

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

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**MOTION RECORD  
(Returnable 27 July, 2022)**

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Date: 15 July, 2022

**GOWLING WLG (CANADA) LLP**  
Barristers and Solicitors  
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**TO: THE ATTACHED SERVICE LIST**

**SERVICE LIST**  
**(Rose of Sharon (Ontario) Retirement Community)**

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<p><b>AND TO:</b></p>	<p><b>TURFPRO INVESTMENTS INC.</b>  8225 Finnerty Sideroad  Palgrave, ON L7E 0H6</p>
<p><b>AND TO:</b></p>	<p><b>2381682 ONTARIO INC.</b>  222 The Esplanade, Suite 1211  Toronto, ON M5A 1J2</p>
<p><b>AND TO:</b></p>	<p><b>CITY OF TORONTO</b>  City Hall  100 Queen Street West  Toronto, ON M5H 2N2</p>
<p><b>AND TO:</b></p>	<p><b>CITY OF TORONTO</b>  City of Toronto Legal Services  Metro Hall  55 John Street, 26<sup>th</sup> Floor  Toronto, ON M5V 3C6</p>

<b>AND TO:</b>	<b>YORK HEALTH CARE DEVELOPMENTS INC.</b> 12 Kensington Drive Richmond Hill, ON L4E 3M9
<b>AND TO:</b>	<b>ROBERT BERG</b> 35 Bradgate Road Toronto, ON M3B J6
<b>AND TO:</b>	<b>ALBERT YOON</b> 195 Glenview Avenue Toronto, ON M4R 1R4
<b>AND TO:</b>	<b>8176949 CANADA INC.</b> <b>c/o Michael Shapiro</b> 163 Vaughan Road Toronto, ON M6CV 2L9

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

**INDEX**

**Tab**

- |   |   |
|---|---|
| 1 | Notice of Motion                                  |
| 2 | Twelfth Report of the Receiver dated 14 July 2022 |

**TAB 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

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**NOTICE OF MOTION**

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**DELOITTE RESTRUCTURING INC.** in its capacity as receiver of the Respondent (the "**Receiver**") will make a Motion to a Judge of the Commercial List, on 27 July, 2022 at 12:00 pm or as soon after that time as the Motion can be heard via ZOOM.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard via Zoom.

**THE MOTION IS FOR:**

- (a) an Order substantially in the form attached as Schedule A; and

(b) such further and other relief as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE**

1. The grounds set out in the Receiver's Twelfth Report dated 14 July, 2022 (the "**Twelfth Report**"); and
2. Such further and other grounds as this Honourable Court may accept.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the application:

1. The Twelfth Report; and
2. Such further and other evidence as counsel may advise and this Honourable Court may permit.

15 July, 2022

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Lawyers for the Receiver

**SCHEDULE A**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) WEDNESDAY, THE  
JUSTICE ) 27<sup>TH</sup> DAY OF JULY, 2022

B E T W E E N:

**PEOPLES TRUST COMPANY**

Applicant

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

Respondent

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,  
as amended, and section 101 of the *Courts of Justice Act*, as amended**

**APPROVAL AND VESTING ORDER  
(CONDOMINIUM UNITS)**

**THIS MOTION**, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”) for an order approving: (a) the sale by the Receiver of condominium units located at 15 Maplewood Avenue, Toronto (the “**Residential Units**”) and related parking units, locker units and other related property (together with Residential Units, the “**Condo Units**”) pursuant to agreements of purchase and sale (the “**Sale Agreement**”) substantially in the form attached as **Appendix “M”** to the Twelfth Report of the Receiver dated 14 July 2022 (the “**Twelfth Report**”); (b) the transfer of the Service Units as defined in the Declaration attached as **Appendix “J”** to the Twelfth Report the “**Declaration**”);

and (c) vesting in the purchaser identified in the applicable Sale Agreement the Condo Unit subject to that Sale Agreement or the Service Units in the transferees as required by the Declaration, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Twelfth Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list:

1. **THIS COURT ORDERS AND DECLARES** that the Receiver is authorized to enter into and complete the sale of the Condo Units pursuant to the Sale Agreement with such amendments to the Sale Agreement as the Receiver may deem necessary or advisable.

2. **THIS COURT ORDERS AND DECLARES** that the Receiver is authorized to transfer the Service Units as required by the Declaration.

3. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to: (a) complete the Schedules to the Certificate in the form attached as **Schedule A** (the “**Vesting Certificate**”); and (b) take such additional steps and execute such additional documents as may be necessary or desirable for the completion of: (i) the sale of the Condo Units and the conveyance of the Condo Units to the purchasers of those Condo Units; and (ii) the transfer of the Service Units as required by the Declaration.

4. **THIS COURT ORDERS AND DECLARES** that upon the registration of the Vesting Certificate, all of the title and interest in and to the Condo Unit or Service Unit identified on **Schedule A** to the Vesting Certificate shall vest absolutely in the purchaser or transferee identified on **Schedule A** to the Vesting Certificate (the “**Purchaser**” or the “**Transferee**”) as owner of the Condo Unit or Service Unit, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Order dated 27 September 2011; (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system;

and (c) those Claims listed on **Schedule B** to the Vesting Certificate (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C** to the Vesting Certificate) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Condo Unit or Service Unit identified on **Schedule B** to the Vesting Certificate are hereby expunged and discharged as against the Condo Unit or Service Unit identified on **Schedule A** to the Vesting Certificate.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for Land Titles Division of Metropolitan Toronto (64 and 66) (CRO#80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act (Ontario)* and/or the *Land Registrations Reform Act (Ontario)*, the Land Registrar is hereby directed to enter the Purchaser or Transferee identified on **Schedule A** to the Vesting Certificate as the owner of the Condo Unit or Service Unit identified on **Schedule A** to the Vesting Certificate in fee simple, and is hereby directed to delete and expunge from title to the Condo Unit or Service Unit identified on **Schedule A** to the Vesting Certificate all of the Claims listed in **Schedule B** to the Vesting Certificate.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Condo Units shall stand in the place and stead of the Condo Units, and that from and after the delivery of the Vesting Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Condo Units with the same priority as they had with respect to the Condo Units immediately prior to the sale, as if the Condo Units had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the relevant Vesting Certificates, forthwith after the completion of the sale of a Condo Unit or the transfer of a Service Unit in accordance with this Order.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of a Condo Unit or Service Unit pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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**Schedule A – Form of Vesting Certificate**

Court File No. CV-11-9399-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**PEOPLES TRUST COMPANY**

Applicant

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

Respondent

**APPLICATION UNDER 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,  
as amended, and section 101 of the *Courts of Justice Act*, as amended**

**VESTING CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Ontario Superior Court of Justice dated 27 September 2011, the Receiver was appointed as the receiver of the undertaking, property and assets of the the Debtor.

B. Pursuant to an Order of the Court dated 27 July 2022 (the “**Sale Order**”), the Court approved: (a) the sale by the Receiver of Condo Units pursuant to Sale Agreements and the transfer of Service Units pursuant to the Declaration; and (b) the vesting of Condo Units in those Purchasers identified in Sale Agreements entered into by the Receiver and the vesting of Service Units in the Transferees identified in the Declaration. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Order.

**THE RECEIVER CERTIFIES** the following:

1. The person identified on the attached **Schedule A** as the Purchaser of the Condo Unit identified on **Schedule A** has paid and the Receiver has received the purchase price for the Condo Unit in accordance with the applicable Sale Agreement between the Receiver and the Purchaser. **OR** The person identified on the attached **Schedule A** as the Transferee of the Service Units identified on **Schedule A** is the Transferee of that Service Unit as required by the Declaration. *[Delete One]*

2. On the date identified below, all of the title and interest in and to the Condo Unit **OR** Service Unit *[Delete One]* identified on **Schedule A** vested absolutely in the Purchaser **OR** Transferee *[Delete One]* identified on **Schedule A** as registered owner of the Condo Unit **OR** Service Unit *[Delete One]* identified on **Schedule A** free and clear of and from any and all Claims including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by the Order dated 27 September 2011; (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (c) those Claims listed on **Schedule B** (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C**), and all of the Encumbrances affecting or relating to the Condo Unit **OR** Service Unit *[Delete One]* identified on **Schedule A** are hereby expunged and discharged as against that Condo Unit **OR** Service Unit *[Delete One]*.

**DATED** at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ 202\_\_.

**DELOITTE RESTRUCTURING INC., in its capacity as Receiver of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community, and not in its personal capacity**

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule A**

**PURCHASER OR TRANSFEREE *[DELETE ONE]***

**LEGAL DESCRIPTION OF CONDO UNIT OR SERVICE UNIT *[DELETE ONE]***

**DRAFT**

**Schedule B**

**Claims to be Deleted and Expunged from Title**

DRAFT

**Schedule C**

**Permitted Encumbrances, Easements and Restrictive Covenants**

**(Unaffected by the Vesting Order)**

DRAFT

**Schedule D**  
**Approval and Vesting Order**

523398331

DRAFT

**PEOPLES TRUST COMPANY**

-and-

**ROSE OF SHARON (ONTARIO) RETIREMENT  
COMMUNITY**

Applicant

Respondent

Court File No. CV-11-9399-00CL

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

PROCEEDING COMMENCED AT  
TORONTO

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**NOTICE OF MOTION**

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Lawyers for the Receiver

**TAB 2**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

**TWELFTH REPORT TO THE COURT OF THE RECEIVER**  
**(dated July 14, 2022)**

## TABLE OF CONTENTS

<b>INTRODUCTION</b>	3
<b>TERMS OF REFERENCE</b>	5
<b>STATUS OF THE CONVERSION TO CONDOMINIUMS</b>	6
<b>STATUS OF THE LTC TRANSACTION</b>	14
<b>STATUS OF APPEAL OF OLRB DECISION</b>	15
<b>INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS</b>	16
<b>RECEIVER'S BORROWINGS</b>	16
<b>STATEMENTS OF ACCOUNT OF THE RECEIVER AND ITS COUNSEL</b>	<b>ERROR!</b>
<b>BOOKMARK NOT DEFINED.</b>	
<b>RECEIVER'S REQUEST TO THE COURT</b>	17

## APPENDICES

APPENDIX "A":	Amended and Restated Appointment Order dated September 27, 2011
APPENDIX "B":	Eleventh Report to the Court dated June 1, 2021
APPENDIX "C":	Order of Justice McEwen date June 10, 2021
APPENDIX "D":	City of Toronto's Notice of Decision Under S. 51(37) of the Planning Act dated July 11, 2016
APPENDIX "E":	City of Toronto's Revised Notice of Decision Under S. 51(45) of the Planning Act dated January 13, 2021
APPENDIX "F":	Email correspondence dated August 21, 2018 re the City of Toronto is unable to locate documents
APPENDIX "G":	Memorandum from Engineering and Construction Services Division dated April 8, 2022
APPENDIX "H":	Email correspondence between Community Planning and Gowlings dated April 12 & 13, 2022
APPENDIX "I":	Gowlings' Letter to City of Toronto Legal Services dated May 4, 2022

APPENDIX "J": Registered Declaration dated May 18, 2022

APPENDIX "K": ALUs Settlement Approval Order of Justice Mesbur dated September 10, 2013

APPENDIX "L": Order of Justice Mesbur dated December 13, 2013

APPENDIX "M": Template Sale Agreement

APPENDIX "N": Receiver's Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 30, 2022

## INTRODUCTION

1. Pursuant to an Order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 27, 2011 (the “**Appointment Date**”), Deloitte & Touche Inc., now known as Deloitte Restructuring Inc. (“**Deloitte**”), was appointed as receiver and manager (the “**Receiver**”) of all of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community (“**Rose**”). A copy of the Amended and Restated Appointment Order is attached hereto as **Appendix “A”**.
2. Rose’s principal asset is a 12-storey building (the “**Building**”) located at 15-17 Maplewood Avenue, Toronto, Ontario (the “**Property**”), which is comprised of a 60 bed long-term care facility located on floors 4 through 6 (the “**Nursing Home**”) with a municipal address of 17 Maplewood Ave., and 91 life-lease units (“**Residential Units**”, and individually “**Residential Unit**”) located on floors 2, 3 and 7 through 12 (the “**Residential Component**”) with a municipal address of 15 Maplewood Ave.
3. On June 6, 2017, the Receiver brought a motion to, amongst other things, seek the Court’s approval to enter into an Exclusive Listing Agreement with John A. Jensen Realty Inc. (“**Jensen**”) to market and sell the Nursing Home. In support of that motion, the Receiver filed with the Court its Eighth Report to the Court dated May 12, 2017 (the “**Eighth Report**”). Based on the Eighth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an order (the “**June 6 Order**”) approving the relief sought.
4. On April 1, 2019, the Receiver brought a motion to, among other things, seek the Court’s approval to appoint three officers of Deloitte to the first Board of Directors (the “**First Board**”) of the condominium corporation (the “**Condo Corporation**”). In support of that motion, the Receiver filed with the Court its Ninth Report to the Court dated February 25, 2019 (the “**Ninth Report**”). Based on the Ninth Report and the submissions made by counsel for the Receiver and the Applicant, the Court granted an order (the “**First Board Order**”) approving the relief sought.

5. On December 19, 2019, the Receiver brought a motion to, amongst other things, request the Court issue an order approving an Agreement of Purchase and Sale (the “**LTC Transaction**”) dated May 10, 2019 as amended (the “**APS**”), as between the Receiver and Rykka Care Centres LP (“**Rykka**” or the “**Purchaser**”) and, to the extent the conditions of the APS are satisfied, vesting in the Purchaser all the right, title and interest in the Assets (as defined in the APS) free and clear of all liens, security interests and other encumbrances, save and except for the permitted encumbrances referred to in the APS. In support of that motion, the Receiver filed with the Court its Tenth Report to the Court dated December 10, 2019 (the “**Tenth Report**”). Based on the Tenth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an Approval and Vesting Order (the “**LTC AVO**”) approving the relief sought.
  
6. On June 10, 2021, the Receiver brought a motion to, amongst other things: i) update the Court on the status of the Transaction and request the Court amend the AVO to substitute Arirang Age-Friendly Community Centre (“**Arirang**”) as Purchaser as a result of an assignment of the APS by Rykka to Arirang; ii) update the Court on the status of the Receiver’s plan of condominium application in respect of the Residential Component (the “**Condominium Application**”) and seek an order foregoing the requirement for certain lender consents as typically required under the *Condominium Act*; iii) update the Court on the Receiver’s appeal (the “**Appeal**”) of the decision of the Ontario Labour Relations Board (“**OLRB**”) concerning its decision dated April 12, 2018 regarding the application by the United Food and Commercial Workers International Union, Local 175 (the “**Union**”) to have the Receiver recognized as a successor employer (the “**OLRB Decision**”); iv) seek the Court’s approval to amend the First Board Order with respect to the amend the Receiver appointees to be appointed as directors and officers of the First Board; v) seek the Court’s approval of the Receiver’s Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 30, 2021; vi) seek the Court’s approval to dismiss an action brought by Rose against the former CEO of Rose and one of his companies; vii) seek the Court’s approval to increase the maximum amount that the Receiver is authorized to borrow pursuant to paragraph 20 of the Appointment Order from \$6,500,000 to \$7,000,000; and viii) seek the Court’s approval of the Receiver’s actions and Activities. In support of that motion, the Receiver filed with the Court its

Eleventh Report to the Court dated June 1, 2021 (the “**Eleventh Report**”), a copy of which, without appendices, is attached hereto as **Appendix “B”**. Based on the Eleventh Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted the relief sought. A copy of Order of Justice McEwen dated June 10, 2021 (“**June 10 Order**”) is attached hereto as **Appendix “C”**.

7. The purpose of this Twelfth Report to the Court (the “**Twelfth Report**”) is to:
  - a) update the Court on the status of the Condominium Application and seek the Court’s approval of a mechanism for the issuance of an Approval and Vesting Order in order to complete the sale of Residential Units as condominium units;
  - b) update the Court on the status of the Transaction and the licence transfer process;
  - c) update the Court on its dealings with the Union;
  - d) seek the Court’s approval of the Receiver’s Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 15, 2022; and
  - e) seek the Court’s approval of this Twelfth Report and the actions and activities of the Receiver from June 2, 2021 to the date of this Twelfth Report.

#### **TERMS OF REFERENCE**

8. In preparing this Twelfth Report, the Receiver has reviewed unaudited financial information and other records related to Rose and the Nursing Home provided by Assured Care Consulting Inc. (“**ACC**”), the manager of the nursing home, and information provided by third-party sources, and has held discussions with individuals involved in administering the Nursing Home (collectively, the “**Information**”). Except as described in this report:
  - (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially

comply with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information;

- (b) some of the information referred to in this Twelfth Report consists of forecasts and projections which were prepared based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence, no assurance can be provided regarding the forecasted or projected results. Accordingly, the reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant; and
  - (c) the Receiver has prepared this Twelfth Report in its capacity as a Court-appointed officer to support the Court’s approval of its course of action with respect to a sale of the Property, and the other relief being sought. Parties using this report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.
9. Capitalized terms not defined in this report are as defined in the Appointment Order, or the Receiver’s First through Eleventh Reports. All references to dollars are in Canadian currency unless otherwise noted.
10. The Receiver has sought the advice of Gowling WLG (Canada) LLP (“**Gowlings**”), counsel to the Applicant, for general legal matters that have arisen in respect of the receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of Blaney McMurtry LLP (“**Blaneys**”).

## **STATUS OF THE CONVERSION TO CONDOMINIUMS**

11. Paragraphs 21 through 37 of the Eleventh Report set out the history and status of the Condominium Application up to mid-2021. Briefly, the Condominium Application was started by Rose in 2007 as it was a requirement under both the terms of the Construction Loan from Peoples Trust Company (“**Peoples**”) and the CMHC Special Conditions

Forming Part of the Certificate of Insurance that the Building be registered as a condominium. The Receiver attempted to continue Rose's initial Condominium Application, however, the timeframe to complete that application had expired and the City would not extend it, resulting in the Receiver having to commence a new Condominium Application that was accepted through a Notice of Decision dated July 11, 2016 (the "**2016 Notice of Decision**"). A copy of the 2016 Notice of Decision is attached hereto as **Appendix "D"**.

*The Revised Notice and the Revised Conditions*

12. As reported in the Eleventh Report, on January 13, 2021, the City issued a Revised Notice of Decision Under S. 51(45) of the *Planning Act* (the "**Revised Notice**") which set out the Revised Conditions (Attachment 1 of the Revised Notice) that the City required to be completed in order for the condominium to be approved and registered. A copy of the Revised Notice is attached hereto as **Appendix "E"**,
13. The Revised Conditions reflected five changes between the 2016 Notice of Decision and the Revised Notice. First, under Revised Condition #1, the plans to be submitted for approval were to be substantially in accordance with plans dated February 4, 2019 (the "**2019 Plans**") (the previous plans were dated January 4, 2016). The 2019 plans reflected the GFA & Usage Variance (as discussed in paragraph 34 of the Eleventh Report) and the Parking Variance (as defined and discussed below).
14. The second change in the Revised Notice was the removal of Condition 4 which formerly required that "Visitor parking spaces will be clearly defined on the condominium plan to be registered and the Declaration shall contain a clause clearly specifying visitors parking shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements." However, since the occupancy permit for the Building was issued in 2010 and the Nursing Home was opened in 2011, none of the underground parking spaces had been used for visitor parking as access to the underground parking garage has been secured through the use of key fobs which open the electronic door, making visitor parking impractical in the circumstances. As a result, the Receiver applied for a minor variance to the site specific

by-law to remove the requirement for visitor parking and to amend the allocation of the 30 underground parking spots in the building from 15 Nursing Home/15 Residential Component to 4 Nursing Home/26 Residential Component (the “**Parking Variance**”). This allocation reflected the ongoing usage of the Nursing Home while also provided more parking spots for the users of the Residential Component. The Parking Variance was granted on December 19, 2018.

15. Revised Condition 8 reflected the third change, wherein the City changed the condition to read “free-hold component” from “retail component” in order to properly reflect the Nursing Home as the party sharing water services with the condominium. As set out in the APS, the intent is that on the closing of the LTC Transaction, the Receiver will convey a free-hold interest in the Nursing Home portion of the Property to Arirang.
16. The fourth change further extended the time frame for registering the condominium to 5 years from the date of the Revised Notice.
17. The fifth change was a new condition that required the Receiver to contact each life lease purchaser that had entered into a Court approved Settlement Agreement for the purchase of their unit and to provide them with a direction to advise any sub-tenants in their unit of the pending condominium registration and the potential for requiring vacant possession. The Receiver sent the required notice to the life lease purchasers on May 5, 2011.
18. As part of the Receiver’s Condominium Application submissions, the Receiver’s survey consultant advised that the structural drawings that we intended to submit included copyright language from NCK Engineering Ltd. (“**NCK**”), the original engineering firm that prepared the drawings, and that the land registry office would not accept those drawings. As a result, the Receiver’s engineering consultant, Norman Lee & Associates (“**Lee**”) contacted NCK who provided structural drawings without the copyright notice on October 25, 2021.
19. The Receiver’s consultants completed the final condominium drawings and those, along with the other documentation requested by the City to clear all of the Revised Conditions in the Revised Notice, were submitted to the City on November 5, 2021.

*The delays encountered by the Receiver*

20. The Receiver had understood that the typical timeframe for the City to review the documentation in respect of satisfying conditions for a condominium application was three weeks.
21. On November 18, 2021, the City contacted Gowlings requesting they submit a Development Approval Resubmission form in order for the City to finish the processing of the Condominium Application. That resubmission form was completed and submitted on that same day.
22. Having heard no response from the City, on December 16, 2021 Gowlings wrote to the City asking for an update on the Condominium Application. The City responded on that day that Community Planning was waiting for comments from the Engineering & Constructions Services Division (“ECS”), who they advised are responsible for final sign-off of conditions 7 through 10 of the Revised Conditions.
23. Gowlings followed up with Community Planning again on January 4, 11, 21, 28, and 31, 2022. Finally, on January 31, Community Planning advised that ECS was looking for documentation in support of the Advisory Notes section of the Revised Notice, which were included as Attachment 2.
24. On February 3, 2022, Gowlings and Community Planning had a telephone discussion during which Community Planning agreed that the Advisory Notes section is separate from the Revised Conditions section and do not constitute conditions that ECS should be having in regards to their final sign-off on conditions 7 through 10 of the Revised Conditions. Further, Community Planning agreed that on the strength of the closed status of the building permits and receipt of conformance certificates by the City’s building division, ECS ’s scope of final review should be reduced only to a sign-off on Revised Conditions 7 through 10. Community Planning indicated that they would relate this position to ECS.
25. The Receiver notes that it and Gowlings had previously attempted to address the Advisory Notes in 2018; however, neither could locate the Amending (Minor Variations)

Site Plan Agreement File No. 10/5/285 dated December 10, 2003 (the “**Amending SPA**”) (the Receiver notes that the Revised Notice incorrectly listed the date of the amendment as December 10, 2013), nor any drawings or consultant reports concerning site servicing, grading and stormwater manager. As a result, in 2018 Lee reached out to the Toronto Building Division of the City of Toronto to obtain those materials. The response from the City dated August 21, 2018 was that they could not locate the required permits in their files. A copy of the email from City is attached hereto as **Appendix “F”**.

26. Having not heard back, Gowlings followed up on with Community Planning on February 14, 15, 22, and March 3, 2022 with no response.
27. On March 23, 2022, Gowlings reached out to the City Councillor’s office for Ward 12 to see if they could be of assistance in getting the City to respond to our Condo Application. On March 30, 2022, the City Councillor’s office advised that they had spoken with the Manager of Community Planning about the matter.
28. On March 31, 2022, the Receiver reached out directly to Community Planning for an update and advised that all of the Rose of Sharon stakeholders, including the life lease purchasers, Arirang and Peoples were eager for this to move forward expeditiously.
29. Community Planning responded on that same day advising that they had again reached out to ECS who advised that they are continuing to work to clear the conditions in the Revised Notice.
30. The Receiver again reached out to Community Planning on April 7, 2022 who advised that they are in correspondence with ECS but have not received their clearance.

*ECS clears conditions but not Advisory Notes*

31. Finally, on April 8, 2022, Community Planning provided a memorandum from ECS (the “**ECS 2022 Memorandum**”) in which they advised Community Planning that Revised Conditions 7 through 10 had been satisfied. However, ECS noted that the specific conditions in the Site Plan Agreement as set out in the Advisory Notes remained outstanding. ECS further suggested that it may be advisable to seek the input of Legal

Services, the City's legal counsel, with respect to the outstanding Site Plan Agreement matters. A copy of the ECS 2022 Memorandum is attached hereto as **Appendix "G"**. The Receiver notes that the date of the ECS 2022 Memorandum was dated in error as April 8, 2021. Further, the date of Amending SPA should have read December 10, 2003.

32. Along with the ECS 2022 Memorandum, ECS provided three forms of certificates (the **"Proposed Site Certificates"**) which Community Planning advised, if signed by the Receiver's Consulting Engineer, would to their satisfaction address Condition 4 of the Site Plan Agreement. Condition 4 relates to "Site Grading and Drainage" and requires the owner to "grade the Site and to provide facilities for the proper and controlled disposal of storm, surface and waste water from the Site and from any building or structure thereon in accordance with the plans to be approved by and to the satisfaction of the Director of Buildings and the Commissioner of Operations Services for the City."
33. The Receiver notes that neither the Receiver nor the City are in possession of the approved plans for storm, surface and waste water for the site. As such, when the Receiver queried Lee if he was able to execute the Proposed Site Certificates, he advised that he could not since he did not have the approved plans/drawings and he (nor anyone for that matter) was in a position to inspect work that is buried beneath the Property. The Receiver further notes that the Occupancy Permit was issued on November 4, 2010, and since that time, the Receiver is not aware of any issues relating to the storm, surface and waste water at the Property. One would also expect that the City would not issue an Occupancy Permit if it had not already certified that the storm, surface and waste water management for the site had been constructed to the City's satisfaction. Further, the Building Permit was closed by the City in July 2018 indicating that the various City departments would have been satisfied that the building was constructed according to the approved plans and complied with the Ontario Building Code.
34. On April 12, 2022, Gowlings wrote to the City advising that it was unable to execute the Proposed Site Certificates due to the lack of plans, drawings and reports related thereto. Gowlings reiterated that the Advisory Notes are "advisory" only and not conditions, and

that there is a process outside of Section 51 of the Planning Act to deal with the matters, but that they should not hold up the approval of the Condominium Application.

35. On April 13, 2022, Community Planning responded that they had met with ECS, Transportation Services and Legal Services and advised that release of the condominium for registration should not take place until the outstanding site plan matters had been addressed. Community Planning suggested that the Receiver contact the original consultants who produced the stormwater report, the site servicing and grading plans and the other drawings approved by the City to collect the necessary documents and complete the Proposed Site Certificates. Community Planning claimed that they needed confirmation that the Site Plan Agreement had been executed as agreed to and they did not have another mechanism to do so. A copy of the email string containing Gowlings April 12 email to Community Planning and Community Planning's response thereto dated April 13, 2022 is attached hereto as **Appendix "H"**.
36. On May 4, 2022, Gowlings wrote to the City of Toronto Legal Services ("**Gowlings' May 4 Letter**") contending, among other things, that the Advisory Notes have no status under the Planning Act and do not bind the applicant, that the age of documents referred to make it impossible to deal with the notes, even more so since the neither the City nor the Receiver have a copy of the Amending SPA, and that twice previously the City has advised that there were no outstanding Site Plan Agreement conditions that were required to be satisfied prior to the release of the plan of condominium for registration. Attached hereto as **Appendix "I"** is a copy of Gowlings' May 4 Letter.
37. In response to Gowlings' May 4 Letter, on May 6, 2022 Community Planning advised Gowlings by email that they were releasing the condo plans for registration. The plans were registered with the Land Registry Office on May 18, 2022 (the "**Declaration Date**") as Toronto Standard Condominium Corporation No. 2911 ("**TSCC 2911**" or the "**Condo Corporation**"). A copy of the registered Declaration is attached hereto as **Appendix "J"**.

