any purpose whatsoever be construed or deemed to be an encroachment on any adjoining Unit and shall continue as a party wall perpetually and to the extent that any portion or part of the party wall shall encroach upon any Unit, the Owner of such Unit grants and conveys to each adjoining Owner an easement for the purposes of such encroachment.
- (b) Each Owner grants and conveys to each adjoining Owner and to the Corporation an easement in support of the party wall and of any vertical, horizontal or lateral extension thereof in respect of the width of the party wall constructed upon that Owner's Unit, to the intent such easement shall be annexed to and run with such Unit in accordance with the provisions herein set forth.
- (c) If the party wall at any time following construction requires any repair or maintenance (either external or internal) to ensure any Owner or the Corporation the right to the convenient enjoyment of the right to support and use, either of the adjoining Owners or the Corporation shall be at liberty to cause the party wall to be repaired or maintained and each of the adjoining Owners or the Corporation shall be responsible for and shall forthwith pay for one-half (1/2) of the cost of such repair or maintenance; provided that notwithstanding the foregoing, in the event such repair or maintenance (either external or internal) is required or necessitated due to damage to such party wall caused by the willful or wanton act or acts of any Owner or invitee or licensee thereof, it is agreed by each Owner

that the cost of such repairs and maintenance shall be solely borne by the Owner or any invitee or licensee thereof whose willful or wanton act or acts required or necessitated the repair or maintenance.

- (d) Each Owner shall afford any adjoining Owner and the Corporation and their agents or workmen all such reasonable access as may be necessary to enable the party wall to be speedily and effectively built and/or repaired and/or maintained (provided that in connection with such access reasonable notice shall be given and as little damage as possible will be occasioned to the property of the other Owner and that in the event of any damage being occasioned to the property of the other Owner, such damage will be repaired to the satisfaction of the other Owner at no other cost to the other Owner).
- (e) The Board of Directors has the power on behalf of the Corporation and on behalf of the Owners to direct the Party Wall Agreement be registered against title to the Units located within the Building. Each Owner hereby acknowledges their consent to the registration of such Party Wall Agreement against title to their Unit, in the event it is so directed by the Board of Directors.

**88. RESTRICTED DEVELOPMENT OF EXTERIOR OF UNITS**

- (a) No Owner shall improve, develop, construct, or otherwise modify the exterior of its Unit.
- (b) The Corporation is hereby empowered, and the Board is authorized on behalf of the Corporation, to take whatever procedures are reasonably necessary, in the Board's opinion, to ensure compliance with this By-Law and in order to enforce this restrictive covenant.
- (c) The provisions of this restrictive covenant have been implemented to ensure the regular maintenance and upkeep of all of the Units in the Building as outlined in the Residential Condominium Plan, and to ensure continuity and consistency in the construction and maintenance of the Units, and therefore shall not be altered or changed unless by the Owners pursuant to a Special Resolution passed pursuant the provisions of these By-Laws.

**89. RESTRICTIVE COVENANTS AFFECTING TITLE**

Each Owner acknowledges that title to the Unit shall also be subject to a restrictive covenant in favour of the Calgary Exhibition and Stampede. The purpose of the restrictive covenant is to advise Owners that it is the intention of the Calgary Exhibition and Stampede to develop the lands owned by the Calgary Exhibition and Stampede, which are adjacent to or in the general vicinity of the Building for commercial or other purposes. The Owner will be prohibited from interfering, in any manner whatsoever, with any commercial development or any commercial activities carried on the Calgary Exhibition and Stampede lands. The Owner acknowledges that from time to time, due to activities on the Calgary Exhibition and Stampede lands, there will be increased pedestrian and vehicular traffic related to those lands. The Owner acknowledges that the

Calgary Exhibition and Stampede has been granted an exemption to the Noise By-Law of the City of Calgary and the Owner will not be able to bring any action against either the City of Calgary or the Calgary Exhibition and Stampede as a result of any breach of the Noise By-Laws by activities carried on the Calgary Exhibition and Stampede lands.