*Conveyance of the Condominium Units*

38. As set out in the previous reports to the Court, Peoples and 35 purchasers under Right to Occupy Agreements (“**RTOAs**”, also known as “life leases”) representing 44 units in the Residential Component (the “**Settling Unitholders**”) entered into settlement agreements (“**Settlements**”) (eight Settling Unitholders purchased more than one Residential Unit) that set out the terms under which those Settling Unitholders could ultimately purchase their Residential Unit as a condominium. The Court issued orders on September 10, 2013 (the “**ALUs Settlement Approval Order**”) and December 13, 2013 (the “**December 13 Order**”) approving the Settlements, copies of which are attached hereto as **Appendix “K”** and “**L**”, respectively. The Settlements were conditional on the following:
- a) the conversion of the Residential Component to condominiums;
  - b) the payment of certain amounts (the “**Unit Purchase Price**”) by the Settling Unitholders as set out Settlements within 60 days of the Receiver delivering a notice (the “**Purchase Notice**”) to the Settling Unitholder;
39. The Settlements provide that upon payment of the Unit Purchase Price, each of the Settling Unitholders shall purchase their units on an “as-is, where-is” basis and the Receiver and Peoples shall have no liability in respect of the units and shall be released and discharged from all claims arising from or related to the unit the RTOAs or any dealings with the Receiver, Rose of Sharon or the Property. Given the registrations against the Property, the Receiver is of a view that the most effective and efficient way to convey title is via a vesting order.
40. The Receiver is proposing that the Court make a single “blanket” approval and vesting order (the “**Condo AVO**”) authorizing the Receiver to sell the condominium units to either: (a) the Settling Unitholders who wish to purchase their Residential Unit in accordance with the Settlement; or (b) purchasers who submit offers through the listing of the condominium units with a broker retained by the Receiver (“**New Purchasers**”). The Condo AVO provides for certificates (“**Vesting Certificates**”) to be delivered to each purchaser on closing that will identify: (a) the purchaser; and (b) the specific unit or

units being purchased by that purchaser, and any related property (such as appliances), as well as any parking units and locker units. The Vesting Certificates will have the legal effect of conveying title to the purchaser “free and clear” in accordance with the terms of the approval and vesting order and will be registered on title in the same manner as a certificate delivered under a “standard” approval and vesting order. The Receiver is of the view that this process will provide a cost-efficient and timely method for transfer of title to the Residential Units.

41. The Declaration requires that the Service Units (as defined in Appendix “J”, and which includes those areas in the Building that are jointly used by the Residential Component and the Nursing Home, such as the garbage collection room, the mechanical room, the plumbing room, etc.) be conveyed by the Declarant to the Condo Corporation and Arirang, as tenants-in-common, each as to an undivided 50% interest, within 120 days after the Declaration Date or as soon as possible thereafter. The Receiver is proposing that the Condo AVO also provide for the transfer of the Service Units, which will be completed through the filing of Vesting Certificates at the appropriate time.
42. The Receiver has, with the assistance of Gowlings, developed a “template” agreement of purchase and sale that will be used in connection with the sale of condominium units. A copy of that template agreement is attached as **Appendix “M”** (the “**Template Sale Agreement**”). The Receiver, subject to agreement with a purchaser, may amend the Template Sale Agreement should the particular circumstances of a transaction warrant it.
43. To assist Settling Unitholders, the Receiver is contemplating identifying lawyers who speak Korean and who are familiar with the process of completing a real estate transaction based on a vesting order. Any such lawyer(s) would be identified to purchasers by the Receiver, but would be retained directly by the purchasers at their discretion. Purchasers would be responsible for paying their own professional fees and disbursement associated with the transfer of any condominium unit(s) that they purchase.

#### **STATUS OF THE LTC TRANSACTION**

44. Upon issuance of the June 10 Order which substituted Arirang as the Purchaser under the LTC AVO, by letter dated June 17, 2021, the Receiver advised the Ministry of Long-

Term Care (the “**Ministry**”) of the substitution and requested that it commence its licence transfer process with respect to Arirang.

45. The Receiver has been in periodic contact with the Ministry who advises that they are still conducting their review of Arirang’s licence transfer application. Further, the Ministry advises that it still needs to conduct a public consultation as provided for under the *Fixing Long Term Care Act, 2021*, which meeting has not yet been scheduled as the Ministry paused its review during the recent provincial election. As a result, the Receiver anticipates that it will be a further six to nine months to complete the LTC Transaction with Arirang.

#### **STATUS OF APPEAL OF THE UNION**

46. As set out in the Eleventh Report, on March 31, 2021, the Division Court released its Reasons for Decision in which it dismissed the Receiver’s appeal of the OLRB Decision released April 18, 2018 which declared that the Receiver was a successor employer of the Union and found:
- a) the language of s. 14.06(1.2) of the BIA was not “explicit statutory language” that isolated the Receiver from being declared a successor employer; and
  - b) liability as a successor employer is not a “liability...that is in respect of employees of the debtor”.
47. On June 17, 2021, CaleyWray, counsel for the Union, wrote to Gowlings asking who was acting on behalf of the purchaser of the Nursing Home, which inquiry was responded to forthwith by Gowlings.
48. By letter dated February 2, 2022, CaleyWray wrote to Gowlings requesting an update on the status of the sale of Nursing Home, which inquiry was also responded to by Gowlings.
49. The Receiver notes that since the Reasons for Decision were released, the Union has not approached the Receiver with a request to bargain to negotiate a collective agreement.

## **INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

50. Attached hereto as **Appendix “N”** is the Receiver’s Interim Statement of Receipts and Disbursements for the interim period May 1, 2021 to April 30, 2022 and for the entire period of the receivership, September 27, 2011 to April 30, 2022 (the **“R&D”**). The R&D indicates that as of April 30, 2022, the balance in the Receiver’s bank accounts in respect of the Life-Lease Residence, including the account maintained by Sterling Karamar Property Management (the firm engaged by the Receiver to manage the Life-Lease Residence), is \$218,200. The R&D excludes the bank account maintained by the Nursing Home manager for the Nursing Home which is discussed in the following paragraph.
51. The R&D includes receipts and disbursements from the Life-Lease Residence and receipts from the Ministry on account of monthly funding of the Nursing Home. In accordance with the Appointment Order, this funding is transferred to the bank account established for Nursing Home operations. As of April 30, 2022, the balance in the bank account maintained by ACC was \$1,444,312. Any excess funds not required for operation of the Nursing Home are from time-to-time transferred back to the Receiver’s bank account. Since the Appointment Date up to April 30, 2022, \$2,282,400 in excess funds have been transferred back to the Receiver’s bank account.
52. The Receiver is seeking the Court’s approval of the R&D.

## **RECEIVER’S BORROWINGS**

53. Since the commencement of the receivership, the Receiver has borrowed \$6,500,000 from Peoples by way of Receiver’s Certificates in order to fund the receivership, substantially as a result of the cost to remediate certain Building deficiencies (as discussed in the Second, Third and Seventh Reports) and to fund professional fees and disbursements in connection with the Priority Issue (the issue of priority between Peoples and the Life-Lease Purchasers as discussed in the Third through Sixth Reports), the Statement of Claim and the Construction Lien Action (as discussed in the Second, Third, Fifth, Seventh, Eighth Reports), the OLRB Decision and the Condominium Application.

In addition, the Residential Component continues to operate at a recurring cash deficit of between \$15,000 to \$30,000 per month.

54. Pursuant to the June 10 Order, the Court increased the Receiver's borrowing limit to \$7,000,000 to provide the Receiver with sufficient financing, if needed, to continue to manage the receivership. The Receiver has not required to borrow further funds from Peoples as a result of the Nursing Home generating excess cash which, as per above, the Receiver has transferred back to the Receiver's bank account when funds are required. As a result, the Receiver's current borrowings remain at \$6,500,000.

### **RECEIVER'S REQUEST TO THE COURT**

55. The Receiver respectfully requests the Court make an Order:
- a) approving this Twelfth Report and the Receiver's the actions and activities as described herein;
  - b) vesting title in the Residential Units to Settling Unitholders and New Purchasers, and transfer of title of the Service Units to the co-tenants, subject to the registration by the Receiver of Vesting Certificates; and
  - c) approving the R&D.

All of which is respectfully submitted to this Honourable Court.

DATED this 14<sup>th</sup> day of July, 2022.

### **DELOITTE RESTRUCTURING INC.**

Receiver and Manager of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity

Per:



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Hartley Bricks, MBA, CPA, CA, CIRP, LIT  
*Senior Vice-President*

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

**TWELFTH REPORT TO THE COURT OF THE RECEIVER**  
**(dated July 14, 2022)**

## TABLE OF CONTENTS

<b>INTRODUCTION</b>	3
<b>TERMS OF REFERENCE</b>	5
<b>STATUS OF THE CONVERSION TO CONDOMINIUMS</b>	6
<b>STATUS OF THE LTC TRANSACTION</b>	14
<b>STATUS OF APPEAL OF OLRB DECISION</b>	15
<b>INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS</b>	16
<b>RECEIVER'S BORROWINGS</b>	16
<b>STATEMENTS OF ACCOUNT OF THE RECEIVER AND ITS COUNSEL</b>	<b>ERROR!</b>
<b>BOOKMARK NOT DEFINED.</b>	
<b>RECEIVER'S REQUEST TO THE COURT</b>	17

## APPENDICES

APPENDIX "A":	Amended and Restated Appointment Order dated September 27, 2011
APPENDIX "B":	Eleventh Report to the Court dated June 1, 2021
APPENDIX "C":	Order of Justice McEwen date June 10, 2021
APPENDIX "D":	City of Toronto's Notice of Decision Under S. 51(37) of the Planning Act dated July 11, 2016
APPENDIX "E":	City of Toronto's Revised Notice of Decision Under S. 51(45) of the Planning Act dated January 13, 2021
APPENDIX "F":	Email correspondence dated August 21, 2018 re the City of Toronto is unable to locate documents
APPENDIX "G":	Memorandum from Engineering and Construction Services Division dated April 8, 2022
APPENDIX "H":	Email correspondence between Community Planning and Gowlings dated April 12 & 13, 2022
APPENDIX "I":	Gowlings' Letter to City of Toronto Legal Services dated May 4, 2022

APPENDIX "J": Registered Declaration dated May 18, 2022

APPENDIX "K": ALUs Settlement Approval Order of Justice Mesbur dated September 10, 2013

APPENDIX "L": Order of Justice Mesbur dated December 13, 2013

APPENDIX "M": Template Sale Agreement

APPENDIX "N": Receiver's Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 30, 2022

## INTRODUCTION

1. Pursuant to an Order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 27, 2011 (the “**Appointment Date**”), Deloitte & Touche Inc., now known as Deloitte Restructuring Inc. (“**Deloitte**”), was appointed as receiver and manager (the “**Receiver**”) of all of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community (“**Rose**”). A copy of the Amended and Restated Appointment Order is attached hereto as **Appendix “A”**.
2. Rose’s principal asset is a 12-storey building (the “**Building**”) located at 15-17 Maplewood Avenue, Toronto, Ontario (the “**Property**”), which is comprised of a 60 bed long-term care facility located on floors 4 through 6 (the “**Nursing Home**”) with a municipal address of 17 Maplewood Ave., and 91 life-lease units (“**Residential Units**”, and individually “**Residential Unit**”) located on floors 2, 3 and 7 through 12 (the “**Residential Component**”) with a municipal address of 15 Maplewood Ave.
3. On June 6, 2017, the Receiver brought a motion to, amongst other things, seek the Court’s approval to enter into an Exclusive Listing Agreement with John A. Jensen Realty Inc. (“**Jensen**”) to market and sell the Nursing Home. In support of that motion, the Receiver filed with the Court its Eighth Report to the Court dated May 12, 2017 (the “**Eighth Report**”). Based on the Eighth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an order (the “**June 6 Order**”) approving the relief sought.
4. On April 1, 2019, the Receiver brought a motion to, among other things, seek the Court’s approval to appoint three officers of Deloitte to the first Board of Directors (the “**First Board**”) of the condominium corporation (the “**Condo Corporation**”). In support of that motion, the Receiver filed with the Court its Ninth Report to the Court dated February 25, 2019 (the “**Ninth Report**”). Based on the Ninth Report and the submissions made by counsel for the Receiver and the Applicant, the Court granted an order (the “**First Board Order**”) approving the relief sought.

5. On December 19, 2019, the Receiver brought a motion to, amongst other things, request the Court issue an order approving an Agreement of Purchase and Sale (the “**LTC Transaction**”) dated May 10, 2019 as amended (the “**APS**”), as between the Receiver and Rykka Care Centres LP (“**Rykka**” or the “**Purchaser**”) and, to the extent the conditions of the APS are satisfied, vesting in the Purchaser all the right, title and interest in the Assets (as defined in the APS) free and clear of all liens, security interests and other encumbrances, save and except for the permitted encumbrances referred to in the APS. In support of that motion, the Receiver filed with the Court its Tenth Report to the Court dated December 10, 2019 (the “**Tenth Report**”). Based on the Tenth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an Approval and Vesting Order (the “**LTC AVO**”) approving the relief sought.
  
6. On June 10, 2021, the Receiver brought a motion to, amongst other things: i) update the Court on the status of the Transaction and request the Court amend the AVO to substitute Arirang Age-Friendly Community Centre (“**Arirang**”) as Purchaser as a result of an assignment of the APS by Rykka to Arirang; ii) update the Court on the status of the Receiver’s plan of condominium application in respect of the Residential Component (the “**Condominium Application**”) and seek an order foregoing the requirement for certain lender consents as typically required under the *Condominium Act*; iii) update the Court on the Receiver’s appeal (the “**Appeal**”) of the decision of the Ontario Labour Relations Board (“**OLRB**”) concerning its decision dated April 12, 2018 regarding the application by the United Food and Commercial Workers International Union, Local 175 (the “**Union**”) to have the Receiver recognized as a successor employer (the “**OLRB Decision**”); iv) seek the Court’s approval to amend the First Board Order with respect to the amend the Receiver appointees to be appointed as directors and officers of the First Board; v) seek the Court’s approval of the Receiver’s Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 30, 2021; vi) seek the Court’s approval to dismiss an action brought by Rose against the former CEO of Rose and one of his companies; vii) seek the Court’s approval to increase the maximum amount that the Receiver is authorized to borrow pursuant to paragraph 20 of the Appointment Order from \$6,500,000 to \$7,000,000; and viii) seek the Court’s approval of the Receiver’s actions and Activities. In support of that motion, the Receiver filed with the Court its

Eleventh Report to the Court dated June 1, 2021 (the “**Eleventh Report**”), a copy of which, without appendices, is attached hereto as **Appendix “B”**. Based on the Eleventh Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted the relief sought. A copy of Order of Justice McEwen dated June 10, 2021 (“**June 10 Order**”) is attached hereto as **Appendix “C”**.

7. The purpose of this Twelfth Report to the Court (the “**Twelfth Report**”) is to:
  - a) update the Court on the status of the Condominium Application and seek the Court’s approval of a mechanism for the issuance of an Approval and Vesting Order in order to complete the sale of Residential Units as condominium units;
  - b) update the Court on the status of the Transaction and the licence transfer process;
  - c) update the Court on its dealings with the Union;
  - d) seek the Court’s approval of the Receiver’s Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 15, 2022; and
  - e) seek the Court’s approval of this Twelfth Report and the actions and activities of the Receiver from June 2, 2021 to the date of this Twelfth Report.

#### **TERMS OF REFERENCE**

8. In preparing this Twelfth Report, the Receiver has reviewed unaudited financial information and other records related to Rose and the Nursing Home provided by Assured Care Consulting Inc. (“**ACC**”), the manager of the nursing home, and information provided by third-party sources, and has held discussions with individuals involved in administering the Nursing Home (collectively, the “**Information**”). Except as described in this report:
  - (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially

comply with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information;

- (b) some of the information referred to in this Twelfth Report consists of forecasts and projections which were prepared based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence, no assurance can be provided regarding the forecasted or projected results. Accordingly, the reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant; and
  - (c) the Receiver has prepared this Twelfth Report in its capacity as a Court-appointed officer to support the Court’s approval of its course of action with respect to a sale of the Property, and the other relief being sought. Parties using this report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.
9. Capitalized terms not defined in this report are as defined in the Appointment Order, or the Receiver’s First through Eleventh Reports. All references to dollars are in Canadian currency unless otherwise noted.
10. The Receiver has sought the advice of Gowling WLG (Canada) LLP (“**Gowlings**”), counsel to the Applicant, for general legal matters that have arisen in respect of the receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of Blaney McMurtry LLP (“**Blaneys**”).

#### **STATUS OF THE CONVERSION TO CONDOMINIUMS**

11. Paragraphs 21 through 37 of the Eleventh Report set out the history and status of the Condominium Application up to mid-2021. Briefly, the Condominium Application was started by Rose in 2007 as it was a requirement under both the terms of the Construction Loan from Peoples Trust Company (“**Peoples**”) and the CMHC Special Conditions

Forming Part of the Certificate of Insurance that the Building be registered as a condominium. The Receiver attempted to continue Rose's initial Condominium Application, however, the timeframe to complete that application had expired and the City would not extend it, resulting in the Receiver having to commence a new Condominium Application that was accepted through a Notice of Decision dated July 11, 2016 (the "**2016 Notice of Decision**"). A copy of the 2016 Notice of Decision is attached hereto as **Appendix "D"**.

*The Revised Notice and the Revised Conditions*

12. As reported in the Eleventh Report, on January 13, 2021, the City issued a Revised Notice of Decision Under S. 51(45) of the *Planning Act* (the "**Revised Notice**") which set out the Revised Conditions (Attachment 1 of the Revised Notice) that the City required to be completed in order for the condominium to be approved and registered. A copy of the Revised Notice is attached hereto as **Appendix "E"**,
13. The Revised Conditions reflected five changes between the 2016 Notice of Decision and the Revised Notice. First, under Revised Condition #1, the plans to be submitted for approval were to be substantially in accordance with plans dated February 4, 2019 (the "**2019 Plans**") (the previous plans were dated January 4, 2016). The 2019 plans reflected the GFA & Usage Variance (as discussed in paragraph 34 of the Eleventh Report) and the Parking Variance (as defined and discussed below).
14. The second change in the Revised Notice was the removal of Condition 4 which formerly required that "Visitor parking spaces will be clearly defined on the condominium plan to be registered and the Declaration shall contain a clause clearly specifying visitors parking shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements." However, since the occupancy permit for the Building was issued in 2010 and the Nursing Home was opened in 2011, none of the underground parking spaces had been used for visitor parking as access to the underground parking garage has been secured through the use of key fobs which open the electronic door, making visitor parking impractical in the circumstances. As a result, the Receiver applied for a minor variance to the site specific

by-law to remove the requirement for visitor parking and to amend the allocation of the 30 underground parking spots in the building from 15 Nursing Home/15 Residential Component to 4 Nursing Home/26 Residential Component (the “**Parking Variance**”). This allocation reflected the ongoing usage of the Nursing Home while also provided more parking spots for the users of the Residential Component. The Parking Variance was granted on December 19, 2018.

15. Revised Condition 8 reflected the third change, wherein the City changed the condition to read “free-hold component” from “retail component” in order to properly reflect the Nursing Home as the party sharing water services with the condominium. As set out in the APS, the intent is that on the closing of the LTC Transaction, the Receiver will convey a free-hold interest in the Nursing Home portion of the Property to Arirang.
16. The fourth change further extended the time frame for registering the condominium to 5 years from the date of the Revised Notice.
17. The fifth change was a new condition that required the Receiver to contact each life lease purchaser that had entered into a Court approved Settlement Agreement for the purchase of their unit and to provide them with a direction to advise any sub-tenants in their unit of the pending condominium registration and the potential for requiring vacant possession. The Receiver sent the required notice to the life lease purchasers on May 5, 2011.
18. As part of the Receiver’s Condominium Application submissions, the Receiver’s survey consultant advised that the structural drawings that we intended to submit included copyright language from NCK Engineering Ltd. (“**NCK**”), the original engineering firm that prepared the drawings, and that the land registry office would not accept those drawings. As a result, the Receiver’s engineering consultant, Norman Lee & Associates (“**Lee**”) contacted NCK who provided structural drawings without the copyright notice on October 25, 2021.
19. The Receiver’s consultants completed the final condominium drawings and those, along with the other documentation requested by the City to clear all of the Revised Conditions in the Revised Notice, were submitted to the City on November 5, 2021.

*The delays encountered by the Receiver*

20. The Receiver had understood that the typical timeframe for the City to review the documentation in respect of satisfying conditions for a condominium application was three weeks.
21. On November 18, 2021, the City contacted Gowlings requesting they submit a Development Approval Resubmission form in order for the City to finish the processing of the Condominium Application. That resubmission form was completed and submitted on that same day.
22. Having heard no response from the City, on December 16, 2021 Gowlings wrote to the City asking for an update on the Condominium Application. The City responded on that day that Community Planning was waiting for comments from the Engineering & Constructions Services Division (“ECS”), who they advised are responsible for final sign-off of conditions 7 through 10 of the Revised Conditions.
23. Gowlings followed up with Community Planning again on January 4, 11, 21, 28, and 31, 2022. Finally, on January 31, Community Planning advised that ECS was looking for documentation in support of the Advisory Notes section of the Revised Notice, which were included as Attachment 2.
24. On February 3, 2022, Gowlings and Community Planning had a telephone discussion during which Community Planning agreed that the Advisory Notes section is separate from the Revised Conditions section and do not constitute conditions that ECS should be having in regards to their final sign-off on conditions 7 through 10 of the Revised Conditions. Further, Community Planning agreed that on the strength of the closed status of the building permits and receipt of conformance certificates by the City’s building division, ECS ’s scope of final review should be reduced only to a sign-off on Revised Conditions 7 through 10. Community Planning indicated that they would relate this position to ECS.
25. The Receiver notes that it and Gowlings had previously attempted to address the Advisory Notes in 2018; however, neither could locate the Amending (Minor Variations)

Site Plan Agreement File No. 10/5/285 dated December 10, 2003 (the “**Amending SPA**”) (the Receiver notes that the Revised Notice incorrectly listed the date of the amendment as December 10, 2013), nor any drawings or consultant reports concerning site servicing, grading and stormwater manager. As a result, in 2018 Lee reached out to the Toronto Building Division of the City of Toronto to obtain those materials. The response from the City dated August 21, 2018 was that they could not locate the required permits in their files. A copy of the email from City is attached hereto as **Appendix “F”**.

26. Having not heard back, Gowlings followed up on with Community Planning on February 14, 15, 22, and March 3, 2022 with no response.
27. On March 23, 2022, Gowlings reached out to the City Councillor’s office for Ward 12 to see if they could be of assistance in getting the City to respond to our Condo Application. On March 30, 2022, the City Councillor’s office advised that they had spoken with the Manager of Community Planning about the matter.
28. On March 31, 2022, the Receiver reached out directly to Community Planning for an update and advised that all of the Rose of Sharon stakeholders, including the life lease purchasers, Arirang and Peoples were eager for this to move forward expeditiously.
29. Community Planning responded on that same day advising that they had again reached out to ECS who advised that they are continuing to work to clear the conditions in the Revised Notice.
30. The Receiver again reached out to Community Planning on April 7, 2022 who advised that they are in correspondence with ECS but have not received their clearance.

*ECS clears conditions but not Advisory Notes*

31. Finally, on April 8, 2022, Community Planning provided a memorandum from ECS (the “**ECS 2022 Memorandum**”) in which they advised Community Planning that Revised Conditions 7 through 10 had been satisfied. However, ECS noted that the specific conditions in the Site Plan Agreement as set out in the Advisory Notes remained outstanding. ECS further suggested that it may be advisable to seek the input of Legal

Services, the City's legal counsel, with respect to the outstanding Site Plan Agreement matters. A copy of the ECS 2022 Memorandum is attached hereto as **Appendix "G"**. The Receiver notes that the date of the ECS 2022 Memorandum was dated in error as April 8, 2021. Further, the date of Amending SPA should have read December 10, 2003.

32. Along with the ECS 2022 Memorandum, ECS provided three forms of certificates (the **"Proposed Site Certificates"**) which Community Planning advised, if signed by the Receiver's Consulting Engineer, would to their satisfaction address Condition 4 of the Site Plan Agreement. Condition 4 relates to "Site Grading and Drainage" and requires the owner to "grade the Site and to provide facilities for the proper and controlled disposal of storm, surface and waste water from the Site and from any building or structure thereon in accordance with the plans to be approved by and to the satisfaction of the Director of Buildings and the Commissioner of Operations Services for the City."
33. The Receiver notes that neither the Receiver nor the City are in possession of the approved plans for storm, surface and waste water for the site. As such, when the Receiver queried Lee if he was able to execute the Proposed Site Certificates, he advised that he could not since he did not have the approved plans/drawings and he (nor anyone for that matter) was in a position to inspect work that is buried beneath the Property. The Receiver further notes that the Occupancy Permit was issued on November 4, 2010, and since that time, the Receiver is not aware of any issues relating to the storm, surface and waste water at the Property. One would also expect that the City would not issue an Occupancy Permit if it had not already certified that the storm, surface and waste water management for the site had been constructed to the City's satisfaction. Further, the Building Permit was closed by the City in July 2018 indicating that the various City departments would have been satisfied that the building was constructed according to the approved plans and complied with the Ontario Building Code.
34. On April 12, 2022, Gowlings wrote to the City advising that it was unable to execute the Proposed Site Certificates due to the lack of plans, drawings and reports related thereto. Gowlings reiterated that the Advisory Notes are "advisory" only and not conditions, and

that there is a process outside of Section 51 of the Planning Act to deal with the matters, but that they should not hold up the approval of the Condominium Application.

35. On April 13, 2022, Community Planning responded that they had met with ECS, Transportation Services and Legal Services and advised that release of the condominium for registration should not take place until the outstanding site plan matters had been addressed. Community Planning suggested that the Receiver contact the original consultants who produced the stormwater report, the site servicing and grading plans and the other drawings approved by the City to collect the necessary documents and complete the Proposed Site Certificates. Community Planning claimed that they needed confirmation that the Site Plan Agreement had been executed as agreed to and they did not have another mechanism to do so. A copy of the email string containing Gowlings April 12 email to Community Planning and Community Planning's response thereto dated April 13, 2022 is attached hereto as **Appendix "H"**.
36. On May 4, 2022, Gowlings wrote to the City of Toronto Legal Services ("**Gowlings' May 4 Letter**") contending, among other things, that the Advisory Notes have no status under the Planning Act and do not bind the applicant, that the age of documents referred to make it impossible to deal with the notes, even more so since the neither the City nor the Receiver have a copy of the Amending SPA, and that twice previously the City has advised that there were no outstanding Site Plan Agreement conditions that were required to be satisfied prior to the release of the plan of condominium for registration. Attached hereto as **Appendix "I"** is a copy of Gowlings' May 4 Letter.
37. In response to Gowlings' May 4 Letter, on May 6, 2022 Community Planning advised Gowlings by email that they were releasing the condo plans for registration. The plans were registered with the Land Registry Office on May 18, 2022 (the "**Declaration Date**") as Toronto Standard Condominium Corporation No. 2911 ("**TSCC 2911**" or the "**Condo Corporation**"). A copy of the registered Declaration is attached hereto as **Appendix "J"**.