**90. MANAGED PROPERTY**

**(a) DUTIES AND RESTRICTIONS ON OWNERS REGARDING MANAGED PROPERTY**

Each Owner shall, in respect to the Managed Property, or, relating to, or in his Unit:

- (i) Subject to receipt of notice pursuant to Bylaw 3, the Manager, security personnel, concierge agents or any contractors and their employees, at all reasonable times on notice (except in case of emergency when no notice is required), to enter the Unit for the purpose of inspecting the same and maintaining, repairing or renewing pipes, wires, cables, ducts, conduits, plumbing, mechanical, heating, ventilation, air-conditioning, sewer, water, gas, electrical transmission, telephone and telecommunication lines and other facilities for the furnishing of services located within the Unit or behind the boundaries of the Unit and capable of being used in connection with or affecting the enjoyment of any other Unit or the Common Property, or the Managed Property, or for the purpose of maintaining, repairing or renewing either the Unit, the Common Property, or the Managed Property, or for the purpose of ensuring that the By-Laws are being observed, or allowing the Developer to repair or rectify any deficiencies to the Unit required to be conducted by the Developer or its agents/subcontractors;
- (ii) Adhere to, comply with and strictly observe this By-Law and all rules, regulations, By-Laws, resolutions and other requirements of the Corporation and its insurers as the same relate to the Managed Property; provided that in the absence of anything expressly to the contrary, the rules, regulations, By-Laws, resolutions and other requirements as shall apply to the Common Property shall apply to the Managed Property;
- (iii) Shall not, in any manner whatsoever, interfere with, prohibit or hinder the Corporation in carrying out its duties, powers, obligations and responsibilities arising hereunder or in connection with any of the Corporation's inspection, maintenance, repair, upkeep, cleaning or control of the Managed Property; and
- (iv) Shall not, in any manner whatsoever without first obtaining the consent of the Board, change, improve, alter, adjust, remove, disfigure or otherwise disturb the Managed Property or any part or component thereof.



**(b) POWERS, DUTIES AND RESTRICTIONS OF THE CORPORATION**

The Corporation:

- (i) Shall, in addition to and without limiting its powers relating to the management and control of the Common Property, be empowered to:
  - a) enact rules and regulations relating to the management and control of the Managed Property;
  - b) employ and contract for services for repair, maintenance, replacement, cleaning and other similar services (including painting, gardening, lawn mowing) necessary to properly maintain the Managed Property;
  - c) As part of and in accordance with its general power of levying assessments, assess the owners for their respective shares in the costs of the Corporation carrying out its duties hereunder; and
  - d) Generally manage, operate and control the Managed Property in accordance with such election as if and to the same extent as if the Managed Property was Common Property;
- (ii) Shall, in addition to and without limiting its obligations generally relating to the maintenance, management, repair and control of the Common Property, control, manage, maintain, repair and administer the Managed Property unless otherwise directed by Special Resolution of the Corporation, provided that such duties and obligations may, from time to time, be amended and adjusted, (including without limitation by increasing or reducing same) by Special Resolution of the Corporation. If, pursuant to Special Resolution, it is resolved that the Corporation shall be relieved and is not, from the effective date thereof, to be responsible for the management, repair, maintenance, upkeep, replacement and control of the Managed Property, all such duties and responsibilities shall therefor be performed by the Unit Owners and these By-Laws shall be interpreted accordingly;
- (iii) To the extent that the Corporation shall determine practicable, the Corporation shall insure the Managed Property (or such part or parts thereof as the Board determines is reasonable, feasible and economic) as the Board is otherwise required by this By-Law.