*Conveyance of the Condominium Units*

38. As set out in the previous reports to the Court, Peoples and 35 purchasers under Right to Occupy Agreements (“**RTOAs**”, also known as “life leases”) representing 44 units in the Residential Component (the “**Settling Unitholders**”) entered into settlement agreements (“**Settlements**”) (eight Settling Unitholders purchased more than one Residential Unit) that set out the terms under which those Settling Unitholders could ultimately purchase their Residential Unit as a condominium. The Court issued orders on September 10, 2013 (the “**ALUs Settlement Approval Order**”) and December 13, 2013 (the “**December 13 Order**”) approving the Settlements, copies of which are attached hereto as **Appendix “K”** and “**L**”, respectively. The Settlements were conditional on the following:
- a) the conversion of the Residential Component to condominiums;
  - b) the payment of certain amounts (the “**Unit Purchase Price**”) by the Settling Unitholders as set out Settlements within 60 days of the Receiver delivering a notice (the “**Purchase Notice**”) to the Settling Unitholder;
39. The Settlements provide that upon payment of the Unit Purchase Price, each of the Settling Unitholders shall purchase their units on an “as-is, where-is” basis and the Receiver and Peoples shall have no liability in respect of the units and shall be released and discharged from all claims arising from or related to the unit the RTOAs or any dealings with the Receiver, Rose of Sharon or the Property. Given the registrations against the Property, the Receiver is of a view that the most effective and efficient way to convey title is via a vesting order.
40. The Receiver is proposing that the Court make a single “blanket” approval and vesting order (the “**Condo AVO**”) authorizing the Receiver to sell the condominium units to either: (a) the Settling Unitholders who wish to purchase their Residential Unit in accordance with the Settlement; or (b) purchasers who submit offers through the listing of the condominium units with a broker retained by the Receiver (“**New Purchasers**”). The Condo AVO provides for certificates (“**Vesting Certificates**”) to be delivered to each purchaser on closing that will identify: (a) the purchaser; and (b) the specific unit or

units being purchased by that purchaser, and any related property (such as appliances), as well as any parking units and locker units. The Vesting Certificates will have the legal effect of conveying title to the purchaser “free and clear” in accordance with the terms of the approval and vesting order and will be registered on title in the same manner as a certificate delivered under a “standard” approval and vesting order. The Receiver is of the view that this process will provide a cost-efficient and timely method for transfer of title to the Residential Units.

41. The Declaration requires that the Service Units (as defined in Appendix “J”, and which includes those areas in the Building that are jointly used by the Residential Component and the Nursing Home, such as the garbage collection room, the mechanical room, the plumbing room, etc.) be conveyed by the Declarant to the Condo Corporation and Arirang, as tenants-in-common, each as to an undivided 50% interest, within 120 days after the Declaration Date or as soon as possible thereafter. The Receiver is proposing that the Condo AVO also provide for the transfer of the Service Units, which will be completed through the filing of Vesting Certificates at the appropriate time.
42. The Receiver has, with the assistance of Gowlings, developed a “template” agreement of purchase and sale that will be used in connection with the sale of condominium units. A copy of that template agreement is attached as **Appendix “M”** (the “**Template Sale Agreement**”). The Receiver, subject to agreement with a purchaser, may amend the Template Sale Agreement should the particular circumstances of a transaction warrant it.
43. To assist Settling Unitholders, the Receiver is contemplating identifying lawyers who speak Korean and who are familiar with the process of completing a real estate transaction based on a vesting order. Any such lawyer(s) would be identified to purchasers by the Receiver, but would be retained directly by the purchasers at their discretion. Purchasers would be responsible for paying their own professional fees and disbursement associated with the transfer of any condominium unit(s) that they purchase.

#### **STATUS OF THE LTC TRANSACTION**

44. Upon issuance of the June 10 Order which substituted Arirang as the Purchaser under the LTC AVO, by letter dated June 17, 2021, the Receiver advised the Ministry of Long-

Term Care (the “**Ministry**”) of the substitution and requested that it commence its licence transfer process with respect to Arirang.

45. The Receiver has been in periodic contact with the Ministry who advises that they are still conducting their review of Arirang’s licence transfer application. Further, the Ministry advises that it still needs to conduct a public consultation as provided for under the *Fixing Long Term Care Act, 2021*, which meeting has not yet been scheduled as the Ministry paused its review during the recent provincial election. As a result, the Receiver anticipates that it will be a further six to nine months to complete the LTC Transaction with Arirang.

#### **STATUS OF APPEAL OF THE UNION**

46. As set out in the Eleventh Report, on March 31, 2021, the Division Court released its Reasons for Decision in which it dismissed the Receiver’s appeal of the OLRB Decision released April 18, 2018 which declared that the Receiver was a successor employer of the Union and found:
- a) the language of s. 14.06(1.2) of the BIA was not “explicit statutory language” that isolated the Receiver from being declared a successor employer; and
  - b) liability as a successor employer is not a “liability...that is in respect of employees of the debtor”.
47. On June 17, 2021, CaleyWray, counsel for the Union, wrote to Gowlings asking who was acting on behalf of the purchaser of the Nursing Home, which inquiry was responded to forthwith by Gowlings.
48. By letter dated February 2, 2022, CaleyWray wrote to Gowlings requesting an update on the status of the sale of Nursing Home, which inquiry was also responded to by Gowlings.
49. The Receiver notes that since the Reasons for Decision were released, the Union has not approached the Receiver with a request to bargain to negotiate a collective agreement.

## **INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

50. Attached hereto as **Appendix “N”** is the Receiver’s Interim Statement of Receipts and Disbursements for the interim period May 1, 2021 to April 30, 2022 and for the entire period of the receivership, September 27, 2011 to April 30, 2022 (the **“R&D”**). The R&D indicates that as of April 30, 2022, the balance in the Receiver’s bank accounts in respect of the Life-Lease Residence, including the account maintained by Sterling Karamar Property Management (the firm engaged by the Receiver to manage the Life-Lease Residence), is \$218,200. The R&D excludes the bank account maintained by the Nursing Home manager for the Nursing Home which is discussed in the following paragraph.
51. The R&D includes receipts and disbursements from the Life-Lease Residence and receipts from the Ministry on account of monthly funding of the Nursing Home. In accordance with the Appointment Order, this funding is transferred to the bank account established for Nursing Home operations. As of April 30, 2022, the balance in the bank account maintained by ACC was \$1,444,312. Any excess funds not required for operation of the Nursing Home are from time-to-time transferred back to the Receiver’s bank account. Since the Appointment Date up to April 30, 2022, \$2,282,400 in excess funds have been transferred back to the Receiver’s bank account.
52. The Receiver is seeking the Court’s approval of the R&D.

## **RECEIVER’S BORROWINGS**

53. Since the commencement of the receivership, the Receiver has borrowed \$6,500,000 from Peoples by way of Receiver’s Certificates in order to fund the receivership, substantially as a result of the cost to remediate certain Building deficiencies (as discussed in the Second, Third and Seventh Reports) and to fund professional fees and disbursements in connection with the Priority Issue (the issue of priority between Peoples and the Life-Lease Purchasers as discussed in the Third through Sixth Reports), the Statement of Claim and the Construction Lien Action (as discussed in the Second, Third, Fifth, Seventh, Eighth Reports), the OLRB Decision and the Condominium Application.

In addition, the Residential Component continues to operate at a recurring cash deficit of between \$15,000 to \$30,000 per month.

54. Pursuant to the June 10 Order, the Court increased the Receiver's borrowing limit to \$7,000,000 to provide the Receiver with sufficient financing, if needed, to continue to manage the receivership. The Receiver has not required to borrow further funds from Peoples as a result of the Nursing Home generating excess cash which, as per above, the Receiver has transferred back to the Receiver's bank account when funds are required. As a result, the Receiver's current borrowings remain at \$6,500,000.

### **RECEIVER'S REQUEST TO THE COURT**

55. The Receiver respectfully requests the Court make an Order:
- a) approving this Twelfth Report and the Receiver's the actions and activities as described herein;
  - b) vesting title in the Residential Units to Settling Unitholders and New Purchasers, and transfer of title of the Service Units to the co-tenants, subject to the registration by the Receiver of Vesting Certificates; and
  - c) approving the R&D.

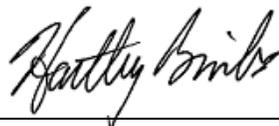
All of which is respectfully submitted to this Honourable Court.

DATED this 14<sup>th</sup> day of July, 2022.

### **DELOITTE RESTRUCTURING INC.**

Receiver and Manager of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity

Per:



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Hartley Bricks, MBA, CPA, CA, CIRP, LIT  
*Senior Vice-President*

**TAB A**



Court File No. CV-11-9399-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE** ) **TUESDAY, THE 27<sup>th</sup> DAY**  
)  
**JUSTICE C. CAMPBELL** ) **OF SEPTEMBER, 2011**

**B E T W E E N:**

**PEOPLES TRUST COMPANY**

Applicant

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

Respondent

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,  
R.S.C. 1985, c. B-3, as amended, and under section 101 of the  
*Courts of Justice Act*, R.S.O. 1990, c. C.43**

**AMENDED AND RESTATED APPOINTMENT ORDER**

**THIS APPLICATION** made by Peoples Trust Company (“**Peoples Trust**” or the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing Deloitte & Touche Inc. (“**Deloitte**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the

assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Affidavit of Michael Lombard sworn September 22, 2011, and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and counsel for the Debtor no one appearing for any other party although duly served as appears from the Affidavits of Service of Alma Cano, sworn September 23 and September 26, 2011, and on reading the Consent of Deloitte to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record herein is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Deloitte is hereby appointed Receiver, without security, of all of the Debtor’s current and future assets, undertakings and properties of every nature and kind whatsoever, wherever situate, including all proceeds thereof (the “**Property**”).

### **RECEIVER’S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of

locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) subject to section 110 of the *Long-Term Care Homes Act*, S.O. 2007, c. 8 (the “**LTCHA**”) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) subject to section 110 of the LTCHA, to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order, and in this regard the Receiver is specifically authorized to retain counsel for the Applicant to advise and represent it save and except on matters upon which the Receiver in its judgment determines it requires independent advice, in which case the Receiver shall retain Blaney McMurtry LLP;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) Notwithstanding anything in this Order, the Debtor is the licensee (the “**Licensee**”) of the long-term care home located at 17 Maplewood Avenue, Toronto, Ontario which forms a part of the Property (the “**Home**”). The

Home is currently licensed pursuant to the LTCHA and the regulations thereunder. Toronto Central Local Health Integration Network (“**TC LHIN**”) will continue to pay the Licensee (and the Receiver will be entitled to receive such payments) pursuant to the Service Accountability Agreement in respect of the Home between the TC LHIN and the Debtor effective March 4, 2011 (the “**SAA**”) and the Ministry of Health and Long-Term Care (~~together with the TC LHIN, the “**MOH**”~~) will continue to pay the Licensee (which payments shall be received by the Receiver in accordance with this Order) pursuant to ~~the existing agreement.~~ agreements. Any monies received by the Debtor or the Receiver from the MOH or the TC LHIN shall be used or applied by the Receiver for the operation of the Home in accordance with the SAA, any agreement with the MOH and the LTCHA. Any payments by the TC LHIN shall be subject to TC LHIN review and reconciliation as provided for under the SAA and applicable law and written policy. Any payments by the MOH shall be subject to MOH review and reconciliation as provided for under any agreement with the Debtor or the Receiver and applicable law and written policy. For clarity, subject to the foregoing reconciliations, any surplus monies arising from the operation of the Home may be applied by the Receiver in accordance with this Order.

- (h) to settle, extend or compromise any indebtedness owing to the Debtor;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (j) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;

- (k) to apply for such permits, licenses, approvals or permissions as may be required by any governmental authority with respect to the Property, including, without limitation, licenses under the LTCHA
- (l) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000 provided that the aggregate consideration for all such transactions does not exceed \$200,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

## **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, including without limitation Mr. Charles Daley and IWOK Corporation (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver and any party the Receiver retains in accordance with subparagraph 3(d) of this Order and section 110 of the LTCHA, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the

information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or any party the Receiver retains in accordance with sub-paragraph 3(d) of this Order and section 110 of the LTCHA (the "**Manager**") except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver and the Manager, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a

security interest, or (iv) prevent the registration of a claim for lien. For clarity, this paragraph 9 shall apply to the Manager solely in its capacity as agent for the Receiver.

#### **NO INTERFERENCE WITH THE RECEIVER**

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver or Manager, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver, at least one of which will describe the account holder as "Deloitte & Touche Inc. as Rec. & Mgr. of Rose of Sharon (Ontario) Retirement Community" (the "**Post**

**Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. Neither the Receiver nor the Manager shall be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively,

**"Possession"**) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the **"Environmental Legislation"**), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the **"Receiver's Charge"**) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. Subject to section 107 of the LTCHA, the whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections, 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

**GENERAL**

24. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

25. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

26. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

27. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or,

if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

~~29.~~ 28A. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Receiver and Manager shall comply with the SAA, the LTCHA and the regulations thereunder as they apply to the ~~management~~ operation of the Home and ~~the neither TC LHIN nor MOH shall not~~ be subject to paragraphs 9 and 10 of this Order in relation to any non-compliance with the SAA, the LTCHA and the regulations thereunder by the Receiver and/or the Manager with respect to the ~~management~~ operation of the Home.

29. 30. \_\_\_\_\_

**THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



---

**Natasha Brown**  
Registrar

ENTERED AT / INSÉRÉ À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 23 2011

RECEIVED: 

## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Deloitte & Touche Inc., the receiver and manager (the "**Receiver**") of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Corporation of every nature and kind whatsoever, wherever situate (the "**Debtor**"), including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the head office of the Lender.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

DELOITTE & TOUCHE INC. solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name: Daniel R. Weisz

Title: Senior Vice President

**PEOPLES TRUST COMPANY**  
Applicant

v.

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**  
Respondent

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

**AMENDED AND RESTATED**  
**APPOINTMENT ORDER**

**GOWLING LAFLEUR HENDERSON LLP**

Barristers and solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
TORONTO, Ontario  
M5X 1G5

**Clifton Prophet**  
**LSUC No.: 34845K**

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Lawyers for the Applicant,  
Peoples Trust Company

**TAB B**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**[COMMERCIAL LIST]**

**BETWEEN:**

**PEOPLES TRUST COMPANY**

**Applicant**

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

**ELEVENTH REPORT TO THE COURT OF THE RECEIVER**  
**(dated June 1, 2021)**

## TABLE OF CONTENTS

<b>INTRODUCTION</b>	3
<b>TERMS OF REFERENCE</b>	5
<b>STATUS OF THE LTC TRANSACTION</b>	6
<b>PANDEMIC RESPONSE</b>	9
<b>STATUS OF THE CONVERSION TO CONDOMINIUMS</b>	9
<b>STATUS OF APPEAL OF OLRB DECISION</b>	16
<b>STATUS OF RECEIVER’S LITIGATION</b>	17
<b>INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS</b>	19
<b>RECEIVER’S BORROWINGS</b>	20
<b>RECEIVER’S REQUEST TO THE COURT</b>	21

## APPENDICES

APPENDIX “A”:	Amended and Restated Appointment Order dated September 27, 2011
APPENDIX “B”:	Ninth Report to the Court dated February 25, 2019
APPENDIX “C”:	Order of Justice Conway date April 1, 2019
APPENDIX “D”:	Tenth Report to the Court dated December 10, 2019
APPENDIX “E”:	Approval and Vesting Order dated December 17, 2019
APPENDIX “F”:	Email from the Ministry of Long-Term Care dated July 20, 2020
APPENDIX “G”:	Responding letter from the Receiver to the Ministry of Long-Term Care dated August 10, 2020
APPENDIX “H”:	Assignment and Assumption Agreement dated February 26, 2021
APPENDIX “I”:	Final and Binding Decision from the Committee of Adjustment dated December 31, 2020

- APPENDIX “J”: Revised Notice of Decision Under s. 51(45) of the *Planning Act* dated January 13, 2021
- APPENDIX “K”: Parcel Register for the Property as of May 31, 2021
- APPENDIX “L”: Reasons for Decision issued by the Divisional Court on March 31, 2021
- APPENDIX “M”: Statement of Claim between Rose and John Yoon and SDM Design Consulting Inc. dated September 27, 2013
- APPENDIX “N” Receiver’s Interim Statement of Receipts and Disbursements for the period September 27, 2011 to January 31, 2021

## INTRODUCTION

1. Pursuant to an Order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated September 27, 2011 (the “**Appointment Date**”), Deloitte & Touche Inc., now known as Deloitte Restructuring Inc. (“**Deloitte**”), was appointed as receiver and manager (the “**Receiver**”) of all of the current and future assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community (“**Rose**”). A copy of the Amended and Restated Appointment Order is attached hereto as **Appendix “A”**.
2. Rose’s principal asset is a 12-storey building (the “**Building**”) located at 15-17 Maplewood Avenue, Toronto, Ontario (the “**Property**”), which is comprised of a 60 bed long-term care facility located on floors 4 through 6 (the “**Nursing Home**”) with a municipal address of 17 Maplewood Ave., and 91 life-lease units (“**Units**”, and individually “**Unit**”) located on floors 2, 3 and 7 through 12 (the “**Residential Component**”) with a municipal address of 15 Maplewood Ave.
3. On June 6, 2017, the Receiver brought a motion to, amongst other things, seek the Court’s approval to enter into an Exclusive Listing Agreement with John A. Jensen Realty Inc. (“**Jensen**”) to market and sell the Nursing Home. In support of that motion, the Receiver filed with the Court its Eighth Report to the Court dated May 12, 2017 (the “**Eighth Report**”). Based on the Eighth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an order (the “**June 6 Order**”) approving the relief sought.
4. On April 1, 2019, the Receiver brought a motion to, among other things, seek the Court’s approval to appoint three officers of Deloitte to the first Board of Directors (the “**First Board**”) of the condominium corporation (the “**Condo Corporation**”). In support of that motion, the Receiver filed with the Court its Ninth Report to the Court dated February 25, 2019 (the “**Ninth Report**”). Based on the Ninth Report and the submissions made by counsel for the Receiver and the Applicant, the Court granted an order (the “**First Board Order**”) approving the relief sought. Copies of the Ninth Report and the First Board Order are attached hereto as **Appendices “B”** and “**C**”, respectively.

5. On December 17, 2019, the Receiver brought a motion to, amongst other things, request the Court issue an order approving an Agreement of Purchase and Sale (the “**LTC Transaction**”) dated May 10, 2019 as amended (the “**APS**”), as between the Receiver and Rykka Care Centres LP (“**Rykka**” or the “**Purchaser**”) and, to the extent the conditions of the APS are satisfied, vesting in the Purchaser all the right, title and interest in the Assets (as defined in the APS) free and clear of all liens, security interests and other encumbrances, save and except for the permitted encumbrances referred to in the APS. In support of that motion, the Receiver filed with the Court its Tenth Report to the Court dated December 10, 2019 (the “**Tenth Report**”). Based on the Tenth Report and the submissions made by counsel for the Applicant and the Receiver, the Court granted an Approval and Vesting Order (the “**AVO**”) approving the relief sought. A copy of the Tenth Report without exhibits is attached hereto as **Appendix “D**” and a copy of the AVO is attached hereto as **Appendix “E**”.
  
6. The purpose of this Eleventh Report to the Court (the “**Eleventh Report**”) is to:
  - a) update the Court on the status of the Transaction and, as discussed further below, seek an amended AVO that reflects the assignment of the APS;
  
  - b) update the Court on the status of the Receiver’s plan of condominium application in respect of the Residential Component (the “**Condominium Application**”) and seek an order foregoing the requirement for certain lender consents as typically required under the Condominium Act;
  
  - c) update the Court on other receivership matters, including its appeal (the “**Appeal**”) of the decision of the Ontario Labour Relations Board (“**OLRB**”) concerning its decision dated April 12, 2018 regarding the application by the United Food and Commercial Workers International Union, Local 175 (the “**Union**”) to have the Receiver recognized as a successor employer (the “**OLRB Decision**”);

- d) seek the Court's approval to amend the First Board Order with respect to the Receiver Appointees (as defined below) to be appointed as directors and officers of the First Board;
- e) seek the Court's approval of the Receiver's Interim Statement of Receipts and Disbursements for the period September 27, 2011 to April 30, 2021;
- f) seeks the Court's approval to increase the maximum amount that the Receiver is authorized to borrow pursuant to paragraph 20 of the Appointment Order from \$6,500,000 to \$7,000,000; and
- g) seek the Court's approval of the Ninth Report, Tenth Report and this Eleventh Report and the actions and activities of the Receiver from April 1, 2017 to the date of this Eleventh Report.

#### **TERMS OF REFERENCE**

7. In preparing this Eleventh Report, the Receiver has reviewed unaudited financial information and other records related to Rose and the Nursing Home provided by Assured Care Consulting Inc. ("ACC"), the manager of the nursing home, and information provided by third-party sources, and has held discussions with individuals involved in administering the Nursing Home (collectively, the "**Information**"). Except as described in this report:
- (a) the Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under CAS in respect of the Information;
  - (b) some of the information referred to in this Eleventh Report consists of forecasts and projections which were prepared based on estimates and assumptions. Such

estimates and assumptions are, by their nature, not ascertainable and as a consequence, no assurance can be provided regarding the forecasted or projected results. Accordingly, the reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant; and

- (c) the Receiver has prepared this Eleventh Report in its capacity as a Court-appointed officer to support the Court's approval of its course of action with respect to a sale of the Property, and the other relief being sought. Parties using this report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes.
8. Capitalized terms not defined in this report are as defined in the Appointment Order, or the Receiver's First through Tenth Reports. All references to dollars are in Canadian currency unless otherwise noted.
9. The Receiver has sought the advice of Gowlings, counsel to the Applicant, for general legal matters that have arisen in respect of the Rose receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of Blaneys.

#### **STATUS OF THE LTC TRANSACTION**

10. Following the issuance of the Approval and Vesting Order, on April 16, 2020 the Receiver wrote to the Ontario Ministry of Long-Term Care (the "**Ministry**") to seek the Ministry's approval for the proposed transfer of the Nursing Home Licence to the Purchaser. The delay in writing to the Ministry was the result in a delay in obtaining the AVO from the Court who had apparently misplaced the original resulting in a new copy having to be signed by Justice Conway.
11. By way of email dated July 20, 2020, attached hereto as **Appendix "F"**, the Ministry asked the Receiver to address the following two issues concerning the proposed transfer of the licence:

- a) The Receiver should provide the Ministry with a letter explaining and documenting how the exception of s. 271 of the Ontario Regulation 79/10 (the “**Regulations**”) applies to the circumstances of the proposed transfer; and
  - b) The Receiver clarify how pre-closing amounts due to the Ministry in respect of an overfunding received by Rose are to be treated under the APS.
12. By letter dated August 10, 2020, attached hereto as **Appendix “G”**, the Receiver responded to the Ministry’s July 20 email explaining how the proposed licence transfer was in compliance with s. 271 of the Regulations as well as directing the Ministry to the section of the APS that indicates that the Purchaser will be assuming any pre-closing obligations owing to the Ministry.
  13. On November 30, 2020, the Ministry convened a public consultation meeting, a standard requirement under the licence transfer process, to provide residents and their families as well as members of the public with the opportunity to understand more details about the proposed licence transfer, and ask questions of the Ministry and the Purchaser and state their position on the proposed licence transfer. The Ministry considers the comments made at these meetings when making their decision on the transfer application. At that meeting, considerable opposition was raised by the Korean community and others concerning Rykka’s proposed purchase. The opposition centred around concerns about maintaining the Korean cultural aspects of the Nursing Home under Rykka’s management and Covid-19 related issues that Rykka has experienced at certain other homes that are managed by its captive management company.
  14. In early February 2021, Rykka advised the Receiver that it had come to an agreement in principle with Arirang Age-Friendly Community Centre (“**Arirang**”) to assign its right, title and interest in the APS to Arirang. Pursuant to the APS, any assignment of the APS requires the prior written consent of the Receiver.
  15. The Receiver is familiar with Arirang as they were one of the bidders during the original sale process the Receiver conducted in 2019. Arirang has advised the Receiver of the following:

- it is a not-for-profit corporation under the *Canada Not-for-profit Corporations Act* and is a registered charity.
  - its objects include “the provision of care and services to seniors through the operation of long term care homes.”
  - its board of directors is composed of various professionals from the Korean-Canadian community with expertise in healthcare, law, management, finance, account and real estate who “have intimate experience with the cultural and ethnic needs of the residents of the Rose of Sharon”.
  - it has raised in excess of \$3.5 million of funding for the purchase of the Nursing Home from donations from the Korean community, and will be seeking a mortgage for the balance of the purchase price. The Receiver notes that the APS is not conditional on obtaining sufficient financing;
  - it intends to continue the engagement of ACC to manage the Nursing Home on its behalf and to ensure continued employment of all salaried employees; and
  - it has consulted with professional advisors and it does not anticipate any obstacles to obtaining the Ministry’s approval for the transfer of the Nursing Home licence.
16. In view of the above, the Receiver advised Rykka in writing that it consents to the assignment of the APS to Arirang. Consequently, the parties executed an Assignment and Assumption Agreement dated February 26, 2021, a copy of which is attached hereto as **Appendix “H”**. The Receiver and Arirang have also entered into an amended and restated agreement of purchase and sale which is the same as the APS in all material respects but which reflects the previous amendments and waivers executed by Rykka, and corrects some of the terms in the prior version.
17. However, in order to complete the sale to Arirang, the AVO that was issued by this Court on December 17, 2019 needs in be amended to reflect Arirang as the Purchaser. As a result, the Receiver is asking the Court to amend the Approval and Vesting Order.

18. Once issued, the Receiver will need to commence a new licence transfer application with the Ministry who will need to restart their review process. As a result, the Receiver anticipates that it will be a further six to nine months to complete the LTC Transaction with Arirang.

#### **PANDEMIC RESPONSE**

19. ACC advises that the Nursing Home has followed all Ministry and Health Canada mandated pandemic protocols since the pandemic was declared. As of the date of this Eleventh Report, no Nursing Home resident or staff member has tested positive for Covid-19. The Receiver has been advised that all residents and staff have received at least the first injection of the vaccine.
20. The Nursing Home continues to be fully occupied, with a wait list exceeding 100, and continues to take the appropriate protective measures as mandated by the Ministry.

#### **STATUS OF THE CONVERSION TO CONDOMINIUMS**

21. As discussed in paragraph 9 of the Ninth Report, the Receiver and Gowlings have been working diligently to satisfy the conditions imposed by the City of Toronto before they will approve the Condominium Application. The Condominium Application was started by Rose in 2007 as it was a requirement under both the terms of the Construction Loan from Peoples Trust Company (“**Peoples**”) and the CMHC Special Conditions Forming Part of the Certificate of Insurance that the Building be registered as a condominium. The Receiver attempted to continue Rose’s initial Condominium Application, however, the timeframe to complete that application expired and the City would not extend it, resulting in the Receiver having to commence a new Condominium Application that was accepted on July 1, 2016, and which provides for a 5 year window to have the condominium registered.
22. After obtaining a final and binding decision of the Committee of Adjustment (the “**COA**”) on December 19, 2018 approving a minor variance to By-law #1682-89 (the “**By-law**”), the site specific by-law for the Rose lands, in respect of the parking at the Property (amending the allocation of the 30 underground parking spots in the building

from 15 Nursing Home / 15 Residential Component to 4 Nursing Home / 26 Residential Component) (the “**Parking Variance**”), in early 2019 Gowlings provided to the City the revised condominium drawings that reflected the Parking Variance.

23. On May 2, 2019, a meeting was convened that included representatives of the City’s planning and building departments, the Receiver and Gowlings at which the City raised the following two issues:
  - a) the City contended that the building was not compliant with the usage sections of the By-Law concerning what was defined as “senior citizens’ apartment units” (the “**By-law Usage Issue**”); and
  - b) the City wanted assurances that a potential tenant of any of the existing residential units would be duly notified of the pending condominium registration (the “**Tenant Issue**”).
  
24. With respect to the By-law Usage Issue, the By-law, which was enacted in 1989, restricted the use of the Property to a “Continuum Care Facility” which was to consist of “senior citizens’ apartment units” and “senior citizens’ nursing/rest home beds”. The By-law defined “senior citizens’ apartment units” as “*a self-contained dwelling unit in connection with which one or more of the following personal services, facilities and amenities are provided to or required to be taken or both by the persons occupying the senior citizens’ apartment units: meals, attendant or other care, housekeeping, laundry, linen or other such services and other services of a personal nature designed to cater generally to the different and changing needs of senior citizens.*” The definition did not provide any age restrictions to the occupants of the units. The Receiver notes that Rose initially advertised the Building as a “Continuum Care Facility” whereby parties would purchase life-lease units, through which they could also purchase services provided by the Nursing Home. The Receiver understands that prior to the receivership, the Nursing Home had attempted to offer services to occupants of the Residential Component but there was no interest. The Receiver also notes that of the 43 units in the Residential Component that were occupied upon the commencement of the receivership, only 9 were occupied by the actual life-lease purchaser, while the other units were occupied by

relatives of the life-lease purchaser or were being rented out to third parties, many of whom were students. Consequently, prior to the receivership, the usage requirements of the By-law were not being observed, and upon the commencement of the receivership, it was unfeasible for the Receiver to begin to comply.

25. By letter dated May 9, 2019, Gowlings responded to the City as follows:
  - a) with respect to the By-law Usage Issue, by providing confirmation that the proposed condominium dwelling units do not conflict with the By-law definition of “senior citizen’s apartment units”; and
  - b) with respect to the Tenant Issue, by providing for a suggested condition to the condominium documents that would require the following direction to any life lease purchaser who may be sub-leasing its unit that they “*shall take immediate steps to notify your tenant of the pending condominium registration and your purchase of the unit and the potential therefore, of your tenant having to provide vacant possession.*”
26. On May 19, 2019, the City advised that it agreed with the Receiver’s proposal for dealing with the Tenant Issue.
27. On June 11, 2019, the City’s building department advised that it disagreed with the Receiver’s position regarding compliance with the By-law and advised that the Receiver would have to apply for a minor variance to the City’s Committee of Adjustment for a variance for the use and a separate zoning review would be required. The Receiver understood that a further variance and separate zoning review would be extremely time consuming and costly.
28. As a result, on July 16, 2019, Gowlings provided the City with a proposal that involved the offering of certain services by the Nursing Home to the residents of the Residential Component in order to be in compliance with the By-law Usage Issue.
29. At the Receiver’s request, a further meeting with the representatives of the City’s building and planning departments, along with their in-house legal counsel, was

convened on September 11, 2019 at which the parties discussed options for complying with the By-law Issue. At that meeting, the City raised new issues concerning compliance with the By-law concerning non-conforming gross floor area and amenity space ratios, which non-conformance arose upon the construction of the building (the “**By-law GFA Issue**”), which occurred prior to the commencement of the receivership. The City was raising this issue notwithstanding that the City had advised on July 16, 2018 that it had closed off the building permit for the Property, which the Receiver understood normally indicates that the City is satisfied that the Building, as constructed, is in compliance with the By-law.

30. On September 18, 2019, Gowlings followed up with a memorandum to the City setting out the Receiver’s plan for addressing the By-law Usage Issue (the “**Memorandum**”). It wasn’t until November 25, 2019 that the City responded to the Memorandum, at which time it advised that the Receiver’s plan to address the By-law Usage Issue was acceptable as long as it was documented under an agreement under section 45(9.1) of the *Planning Act* (the “**Usage Agreement**”). The City further advised that the By-law GFA Issue would need to be addressed through an application to the COA for a minor variance to the By-law (the “**GFA Variance**”), a process which typically takes about 4 months to complete. This would first require that a formal zoning review (the “**Preliminary Project Review**”) be submitted to the City’s building department so that the City could be satisfied that all zoning standards would be addressed by the GFA Variance.
31. The Receiver’s other option would have been to file for a zoning by-law amendment with the City’s planning department for a complete overhaul of the By-law in order to make it reflect the Building as it was ultimately constructed, along with the usage as ultimately determined by Rose prior to the receivership and what was inherited by the Receiver. Gowlings advised that this process typically is conducted over a one-year period and involves extended public consultation and reporting to City Council, with no guarantee that planning department staff would support the amendment application. As a result, the Receiver elected to move forward with the GFA Variance, but only once it and the Purchaser were satisfied with the terms of the Usage Agreement.

32. On November 28, 2019, Gowlings requested from the City the form of Usage Agreement that they required, which was received on December 18, 2019.
33. On December 11, 2019, Gowlings submitted a request for a Preliminary Project Review (the “**PPR**”). Gowlings was told that a response to the PPR would be received by January 16, 2020. On January 23, 2020, the City’s building department advised that the PPR had not yet commenced. Consequently, given the continued delays in resolving the By-law Usage Issue and the By-law GFA Issue, the Receiver and Gowlings reached out to the local City Councillor for his assistance in moving this matter forward.
34. On March 4, 2020, the City’s building department finally provided the Zoning Review. Then, on March 13, 2020, Gowlings was informed that the City Councillor had convened a meeting with the City’s building and planning departments at which they agreed that they would support an additional amendment to the By-law that removed the “seniors-related” clauses as part of the Receiver’s application for the GFA Variance (the “**GFA & Usage Variance**”).
35. Since the Receiver could not move forward with the GFA & Usage Variance until it received a response to the PPR, on April 20, 2020, Gowlings submitted a follow up request to the City. It wasn’t until May 15, 2020 that the Examiner’s Notice concerning the PPR was received.
36. On May 27, 2020, the Receiver submitted the GFA & Usage Variance application to the COA, which application was accepted, and appropriate fees paid within the following week. Due to Covid-19, the COA suspended the hearing of minor variance applications in late March 2020, which were not restarted until around July 30, 2020 through an on-line digital platform. The GFA & Usage Variance was eventually heard by the COA on December 10, 2020 which approved the variance. By letter dated December 31, 2020, the COA advised that their decision was final and binding. A copy of the COA decision is attached hereto as **Appendix “I”**.
37. With the GFA & Usage Variance matter concluded, on January 13, 2021, the City issued a Revised Notice of Decision Under S. 51 (45) of the *Planning Act* (the “**Revised**

**Notice**”) which set out the revised conditions that the City required be completed in order for the condominium to be approved and registered. A copy of the Revised Notice is attached hereto as **Appendix “J”**.

*Schedule “B” Consents*

38. The Receiver, its counsel and consultants are currently working toward making the final submissions to the City, which includes submitting the Declaration made pursuant to the *Condominium Act, 1998* (the “**Condominium Act**”). However, pursuant to clause 7(2)(b) of the Condominium Act, the Declaration shall contain “the consent of every person having a registered mortgage against the land or interests appurtenant to the land, as the land and interests are described in the description” (the “**Schedule “B” Consent(s)**”). A copy of the parcel register for the Property with a currency date of May 31, 2021 is attached hereto as **Appendix “K”**. The mortgages registered against the Property are summarized as follows:

- a) A first mortgage registered by Peoples Trust Company (“**Peoples**”) on May 18, 2007 as Number AT1450426, and is the construction loan advanced by Peoples to fund the construction of the Building;
- b) A second mortgage registered by 2383431 Ontario Inc. (“**238**”) registered as Number AT1949790, as transferred by Transfer of Charge Numbers AT2908311 and AT3416400. This mortgage was originally registered by IWOK Corporation (“**IWOK**”) on November 14, 2008, a company controlled by the owner of Unimac Group Ltd. (“**Unimac**”), the general contractor engaged to construct the Building, and was later transferred to Morrison Financial Services on December 30, 2011 and then to 238 on September 9, 2013, both transfers being after the date of the Appointment Date;
- c) A third mortgage registered by Turfpro Investments Inc. (“**Turfpro**”) on registered as Number CA600752, as transferred by Transfer of Charge Number AT1040360. This mortgage was originally held by Mikal Construction Inc., on May 14, 1999 and was transferred to Turfpro on January 19, 2006;

- d) A fourth mortgage registered by Turfpro on August 2, 2002 and registered as Number E579089; and
  - e) A fifth mortgage registered by 238 as Number AT1040424, as transferred by Transfer of Charge Numbers AT1450745, AT2318865 and AT3461665. This mortgage was originally a third mortgage registered by Mijo Holdings Inc. on January 19, 2006, transferred to Unimac on May 18, 2007, then transferred to IWOK on March 2, 2010 and finally transferred to 238 on November 25, 2013.
39. While Peoples has advised that it is prepared to execute the Schedule “B” Consent, the Receiver has not obtained the Schedule “B” Consents from 238 or Turfpro. While both companies are being served, 238 and Turfpro are not currently participating in these proceedings. The Receiver anticipates that under a best-case scenario, after considering estimated future realizations from the sale of the Nursing Home and the Residential Units, Peoples will suffer a significant shortfall on its construction loan such that there is no prospect of 238 or Turfpro realizing anything on their mortgages. In order to complete the Declaration so that the Receiver can finalize its condominium application so that the life lease purchasers can complete the purchase of their units, the Receiver is seeking an order that the Schedule “B” Consents of 238 and Turfpro are not required under the Declaration.

*First Board of the Condominium Corporation*

40. The First Board Order provides the Receiver with the authority, as declarant under the Condominium Application, to appoint three officers of Deloitte, Hartley Bricks, Catherine Hristow and Paul Casey (the “**Receiver Appointees**”), as directors and officers of the First Board of the Condo Corporation. Paul Casey has announced his intention to resign from Deloitte and will no longer be an officer of Deloitte once the Condo Corporation is established. As a result, the Receiver is seeking the Court’s approval to amend the Receiver Appointees in the First Board Order by replacing Paul Casey with Jordan Sleeth, a Senior Vice President at Deloitte.

*Unit Sale Vesting Orders*

41. Subject to the timing of the City to review the Receiver's final submissions, the Receiver estimates that the condominium will be registered in July/August 2021 at which time it will issue the Purchaser Notices and begin the process of closing the sale of the those Units to the life lease purchasers who elect to do so.
42. The Receiver intends to complete the sale of Units through the issuance of an approval and vesting order that will be triggered on a Unit-by-Unit basis. This will streamline the process for selling the Units. The Receiver intends to return to Court later in 2021 to seek the issuance of the approval and vesting order once the timing for the closing of unit sales becomes clearer.

**STATUS OF APPEAL OF OLRB DECISION**

43. As set out in paragraphs 16 through 23 of the Ninth Report, the Receiver applied to the Divisional Court for a judicial review of the OLRB Decision released April 18, 2018 which declared that the Receiver was a successor employer of the Union and found:
  - a) the language of s. 14.06(1.2) of the BIA was not "explicit statutory language" that isolated the Receiver from being declared a successor employer; and
  - b) liability as a successor employer is not a "liability...that is in respect of employees of the debtor".
44. The Appeal was heard by the Divisional Court on November 18, 2019 and the decision was reserved. On August 18, 2020, the Divisional Court Administrative Judge advised that in January and February 2020, the Divisional Court requested supplementary submissions from parties in administrative law cases under reserve when the Supreme Court of Canada delivered its decision in *Canada v. Vavilov*, 2019 SCC 65 ("*Vavilov*") was released in December 2019, and unfortunately, through the Divisional Court's oversight, the request was not sent to the parties of the Appeal.
45. By September 11, 2020, all of the parties of the Appeal had submitted their supplementary submissions respecting the effect of *Vavilov*.

46. On March 31, 2021, the Divisional Court finally released its Reasons for Decision in which it dismissed the Appeal. A copy of the Reasons for Decision is attached hereto as **Appendix “L”**. The Receiver has not appealed the Divisional Court’s decision.

## **STATUS OF RECEIVER’S LITIGATION**

### *Deficiency Claim*

47. As detailed in paragraphs 174 through 182 in the Third Report, given the extent of deficiencies identified in Building, on September 14, 2012, Rose, by its Receiver, issued and served a Statement of Claim (the “**Deficiency Claim**”) against i) Trisura Guarantee Assurance Company (“**Trisura**”), the surety of a \$7,420,000 Performance Bond issued in respect of the Construction Contract for the Building, as a result of the breaches by Unimac Group Ltd. (“**Unimac**”) pursuant to the Performance Bond; ii) Unimac operating as Mikal-Calladan Construction Inc., Unimac Group Ltd. and Mikal Calladan Construction Inc. (the general contractor) (“**Mikal Calladan**”), iii) Victor J. Heinrichs Architect Inc. and Victor J. Heinrichs Inc., (the architect) (“**Heinrichs**”), iv) York Health Care Developments Inc. (the project manager) (“**York Health**”), v) Jain & Associates Limited (an engineering consultant who prepared mechanical, plumbing and electrical specifications for the project and electrical consultant to the architect) (“**Jain**”), and vi) M.V. Shore Associates (1993) Limited (mechanical engineers on the project and consultant to the architect) (“**Shore**”), for breach of contract and/or negligence in connection with the construction of the Property. The Deficiency Claim was later amended to include Royal Windsor Mechanical Inc. (“**Royal Windsor**”) as a party defendant.
48. As set out in paragraph 53 of the Seventh Report, on January 21, 2015, Peoples and Trisura entered into a settlement concerning the Construction Lien. As a condition of that settlement, the Receiver obtained an order dismissing the Deficiency Claim as against Trisura, without costs.
49. The Receiver agreed to a settlement with Jain and Shore and the parties entered into a Full and Final Release dated June 19, 2015, which provided for the terms of settlement to not be disclosed. The settlement funds have been received.

50. With respect to the claims against Heinrichs, after proceeding through mediation in 2016, the Receiver eventually agreed to a settlement with Heinrichs and entered into a Full and Final Release executed on October 22, 2018. The settlement funds have been received.
51. With respect to the claim against York Health, after proceeding through mediation in 2016, the Receiver eventually agreed to a settlement with York Health in 2017. The agreement provides that the Receiver will receive certain funds upon the closing of the purchase of Unit 901 by Assured Care Consulting Inc. The settlement provides that upon receipt of payment, the claim and all cross claims against York Health will be dismissed without costs and the Receiver will provide a full and final release. Consequently, this settlement will probably not be completed until later this year.
52. With respect to the claim against Royal Windsor, they failed to defend the proceeding and were noted in default. The Receiver was advised that Royal Windsor was no longer an operating entity, and as such, rather than incurring the expense of obtaining judgment, the Receiver elected not to proceed further with this claim.
53. With respect to the claims against Mikal-Calladan, despite numerous requests, and contrary to a court-ordered Discovery Plan, they did not produce witnesses for examinations for discovery. As a result, the Receiver had their defence struck on November 15, 2019 and the Registrar issued a Requisition noting them in default on November 26, 2019. The Receiver determined that Mikal-Calladan was no longer an operating entity, and as such, rather than incurring the expense of obtaining judgment, the Receiver elected not to proceed further with this claim.

*Yoon Claim*

54. On September 23, 2013, the Receiver on behalf of Rose issued a Statement of Claim (the “**Yoon Claim**”) against John Yoon and SDM Design Consulting Inc (“**SDM**”). John Yoon was the former Chief Executive Officer of Rose and SDM was a company he controlled. The Receiver brought the claim after reviewing the books and records of Rose from which it identified a number of transactions involving Yoon and SDM which suggested conflicts of interest leading to the receipt of secret commissions, breaches of

fiduciary duty, failure to exercise powers and discharge duties to the standard of care required under the *Ontario Business Corporations Act*, R.S.O. 1990, c. C-16 and unjust enrichment. A copy of the Yoon Claim is attached hereto as **Appendix “M”**.

55. Mr. Yoon and his wife Moon Yoon were the registered life lease purchasers of three units in the Residential Component (the “**Yoon Units**”). On November 14, 2013, Justice Mesbur issued an Order ordering and declaring that Peoples was entitled to priority over the Yoon Units (except for any construction lien claims found to be valid and prior). Peoples then directed the Receiver to attorn the rents on the Yoon Units and include those units in the Receiver’s future sale process.
56. The Receiver later determined that, except for his family home, Mr. Yoon was essentially impecunious, and, considering the costs involved, that continued pursuit of the Yoon Claim would likely not result in any further material realizations for the receivership estate. As a result, the Receiver is seeking an order to have the Yoon Claim dismissed without costs. The Receiver understands that Yoon has agreed to the disposition of the Yoon Claim in this manner.

#### **INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

57. Attached hereto as **Appendix “N”** is the Receiver’s Interim Statement of Receipts and Disbursements for the interim period April 1, 2017 to April 30, 2021 and for the entire period of the receivership, September 28, 2011 to April 30, 2021 (the “**R&D**”). The R&D indicates that as of April 30, 2021, the balance in the Receiver’s bank accounts in respect of the Life-Lease Residence, including the account maintained by Sterling Karamar Property Management (the firm engaged by the Receiver to manage the Life-Lease Residence), is \$129,194. The R&D excludes the bank account maintained by the Nursing Home manager for the Nursing Home which is discussed in the following paragraph.
58. The R&D includes receipts and disbursements from the Life-Lease Residence and receipts from the Ministry on account of monthly funding of the Nursing Home. In accordance with the Appointment Order, this funding is transferred to the bank account established for Nursing Home operations. As of April 30, 2021, the balance in the bank

account maintained by ACC was \$1,232,723. Any excess funds not required for operation of the Nursing Home are from time-to-time transferred back to the Receiver's bank account. Since the Appointment Date up to April 30, 2021, \$1,632,400 in excess funds have been transferred back to the Receiver's bank account. On May 14, 2021, the Receiver transferred back a further \$300,000 in order to maintain sufficient funds in the Receiver's bank account.

59. The Receiver is seeking the Court's approval of the R&D.

### **RECEIVER'S BORROWINGS**

60. Since the commencement of the receivership, the Receiver has borrowed \$6,500,000 from Peoples by way of Receiver's Certificates in order to fund the receivership, substantially as a result of the cost to remediate certain Building deficiencies (as discussed in the Second, Third and Seventh Reports) and to fund professional fees and disbursements in connection with the Priority Issue (the issue of priority between Peoples and the Life-Lease Purchasers as discussed in the Third through Sixth Reports), the Statement of Claim and the Construction Lien Action (as discussed in the Second, Third, Fifth, Seventh, Eighth Reports), the OLRB Decision and the Condominium Application. In addition, the Residential Component continues to operate at a recurring cash deficit of between \$15,000 to \$30,000 per month. The Receiver's borrowings are the maximum allowed under the Amended and Restated Appointment Order, which maximum amount was last increased by Order of Justice Wilton-Siegel dated March 16, 2015.
61. As indicated above, as at April 30, 2021, the balance of funds in the Receiver's possession is \$129,194. Due to the inability to borrow further funds due to the Court ordered limit on borrowings, the Receiver has been recouping funds from the Nursing Home bank account to support receivership disbursements, the most recent being transfer of \$300,000 occurring on May 14, 2021. As discussed above, the Receiver anticipates that it will be at least July/August before the condominium corporation will be established, such that Unit sales will not start to close until the fall of 2021. In order to provide it with sufficient financing to effectively operate the receivership through to the commencement of unit closures, the Receiver is seeking an increase in the borrowing

limit to \$7,000,000 which would make a further \$500,000 potentially available, if needed, to fund the receivership until sufficient sale proceeds are received such that further Receiver borrowing from Peoples will not be necessary.

#### **RECEIVER'S REQUEST TO THE COURT**

62. The Receiver is respectively seeking an Order as described in the Notice of Motion, including an Order:
  - a) approving the Ninth Report, the Tenth Report, and this Eleventh Report and the actions and activities of the Receiver from April 1, 2017 to the date of this Eleventh Report;
  - b) amending the AVO to substitute Arirang as the Purchaser;
  - c) waiving the requirement for Schedule "B" Consents from 238 and Turfpro;
  - d) substituting Jordan Sleeth for Paul Casey as one of the Receiver Appointees;
  - e) dismissing the Yoon Claim without costs;
  - f) approving the R&D; and
  - g) increasing the maximum amount that the Receiver is authorized to borrow pursuant to paragraph 20 of the Appointment Order from \$6,500,000 to \$7,000,000.

All of which is respectfully submitted to this Honourable Court.

DATED this 1<sup>st</sup> day of June, 2021.

**DELOITTE RESTRUCTURING INC.**

Receiver and Manager of the current and future  
assets, undertakings and properties of  
Rose of Sharon (Ontario) Retirement Community  
and not in its personal capacity

Per:



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Hartley Bricks, MBA, CPA, CA, CIRP, LIT  
*Senior Vice-President*

**TAB C**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

THURSDAY, THE 10<sup>TH</sup>

JUSTICE MCEWEN

)

DAY OF JUNE, 2021

)

BETWEEN:

PEOPLES TRUST COMPANY

Applicant

- and -

ROSE OF SHARON (ONTARIO) RETIREMENT COMPANY

Respondent



APPLICATION UNDER sections 243 of the *Bankruptcy & Insolvency Act*, R.S.C. 1985, c. B-3  
as amended and section 101 of the *Courts of Justice Act*, as amended

ORDER

**THIS MOTION** made by Deloitte Restructuring Inc. (the “**Receiver**”) in its capacity as Court-appointed receiver of Rose of Sharon (Ontario) Retirement Community was heard this day via video conference.

**ON READING** the Motion Record, including the Eleventh Report of the Receiver dated 1 June 2021 (the “**Eleventh Report**”) and on hearing submissions of counsel to the Receiver and counsel to Arirang Age-Friendly Community Centre (“**Arirang**”), no one else appearing

## APPROVAL OF ACTIONS

1. **THIS COURT ORDERS** that the action of the Receiver described in the Ninth Report dated 25 February 2019, the Tenth Report dated 10 December 2019 and the Eleventh Report, including consenting to the assignment of the rights and obligations under the Agreement of Purchase and Sale dated 10 May 2019 between the Receiver and Rykka Care Centres LP to Arirang be and are hereby approved.

## AMENDED AND RESTATEMENT APPROVAL AND VESTING ORDER

2. **THIS COURT ORDERS** that the Approval and Vesting Order be and is hereby amended to reflect Arirang as the Purchaser and an Amended and Restated Approval and Vesting Order in the Form attached as **Schedule A** shall be issued.

## REGISTRATION OF CONDO DECLARATION

### A. 2383431 Ontario Inc.

3. **THIS COURT ORDERS** that the Land Registrar shall register the Declaration substantially in the form attached as **Schedule B** (the “**Declaration**”) against the land described therein (the “**Land**”) notwithstanding that 2383431 Ontario Inc. (also referred to as 2383431 Ontario Inc) (“**2383 ON**”) has not consented to the Declaration in accordance with paragraph 7(2)(b) of the *Condominium Act, 1998*, SO 1998, c 19 (the “**Act**”) and the applicable Regulations made under the Act.

4. **THIS COURT ORDERS** that the charge/mortgage of land registered against the Land in favour of 2383 ON in the Land Registry Office for the Land Titles Division of Toronto (No. 66) as Instrument Number AT1949790, as transferred by Instruments Number AT2908311 and AT3416400, and the interests under it are hereby and shall be postponed to: (a) the Declaration and the easements described in Schedule “A” to the Declaration; and (b) all other agreements entered into as a condition of approval of the Condominium Application by the City of Toronto as described in the Eleventh Report including, without limitation, any shared facilities agreement (collectively, the “**Registered Condo Agreements**”).

**B. Turfpro Investments Inc.**

5. **THIS COURT ORDERS** that the Land Registrar shall register the Declaration against the Land notwithstanding that Turfpro Investments Inc. ("**Turfpro**") has not consented to the Declaration in accordance with subsection 7(2)(b) of the Act and the applicable Regulations made under the Act.

6. **THIS COURT ORDERS** that the charges/mortgages of land registered against the Land in favour of Turfpro in the Land Registry Office for the Land Titles Division of Toronto (No. 66) as: (a) Instrument Number CA600752, as transferred by Instrument Number AT1040360; and (b) Instrument Number E579089; and the interests under them, are hereby and shall be postponed to: (a) the Declaration and the easements described in Schedule "A" to the Declaration; and (b) the Registered Condo Agreements.

**C. 2381682 Ontario Inc.**

7. **THIS COURT ORDERS** that the Land Registrar shall register the Declaration against the Land notwithstanding that 2381682 Ontario Inc. ("**2381 ON**") has not consented to the Declaration in accordance with subsection 7(2)(b) of the Act and the applicable Regulations made under the Act.

8. **THIS COURT ORDERS** that the charge/mortgage of land registered against the Land in favour of 2381 ON as Instrument Number AT1040424, as transferred by Instruments Numbers AT1450745, AT2318865 and AT3461665, and the interests under it are hereby and shall be postponed to: (a) the Declaration and the easements described in Schedule "A" to the Declaration; (b) the Registered Condo Agreements.

**AMENDMENT OF FIRST BOARD ORDER**

9. **THIS COURT ORDERS** that paragraph 1 of the Order of the Honourable Justice Conway dated 1 April 2019 and attached as Appendix B to the Eleventh Report be and is hereby amended to substitute Jordan Sleeth for Paul Casey such that the first board of directors of the Corporation shall be Hartley Brick, Catherine Hristow and Jordan Sleeth.

**DISMISSAL OF YOON ACTION**

10. **THIS COURT ORDERS** that Action CV-13-10269-00CL commenced by the Debtor against John Yoon and SDM Design Consulting Inc. be and is hereby dismissed without costs.

**INCREASING RECEIVER'S BORROWING**

11. **THIS COURT ORDERS** that the borrowing limit for the Receiver's Borrowings Charge as set out in paragraph 20 of the Amended and Restated Appointment Order dated 27 September 2011 shall be and is increased to \$7,000,000.

A handwritten signature in black ink, appearing to read 'McE T.', is written above a horizontal line.

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**SCHEDULE "A"**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR ) THURSDAY, THE 10<sup>TH</sup>  
 )  
JUSTICE MCEWEN ) DAY OF JUNE, 2021

BETWEEN:

PEOPLES TRUST COMPANY

Applicant

- and -

ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY

Respondent

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,  
as amended, and section 101 of the *Courts of Justice Act*, as amended

AMENDED AND RESTATED APPROVAL AND VESTING ORDER

**THIS MOTION**, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Arirang Age-Friendly Community Centre (the “**Purchaser**”) dated 13 May 2019 (as amended and restated on 1 April 2021) and appended to the Tenth Report of the Receiver dated 10 December 2019 (the “**Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such amendments as the Receiver may deem necessary.
2. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to: (i) subject to obtaining the approval of the Purchaser, complete the Schedules to the certificate in the form attached as Schedule A (the “**Receiver’s Certificate**”); and (ii) take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver’s Certificate all of the Debtor’s right, title and interest in and to the Purchased Assets described in the Sale Agreement, including the property identified on **Schedule 1** to the Receiver’s Certificate shall vest absolutely in the Purchaser, as beneficial owner, and as the Purchaser may direct on closing, as registered owner, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order dated 27 September 2011; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule 2** to the Receiver’s Certificate (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule 3** to the Receiver’s Certificate) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for Land Titles Division of Metropolitan Toronto (64 and 66) (CRO#80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registrations Reform Act*, the Land Registrar is hereby directed to enter such person as the Purchaser may direct on closing as the owner of the real property identified on Schedule 1 to the Receiver's Certificate (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule 3 to the Receiver's Certificate.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

  
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**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-11-9399-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**PEOPLES TRUST COMPANY**

Applicant

- and -

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

Respondent

**APPLICATION UNDER 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,  
as amended, and section 101 of the *Courts of Justice Act*, as amended**

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Ontario Superior Court of Justice dated 27 September 2011, Deloitte Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”).