**91. DEVELOPER'S OBLIGATION IN REGARD TO THE COMMON PROPERTY, CORPORATION'S UNIT(S)**

The Developer covenants and agrees with the Corporation as follows:

- (a) To complete the Corporation's Unit(s) and all Amenities thereto in a good and workmanlike manner in accordance with the plans of the Developer;
- (b) To transfer to the Corporation for the nominal sum of One (\$1.00) Dollar title to the equipment and chattels intended to be Common Property, free and clear of all encumbrances;
- (c) To warrant to the Corporation that the Developer will remedy any defects in the structural, mechanical, plumbing, electrical, heating, ventilation, and cooling systems, for workmanship relating to the Common Property, the landscaping, and the fencing and Amenities with respect thereto, of which the Developer receives notice within one (1) year from the commissioning date of the various systems;
- (d) To keep the Common Property and the Unit(s) free and clear of all liens, claims or encumbrances by suppliers of labour and/or materials contracted by the Developer.

All of the covenants contained in this clause shall be provided at the sole cost and expense of the Developer.

**92. RELEASE AND DISCHARGE OF THE DEVELOPER FOR COMMON PROPERTY**

Following substantial completion, and the transfer of title and possession of not less than 75% of the Units in the Building, the Developer shall deliver to the Corporation a certificate certifying the substantial completion of the Common Property (including all Amenities thereon) and completion of fencing and landscaping and noting any deficiencies in connection therewith. Subject to completion of any deficiencies noted in the certificate of substantial completion and subject to the Developer's warranty, the Corporation shall acknowledge to the Developer that the Developer is released from all liabilities to the Corporation in any way arising out of the construction and development of the Common Property, the fencing and/or the landscaping.

**93. CONSENTS AND ASSURANCES BY THE CORPORATION**

Subject to compliance with any requirements imposed by the City of Calgary for the development of the Buildings, the design and construction of the Units and the Common Property shall be within the sole control and discretion of the Developer without interference from the Corporation or any of the Owners, which shall include, but not be limited to, discretion to change the numbering of Units. Neither the Corporation nor the Owners shall make any objections or take any steps to prevent, hinder or delay construction and completion of the Common Property, or the Units. Notwithstanding anything in these By-Laws to the contrary, the Developer has the right to enter into, execute and deliver, on behalf of the Corporation, all consents, plans, leases, easements, crossing agreements, utility rights-of-way, licenses, deeds, and any other documents or assurances as the Developer may require. In such event, the Corporation shall be and is obliged and required to and shall assume, accept, and be bound by an Assignment of all such consents, plans, leases, easements, crossing agreements, utility rights-of-way,

licenses, deeds, and all other documents and assurances that have been entered into by the Developer in contemplation and completion of the Common Property, by the Developer and in fulfillment of the Developer's obligation to the Owners. A member of the Board or officer of the Corporation shall have the power on behalf of the Corporation, with or without resolution of the Owners or the Board authorizing the same, to execute and deliver on behalf of the Corporation and if required, under its seal, any such consents, plans, leases, easements, crossing agreements, utility rights-of-way, licenses, deeds, documents, or other assurances required by the Developer and the said member or officer so executing and delivering such instrument shall be fully exonerated and released by the Corporation and the Owners from any claim for so doing.

#### **94. USE OF COMMON PROPERTY**

- (a) Subject to any rights to Exclusive Use Areas possession herein provided and any rules or regulations relating to the Common Property made by the Board, each Owner, Tenant, or Occupier of a Unit and the employees, agents and invitees of each such Owner, Tenant, or Occupier of a Unit shall have the same non-exclusive rights of way over and use of the Common Property in common with other Owners, Tenants, or Occupiers and their respective employees, agents and invitees, including for the purposes of ingress to and egress from the Unit, and the Corporation shall grant to the Owners, Tenants, or Occupiers and their successors and assigns such easements, leases, or licenses as may be necessary to give effect hereto.
- (b) As Owner of the Units, the Developer shall have the exclusive use of the Common Property for the purpose of constructing and developing the Common Property, as well as for constructing and developing the Units. Upon completion of any Unit and transfer of title to an Owner, the aforesaid right of exclusive use shall terminate with respect to the Common Property as may be designated by the Developer for use in connection with such Unit. The Developer shall continue to have access to the Common Property following termination of its exclusive rights hereto for the purposes of completion and repair of the Common Property or the Managed Property and any Unit.