B. Pursuant to an Order of the Court dated 10 June 2021, the Court approved an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Arirang Age-Friendly Community Centre (the “**Purchaser**”) dated 13 May 2019 (as amended and restated on 1 April 2021) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, including the real property identified on Schedule 1 which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section [**Number**] of the

Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The Purchaser has consented to the attached Schedules;
3. The conditions to Closing as set out in section **[Number]** of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at \_\_\_\_\_ **[TIME]** on \_\_\_\_\_ **[DATE]**.

**DELOITTE RESTRUCTURING INC., in its capacity as Receiver of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community, and not in its personal capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule 1**

**Real Property**

**Schedule 2**

**Claims to be deleted and expunged from title to Real Property**

**Schedule 3**

**Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(Unaffected by the Vesting Order)**

**B E T W E E N:**

**PEOPLES TRUST COMPANY**  
Applicant

v.

**ROSE OF SHARON (ONTARIO) RETIREMENT COMPANY**  
Respondent

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

**AMENDED AND RESTATED APPROVAL AND VESTING ORDER**

**GOWLING WLG (CANADA) LLP**  
Barristers & Solicitors  
1 First Canadian Place, Suite 1600  
100 King Street West  
Toronto, ON M5X 1G5

**E. PATRICK SHEA (LSUC. No. 39655K)**  
Tel: (416) 369-7399  
Fax: (416) 862-7661

Solicitors for the Moving Party

## **SCHEDULE "B"**

**DECLARATION  
MADE PURSUANT TO THE CONDOMINIUM ACT, 1998**

THIS DECLARATION is made and executed pursuant to the provisions of the *Condominium Act, 1998*, S.O. 1998, c. 19, and the regulations made thereunder, as amended from time to time, by:

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**  
(hereinafter called the "Declarant")

and

**DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager of the assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity, pursuant to an Order of the Ontario Superior Court of Justice dated September 27, 2011 in Court File No. CV-11-9399-00CL**

**WHEREAS:**

- A. The Declarant is the registered owner of the property (which includes the appurtenant interests) with an absolute title under the *Land Titles Act*, R.S.O. 1990, c. L.5, situate in the City of Toronto, in the Province of Ontario and being more particularly described in Schedule "A" annexed hereto and in the description submitted herewith by the Declarant (hereinafter called the "Description") for registration in accordance with the Act (the "Property");
- B. The Declarant has converted or will convert that portion of an existing building upon the Property to a condominium containing, *inter alia*, 91 residential units, 17 parking units, 51 storage units, 9 combined parking/storage units, 1 lobby/corridor unit, 1 garbage collection room unit, 1 security unit, 1 transformer unit, 1 recycling room unit, 1 lobby unit, 1 communications unit, 1 power distribution unit, 1 diesel tank unit, 1 plumbing room unit and 1 mechanical unit as more particularly described in the Declaration;
- C. Rose of Sharon (Ontario) Retirement Community is the Declarant for the purposes of the Act;
- D. Deloitte Restructuring Inc., formerly known as Deloitte & Touche Inc., is the court-appointed receiver and manager of the assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity (the "Receiver"), pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) dated September 27, 2011 in Court File No. CV-11-9399-00CL and registered as Instrument Number AT2905656 (the "Order") as amended by Application To Change Name-Instrument registered as Instrument No. AT5759673;
- E. The Receiver has the authority, pursuant to the Order, to do all things and execute all documents reasonably necessary and incidental to obtaining registration of the Property as a freehold standard condominium under the Act, including executing the Declaration for the proposed condominium on behalf of the Declarant (but solely in its capacity as a Receiver and Manager of the Declarant pursuant to the Order and not in its personal capacity) and causing the Declaration and Description and all necessary by-laws to be registered on title to the Property; and
- F. The Declarant intends that the land and interest appurtenant to the land in the Description and Schedule "A" of the Declaration together with the buildings constructed thereon shall be governed by the Act and that the registration of the Declaration and the Description will create a freehold standard condominium corporation.

**NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:**

**ARTICLE I  
INTRODUCTORY**

1.1 Definitions

The terms used in the Declaration shall have the meaning ascribed to them in the Act unless the Declaration specifies otherwise or unless the context otherwise requires and in

particular:

- (a) "Act" means the *Condominium Act, 1998*, S.O. 1998, c. 19, and the regulations made thereunder, as amended from time to time;
- (b) "Adjoining Lands" means Part of Lots 24, 25, and 26, Block F, Plan 875 (York), being Parts 3, 8, 10, 13, 14, 15, and 16 on Plan 66R-30578; City of Toronto;
- (c) "Amenities" means those parts of the common elements being the Party Lounge, and the residential laundry room on Level A and identified as such in the Description.
- (d) "Board" means the Corporation's Board of Directors;
- (e) "Combined Parking/Storage Units" means Units 3, 6, 10 and 12 on Level A and Units 3, 5, 7, 8 and 9 on Level B;
- (f) "Communications Unit" means Unit 18, Level A;
- (g) "Corporation" or "Condominium" means the condominium corporation created by the registration of the Declaration and of the Description under the Act;
- (h) "Declarant" means Rose of Sharon (Ontario) Retirement Community;
- (i) "Declaration" means this declaration;
- (j) "Description" shall have the meaning ascribed to it in Recital A;
- (k) "Diesel Tank Unit" means Unit 20, Level A;
- (l) "Disabled Parking Unit" means Unit 11, Level A;
- (m) "Garbage Collection Room Unit" means Unit 2, Level 1;
- (n) "Insurance Trust Agreement" shall have the meaning ascribed to it in Section 8.1;
- (o) "Liabilities" shall have the meaning ascribed to it in Section 7.4;
- (p) "Lobby/Corridor Unit" means Unit 1, Level 1;
- (q) "Lobby Unit" means Unit 17, Level A;
- (r) "LTC Mechanical Room" means the mechanical room situate within Part of Lot 24 and 25, Block F, Registered Plan 875 (York), designated as Part 16, Plan 66R-30578;
- (s) "Mechanical Unit" means Unit 1, Level 10;
- (t) "Order" has the meaning ascribed to it in Recital D;
- (u) "Parking Units" means Units 1, 2, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 on Level A and Units 1, 2, 4, 6 and 10 on Level B;
- (v) "Party Lounge" means the party lounge on Level 9 which forms part of the common elements and identified as such in the Description, including the kitchen and roof garden/patio to which the party lounge has exclusive access;
- (w) "Plumbing Room Unit" means Unit 11, Level B;
- (x) "Power Distribution Unit" means Unit 19, Level A;
- (y) "Property" shall have the meaning ascribed to it in Recital A;
- (z) "Proportionate Shared Unit Interest" means the respective ownership share by each component of the condominium with respect to the Service Units as determined in accordance with the Declaration and the Shared Facilities Agreement;
- (aa) "Receiver" has the meaning ascribed to it in Recital D;

- (bb) "Recycling Room Unit" means Unit 5, Level 1;
- (cc) "Residential Unit(s)" means Units 1 to 14, Level 2; Units 1 to 14, Level 3; Units 1 to 12, Level 4; Units 1 to 12, Level 5; Units 1 to 12, Level 6; Units 1 to 10, Level 7; Units 1 to 10, Level 8; and Units 1 to 7, Level 9;
- (dd) "Security Unit" means Unit 3, Level 1;
- (ee) "Service Units" means collectively the Communications Unit, Diesel Tank Unit, Lobby/Corridor Unit, Lobby Unit, Garbage Collection Room Unit, Mechanical Unit, Plumbing Room Unit, Power Distribution Unit, Recycling Room Unit, Security Unit and Transformer Unit;
- (ff) "Shared Facilities" shall mean the Service Units, the common foundation and servicing pipes, wires, cables, conduits, mechanical servicing systems, electrical servicing systems and such other facilities, systems and services serving or benefiting the Service Units or both of the Property and Adjoining Lands, including, without limitation, all pertinent portions of the hydroelectric, water, storm and sanitary sewer systems, gas systems, emergency systems, computer controlled building access systems, generator(s), alarm systems, telephone systems, internet systems, television systems, fire protection systems (as well as pertinent portions of various ancillary computer software and/or mechanical, electronic, and/or electrical fixtures and equipment appurtenant thereto), which provide power, heat, water, drainage, emergency service, telephone service, internet service, television service, facilities access, alarm service, fire protection service and/or any other type of service to the Service Units or more than one of the Property and Adjoining Lands (whether presently existing or installed subsequent to the date of registration of the Declaration), and including, without limitation, those items which are more particularly set out in the Shared Facilities Agreement (including, without limitation, the shared services referred to therein), subject to the exclusions therein;
- (gg) "Shared Facilities Agreement" means the mutual easement and cost sharing agreement, as amended or replaced from time to time, governing the use and sharing of costs of certain services and facilities, including the Shared Facilities, between the Corporation and the owner of the Adjoining Lands;
- (hh) "Shared Facilities Costs" means the aggregate of all costs and expenses incurred in connection with the Shared Facilities, all as provided in the Shared Facilities Agreement and shall include without limitation, the costs and expenses incurred in connection with the maintenance, repair, replacement, operation and management of the Shared Facilities, including without limitation, the cost of maintaining and repairing all electrical and mechanical equipment, fixtures and installations comprising same or appurtenant thereto, together with the amount of any municipal, provincial or federal taxes and/or common expenses assessments attributable to the Shared Facilities (or any portion thereof);
- (ii) "Storage Unit(s)" means Units 15, 16, 17, 18, 19, 20, 21 and 22, on Level 3; Units 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 on Level A; and Units 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 on Level B;
- (jj) "Transformer Unit" means Unit 4, Level 1; and
- (kk) "Unit(s)" means a part or parts of the Property included in the Description and designated as a Unit by the Description, and comprises the space enclosed by its boundaries and all the material parts of the land within such space in accordance with the Declaration and Description.

## 1.2 Statement of Intention

The Declarant intends that the Property described in Schedule "A", and in the Description, together with all interests appurtenant thereto, be governed by the Act and its regulations and any amendments thereto. The registration of the Declaration and the Description will create a freehold standard condominium corporation as defined in the Act.

1.3 Consent of Encumbrancers

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

1.4 Exclusion/Inclusion of Units

It is expressly stipulated and declared that the following items, matters or things are included/excluded from (as the case may be) each of the Units described below, namely:

(a) **Residential Units**

- (i) Each Residential Unit shall include all pipes, wires, cables, conduits, ducts, mechanical and electrical apparatus and the branch piping extending to, but not including, the common pipe risers, all of which provide a service or utility to the particular Unit, regardless of whether or not same are located outside the Unit boundaries described in Schedule "C". Each Residential Unit shall also include the heating, air conditioning and ventilation equipment and appurtenant fixtures attached thereto, including the shut-off valve, all of which provide a service or utility to that particular Unit, regardless of whether or not same are located outside the Unit boundaries described in Schedule "C".
- (ii) Each Residential Unit shall exclude any load bearing wall or column that provides support to another Unit or the common element, exterior door and frame, window and frame, all pipes, wires, cables, conduits, ducts, shafts, flues and mechanical and electrical apparatus, carbon monoxide detectors, fire alarms, security or sprinkler systems, all of which are situate in the Unit and provide a service or utility to another Unit(s) or the common elements.

(b) **Parking Units, Combined Parking/Storage Units and Storage Units**

- (i) Each Parking Unit, Combined Parking/Storage Unit and Storage Unit has no inclusions, excepting the Combined Parking/Storage Unit which shall include the locker door and frame.
- (ii) Each Parking Unit, Combined Parking/Storage Unit and Storage Unit shall exclude, all equipment or apparatus including any fans, pipes, wires, cables, conduits, ducts, flues, shafts, fire hoses, floor area drains and sump pumps, sprinklers, lighting, fixtures, air-conditioning or heating equipment appurtenant thereto, which provide any service to the common elements or Units, including all wall structures and support columns and beams as well as any additional floor surfacing (membranes and coatings included), which may be located within any Parking Unit, Combined Parking/Storage Unit and Storage Unit.

(c) **Service Units**

- (i) Each Service Unit shall include exterior doors, door frames, windows and frames (if applicable) louvers and gratings, all pipes, wires, cables, ducts, shafts and mechanical and electrical apparatus, which provide a service or utility to the Unit only, regardless of whether or not same are located outside the Unit boundaries of each Service Unit described in Schedule "C".
- (ii) Each Service Unit shall exclude any pipe, wire, cable, conduit, duct, shaft, mechanical or electrical apparatus, which provides a service or utility to another Unit or the common elements.

1.5 Common Interest and Common Expense Allocation

Each owner shall have an undivided interest in the common elements as a tenant in common with all other owners in the proportions set forth opposite each Unit number in Schedule "D" attached hereto and shall contribute to the common expenses in the proportion set forth opposite each Unit number in Schedule "D" attached hereto. The total of the proportions of the common interest and proportionate contribution to common expenses shall each be one hundred (100%) percent.

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

The Corporation's address for service shall be 15 Maplewood Avenue, Toronto, Ontario M6C 4B4 or other address as the Corporation may by resolution of the Board determine, and the Corporation's mailing address shall be 15 Maplewood Avenue, Toronto, Ontario M6C 4B4. The Corporation's municipal address is 15 Maplewood Avenue, Toronto, Ontario M6C 4B4.

1.7 Approval Authority Requirements

The following conditions have been imposed by the approval authority to be included in the Declaration:

- (a) Non-disabled owners and/or occupants of the Disabled Parking Unit shall be obligated, upon notification by the Corporation, to exchange, at no cost to the person with a disability, the use of the Disabled Parking Unit with the person with a disability for the Parking Unit which was purchased by the person with the disability, in accordance with Section 4.3(e) herein.
- (b) Water to the Property and Adjoining Lands will be bulk metered. The Corporation shall be responsible to the local water authority for payment in full of the water bill.

1.8 Architect/Engineer Certificates

The certificate(s) of the architect(s) and/or engineer(s) confirming that all buildings on the Property have been constructed in accordance with the regulations made under the Act is/are contained in Schedule "G" attached hereto.

**ARTICLE II  
COMMON EXPENSES**

2.1 Specification of Common Expenses

The common expenses shall comprise the expenses of the performance of the objects and duties of the Corporation and such other expenses, costs and sums of money incurred by or on behalf of the Corporation that are specifically designated as (or collectable as) common expenses pursuant to the Act and/or the Declaration and without limiting the generality of the foregoing, shall include those expenses set out in Schedule "E" attached hereto.

2.2 Payment of Common Expenses

Each owner, including the Declarant, shall pay to the Corporation his/her proportionate share of the common expenses, and any special assessments and the assessment and collection of the contributions toward common expenses may be regulated by the Board pursuant to the by-laws of the Corporation. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of breach of any provision of the Declaration, or in any by-laws or rules in force from time to time, by any owner or by members of his/her family and/or their respective tenants, invitees or licensees, shall be borne and paid for by such owner and may be recovered by the Corporation against such owner in the same manner as common expenses.

2.3 Reserve Fund

- (a) The Corporation shall establish and maintain one or more reserve funds and shall collect from the owners as part of their contribution towards the common expenses, all amounts that are reasonably expected to provide sufficient funds for major repair and/or replacement of common elements and assets of the Corporation, all in accordance with the provisions of the Act;
- (b) No part of the reserve fund shall be used except for the purposes for which the fund was established. The reserve fund shall constitute an asset of the Corporation and shall not be distributed to any owner except on termination of the Corporation and in accordance with the provisions of the Act; and
- (c) For the purposes of the Act, the Declaration and/or the Shared Facilities Agreement, any and all portions of the Shared Facilities not comprising part of the registered Description of this condominium shall be deemed to be an "asset" of the Corporation for the purposes of utilizing any of its reserve fund(s) in connection

with this Corporation's responsibility to share the costs of repairing and/or replacing the Shared Facilities.

2.4 Status Certificate

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

**ARTICLE III  
COMMON ELEMENTS**

3.1 Use of Common Elements

Subject to the provisions of the Act, the Declaration, the by-laws and any rules, each owner has the full right to reasonable use, occupancy and enjoyment of the whole or any parts of the common elements, except as herein otherwise provided.

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

- (a) will result in a contravention of any term or provision set out in the Act, the Declaration, the by-laws, rules or policy of the Corporation, as adopted and/or amended from time to time, or pursuant to any agreement or instrument registered on title;
- (b) is likely to damage the property of the condominium, or impair the structural integrity of any Unit or common element area;
- (c) is likely to cause an injury or an illness or that is likely to affect or put at risk the health, safety and security of other owners or occupants of the common elements and/or their respective Units or that is in breach of any advice, recommendation and instructions issued by the Office of the Chief Medical Officer of Health, or other public health official;
- (d) create or causes any unreasonable noise, smell, or disruption that is deemed to be a nuisance, annoyance or disruption to an individual in a Unit, the common elements or the assets of the Corporation;
- (e) will unreasonably interfere with the use and enjoyment by the other owners of the common elements and/or their respective Units;
- (f) is in breach of any federal, provincial or municipal legislation, regulation, by-law order or ordinance; or
- (g) may result in the cancellation (or threatened cancellation) of any policy of insurance obtained or maintained by the Corporation, or that may significantly increase any applicable insurance premium(s) with respect thereto, or any deductible portion in respect of such policy.

No one shall, by any conduct or activity undertaken in or upon any part of the common elements, impede, hinder or obstruct any right, privilege, easement or benefit given to any party, person or other entity pursuant to the Declaration, any by-law and/or the rules or pursuant to any agreement or instrument registered on title.

3.2 Exclusive Use Common Elements

Subject to the provisions of and compliance with the Act, the Declaration, the by-laws and the rules, the owner of each Unit referred in Schedule "F" attached hereto shall have the exclusive use and enjoyment of those parts of the common elements as set out in Schedule "F" attached hereto.

3.3 Restricted Access

- (a) Except as provided in the Shared Facilities Agreement, without the consent in writing of the Board, no owner shall have the right of access to the Service Units or to those parts of the common elements used from time to time for the care, maintenance or operation of the Property or any part thereof as designated by the Board, from time to time; and
- (b) This Section 3.3 shall not apply to any mortgagee holding mortgages on at least thirty percent (30%) of the Units who shall have a right of access for inspection upon forty-eight (48) hours notice to the Corporation or its property manager.

3.4 Modifications of Common Elements, Assets and Services

(a) General Prohibition

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

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

The Corporation may make a non-substantial addition, alteration, or improvement to the common elements, a non-substantial change in the assets of the Corporation or a non-substantial change in a service that the Corporation provides to the owners in accordance with Section 97 of the Act.

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

The Corporation may, by a vote of owners who own at least sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the Units, make a substantial addition, alteration or improvement to the common elements, a substantial change in the assets of the Corporation or a substantial change in a service the Corporation provides to the owner in accordance with Section 97 of the Act.

3.5 Pets

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

3.6 Amenities

Only owners of a Residential Unit in the Condominium from time to time and their respective residents, tenants and invitees shall be entitled to use and enjoy the Amenities and only in accordance with any rules or by-laws of the Corporation which may require, *inter alia*, a fee per use for same as well as, in respect of the Party Lounge, a damage/security deposit, a service/cleaning charge, and a security charge to the extent it is deemed by the Board, in its sole and absolute discretion, that temporary security personnel is required to monitor the access and egress of the guests invited to the Party Lounge.

3.7 Declarant Rights

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

- (a) the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their

respective authorized agents, representatives and/or invitees shall have free and uninterrupted access to and egress from the common elements, for the purposes of implementing, operating and/or administering the marketing, sale, construction and/or customer-service program(s) of the Declarant and/or Receiver with respect to any unsold Units in the condominium, from time to time;

- (b) the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their respective authorized agents or representatives shall be entitled to erect and maintain signs and displays for marketing/sale purposes, as well as model suites and one or more offices for marketing, sales, construction and/or customer-service purposes, upon any portion of the common elements, and within or outside any unsold Units, within the Amenities space and within and at such other locations and having such dimensions as the Declarant and/or Receiver may determine in its sole and unfettered discretion, all without any charge to the Declarant and/or Receiver for the use of the space(s) so occupied nor for any utility services (or any other usual or customary services) supplied thereto or consumed thereby, nor shall the Corporation (or any one else acting on behalf of the Corporation) prevent or interfere with the provision of utility services (or any other usual or customary services) to the marketing/sales/construction/customer-service office(s) and said model suites of the Declarant and/or Receiver; and
- (c) the Corporation shall ensure that no actions or steps are taken by anyone which would prohibit, limit or restrict the access and egress of the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their respective authorized agents, representative and/or invitees in and over the common elements of the Corporation including the use of the amenity space for sales and marketing purposes,

until such time as all of the Units in this condominium have been transferred by the Declarant and/or Receiver.

#### ARTICLE IV UNITS

##### 4.1 General Use

The occupation and use of the Units shall be in accordance with the following restrictions and stipulations:

- (a) No Unit shall be occupied or used by a Unit owner or anyone else, in such a manner as is likely to damage or injure any person or property (including any other Units, any portion of the common elements and/or any portion of the Adjoining Lands) or in a manner that will impair the structural integrity, either patently or latently, of the Units, common elements and/or Adjoining Lands, or in a manner that will unreasonably interfere with the use or enjoyment by other owners of the Adjoining Lands, the common elements or their respective Units, or that may result in the cancellation or threat of cancellation of any insurance policy referred to in the Declaration or in the Shared Facilities Agreement, or that may increase any insurance premiums with respect thereto, or in such a manner as to lead to a breach by a Unit owner, by the Corporation and/or the owner of the Adjoining Lands of any provisions of the Declaration, the by-laws, and/or any agreement authorized by by-law including, without limitation, the Shared Facilities Agreement. If the use made by an owner of a Unit, other than the Declarant and/or Receiver (except as is contemplated in the Declaration or in the by-laws, or in any agreement authorized by by-law including without limitation, the Shared Facilities Agreement) causes injury to any person or causes latent or patent damage to any Unit, to any part of the common elements and/or the Adjoining Lands, or results in the premiums of any insurance policy obtained or maintained by the Corporation and/or the owner of the Adjoining Lands being increased, or results in such policy being cancelled, then such owner shall be personally liable to pay and/or fully reimburse the Corporation and/or the owner of the Adjoining Lands, as applicable, for all costs incurred in the rectification of the aforesaid damages, and for such increased portion of the insurance premiums so payable by the Corporation and/or the owner of the Adjoining Lands, as applicable (as a result of such owner's use) and such owner shall also be liable to pay and/or fully reimburse the Corporation and/or the owner of the Adjoining Lands, as applicable, for all other costs, expenses and liabilities suffered or incurred by the Corporation and/or the owner of the Adjoining Lands, as applicable, as a result of such owner's breach of the

foregoing provisions of this subparagraph as applicable to the condominium and such owner shall pay with his or her next monthly contribution towards the common expenses after receipt of a notice from the Corporation, all increases in premiums in respect of such policy or policies of insurance. All payments pursuant to this clause are deemed to be additional contributions towards common expenses and recoverable as such;

- (b) Each owner shall comply and shall require all members of his or her family, occupants, residents, tenants, invitees, servants, agents, contractors and licensees to his or her Unit to comply with the Act, the Declaration, the by-laws, the rules, and all agreements authorized by by-law including, without limitation, the Shared Facilities Agreement;
- (c) No change shall be made in the colour of any exterior glass, window, door or screen of any Unit except with the prior written consent of the Board. Each owner shall ensure that nothing is affixed, attached to, hung, displayed or placed on the exterior walls, including awnings and/or storm shutters, doors or windows of the building, nor shall an owner grow any type of plant, shrubbery, flower, vine or grass outside his or her Unit, except with the prior written consent of the Board, and further, when approved, subject to the rules. All shades or other window coverings shall be white or off-white when visible from the outside and all draperies shall be lined in white or off-white to present a uniform appearance to the exterior of the building. No clothesline or similar device shall be allowed on any portion of the Property nor shall clothes or other laundry be hung anywhere on the Property; and
- (d) No exterior aerial, antenna or satellite dish shall be placed on the Property, including Units and common elements, unless the Board consents in writing to the said antenna, aerial or satellite dish which consent may be arbitrarily withheld. Notwithstanding the foregoing, the Corporation shall be permitted to place one or more satellite dishes on the roof of the building if required to provide communication and television service to Units in the Corporation.

#### 4.2 Residential Units

- (a) Each Residential Unit shall be occupied and used for single-family residential purposes in accordance with the applicable zoning by-laws pertaining to the Property and for no other purpose whatsoever. The number of individuals who may occupy a Residential Unit shall be the same as the number permitted by the local municipal by-laws from time to time. The foregoing shall not prevent the Declarant and/or Receiver from completing the building and all improvements to the Property, maintaining Units as models for display and sale purposes, and otherwise maintaining, displays and signs for marketing/sales/leasing purposes upon the common elements, and within or outside any unsold Unit, until all Units in the Corporation have been sold by the Declarant and/or Receiver, or their related companies.
- (b) No sign, advertisement or notice of any type shall be inscribed, painted, affixed or displayed on any part of the inside or outside of any Unit without the express written consent of the Board, except for signs marketing the Property or the condominium or Units contained therein by the Declarant and/or Receiver or their related companies.
- (c) No animal, livestock or fowl of any kind other than two (2) general household domestic pets, including cats, dogs, canaries, budgies or other small caged birds, or an aquarium of goldfish or tropical fish, shall be kept or allowed in any Unit. No pet, which is deemed by the Board or the property manager, in their absolute discretion, to be a nuisance shall be kept by any owner in any Unit. Such owner shall, within two (2) weeks of receipt of a written notice from the Board requesting the removal of such pet, permanently remove such pet from the Property. No breeding of pets for sale or otherwise shall be carried on, in or around any Unit. Notwithstanding the generality of the foregoing, no pet deemed by the Board in their sole and absolute discretion, to be a danger to the residents of the Corporation shall be permitted in any Unit.
- (d) In the event the Board determines, in its sole discretion, acting reasonably, that any noise, odour or offensive action is being transmitted to another Unit and that such noise, odour or offensive action is an annoyance and/or a nuisance and/or disruptive (regardless of whether that Unit is adjacent to or wherever situated in relation to the offending Unit), then the owner of such Unit shall at his or her own

expense take such steps as shall be necessary to abate such noise, odour or offensive action to the satisfaction of the Board. In the event the owner of such Unit fails to abate the noise, odour or offensive action, the Board shall take such steps as shall be necessary to abate the noise, odour or offensive action and the owner shall be liable to the Corporation for all expenses incurred by the Corporation in abating the noise, odour or offensive action, which expenses are to include reasonable solicitor's fees on a solicitor and his or her own client basis which shall be deemed to be additional contributions to common expenses and recoverable as such.

- (e) No owner of a Unit shall make any change, addition, modification or alteration, except for any change, addition, modification or alteration which is solely decorative in nature, in or to his or her Unit without the prior written consent of the Board, which consent shall be in the sole and unfettered discretion of the Board and may be subject to such conditions may be determined by the Board.

#### 4.3 Parking Units

- (a) Each Parking Unit shall be used only for the parking of one (1) motor vehicle, no greater than two (2) metres in height, provided that where the size of a Parking Unit or space will so accommodate and the Corporation's rules so permit, more than one (1) vehicle may be parked therein.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use and occupation of Parking Units.
- (c) No owner of a Parking Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Parking Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Parking Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Parking Units not sold to purchasers and may dispose of its interest in any such retained Parking Units in accordance with the terms of the Declaration, including, without limitation, designating any Parking Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Parking Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.
- (e) The Disabled Parking Unit shall be subject to the following:
  - (i) In the event that a "person with a disability" as defined in the regulations promulgated pursuant to the *Highway Traffic Act*, R.S.O. 1990 c. H.8, as amended from time to time, including a person whose licence plate incorporates the international symbol for the disabled, purchases a Residential Unit and a Parking Unit which is not the Disabled Parking Unit, the owner or any person occupying the Disabled Parking Unit shall, if not disabled, upon notice from the Corporation and at the request of the person with a disability, exchange the right to occupy the Disabled Parking Unit with the person with a disability for the Parking Unit which was purchased by the person with a disability, said exchange of the right to occupy said space to continue for the full period of the person with a disability's residence in the building.
  - (ii) When a person with a disability requests an exchange of occupancy rights for the Disabled Parking Unit, the Corporation shall forthwith notify the owner of and any person occupying the Disabled Parking Unit and the owner and/or occupant shall complete the exchange of use immediately upon delivery of the notice provided said owner or occupant is not a person with a disability.

- (iii) No rent, charges, fees or costs whatsoever shall be charged by the owner, occupant or the Corporation in connection with the exchange of the right to occupy.

#### 4.4 Combined Parking/Storage Units

- (a) Each parking portion of a Combined Parking/Storage Unit shall be used only for the parking of one (1) motor vehicle, no greater than two (2) metres in height, provided that where the size of the parking portion of a Combined Parking/Storage Unit will so accommodate and the Corporation's rules so permit, more than one (1) vehicle may be parked therein. Each storage portion of a Combined Parking/Storage Unit shall be used for the sole purpose of storage of personal belongings.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use and occupation of Combined Parking/Storage Units.
- (c) No owner of a Combined Parking/Storage Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Combined Parking/Storage Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Combined Parking/Storage Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Combined Parking/Storage Units not sold to purchasers and may dispose of its interest in any such retained Combined Parking/Storage Units in accordance with the terms of the Declaration, including, without limitation, designating any Combined Parking/Storage Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Combined Parking/Storage Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.

#### 4.5 Storage Units

- (a) Storage Units shall be used for the sole purpose of storage of personal belongings.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use of Storage Units.
- (c) No owner of a Storage Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Storage Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Storage Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Storage Units not sold to purchasers and may dispose of its interest in any such retained Storage Units in accordance with the terms of the Declaration, including, without limitation, designating any Storage Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Storage Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.

#### 4.6 Leasing of Units

- (a) Where an owner leases his/her Unit, the owner shall within ten (10) days of entering into a lease or a renewal thereof:

- (i) notify the Corporation that the Unit is leased;
  - (ii) provide the Corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in accordance with the form prescribed by Section 40 of Regulation 49/01; and
  - (iii) provide the lessee with a copy of the Declaration, by-laws and rules of the Corporation.
- (b) If a lease of a Unit is terminated and not renewed, the Unit owner shall notify the Corporation in writing forthwith and in any event not later than the tenth (10<sup>th</sup>) day following termination.
- (c) No tenant shall be liable for the payment of common expenses unless notified by the Corporation that the owner is in default of payment of common expenses, in which case the tenant shall deduct, from the rent payable to the owner, the owner's share of the common expenses and shall pay the same to the Corporation.
- (d) An owner leasing his/her Unit shall not be relieved thereby from any of his/her obligations with respect to the Unit, which shall be joint and several with his/her tenant.

#### 4.7 Service Units

- (a) Service Units shall only be used to house the equipment and provide the services for which they were designed for the benefit of the Corporation and the owner of the Adjoining Lands, and in accordance with the terms of the Shared Facilities Agreement.
- (b) Ownership of the Service Units shall ultimately be conveyed by the Declarant to the Corporation and the owner of the Adjoining Lands, as tenants-in-common, each as to an undivided 50% interest.
- (c) The actual transfer of ownership of the Service Units by the Declarant to the owner of the Adjoining Lands and the Corporation shall occur within one hundred and twenty (120) days after the date the Condominium has been registered by the Declarant or as soon as possible thereafter.
- (d) Once an interest in the Service Units has been transferred to the owner of the Adjoining Lands by the Declarant as aforesaid, any further sale, transfer, mortgage, charge, encumbrances or other conveyance of the whole or any portion of the Service Units shall require the consent of the co-owner of the Service Units (unless such sale, transfer, mortgage, charge, or other conveyance includes both the Adjoining Lands and all the owner of the Adjoining Land's interest in the Service Units) and shall also require (in addition to any other approvals which may be required pursuant to the provisions of the Act, this Declaration and/or the Shared Facilities Agreement) every prospective new owner, mortgagee, chargee or encumbrancer of the Service Units to execute (by way of counterpart or otherwise) an agreement in favour of the co-tenant(s) of the Service Units, covenanting to be bound by all of the terms and provisions of the Declaration and the Shared Facilities Agreement, as applicable, to the same extent and effect as if it had been an original party thereto, but only to the extent that such new owner, mortgagee, chargee or encumbrancer goes into possession of, or becomes a registered owner of the Service Units. Until a mortgagee, chargee or encumbrancer becomes an owner of the Service Units or goes into possession of the Service Units, it shall have no liability hereunder. If a person does become an owner of an interest in the Service Units or goes into possession of the whole or any portion of the Service Units and thereafter either conveys such ownership portion of the Service Units to a third party, which third party executes an agreement in favour of the co-tenant of the Service Units covenanting to be bound by all of the terms and provisions of the Declaration and Shared Facilities Agreement, or goes out of possession of such portion of the Service Unit to which they are entitled (in the case of a mortgagee, chargee or other encumbrancer), in compliance with the provisions hereof; then such owner, mortgagee, chargee or encumbrancer shall thereafter have no further liability under this Declaration or the Shared Facilities Agreement with respect to the Service Units or part thereof so conveyed.
- (e) Once ownership of the Service Units has been transferred to the Corporation by the Declarant as aforesaid, any further sale, transfer, mortgage, charge,

encumbrances or other conveyance of the whole or any portion of the Service Units by the Corporation shall require the consent of the co-owner of the Service Units, together with the prior approval of two-thirds of the Residential Unit owners (with such Unit owners' approvals being procured from owners who are present, in person or by proxy, at a meeting duly called for the purpose of obtaining such approval). In addition, every new owner, mortgagee, chargee or encumbrancer of the Service Units shall be required to execute (by way of counterpart or otherwise) an agreement in favour of the co-tenant(s) of the Service Units, covenanting to be bound by all of the terms and provisions of the Declaration and the Shared Facilities Agreement as applicable, to the same extent and effect as if it had been an original party thereto, but only to the extent that such new owner, mortgagee, chargee or encumbrancer goes into possession of, or becomes a registered owner of the Service Units.

- (f) Any instrument or other document purporting to sell, transfer, convey, mortgage, charge or encumber an owner's undivided interests as tenants-in-common in the Service Units, without the new agreement or counterpart being executed and delivered (as the case may be) as required in the immediately preceding subparagraphs, shall be null and void and of no force or effect whatsoever.

## ARTICLE V MAINTENANCE AND REPAIRS

### 5.1 Repairs and Maintenance by Owner

- (a) Each owner shall maintain his/her Unit, and subject to the provisions of the Declaration, each owner shall repair his or her Unit including repair or replacement after wear and tear and/or damage and all improvements and betterments made or acquired by an owner or as defined by reference to a standard unit for the class of unit to which the Unit belongs, all at his or her own expense, save and except for any repair after damage for which the cost of repair is recovered under any policy of insurance held or maintained by the Corporation. Repairs and maintenance of Units shall be performed by the owners to a standard and using material consistent with the quality of those used in the original construction therefor and as may otherwise be required by the Board. In addition, without limiting the generality of the foregoing, each owner shall maintain:
  - (i) The temperature in the Unit above ten (10) degrees Celsius at any and all time. To effect and maintain such temperature, the Corporation shall be entitled to repair and, if necessary, replace the heating apparatus or take other reasonable steps required to maintain such temperature, at the expense of the Owner. Any costs incurred by the Corporation in maintaining the temperature within a Unit at said temperature, or as a result of the owner having failed to maintain such temperature, including damage to the common elements or to any portion of any Unit for which the Corporation has not been indemnified under its master insurance policy, shall be payable by the Unit owner forthwith upon the expenditure being incurred or payment being demanded. Any payment required under this Article shall be deemed to be a common expense of the Unit and shall be recoverable as such;
  - (ii) the interior surface of doors which provide the means of ingress and egress from his Unit and repair damage to those doors caused by the negligence of the owner and/or residents, family members, guests, visitors, tenants, licensees or invitees to such Unit;
  - (iii) the interior surface of all windows in Residential Units and interior and exterior surfaces of all windows and window sills contiguous to his or her Unit and which are accessible by the terrace or balcony, together with the terrace or balcony which has been designated as an exclusive use area in respect of such Unit; and shall be responsible for the costs incurred by the Corporation to repair damage to those windows caused by an act or omission of the owner, residents, family members, guests, visitors, tenants, licensees or invitees to the Unit;
  - (iv) all pipes, wires, cables, conduits, ducts and mechanical or similar apparatus, that supply any service to his or her Unit only;

- (v) all exhaust fans and fan motors located in the kitchen and bathroom areas of the Unit or adjacent common elements that service his or her Unit only;
  - (vi) his or her Parking Unit (including the parking portion of a Combined Parking/Storage Unit) in a clean and slightly condition, notwithstanding that the Corporation may make provision in its annual budget for the cleaning of said Units;
  - (vii) the exclusive use terrace or balcony to which his or her Unit has exclusive use in a clean and slightly condition; and
  - (viii) the fireplace, if applicable, which shall be repaired and maintained by a certified technician as required and on a regular basis.
- (b) Each owner shall further maintain, repair and replace the heating, air conditioning (if applicable) and ventilation equipment, including thermostatic controls contained within and servicing the owner's Unit only, such maintenance to include regularly scheduled inspections of all such equipment. Such periodic maintenance shall include the cleaning and replacement of air filters. The Corporation may make provision in its annual budget for the maintenance and repair of the heating system, servicing each Unit, including the replacement of air filters, whereupon such costs shall be allocated as part of the common expenses. Each owner shall be liable for any damage due to the malfunction of such equipment caused by the act or omission of an owner, his servants, agents, tenants, family or guests. No owner shall make any change, alteration or addition in or to such equipment without the prior written consent of the Board;
- (c) The Corporation shall conduct such maintenance and make any repairs that an owner is obliged to make and that he/she does not make within a reasonable time and in such an event, an owner shall be deemed to have consented to having said maintenance and/or repairs done by the Corporation, and an owner shall reimburse the Corporation in full for the cost of such maintenance and repairs, including any legal or collection costs incurred by the Corporation to collect the costs of such maintenance and repairs, and all such costs shall bear interest at the Prime Rate of interest charged from time to time by the financial institution that holds the Corporation's operating account plus 3% per annum calculated monthly not in advance, until paid by the owner. The Corporation may collect all such costs in such installments as the Board may decide upon. The installments shall form part of the monthly contributions towards the common expenses of such owner, after the Corporation has given written notice thereof. All such payments are deemed to be additional contributions towards the common expenses and recoverable as such.

#### 5.2 Responsibility of Owner for Damage

Each owner shall be responsible for all damage to any and all other Units and to the common elements, which is caused by the failure of the owner, his or her residents, family members, guests, visitors, tenants, licensees or invitees to his or her Unit, to so maintain and repair his or her Unit and such parts of the common elements for which he or she is responsible or caused by the negligence or willful misconduct of the owner, his or her residents, family members, guests, visitors, tenants, licensees or invitees, save and except for any such damage for which the cost of repairing same is recovered under any policy of insurance held by the Corporation.

#### 5.3 Repair and Maintenance by Corporation

- (a) Save as otherwise specifically provided in the Declaration to the contrary, the Corporation shall maintain, and repair after damage, the common elements (other than as provided in the subsequent sentence and other than any improvements to and/or any facilities, services or amenities installed by any Unit owner upon any common element areas set aside for the exclusive use of any owner). The Corporation shall further maintain and repair those common elements and other facilities shared between the Property and the Adjoining Lands, such maintenance and repairs to be carried out by the Corporation and the owner of the Adjoining Lands pursuant to the Shared Facilities Agreement. In order to maintain a uniformity of appearance throughout the condominium, the Corporation's duty to maintain and repair shall extend to all exterior surfaces of doors which provide access to the Units, exterior door frames, exterior window frames and all exterior window surfaces, and any exterior perimeter fences erected by the Declarant along

the boundaries of the Property, save and except as provided for in Section 5.1(b)(ii).

- (b) Notwithstanding anything provided in Section 5.3(a) hereof to the contrary, it is understood and agreed that each owner shall be responsible for the maintenance of all interior door and window surfaces with respect to his or her Residential Unit.
- (c) Every owner shall forthwith reimburse the Corporation for repairs to windows and doors serving his or her Unit, following damage to same caused by such owner's negligence, or the negligence of his or her residents, tenants, invitees or licensees.

5.4 Repair and Maintenance of Shared Facilities

The Corporation shall, with respect to any damage to any portion of the Shared Facilities comprising any Unit or portion of the common elements of this condominium, make (or arrange for) any repairs that any owner is obligated to make and that he or she does not make within a reasonable time, after written notice is given to such owner by the Corporation. In such event, an owner shall be deemed to have consented to having repairs done to his or her Unit by the Corporation. The owner shall reimburse the Corporation in order to collect the costs of such repairs, and all such costs shall bear interest at the Prime Rate of interest charged from time to time by the financial institution that holds the Corporation's operating account plus 3% per annum calculated monthly not in advance, until paid by the owner. The Corporation may collect such costs in such instalments as the Board may decide upon, which instalments shall be added to the monthly contributions towards the common expenses of such owner, after receipt of written notice from the Corporation thereof, and shall be treated in all respects as common expenses, and be recoverable as such.

**ARTICLE VI  
INDEMNIFICATION**

- 6.1 Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act or omission of such owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees, to or with respect to the common elements and/or all other Units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) for an insurable event for which the Corporation has been indemnified under any policy of insurance held or maintained by the Corporation.
- 6.2 Each owner shall also indemnify the Declarant and the Corporation for all their legal costs and disbursements (including legal fees on a solicitor and client basis) incurred:
  - (a) As a result of a breach to, or in effecting compliance with, the Declaration, by-laws, rules, policy and/or the Act by such owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees or anyone for whom the owner is responsible at law;
  - (b) In bringing, defending or responding to any court or tribunal application or other legal action or proceeding or threat of legal action or proceeding or circumstances that could give rise to any of the foregoing involving the owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees or anyone for whom the owner is responsible at law pursuant to the Act or on account or related to the provisions of the Declaration, by-laws, rules or policy of the Corporation.
- 6.3 Each owner is responsible for indemnifying the Corporation or the Declarant, as the case may be, for the legal costs, fees and disbursements incurred by the Corporation or the Declarant, as the case may be, in effecting such compliance or pursuant to such court or tribunal application or other legal action or proceeding even if the owner is not in possession of the Unit but has leased the same or granted any other right of occupation with respect to same.
- 6.4 If damage should occur or be caused to any part of the common elements and/or the standard unit portion of any Unit by an owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees or anyone for whom the owner is responsible at law, the owner shall be responsible to pay the amount that is the lesser of the cost of repairing the said damage and the deductible limit of the Corporation's insurance policy and such cost, and any cost associated with the collection or attempted collection of such cost, shall be added to the common expenses payable on account of

the owner's unit.

- 6.5 All payments to be made by an owner pursuant to this Article shall be deemed to be additional contributions toward common expenses payable by such owner and shall be recoverable as such.

## ARTICLE VII INSURANCE

### 7.1 By the Corporation

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

(a) "All Risk" Insurance

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

- (i) the Property and building, but excluding improvements made or acquired by an owner; and
- (ii) all assets of the Corporation, but not including furnishings, furniture, or other personal property supplied or installed by the owners;

in an amount equal to the full replacement cost of such real and personal property, and of the Units and common elements, without deduction for depreciation. This insurance may be subject to a loss deductible clause as determined by the Board from time to time, and which deductible shall be the responsibility of the Corporation in the event of a claim with respect to the Units and/or the common elements (or any portion thereof), provided however that if an owner, tenant or other person residing in the Unit with the knowledge or permission of the owner, through an act or omission causes damage to such owner's Unit, or to any other Unit(s), or to any portion of the common elements, then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's Unit.

(b) Public Liability Insurance

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

(c) Boiler, Machinery and Pressure Vessel Insurance

Insurance against the Corporation's liability arising from the ownership, use or occupation, by or on its behalf of boilers, machinery, pressure vessels and motor vehicles to the extent required as the Board may from time to time deem advisable.

(d) Policy Provisions

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

- (i) waivers of subrogation against the Corporation, its directors, officers, manager, agent, employees and servants and against the owners, and the owners' respective residents, tenants, invitees or licensees, except for damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused by any one of the above;

- (ii) such policy or policies of insurance shall not be terminated or substantially modified without at least sixty (60) days prior written notice to the Corporation and to the insurance trustee;
- (iii) waivers of the insurer's obligation to repair, rebuild or replace the damaged property in the event that after damage the government of the Property is terminated pursuant to the Act;
- (iv) waivers of any defence based on co-insurance (other than a stated amount co-insurance clause);
- (v) waivers of any defence based on any invalidity arising from the conduct or act or omission of or breach of a statutory condition by any insured person; and
- (vi) such waivers and other provisions as may be required by the Shared Facilities Agreement .

## 7.2 General Provisions

- (a) The Corporation, its Board and its officers shall have the exclusive right, on behalf of itself and as agents for the owners, to adjust any loss and settle any claims with respect to all insurance placed by the Corporation, and to give such releases as are required, and any claimant, including the owner of a damaged Unit, shall be bound by such adjustment, provided, however, that the Board may in writing, authorize any owner, in writing, to adjust any loss to his/her Unit;
- (b) Every mortgagee shall be deemed to have agreed to waive any right to have proceeds of any insurance applied on account of the mortgage where such application would prevent application of the insurance proceeds in satisfaction of an obligation to repair. This Section 7.2(b) shall be read without prejudice to the right of any mortgagee to exercise the right of an owner to vote or to consent if the mortgage itself contains a provision giving the mortgagee that right;
- (c) A certificate or memorandum of all insurance policies, and endorsements thereto, shall be issued as soon as possible to each owner, and a duplicate original or certified copy of the policy to each mortgagee who has notified the Corporation of its interest in any Unit. Renewal certificates or certificates of new insurance policies shall be furnished to each owner and to each mortgagee noted on the Record of the Corporation who has requested same. The master policy for any insurance coverage shall be kept by the Corporation in its office, available for inspection by any owner or mortgagee on reasonable notice to the Corporation;
- (d) No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation. No insured shall be entitled to direct that the loss shall be payable in any manner other than as provided in the Declaration and the Act;
- (e) Where insurance proceeds are received by the Corporation or any other person rather than the insurance trustee, they shall be held in trust and applied for the same purposes as are specified otherwise in Article VIII; and
- (f) Prior to obtaining any new policy or policies of insurance and at such other time as the Board may deem advisable and also upon the request of a mortgagee or mortgagees holding mortgages on fifty percent (50%) or more of the Units and in any event, at least every three (3) years, the Board shall obtain an appraisal from an independent qualified appraiser of the full replacement cost of the assets for the purpose of determining the amount of insurance to be effected and the cost of such appraisal shall be a common expense.

## 7.3 By the Owner

- (a) It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that the following insurance must be obtained and maintained by each owner at such owner's own expense:
  - (i) insurance on any improvements to a Unit to the extent same are not covered as part of the standard unit for the class of unit to which the owner's Unit belongs by the insurance obtained and maintained by the Corporation

and for furnishings, fixtures, equipment, decorating and personal property and chattels of the owner contained within the Unit and the personal property and chattels stored elsewhere on the Property, including automobiles, and for loss of use and occupancy of the Unit in the event of damage. Every such policy of insurance shall contain waiver(s) of subrogation against the Corporation, its directors, officers, manager, agents, employees and servants, and against the other owners and any members of their household or guest except for any damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused or contributed by any of the aforementioned parties.

- (ii) public liability insurance covering any liability of any owner or any resident, tenant, invitee or licensee of such owner, to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation.
  - (iii) insurance covering the deductible on the Corporation's master insurance policy for which an owner may be responsible.
- (b) Owners are recommended to obtain, although it is not mandatory, insurance covering:
- (i) additional living expenses incurred by an owner if forced to leave his or her Unit by one of the hazards protected against under the Corporation's policy; and
  - (ii) special assessments levied by the Corporation and contingent insurance coverage in the event the Corporation's insurance is inadequate.

7.4 Indemnity Insurance for Directors and Officers of the Corporation

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

**ARTICLE VIII  
INSURANCE TRUSTEE AND PROCEEDS OF INSURANCE**

8.1 The Corporation may enter into an agreement ("Insurance Trust Agreement") with an insurance trustee which shall be a Trust Company registered under the *Loan and Trust Corporations Act*, R.S.O. 1990, c. L.25, or shall be a Chartered Bank, which agreement shall, without limiting its generality, provide the following:

- (a) the receipt by the insurance trustee of any proceeds of insurance in excess of fifteen percent (15%) of the replacement costs of the property covered by the insurance policy.
- (b) the holding of such proceeds in trust for those entitled thereto pursuant to the provisions of the Act, the Declaration, and any amendments thereto.
- (c) the disbursement of such proceeds in accordance with the provisions of the Insurance Trust Agreement.
- (d) the notification by the insurance trustee to the mortgagees of any insurance monies received by it.

If the Corporation is unable to enter into such agreement with such Trust Company or such Chartered Bank, by reason of its refusal to act, the Corporation may enter into such agreement with such other corporation authorized to act as a trustee, as the owners may approve by by-law at a meeting called for that purpose. The Corporation shall pay the fees and disbursements of any insurance trustee and any fees and disbursements shall constitute a common expense.

8.2 In the event that:

- (a) the Corporation is obligated to repair or replace the common elements, any Unit, or any asset insured in accordance with the provisions of the Act, the insurance trustee shall hold all proceeds for the Corporation and shall disburse same in accordance with the provisions of the Insurance Trust Agreement in order to satisfy the obligation of the Corporation to make such repairs;
- (b) there is no obligation by the Corporation to repair or replace, and if there is termination in accordance with the provisions of the Act, or otherwise, the insurance trustee shall hold all proceeds for the owners in the proportion of their respective interest in the common elements and shall pay such proceeds to the owners in such proportions upon registration of a notice of termination by the Corporation. Notwithstanding the foregoing, any proceeds payable as aforesaid shall be subject to payment in favour of any mortgagee or mortgagees to whom such loss is payable in any policy of insurance and in satisfaction of the amount due under a Certificate of Lien registered by the Corporation against such Unit, in accordance with the priorities thereof;
- (c) the Board, in accordance with the provisions of the Act, determines that:
  - (i) there has not been substantial damage to twenty-five percent (25%) of the buildings; or
  - (ii) there has been substantial damage to twenty-five percent (25%) of the buildings and within sixty (60) days thereafter the owners who own eighty percent (80%) of the Units do not vote for termination,

the insurance trustee shall hold all proceeds for the Corporation and owners whose Units have been damaged as their respective interest may appear and shall disburse same in accordance with the provisions of the Declaration and the Insurance Trust Agreement in order to satisfy their respective obligations to make repairs pursuant to the provisions of the Declaration and the Act.

**ARTICLE IX  
SHARED FACILITIES**

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

- (a) Save as otherwise provided in the Declaration to the contrary, any easement that the Property enjoys or is subject to, shall be used only in accordance with the provisions of the Shared Facilities Agreement by the persons entitled thereto. Save as otherwise provided in the Shared Facilities Agreement to the contrary, no provision contained in any of the by-laws or rules of the Corporation shall restrict the access to, egress from and/or use of the Shared Facilities by the persons entitled thereto, save for any reasonable controls or restrictions imposed on access thereto by the Board for the Shared Facilities as permitted by the Shared Facilities Agreement.
- (b) The Corporation's share of the Shared Facilities Costs shall be calculated and paid as provided in the Shared Facilities Agreement. The annual budget for the Corporation shall incorporate budgeted amounts for the same period for Shared Facilities Costs anticipated to be incurred by the Corporation pursuant to the Shared Facilities Agreement.

9.2 Water, Gas and Electricity Consumption

- (a) The main supply for utilities to the Property and the Adjoining Lands from the local authorities, including water, gas, and electricity, is connected to the Property and same are not separately metered in respect of the common elements of the Corporation and the Units, nor in respect of the Property and the Adjoining Lands. As such, each such utility is bulk metered and the costs incurred in respect of same shall correspondingly comprise part of the common expenses of the Corporation. Notwithstanding the foregoing, each Residential Unit in this condominium shall be individually check metered for its respective electricity consumption, so that the cost of the electricity utilized or consumed by each owner's Residential Unit, and any exclusive use common element area(s) appurtenant thereto, shall not comprise part of the common expenses, but rather shall be borne and paid for by

each Residential Unit owner, in addition to the common expenses attributable to the owner's Residential Unit.

- (b) The costs attributable to the Adjoining Lands for utilities consumed by, or attributable to, the Adjoining Lands shall be paid/reimbursed to the Corporation by the owner of the Adjoining Lands in accordance with the terms of the Shared Facilities Agreement.

**ARTICLE X  
DUTIES OF THE CORPORATION**

10.1 In addition to any other duties or delegations of the Corporation set out elsewhere in the Act, the Declaration, and/or in the by-laws of the Corporation, the Corporation shall have the following duties, namely:

- (a) to assume and/or enter into the Shared Facilities Agreement as soon as reasonably possible following the registration of the Declaration, and to observe and comply (and insofar as possible, compel the observance and/or compliance by all Unit owners, residents and their respective tenants and/or invitees) with all terms and provisions contained in the Shared Facilities Agreement in addition to complying (and insofar as possible compelling the observance and/or compliance by all Unit owners, residents and their respective tenants and/or invitees) with all of the requirements set forth in the Act, and all of the terms and provisions set forth in the Declaration and by-laws of this Corporation;
- (b) to ensure that no actions or steps are taken by the Corporation or by any Unit owner which would prohibit, limit or otherwise restrict, the enjoyment of the benefit of any of the easements over the servient portion of the Property by the owners, residents, tenants, subtenant, permitted occupants and/or invitees of the Adjoining Lands or any other parties entitled thereto;
- (c) to not interfere with the supply of (and insofar as the requisite services are supplied from the Corporation's property, to cause) heat, hydro, water, gas and all other requisite utility services (including such services which constitute Shared Facilities) to be provided to the Property or Adjoining Lands so that same are fully functional and operable during normal or customary hours of use;
- (d) to ensure that no actions or steps are taken by any Unit owner, or any owner of the Adjoining Lands or by their respective representatives, agents, contractors, residents, tenants, invitees and/or permitted occupant which would constitute a breach by the Corporation or the owner of the Adjoining Lands of the Shared Facilities Agreement, and to enforce the provisions of the Shared Facilities Agreement against such parties where applicable;
- (e) to operate, maintain and keep in good repair (or cause to be operated, maintained and/or repaired) as would a prudent owner of similar premises at all times, those parts of the common elements of this condominium which service or benefit or constitute the Shared Facilities;
- (f) to take all reasonable steps to collect from each Unit owner his or her proportionate share of the common expenses and to maintain and enforce the Corporation's lien arising pursuant to the Act, against each Unit in respect of which the owner has defaulted in the payment of common expenses;
- (g) to take all reasonable steps to maintain and enforce the Corporation's charge arising pursuant to the provisions of the Shared Facilities Agreement, against the owners from time to time of the Adjoining Lands with respect to a default in payment of any money pursuant to the Shared Facilities Agreement by the owners from time to time of the Adjoining Lands;
- (h) to pay the costs and expenses owing by or required by the Corporation pursuant to the Shared Facilities Agreement;
- (i) to, upon request, provide the requesting party with a certificate of compliance, with respect to the Shared Facilities Agreement, in the manner set out in the Shared Facilities Agreement. The Corporation shall forthwith provide the Declarant and/or Receiver with such a certificate of compliance, as may be requested from time to time by or on behalf of the Declarant and/or Receiver in connection with a sale or

mortgage of any Unit, all at no charge or fee to the Declarant and/or Receiver or the person requesting same on behalf of the Declarant and/or Receiver;

- (j) to accept and register the transfer/deed from the Declarant of this Corporation's Proportionate Shared Unit Interest and/or an undivided interest in the Service Units (in accordance with, and at the time(s) contemplated by, the Declaration and Shared Facilities Agreement) and to complete and execute all requisite documentation and affidavits necessary to effect the registration of such conveyance, all without cost to the Declarant;
- (k) to execute forthwith upon the request of the Declarant following the transfer of title to the Service Units such documents, releases and assurances as the Declarant may reasonably require in order to evidence and confirm the formal cessation of all the Declarant's liabilities and obligations under the Shared Facilities Agreement and/or with respect to the Shared Facilities (as same relate to the condominium and for which the Declarant was responsible for prior to the registration of the condominium, if any);
- (l) the Board shall, after notification thereof, adopt without amendment and be bound by, all decisions of the parties to the Shared Facilities Agreement in connection with matters dealt with in the Shared Facilities Agreement as if such decisions were made by the Board itself, including decisions with respect to the determination of the Shared Facilities Costs;
- (m) to take all actions reasonably necessary as may be required to fulfil any of the Corporation's duties and obligations pursuant to this Declaration and the Shared Facilities Agreement; and
- (n) to accept and register within thirty (30) days of being requested by the Declarant, a transfer/deed of land of any Parking Units, Storage Units, and/or Combined Parking /Storage Units (or similar type Units) not sold by the Declarant.