#### **95. POWER OF ATTORNEY**

Each Owner hereby irrevocably nominates, constitutes and appoints the Developer, and any successor to the Developer, with full power of substitution, and his or its true and lawful agent, with full power and authority in his name, place and stead and for his or its use and benefit to do the following, namely:

- (a) execute, swear, acknowledge, deliver and file as and where required any and all of the following:
  - (i) any instrument or document relating to a mortgage on the Common Property, including the right to pass a Special Resolution on behalf of all Owners to authorize a mortgage on the Common Property;

- (ii) to execute and file with any governmental body or instrumentality of Canada, any province, territory or municipality, specifically including Land Titles, any documents necessary in relation to these By-Laws; and
- (iii) to execute and deliver all such other documents or instruments on behalf of an in the name of the Owner as may be deemed reasonably necessary by the Developer to carry out fully the provisions of these By-Laws in accordance with their terms.

## 96. **PRIVACY POLICY**

The collection, use and disclosure of personal information is controlled and protected Provincially by the *Personal Information Protection Act* and Federally by the *Personal Information Protection and Electronic Documents Act*. The Corporation respects each Owner's rights regarding the protection of personal information.

It is acknowledged by each Owner (including Lessees) that the Corporation has, must, and will collect certain personal information from Owners in order to perform its functions pursuant to these By-Laws. This information includes, but is not limited to:

- name, address, telephone numbers, fax numbers and email address;
- information and documents as are specified in By-Law 3(m)(iv) (Duties of an Owner, Rentals);
- if requested by the Corporation, verification of insurance as specified in By-Law 46(f), (Insurance);
- the Purchase or Construction Agreement for the Unit, including all plans, specifications, agreements, change orders, condominium disclosure documents or any other information related to the purchase and construction of the Unit;
- details of each transfer or base of each Unit;
- information from third party contractors, suppliers, consultants and lawyers who provided work or service to the Owner, builder, or the Corporation with respect to the Unit.

This information is used for the following purposes:

- To provide to the builder, the Corporation, and its various employees, servants, trades and subtrades, with the information necessary in order to construct the Unit and to administer, run, manage, and perform the duties of the Corporation pursuant to these By-Laws;
- To provide such information as may be necessary to any Owner's or prospective Owner's mortgage company in the event that the Owner or prospective Owner is applying for a mortgage;

- To enroll the Unit for the warranty coverages under The National Home Warranty Program;
- To prove, defend, or otherwise deal with any claim under The National Home Warranty Program;
- For conducting Owner satisfaction surveys;
- For the internal operational purposes of the Corporation and to facilitate communications with Owners and between Owners regarding the activities of the Corporation;
- For the purpose of insurance the property vested in the Corporation and all purposes related thereto, including claims arising under such policy;
- For compiling historical data;
- To assist the builder in the builder's information and marketing program for the Building;
- To providing alternative dispute resolution procedures with such information as may be necessary for the investigation, conciliation, mediation and arbitration of disputes in accordance with the rules and procedures of The National Home Warranty Program; the Arbitration Act of Alberta or for the purpose of pursuing or defending any legal claim.

The Corporation will comply with its Privacy Policy. For more information about the Corporation's Privacy Policy, Owners should contact the President of the Corporation at the Corporation's registered address.

Each Owner consents to the collection, use and disclosure of the Owner's personal information by the builder for the purposes set out above and in accordance with the Corporation's Privacy Policy.

## **97. AMENDMENT OF BY-LAWS**

These By-Laws, or any of them may be added to, amended or repealed by Special Resolution of the Corporation and not otherwise.

**"END OF BY-LAWS"**