#### ARTICLE XI GENERAL MATTERS AND ADMINISTRATION

##### 11.1 Rights of Entry to the Unit

- (a) The Corporation or any insurer of the Property or any part thereof, their respective agents, or any other person authorized by the Board, shall be entitled to enter any Unit or any part of the common elements over which any owner has the exclusive use, at all reasonable times and upon giving reasonable notice, to perform the objects and duties of the Corporation, and, without limiting the generality of the foregoing, for the purpose of making inspections, adjusting losses, making repairs, correcting any conditions which violate the provisions of any insurance policy and remedying any condition which might result in damage to the Property or any part thereof or carrying out any duty imposed upon the Corporation. In addition, the Corporation, its agents or any other person authorized by the Board shall be entitled to enter where necessary, any Unit or any part of the common elements over which the owners of such Units have the exclusive use at such reasonable time(s) to facilitate window washing;
- (b) In case of an emergency, an agent of the Corporation may enter a Unit at any time and this provision constitutes notice to enter the Unit in accordance with the Act for the purpose of repairing the Unit, common elements, including any part of the common elements over which any owner has the exclusive use, or for the purpose of correcting any condition which might result in damage or loss to the Property. The Corporation or anyone authorized by it may determine whether an emergency exists;
- (c) If an owner shall not be personally present to grant entry to his Unit, the Corporation or its agents may enter upon such Unit without rendering it, or them, liable to any claim or cause of action for damages by reason thereof provided that they exercise reasonable care;
- (d) The Corporation shall retain a master key to all locks to each Unit. No owner shall change any lock or place any additional locks on the doors to any Unit or any doors within the Unit or to any part of the common elements of which such owner has the exclusive use without the prior written consent of the Board. Where such consent has been granted by the Board, said owner shall forthwith provide the Corporation

with keys to all new locks (as well as keys to all additional locks) so installed, and all such new or additional locks shall be keyed to the Corporation's master key entry system; and

- (e) The rights and authority hereby reserved to the Corporation, its agents, or any insurer or its agents, do not impose any responsibility or liability whatever for the care or supervision of any Unit except as specifically provided in the Declaration or the by-laws.

11.2 Invalidity

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

11.3 Waiver

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

11.4 Interpretation of Declaration

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

11.5 Headings

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

***[the remainder of this page has been intentionally left blank; signature page follows]***

**WITNESS** that pursuant to the Order registered as Instrument No. AT2905656, the Receiver and Manager has signed this Declaration by the hands of its proper officer duly authorized in that behalf.

The Court Order is still in full force and effect.

DATED at Toronto, this    day of            , 2021

**ROSE OF SHARON (ONTARIO) RETIREMENT  
COMMUNITY by DELOITTE RESTRUCTURING INC.,  
solely in its capacity as court-appointed Receiver  
and Manager and not in its personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

## SCHEDULE "A"

### DESCRIPTION OF LANDS

In the City of Toronto and in the Province of Ontario, being composed of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), designated as Parts 1, 2, 4, 5, 6, 7, 9, 11 and 12, Plan 66R-30578, being part of PIN 10468-0599 (LT) (hereinafter referred to as the "**Condominium Lands**").

SUBJECT TO an easement in favour of the owners, their successors and assigns of Part of Lots 23 and 24, Block F, Registered Plan 875 (York), as more particularly described in Instrument No. TB412477, being all of PIN 10468-0425 (LT), over Part of Lot 24, Block F, Registered Plan 875 (York), designated as Part 1, Plan 66R-30578, for the purposes as set out in Instrument No. TB374581 and Instrument No. CA439308.

TOGETHER WITH an easement over Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), being Parts 1 and 2 on Plan 66R-23529 as in Instrument No. AT5176027; City of Toronto.

#### Easements in favour of the Long Term Care Facility Lands

**RESERVING** non-exclusive easements, rights-of-way or rights in the nature of easements in favour of the owners from time to time of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), designated as Parts 3, 8, 10, 13, 14, 15 and 16, Plan 66R-30578, being part of PIN 10468-0599 (LT) (hereinafter referred to as the "**Long Term Care Facility Lands**"), and their contractors, agents, employees, tenants and invitees, which said non-exclusive rights-of-way or rights in the nature of easements are as follows:

- a) in, over, along, upon and through the common elements of the Condominium on Levels 1, A and B of the Condominium, including the ramps, driveways, drive aisles, receiving areas, exterior sidewalks and exterior walkways situate thereon, for the purposes of providing ingress and egress of pedestrians and (where practicable) vehicles, including, but not limited to vehicles for garbage and recycling, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands and for the purpose of ingress and egress of pedestrians and vehicles to and from the Long Term Care Facility Lands through the parking garage;
- b) in, over, along, upon and through that part of the common elements of the Condominium designated as Parts 4, 9, 11 and 12, Plan 66R-30578, including the stairwells, vestibules, lobbies and hallways situate thereon, for the purposes of providing pedestrian ingress and egress, including, but not limited to, pedestrian ingress and egress to and from the Long Term Care Facility Lands, emergency egress, the transport of garbage and recycling materials, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands;
- c) in, over, along, upon and through that part of the common elements of the Condominium designated as Part 6, Plan 66R-30578, including the receiving area situate thereon, for the purposes of providing vehicular and pedestrian ingress and egress, including, but not limited to, vehicles for garbage and recycling, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands;
- d) in, over, along, upon and through the common elements of the Condominium, for the purpose of allowing the access of persons, materials, vehicles and equipment necessary for the construction, maintenance, repair, operation, inspection, installation, reconstruction, alteration, relocation and replacement of any part of the building or building's installations or appurtenances situated thereon which service the Long Term Care Facility Lands, and any mechanical or electrical apparatus, installation or equipment including, but not limited to, gas mains, transformers, water mains, storm and sanitary sewers, storm water retention facilities, sprinkler mains, irrigation systems, pumping stations, window washing equipment and all appurtenances, electrical cables, wires, conduits or ducts, telephone, telecommunication and television cables, wires, conduits or ducts, fire alarm systems, security systems and sump pumps, and various other services and utilities, all of which are situated within the Condominium Lands, and which are necessary for the operation of the building or buildings situated within the Long Term Care Facility Lands and to further permit the crossing, penetrating, boring or travelling onto or through any transfer slab, floor slab, ceiling slab, concrete block or masonry wall or drywall enclosure or other similar installations to facilitate such work;

- e) in, over, along, upon and through the common elements of the Condominium for the purpose of maintaining support and, without limiting the generality of the foregoing, in and through all structural members, including, but not limited to, load bearing walls, pillars, columns, beams, floor and roof slabs, footings, foundation and soil situated within the common elements of the Condominium, and which are necessary for support of the Long Term Care Facility Lands including, without limitation, the building or buildings, installations and all appurtenances thereto situate within the Long Term Care Facility Lands;
- f) in, over, along, upon and through the common elements of the Condominium for the access of persons, vehicles, materials and equipment necessary for the maintenance, repair, operation, construction and reconstruction of the building(s) or other improvements or any portion thereof situated within the Long Term Care Facility Lands; and
- g) in, over, along, upon and through the common elements of the Condominium for the purpose of free, unimpeded, unobstructed and uninterrupted flow of air in and through the air intake and air exhaust shafts situate therein;

subject to the limitations and provisions of any agreements registered on title to the Condominium Lands or the Long Term Care Facility Lands.

**Easements in favour of the Condominium Lands**

**TOGETHER WITH** appurtenant non-exclusive easements, rights-of-way or rights in the nature of easements in favour of the Condominium Lands, over the Long Term Care Facility Lands, which said non-exclusive easements, rights-of-way or rights in the nature of easements are as follows:

- a) in, over, along, upon and through the corridor situate on that part of the Long Term Care Facility Lands described as Part of Lots 25 and 26, Block F, Registered Plan 875 (York), designated as Part 8, Plan 66R-30578, for the purposes of providing pedestrian ingress and egress to and from the Condominium including, but not limited to, the transport of garbage and recycling materials, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Condominium Lands;
- b) in, over, along, upon and through the vestibule situate on that part of the Long Term Care Facility Lands described as Part of Lot 26, Block F, Registered Plan 875 (York), designated as Part 10, Plan 66R-30578, for the purposes of providing access to and egress from the Security Unit, necessary for the operation of the Condominium Lands;
- c) in, over, along, upon and through the mechanical room situate on that part of the Long Term Care Facility Lands described as Part of Lots 24 and 25, Block F, Registered Plan 875 (York), designated as Part 16, Plan 66R-30578 (the "**LTC Mechanical Room**"), for the purposes of providing access to and egress from the LTC Mechanical Room, necessary for the operation of the Condominium Lands;
- d) in, over, along, upon and through the Long Term Care Facility Lands for the purpose of maintaining support and, without limiting the generality of the foregoing, in and through all structural members, including, but not limited to, load bearing walls, pillars, columns, beams, floor and roof slabs, footings, foundation and soil situated within the Long Term Care Facility Lands, and which are necessary for support of the Condominium Lands including, without limitation, the building or buildings, installations and all appurtenances thereto situate within the Condominium Lands;
- e) in, over, along, upon and through the Long Term Care Facility Lands, for the purpose of allowing access of persons, materials, vehicles and equipment necessary for the construction, maintenance, repair, operation, inspection, installation, reconstruction, alteration, relocation and replacement of any part of the building or building's installations or appurtenances situated thereon which service the Condominium Lands, and any mechanical or electrical apparatus, installation or equipment including, but not limited to, gas mains, transformers, water mains, storm and sanitary sewers, storm water retention facilities, sprinkler mains, irrigation systems, pumping stations, window washing equipment and all appurtenances, electrical cables, wires, conduits or ducts, telephone, telecommunication and television cables, wires, conduits or ducts, fire alarm systems, security systems and sump pumps, and various other services and utilities, all of which are situated within the Long Term Care Facility Lands, and which are necessary for the operation of the building or buildings situated within the Condominium Lands and to further permit the crossing, penetrating, boring or travelling onto or through any transfer slab, floor

slab, ceiling slab, concrete block or masonry wall or drywall enclosure or other similar installations to facilitate such work;

- f) in, over, along, upon and through the Long Term Care Facility Lands for the access of persons, vehicles, materials and equipment necessary for the maintenance, repair, operation, construction and reconstruction of the building(s) or other improvements or any portion thereof situated within the Condominium Lands and including, without limitation, access and egress to and from the LTC Mechanical Room;
- g) in, over, along, upon and through the Long Term Care Facility Lands for the purpose of free, unimpeded, unobstructed and uninterrupted flow of air in and through the air intake and air exhaust shafts situate therein; and
- h) in and through the Long Term Care Facility Lands for the purposes of emergency pedestrian egress;

subject to the limitations and provisions of any agreements registered on title to the Condominium Lands or the Long Term Care Facility Lands.

In my opinion, based on the parcel register and the plans and documents recorded in them, the legal description set out above is correct, the easements hereinbefore described will exist in law upon registration of the declaration and description and the declarant is the registered owner of the aforementioned land and appurtenant interests.

**GOWLING WLG (CANADA) LLP**

February 22, 2021

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Per: Darrell Daley, Solicitor

**SCHEDULE "B"**

**CONSENT**

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

1. We, Peoples Trust Company, have a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Number AT1450426 in the Land Registry Office for the Land Titles Division of Toronto (No. 66).
2. We, Peoples Trust Company, consent to the registration of this declaration pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
3. We, Peoples Trust Company, postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the declaration.
4. We, Peoples Trust Company, are entitled by law to grant this consent and postponement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

**PEOPLES TRUST COMPANY**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

I/We have authority to bind the Corporation.

**SCHEDULE "C"**

Each Residential Unit, Parking Unit, Combined Parking/Storage Unit, Storage Unit and Service Unit shall comprise the area within the heavy lines shown on Part 1, Sheets 1 and 3 to 6 inclusive of the Description with respect to the Unit numbers indicated thereon. The monuments controlling the extent of the Units are the physical surfaces and planes referred to immediately below, and are illustrated on Part 1, Sheets 1 and 3 to 6 inclusive of the Description and all dimensions shall reference to them.

Without limiting the generality of the foregoing, the boundaries of each Unit are as follows:

1. **BOUNDARIES OF THE RESIDENTIAL UNITS**

(being Units 1 to 14 inclusive on Levels 2 and 3, Units 1 to 12 inclusive on Levels 4, 5 and 6, Units 1 to 10 inclusive on Levels 7 and 8 and Units 1 to 7 inclusive on Level 9).

- a) Each Residential Unit is bounded vertically by:
  - i) the upper surface and plane of the concrete floor slab and its production.
  - ii) the lower surface and plane of the concrete ceiling slab and its production.
- b) Each Residential Unit shall be bounded horizontally by:
  - i) the backside surface and plane of the drywall sheathing and its production on walls separating one Unit from another Unit or from the Common Element.
  - ii) the unit side surfaces of exterior doors, door frames, windows, and window frames, said doors and windows being in a closed position, and the unit side surfaces of all glass panels contained therein.
  - iii) in the vicinity of ducts, pipe spaces and concrete columns, the unit boundaries are the backside surfaces and planes of the drywall sheathing enclosing said ducts, pipe spaces and concrete columns.
  - iv) the vertical plane established by the centreline of the demising wall and production, for Units 11 and 12 on Level 4 and Units 9 and 10 on Level 7.
  - v) the vertical plane established by measurement for Units 9 and 10 on Level 7.

2. **BOUNDARIES OF THE PARKING UNITS**

(being Units 1, 2, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 on Level A and Units 1, 2, 4, 6 and 10 on Level B).

3. **BOUNDARIES OF THE COMBINED PARKING/STORAGE UNITS**

(being Units 3, 6, 10 and 12 on Level A and Units 3, 5, 7, 8 and 9 on Level B).

- a) Each Parking Unit and Combined Parking/Storage Unit is bounded vertically by:
  - i) the upper surface and plane of the concrete garage floor slab and production.
  - ii) the plane 2.00 metres perpendicularly distant above and parallel to the upper surface and plane of the concrete garage floor slab.
- b) Each Parking Unit and Combined Parking/Storage Unit is bounded horizontally by one or a combination of the following:
  - i) the vertical plane established by measurement.
  - ii) the vertical plane established by the line and face of concrete columns and the production thereof.
  - iii) the vertical plane established by the centreline of columns and the production thereof.

- iv) the unit side surface and plane of the concrete or concrete block walls and the production thereof.
- v) the vertical plane established perpendicular to the concrete wall, located at the rear of the Unit, and passing through the centre line of the concrete column and production thereof.
- vi) the vertical plane established by measurement and perpendicular to the concrete wall, located at the rear of the Unit.

4. **BOUNDARIES OF THE STORAGE UNITS**

(being Units 15 to 22 inclusive on Level 3, Units 21 to 49 inclusive on Level A and Units 12 to 25 inclusive on Level B).

- a) Each Storage Unit is bounded vertically by one or a combination of the following:
  - i) the upper surface and plane of the concrete floor slab and production.
  - ii) the plane 2.00 metres perpendicularly distant above and also being parallel to the upper surface and plane of the concrete floor slab.
  - iii) the lower surface and plane of the steel wire mesh and frame and production.
  - iv) the lower surface and plane of the concrete ceiling slab and production.
- b) Each Storage Unit is bounded horizontally by one or a combination of the following:
  - i) the unit side surface and plane of the concrete or concrete block walls, where applicable and production thereof.
  - ii) the backside surface and plane of the drywall sheathing and production thereof, where applicable.
  - iii) the unit side surface of the steel wire mesh and frame and production.
  - iv) the unit side surface of the exterior door and frame said door being in a closed position.

5. **BOUNDARIES OF THE SERVICE UNITS**

(being Unit 1 on Level 1, (Elevator Lobby/Corridor)  
Unit 2 on Level 1, (Garbage Collection Room)  
Unit 3 on Level 1, (Security Room)  
Unit 4 on Level 1, (Transformer Room)  
Unit 5 on Level 1, (Recycling Room)  
Unit 1 on Level 10, (Mechanical Room)  
Unit 17 on Level A, (Lobby)  
Unit 18 on Level A, (Communications Room)  
Unit 19 on Level A, (Power Distribution Room)  
Unit 20 on Level A (Diesel Tank Room)  
Unit 11 on Level B, (Plumbing Room).

- a) Each Service Unit is bounded vertically by:
  - i) the upper surface and plane of the concrete floor slab and production.
  - ii) the lower surface and plane of the concrete ceiling slab and production.
- b) Each Service Unit is bounded horizontally by one or a combination of the following:
  - i) the unfinished exterior surface and plane of the exterior door and door frame, the said door being in a closed position.
  - ii) the unit side surface and plane of the concrete or concrete block walls and production.
  - iii) the back side surface and plane of the drywall sheathing and walls separating the Unit from the Common Element or another Unit.

- iv) the vertical plane established by measurement.
- v) the vertical plane established by the centreline of the demising wall and production.

I hereby certify that the written description of the monuments and boundaries of the Units contained herein accurately corresponds with the diagrams of the Units shown on Part 1, Sheets 1 and 3 to 6 inclusive of the Description.

\_\_\_\_\_  
Dated

\_\_\_\_\_  
D. Miret  
Ontario Land Surveyor

Reference should be made to the provisions of the Declaration itself, in order to determine the maintenance and repair responsibilities for any Unit and whether specific physical components (such as any wires, pipes, cables, conduits, equipment, fixtures, structural components and/or any other appurtenances) are included or excluded from the Unit, regardless of whether same are located within or beyond the boundaries established for such Unit.

**SCHEDULE "D"**

**PROPORTION OF COMMON INTEREST AND  
COMMON EXPENSE EXPRESSED IN PERCENTAGE**

Unit No.	Level No.	% Interest in Common Elements	% Interest in Common Expenses
1	1	0.0001%	0.0001%
2	1	0.0001%	0.0001%
3	1	0.0001%	0.0001%
4	1	0.0001%	0.0001%
5	1	0.0001%	0.0001%
1	2	0.6725%	0.6725%
2	2	0.8650%	0.8650%
3	2	0.9207%	0.9207%
4	2	1.0452%	1.0452%
5	2	0.6779%	0.6779%
6	2	0.9583%	0.9583%
7	2	0.9262%	0.9262%
8	2	0.9480%	0.9480%
9	2	1.5585%	1.5585%
10	2	0.7380%	0.7380%
11	2	1.3490%	1.3490%
12	2	0.8410%	0.8410%
13	2	0.7759%	0.7759%
14	2	0.9233%	0.9233%
1	3	0.7820%	0.7820%
2	3	1.1842%	1.1842%
3	3	1.0544%	1.0544%
4	3	1.0586%	1.0586%
5	3	0.6742%	0.6742%
6	3	0.9611%	0.9611%
7	3	0.9266%	0.9266%
8	3	0.9469%	0.9469%
9	3	1.5637%	1.5637%
10	3	0.7350%	0.7350%
11	3	0.7201%	0.7201%
12	3	0.8396%	0.8396%
13	3	0.7759%	0.7759%
14	3	0.9231%	0.9231%
15	3	0.1257%	0.1257%
16	3	0.0671%	0.0671%
17	3	0.0586%	0.0586%
18	3	0.0567%	0.0567%
19	3	0.0632%	0.0632%
20	3	0.0632%	0.0632%
21	3	0.0493%	0.0493%
22	3	0.0493%	0.0493%
1	4	0.9369%	0.9369%
2	4	1.0033%	1.0033%
3	4	0.7167%	0.7167%
4	4	0.6419%	0.6419%
5	4	1.4140%	1.4140%
6	4	1.2585%	1.2585%
7	4	0.8126%	0.8126%
8	4	0.8300%	0.8300%
9	4	0.7859%	0.7859%
10	4	1.2063%	1.2063%
11	4	1.0378%	1.0378%
12	4	1.0990%	1.0990%
1	5	0.9694%	0.9694%
2	5	1.0935%	1.0935%
3	5	0.6896%	0.6896%
4	5	0.8241%	0.8241%

Unit No.	Level No.	% Interest in Common Elements	% Interest in Common Expenses
5	5	1.4169%	1.4169%
6	5	1.0946%	1.0946%
7	5	0.8148%	0.8148%
8	5	0.8368%	0.8368%
9	5	0.7879%	0.7879%
10	5	1.2168%	1.2168%
11	5	1.0516%	1.0516%
12	5	0.6893%	0.6893%
1	6	0.9766%	0.9766%
2	6	1.0867%	1.0867%
3	6	0.6909%	0.6909%
4	6	0.8246%	0.8246%
5	6	1.4195%	1.4195%
6	6	1.0951%	1.0951%
7	6	0.8123%	0.8123%
8	6	0.8357%	0.8357%
9	6	0.7866%	0.7866%
10	6	1.2181%	1.2181%
11	6	1.0490%	1.0490%
12	6	0.6972%	0.6972%
1	7	0.9701%	0.9701%
2	7	1.0938%	1.0938%
3	7	1.7138%	1.7138%
4	7	1.4169%	1.4169%
5	7	1.1488%	1.1488%
6	7	1.0962%	1.0962%
7	7	1.0920%	1.0920%
8	7	1.2159%	1.2159%
9	7	1.0479%	1.0479%
10	7	0.6983%	0.6983%
1	8	0.9736%	0.9736%
2	8	1.0907%	1.0907%
3	8	1.5004%	1.5004%
4	8	1.4169%	1.4169%
5	8	1.6607%	1.6607%
6	8	1.0955%	1.0955%
7	8	0.7920%	0.7920%
8	8	1.2157%	1.2157%
9	8	1.0490%	1.0490%
10	8	0.6981%	0.6981%
1	9	1.4985%	1.4985%
2	9	1.0963%	1.0963%
3	9	1.7386%	1.7386%
4	9	2.0594%	2.0594%
5	9	1.0930%	1.0930%
6	9	1.4998%	1.4998%
7	9	0.5606%	0.5606%
1	10	0.0001%	0.0001%
1	A	0.1194%	0.1194%
2	A	0.1194%	0.1194%
3	A	0.1834%	0.1834%
4	A	0.1194%	0.1194%
5	A	0.1194%	0.1194%
6	A	0.1872%	0.1872%
7	A	0.1194%	0.1194%
8	A	0.1194%	0.1194%
9	A	0.1194%	0.1194%
10	A	0.2493%	0.2493%
11	A	0.1194%	0.1194%
12	A	0.2485%	0.2485%
13	A	0.1194%	0.1194%

Unit No.	Level No.	% Interest in Common Elements	%Interest in Common Expenses
14	A	0.1194%	0.1194%
15	A	0.1194%	0.1194%
16	A	0.1194%	0.1194%
17	A	0.0001%	0.0001%
18	A	0.0001%	0.0001%
19	A	0.0001%	0.0001%
20	A	0.0001%	0.0001%
21	A	0.0389%	0.0389%
22	A	0.0385%	0.0385%
23	A	0.0385%	0.0385%
24	A	0.0409%	0.0409%
25	A	0.0382%	0.0382%
26	A	0.0382%	0.0382%
27	A	0.0413%	0.0413%
28	A	0.0397%	0.0397%
29	A	0.0447%	0.0447%
30	A	0.0432%	0.0432%
31	A	0.0435%	0.0435%
32	A	0.0435%	0.0435%
33	A	0.0440%	0.0440%
34	A	0.0420%	0.0420%
35	A	0.0474%	0.0474%
36	A	0.0463%	0.0463%
37	A	0.0463%	0.0463%
38	A	0.0470%	0.0470%
39	A	0.0463%	0.0463%
40	A	0.0451%	0.0451%
41	A	0.0443%	0.0443%
42	A	0.0451%	0.0451%
43	A	0.0455%	0.0455%
44	A	0.0455%	0.0455%
45	A	0.0459%	0.0459%
46	A	0.0574%	0.0574%
47	A	0.0806%	0.0806%
48	A	0.0956%	0.0956%
49	A	0.0532%	0.0532%
1	B	0.1194%	0.1194%
2	B	0.1194%	0.1194%
3	B	0.1834%	0.1834%
4	B	0.1194%	0.1194%
5	B	0.1799%	0.1799%
6	B	0.1194%	0.1194%
7	B	0.2061%	0.2061%
8	B	0.2030%	0.2030%
9	B	0.1884%	0.1884%
10	B	0.1194%	0.1194%
11	B	0.0001%	0.0001%
12	B	0.0451%	0.0451%
13	B	0.0424%	0.0424%
14	B	0.0420%	0.0420%
15	B	0.0424%	0.0424%
16	B	0.0443%	0.0443%
17	B	0.0440%	0.0440%
18	B	0.0417%	0.0417%
19	B	0.0424%	0.0424%
20	B	0.0424%	0.0424%
21	B	0.0428%	0.0428%
22	B	0.0424%	0.0424%
23	B	0.0420%	0.0420%
24	B	0.0428%	0.0428%

Unit No.	Level No.	% Interest in Common Elements	%Interest in Common Expenses
25	B	0.0856%	0.0856%
<b>TOTAL:</b>		<b>100.0000%</b>	<b>100.0000%</b>

## SCHEDULE "E"

### SPECIFICATION OF COMMON EXPENSES

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

1. all sums of money paid or payable by the Corporation in connection with the performance of any of its objects, duties and powers whether such objects, duties and powers are imposed by the Act, the Declaration or by-laws of the Corporation or by other law or agreement;
2. all sums of money properly paid by the Corporation on account of any and all public and private suppliers to the Corporation of insurance coverage, utilities and services including, without limiting the generality of the foregoing, levies or charges payable on account of:
  - (a) insurance premiums;
  - (b) water, sewage, gas and electricity respecting common elements and Units, unless metered separately;
  - (c) maintenance materials, tools and supplies;
  - (d) snow removal from the common elements (excluding exclusive use common element areas) and landscaping throughout the common elements (excluding exclusive use common element areas);
  - (e) garbage and recycling collection;
  - (f) costs, expenses, and charges payable under the Shared Facilities Agreement.
3. all sums of money paid or payable by the Corporation pursuant to any management contract which may be entered into between the Corporation and a manager;
4. all sums of money required by the Corporation for the acquisition or retention of real property for the use and enjoyment of the Property or for the acquisition, repair, maintenance or replacement of personal property for the use and enjoyment in or about the common elements and all sums of money required to be paid by the Corporation as its share of the costs of the maintenance, repair and replacement of the Shared Facilities;
5. all sums of money paid or payable by the Corporation to any and all persons, firms, or companies engaged or retained by the Corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the objects, duties and powers of the Corporation including, without limitation, legal, engineering, accounting, auditing, expert appraising, advising, maintenance, managerial, secretarial or other professional advice and service required by the Corporation;
6. the cost of furnishings and equipment for use in and about the common elements including the repair, maintenance or replacement thereof;
7. the cost of borrowing money for the carrying out of the objects, duties and powers of the Corporation;
8. the fees and disbursements of the insurance trustee, if any, and of obtaining insurance appraisals;
9. the cost of maintaining fidelity bonds as may be provided by the by-laws;
10. all sums required to be paid to the reserve or contingency fund as required by the Declaration or in accordance with the agreed upon annual budget of the Corporation, including amounts payable on account of the Shared Facilities;
11. all sums required to fulfil the obligations of the Corporation pursuant to the Shared Facilities Agreement.

#### SCHEDULE "F"

Subject to the provisions of the Declaration, the By-laws and Rules of the Corporation and the right of entry in favour of the Corporation thereto and thereon, for the purposes of facilitating any requisite maintenance and/or repair work or to give access to the utility and service areas appurtenant thereto:

- a) the Owner(s) of Residential Units 3, 4 and 11 on Levels 2 and 3, Units 2 to 4 inclusive and 6 to 12 inclusive on Level 4, Units 2, 6 and 12 on Level 5, Unit 2 on Levels 6 to 8 inclusive and Unit 1 on Level 9, shall have the exclusive use of a Terrace to which the said Units provide direct and sole access, as indicated on the Unit plans.

#### NOTE:

The upper limit and extent of the exclusive use for the terraces, shall be the lower surface and plane of the uppermost ceiling and production of the Residential Units that have access to the said terraces.

**SCHEDULE "G"**

**Form 2 – Certificate of Architect or Engineer**

(under clause 8(1)(e) or (h) of the *Condominium Act, 1998*)

I certify that:

*[Strike out whichever is not applicable:]*

Each building on the property

OR

*(In the case of an amendment to the declaration creating a phase:*

*Each building on the land included in the phase)]*

has been constructed in accordance with the regulations made under the *Condominium Act, 1998*, with respect to the following matters:

*(Check whichever boxes are applicable)*

1.  The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
2.  Except as otherwise specified in the regulations, floor assemblies are constructed to the sub-floor.
3.  Except as otherwise specified in the regulations, walls and ceilings of the common elements, excluding interior structural walls and columns in a unit, are completed to the drywall (including taping and sanding), plaster or other final covering.
4.  All underground garages have walls and floor assemblies in place.

OR

- There are no underground garages.
5.  All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a licence, except for elevating devices contained wholly in a unit and designed for use only within the unit.

OR

- There are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.
6.  All installations with respect to the provision of water and sewage services are in place.
7.  All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.
8.  All installations with respect to the provision of air conditioning are in place.

OR

- There are no installations with respect to the provision of air conditioning.
9.  All installations with respect to the provision of electricity are in place.

- 10.  All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.

OR

- There are no indoor and outdoor swimming pools.
- 11.  Except as otherwise specified in the regulations, the boundaries of the units are completed to the drywall (not including taping and sanding), plaster or other final covering, and perimeter doors are in place.

Dated this ..... day of ....., .....

.....  
(signature)

.....  
(print name)

(Strike out whichever is not applicable:  
Architect  
Professional Engineer)

**B E T W E E N:**

**PEOPLES TRUST COMPANY**  
Applicant

v.

**ROSE OF SHARON (ONTARIO) RETIREMENT COMPANY**  
Respondent

10 June 21

Order to go as per the draft filed and signed.  
The motion is unopposed.  
I have reviewed the relief sought with counsel. It is all fair  
and reasonable.



*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

**ORDER**

**GOWLING WLG (CANADA) LLP**  
Barristers & Solicitors  
1 First Canadian Place, Suite 1600  
100 King Street West  
Toronto, ON M5X 1G5

**E. PATRICK SHEA (LSUC. No. 39655K)**  
Tel: (416) 369-7399  
Fax: (416) 862-7661

Solicitors for the Moving Party

**TAB D**

Gowling Lafleur Henderson LLP  
David Tang  
100 King St W Suite 1600  
Toronto ON M5X 1G5

**Re: Notice of Decision Under S.51(37) of The Planning Act**  
Draft Plan of Standard Condominium  
Condominium Approval 15 268792 STE 21 CD  
165 - 171 Vaughan Road  
Ward 21 - St. Paul's

---

The above draft plan of standard condominium has been approved subject to the attached conditions and a 20-day appeal period from the date of this letter. A copy of the plan, endorsed to this effect, is enclosed. This approval applies to Draft Plan of Condominium of Part of Lots 24, 25 and 26, Block F of Registered Plan 875 (York), Drawing No. 2166-0DP1, Sheets 1-3, prepared by D. Miret, Ontario Land Surveyor, and date stamped received by the City of Toronto on January 4, 2016. An approved copy of the plan is enclosed.

The applicant, any person or public body who made oral or written submissions to the City before a decision was made and the Minister of Municipal Affairs and Housing may appeal the decision within the 20-day appeal period. In addition, the applicant, any public body that made oral or written submission to the City before the decision was made and the Minister of Municipal Affairs and Housing may appeal any of the conditions at any time before the approval of the final plan of standard condominium. A notice of appeal must be made to the Ontario Municipal Board setting out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act* in the amount of \$125.00 payable by cheque to the Minister of Finance, Province of Ontario. The notice of appeal is to be filed with the City Clerk, Attention: Ellen Devlin, Administrator, Toronto and East York District, 100 Queen St W Floor 2west, Toronto ON M5H 2N2.

Any person will be entitled to receive notice of changes to the conditions of approval of the proposed plan of condominium if they have made a written request to be notified of changes to the conditions of approval of the proposed plan of condominium.

No person or public body shall be added as a party to the hearing of an appeal regarding any changes to the conditions of approval unless the person or public body before the approval authority made its decision, made oral submissions at the public meeting or written submissions to the approval authority or made a written request to be notified of the changes to the conditions.

Only individuals, corporations or public bodies may appeal decisions in respect of a proposed plan of condominium to the Ontario Municipal Board. A notice of appeal may not be filed by

an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal of the decision of the approval authority, including the lapsing provisions or the conditions, unless the person or public body, before the decision of the approval authority, made oral submissions at a public meeting or written submissions to the council or, in the Ontario Municipal Board's opinion, there are reasonable grounds to add the person or public body as a party.

If there is an appeal, you will be notified. If no appeal is filed, the draft plan of standard condominium is approved, subject to the attached conditions, after the 20<sup>th</sup> day from the date of this letter.

When the final plan is prepared it should be forwarded, along with the required copies, to Gregg Lintern, MCIP RPP, Director, Community Planning, Toronto and East York District, 18th Floor East Tower, City Hall, 100 Queen Street West, Toronto ON M5H 2N2. We need to receive:

1. the original set of mylars
2. one (1) mylar print
3. four (4) paper prints

If the draft plan complies with the terms of approval and all conditions have been satisfied or secured, final approval will be given to the plan of condominium. Upon approval, a paper print is retained for our files and the remaining copies are forwarded to the Ontario Land Registry Office, which is responsible for registering the plan.

Please contact Carla Tsang, Assistant Planner at (416) 395-7137 if you have any questions.

Yours truly,



Jennifer Keesmaat, MES MCIP RPP,  
Chief Planner and Executive Director  
City Planning Division



\_\_\_\_\_  
Date

Attachment  
Enclosure

cc: Rose Of Sharon (Ontario) Retirement Community, 53 The Links Rd, Toronto ON M2P 1T7  
Administrator, City Clerk's Office, Toronto and East York District (no enclosures)  
Director, Planning & Development Law, Legal Services (1 plan enclosed)  
Manager, Engineering and Construction Services, Toronto and East York District (1 plan enclosed)  
R. Avis Surveying Inc., 235 Yorkland Blvd, Ste 203 Toronto ON M2J 4Y8 (1 plan enclosed)  
Joe Mihevc, Councillor (no enclosures)

**Attachment: 1**

**City File No. : 15 268792 STE 21 CD**

**CONDITIONS**

This approval applies to Draft Plan of Condominium of Part of Lots 24, 25 and 26, Block F of Registered Plan 875 (York), Drawing No. 2166-0DP1, Sheets 1-3, prepared by D. Miret, Ontario Land Surveyor, and date stamped received by the City of Toronto on January 4, 2016. An approved copy of the plan is enclosed.

- (1) The plans submitted for final approval and registration must be substantially in accordance with the approved draft plans specified above. Any revisions to these plans must be approved by the Chief Planner's designate, the Director of Community Planning, Toronto and East York District.
- (2) The owner shall provide to the Director of Community Planning, Toronto and East York District, confirmation that the taxes have been paid in full (Statement of Account or Tax Clearance Certificate) and that there are no outstanding City initiated assessment or tax appeals made pursuant to Section 40 of the Assessment Act or the provisions of the City of Toronto Act, 2006. In the event that there is an outstanding City initiated assessment or tax appeal, the Owner shall enter into a financially secured agreement with the City satisfactory to the City Solicitor to secure payment of property taxes in the event the City is successful with the appeal.
- (3) The owner shall file with the Director of Community Planning Toronto and East York District, a complete copy of the final version of the Declaration and Description to be registered, which includes the following schedules:
  - a) Schedule "A" containing statement from the declarant's solicitor that in his or her opinion, based on the parcel register or abstract index and the plans and drawings recorded in them, the legal description is correct and the easements mentioned in the schedule will exist in law upon the registration of the Declaration and Description; and
  - b) Schedule "G" being the certification of the project engineer and/or architect that all buildings have been constructed in accordance with the regulations made under the Condominium Act.

When the owner files a copy of the Declaration with the City of Toronto, it shall be accompanied with a letter of undertaking, stating that, "This is our undertaking to register the Declaration in the same form and content as was provided to you, subject to any changes the Land Registrar may require. This is also our undertaking to provide you with a registered copy of the Declaration once it is registered. If the Land Registrar requires any amendments to the Declaration, we will advise you."

- (4) Visitors parking spaces will be clearly delineated on the condominium plan to be registered and the Declaration shall contain a clause clearly specifying visitors parking

shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements.

- (5) The owner shall file with the Director of Community Planning, Toronto and East York District, a copy of the final Declaration and Description which contains a provision satisfactory to the Chief Planner or his/her designate whereby non-disabled owners and/or occupants of non-visitor handicapped parking units shall be obligated, upon notification by the condominium corporation, to exchange, at no cost to the disabled driver, the use of the handicapped parking unit with a disabled driver's non-handicapped parking unit.

Alternatively, non-visitor handicapped parking spaces can be made common element, however all condominium documents including the Declaration and Description must state that the condominium corporation will retain control over the spaces and that they cannot be made exclusive use portions of the common element. All non-visitor handicapped parking spaces must conform to one of the alternatives identified above.

- (6) The owner shall file with the Director of Community Planning, Toronto and East York District, fully executed copies of the following certificates satisfactory to the said Director:
  - a) certification from the applicant's solicitor with respect to the creation of necessary easements;
  - b) certification from the applicant's surveyor with respect to the identification of necessary easements;
  - c) certification from the applicant's engineer with respect to the identification of necessary easements.
- (7) The Owner must submit a copy/copies of the declaration/condominium documentation that contains the necessary wording respecting reciprocal rights-of-way/easements between the Owners of the condominium to be established and the freehold lands, for vehicular access to and use of the underground garage, parking spaces, loading area, and garbage/recycling storage room.
- (8) The Owner shall ensure that there are separate water meters for the retail component (non-condominium lands), or shall include wording in the Declaration that the services are to be shared and will designate who will be responsible to the local water authority (not to the City of Toronto in case of a change in the future) for payment in full of the water bill. A copy of the Declaration must be provided to the Executive Director, Engineering & Construction Services when the services are being shared.
- (9) The Owner shall file with the Director of Community Planning, Toronto and East York District, a fully executed copy of Certificate from the applicant's solicitor that:
  - a) The Parties have entered into a Cost Sharing Agreement with respect to the shared services and/or any other shared facilities; and,

- b) The Cost Sharing Agreement designates an owner who will be the person responsible in the case of any issues regarding the shared services, including but not limited to issues arising with respect to the City of Toronto Municipal Code Chapters 681 and 851 (the "Person of Responsibility"). The Certification shall indicate:
- i. Who the Person of Responsibility is;
  - ii. The contact information for the Person of Responsibility; and,
  - iii. That the Cost Sharing Agreement contains a clause requiring the Person of Responsibility to maintain up-to-date contact information with the General Manager, Toronto Water.
- (10) Prior to registration, the owner shall prepare all documents and convey to the City, at nominal cost, a 2.2 metre strip of land, in perpendicular width across the entire Vaughan Road frontage. Such lands to be free and clear of all encumbrances and subject to a right-of-way for access purposes in favour of the Grantor, until such time as said lands have been laid out and dedicated for public highway purposes, as contemplated by Condition No. 5 in the Site Plan Agreement registered on December 31, 1997 as Instrument No. CA 517084.
- (11) If the condominium is not registered within 5 years of the date of draft plan approval, then this approval shall be null and void and the plans and drawings must be resubmitted to the City of Toronto for approval.

**Attachment: 2**

**City File No. : 15 268792 STE 21 CD**

**ADVISORY NOTES**

- (1) The following certificates from the Consulting Engineering and/or Landscape consultant, as required in respect of the completion of the works contemplated in the various conditions in the Site Plan Agreement registered on title on December 31, 2007 as Instrument No. CA 517084 and its amendment File No. 10/5/285 dated December 10, 2013, have not been submitted:
  - a) Site Plan Agreement registered on title on December 31, 1997, as Instrument No. CA 517084
    - i. Condition Nos. 3, 4, 6, 7, 11, 12 and 37; and,
    - ii. Condition No. 13 (lay-by on Maplewood Avenue Road) along with the as-built drawings.
  - b) Amending (Minor Variations) Site Plan Agreement File No. 10/5/285, dated December 10, 2013
    - i. Condition No. 1(e), respecting site servicing, grading and stormwater management.
- (2) There is no record of the required streetscaping permit (Application No. 472279) for the works that were carried out within the public rights-of-way for Vaughan Road and Maplewood Avenue being issued or the required securities and payments in that respect submitted, as outlined in the letter dated March 22, 2010 from the General Manager of Transportation Services to Mr. John Yoon of Rose of Sharon Retirement Community.

# TAB E

Brian Parker  
Gowling WLP LLP  
100 King Street West, Suite 1600  
Toronto, ON M5X 1G5

Re: **Revised Notice of Decision Under S.51 (45) of The *Planning Act***  
Draft Plan of Standard Condominium  
Condominium Approval 15 268792 STE 21 CD  
165 -171 Vaughan Road (17 Maplewood Avenue)  
PLAN 875 BLK F PT LOTS 24 and 25  
Ward 12 - Toronto-St. Paul's

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The approval of the above draft plan of standard condominium has been revised and is subject to the attached revised conditions and a 20-day appeal period from the date of this letter. This revised approval applies to the Draft Plan of owner Condominium of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), (formerly in the City of York), City of Toronto, Sheets 1 to 3, prepared by D. Miret, R. Avis Surveying Inc., Ontario Land Surveyor, Project No.: 2166-0, dated February 4, 2019. A copy of the plan, endorsed to this effect, is enclosed.

The applicant, a public body or a person listed in subsection 51(48.3) of the *Planning Act* that made oral or written submissions to the City before a decision was made, and the Minister of Municipal Affairs and Housing may appeal the decision within the 20-day appeal period. In addition, the applicant, any public body or person listed in subsection 51(48.3) of the *Planning Act* that made oral or written submission to the City before the decision was made, and the Minister of Municipal Affairs and Housing may appeal any of the conditions at any time before the approval of the final plan of standard condominium. A notice of appeal must be made to the Local Planning Appeal Tribunal setting out the reasons for the appeal, accompanied by the fee prescribed under the *Local Planning Appeal Tribunal Act* in the amount of \$1,100.00 payable by cheque to the Minister of Finance, Province of Ontario. The notice of appeal is to be filed with the City Clerk, Toronto and East York District, 2<sup>nd</sup> Floor, West Tower, City Hall, 100 Queen Street West, Toronto, ON M5H 2N2.

Any person will be entitled to receive notice of changes to the conditions of approval of the proposed plan of condominium if they have made a written request to be notified of changes to the conditions of approval of the proposed plan of condominium.

No person or public body shall be added as a party to the hearing of an appeal regarding any changes to the conditions of approval unless the person or public body before the approval authority made its decision, made oral submissions at the public meeting or written submissions to the approval authority or made a written request to be notified of the changes to the

conditions.

Only individuals, corporations or public bodies may appeal decisions in respect of a proposed plan of condominium to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf. No person or public body shall be added as a party to the hearing of the appeal of the decision of the approval authority, including the lapsing provisions or the conditions, unless the person or public body, before the decision of the approval authority, made oral submissions at a public meeting or written submissions to the council or, in the Local Planning Appeal Tribunal's opinion, there are reasonable grounds to add the person or public body as a party.

If there is an appeal, you will be notified. If no appeal is filed, the draft plan of standard condominium is approved, subject to the attached revised conditions, after the 20<sup>th</sup> day from the date of this letter.

When the final plan is prepared, a complete electronic resubmission package must be submitted to the attention of Lynda H. Macdonald, Director, Community Planning, Toronto and East York District, through Toronto Building customer service. Please contact Greg Whitfield, Planning Consultant, Toronto Building, Toronto and East York District by email at [Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca) to complete the submission.

Please contact Catherine Jung, Assistant Planner, Community Planning, Toronto and East York District, by email at [Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca), to arrange for delivery of the hard copy of the final plans. The following must be received:

1. the original set of mylars
2. one (1) mylar print
3. four (4) paper prints
4. documentation that confirms the conditions have been met

If the draft plan complies with the terms of approval and all revised conditions have been satisfied or secured, final approval will be given to the plan of condominium. Upon approval, a paper print is retained for our files and the remaining copies are forwarded to the Ontario Land Registry Office, which is responsible for registering the plan.

Please contact Catherine Jung, Assistant Planner at [Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca) if you have any questions.

Yours truly,



Gregg Lintern, MCIP, RPP  
Chief Planner and Executive Director  
City Planning Division

January 13, 2021

---

Date

Attachment  
Enclosure

cc: Rose Of Sharon (Ontario) Retirement Community, 53 The Links Road, Toronto, ON  
M2P 1T7  
Administrator, City Clerk's Office, Toronto and East York District (no enclosures)  
Director, Planning and Development Law, Legal Services (1 plan enclosed)  
Manager, Engineering and Construction Services, Toronto and East York District (1  
plan enclosed)  
R. Avis Surveying Inc., 235 Yorkland Blvd, Ste 203 Toronto ON M2J 4Y8 (1 plan  
enclosed)  
Josh Matlow, Councillor (no enclosures)

**REVISED CONDITIONS**

This approval applies to the Draft Plan of Standard Condominium of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), (formerly in the City of York), City of Toronto, Sheets 1 to 3, prepared by D. Miret, R. Avis Surveying Inc., Ontario Land Surveyor, Project No.: 2166-0, dated February 4, 2019. A copy of the plan, endorsed to this effect, is enclosed.

- (1) **The plans submitted for final approval and registration must be substantially in accordance with the approved draft plans specified above, in this Revised Notice of Decision. Any revisions to these plans must be approved by the Chief Planner's designate, the Director of Community Planning, Toronto and East York District.**  
(REVISED CONDITION)
- (2) The owner shall provide to the Director of Community Planning, Toronto and East York District, confirmation that the taxes have been paid in full (Statement of Account or Tax Clearance Certificate) and that there are no outstanding City initiated assessment or tax appeals made pursuant to Section 40 of the *Assessment Act* or the provisions of the *City of Toronto Act, 2006*. In the event that there is an outstanding City initiated assessment or tax appeal, the owner shall enter into a financially secured agreement with the City satisfactory to the City Solicitor to secure payment of property taxes in the event the City is successful with the appeal.
- (3) The owner shall file with the Director of Community Planning, Toronto and East York District, a complete copy of the final version of the Declaration and Description to be registered, which includes the following schedules:
  - a) Schedule "A" containing statement from the declarant's solicitor that in his or her opinion, based on the parcel register or abstract index and the plans and drawings recorded in them, the legal description is correct and the easements mentioned in the schedule will exist in law upon the registration of the Declaration and Description; and
  - b) Schedule "G" being the certification of the project engineer and/or architect that all buildings have been constructed in accordance with the regulations made under the *Condominium Act*.

When the owner files a copy of the Declaration with the City of Toronto, it shall be accompanied with a letter of undertaking, stating that, "This is our undertaking to register the Declaration in the same form and content as was provided to you, subject to any changes the Land Registrar may require. This is also our undertaking to provide you with a registered copy of the Declaration once it is registered. If the Land Registrar requires any amendments to the Declaration, we will advise you."

(4) ~~Visitors parking spaces will be clearly delineated on the condominium plan to be registered and the Declaration shall contain a clause clearly specifying visitors parking shall form part of the common elements and neither be used by or sold to unit owners or be considered part of the exclusive use portions of the common elements. (DELETED CONDITION)~~

(5) The owner shall file with the Director of Community Planning, Toronto and East York District, a copy of the final Declaration and Description which contains a provision satisfactory to the Chief Planner or his/her designate whereby non-disabled owners and/or occupants of non-visitor handicapped parking units shall be obligated, upon notification by the condominium corporation, to exchange, at no cost to the disabled driver, the use of the handicapped parking unit with a disabled driver's non-handicapped parking unit.

Alternatively, non-visitor handicapped parking spaces can be made common element, however all condominium documents including the Declaration and Description must state that the condominium corporation will retain control over the spaces and that they cannot be made exclusive use portions of the common element. All non-visitor handicapped parking spaces must conform to one of the alternatives identified above.

(6) The owner shall file with the Director of Community Planning, Toronto and East York District, fully executed copies of the following certificates satisfactory to the said Director:

- a) certification from the applicant's solicitor with respect to the creation of necessary easements;
- b) certification from the applicant's surveyor with respect to the identification of necessary easements; and
- c) certification from the applicant's engineer with respect to the identification of necessary easements.

(7) The owner must submit a copy/copies of the declaration/condominium documentation that contains the necessary wording respecting reciprocal rights-of-way/easements between the owners of the condominium to be established and the freehold lands, for vehicular access to and use of the underground garage, parking spaces, loading area, and garbage/recycling storage room.

**(8) The owner shall ensure that there are separate water meters for the freehold component (non-condominium lands), or shall include wording in the Declaration that the services are to be shared and will designate who will be responsible to the local water authority (not to the City of Toronto in case of a change in the future) for payment in full of the water bill. A copy of the Declaration must be provided to the Executive Director, Engineering and Construction Services when the services are being shared. (REVISED CONDITION)**

- (9) The owner shall file with the Director of Community Planning, Toronto and East York District, a fully executed copy of Certificate from the applicant's solicitor that:
- a) The Parties have entered into a Cost Sharing Agreement with respect to the shared services and/or any other shared facilities; and,
  - b) The Cost Sharing Agreement designates an owner who will be the person responsible in the case of any issues regarding the shared services, including but not limited to issues arising with respect to the City of Toronto Municipal Code Chapters 681 and 851 (the "Person of Responsibility"). The Certification shall indicate:
    - i. Who the Person of Responsibility is;
    - ii. The contact information for the Person of Responsibility; and,
    - iii. That the Cost Sharing Agreement contains a clause requiring the Person of Responsibility to maintain up-to-date contact information with the General Manager, Toronto Water.
- (10) Prior to registration, the owner shall prepare all documents and convey to the City, at nominal cost, a 2.2 metre strip of land, in perpendicular width across the entire Vaughan Road frontage. Such lands to be free and clear of all encumbrances and subject to a right-of-way for access purposes in favour of the Grantor, until such time as said lands have been laid out and dedicated for public highway purposes, as contemplated by Condition No. 5 in the Site Plan Agreement registered on December 31, 1997 as Instrument No. CA 517084.
- (11) **If the condominium is not registered within 5 years of the date of revised draft plan approval, then this approval shall be null and void, and a new application must be resubmitted to the City of Toronto for approval. (REVISED CONDITION)**
- (12) **The owner shall forthwith contact each of the life lease purchasers that have entered into Court approved Settlement Agreements for the purchase of their unit and provide to each the following direction:**
- To any life lease purchaser who may be sub-leasing its unit currently, you shall take immediate steps to notify your tenant of the pending condominium registration and your purchase of the unit and the potential therefore, of your tenant having to provide vacant possession. (NEW CONDITION)*

**Attachment: 2**

**City File No. : 15 268792 STE 21 CD**

**ADVISORY NOTES**

This approval applies to the Draft Plan of Standard Condominium of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), (formerly in the City of York), City of Toronto, Sheets 1 to 3, prepared by D. Miret, R. Avis Surveying Inc., Ontario Land Surveyor, Project No.: 2166-0, dated February 4, 2019. A copy of the plan, endorsed to this effect, is enclosed.

- (1) The following certificates from the Consulting Engineering and/or Landscape consultant, as required in respect of the completion of the works contemplated in the various conditions in the Site Plan Agreement registered on title on December 31, 2007 as Instrument No. CA 517084 and its amendment File No. 10/5/285 dated December 10, 2013, have not been submitted:
  - a) Site Plan Agreement registered on title on December 31, 1997, as Instrument No. CA 517084
    - i. Condition Nos. 3, 4, 6, 7, 11, 12 and 37; and,
    - ii. Condition No. 13 (lay-by on Maplewood Avenue Road) along with the as-built drawings.
  - b) Amending (Minor Variations) Site Plan Agreement File No. 10/5/285, dated December 10, 2013
    - i. Condition No. 1(e), respecting site servicing, grading and stormwater management.
- (2) There is no record of the required streetscaping permit (Application No. 472279) for the works that were carried out within the public rights-of-way for Vaughan Road and Maplewood Avenue being issued or the required securities and payments in that respect submitted, as outlined in the letter dated March 22, 2010 from the General Manager of Transportation Services to Mr. John Yoon of Rose of Sharon Retirement Community.

**TAB F**

**From:** [norman@nlaengineers.com](mailto:norman@nlaengineers.com)  
**To:** [Bricks, Hartley \(CA - Toronto\)](#)  
**Cc:** "[Lupo, Rosa](#)"; "[Shea, Patrick](#)"; "[Daley, Darrell](#)"; "[O'Neill, Natalie](#)"  
**Subject:** RE: 165 Vaughan Road  
**Date:** Tuesday, August 21, 2018 10:01:16 AM

---

Hi Hartley,

Patrick from the City of Toronto informed me this morning that both him and Jason could not locate the planning file for Rose of Sharon.

In a nut shell, they don't have any landscape plans neither.

I will call to discuss further regarding the 2010 letter.

Norman

**Norman Lee, M.A.Sc. P.Eng.**

**Norman Lee & Associates Ltd.**

**Suite 203, 275 Renfrew Dr.**

**Markham, ON L3R 0C8**

**Tel: 905-474-2355 x 234**

**cell: 416-580-3695**

---

**From:** Patrick Karremans <Patrick.Karremans@toronto.ca>  
**Sent:** August 21, 2018 9:43 AM  
**To:** 'norman@nlaengineers.com' <norman@nlaengineers.com>  
**Cc:** CHIU-GARCIA, SHARON (nla@nlaengineers.com) <nla@nlaengineers.com>  
**Subject:** 165 Vaughan Road

Hello Norman,

As per our phone conversation, I've spoken with the City Planner and with Toronto Records regarding the permits for 165 Vaughan Road. Unfortunately, we are unable to located the requested files at this time.

If you require any additional information, please don't hesitate to contact me.



**Patrick Karremans**

Zoning Building Code Examiner

Toronto Building, City of Toronto  
100 Queen Street West, First Floor West Side  
(T) 416.338.5942  
(F) 416.392.0721  
[Patrick.karremans@toronto.ca](mailto:Patrick.karremans@toronto.ca)

**TAB G**

**Pat F. Scanga, P. Eng., FEC**  
Manager, Development Engineering  
Engineering and Construction Services

**Metro Hall**  
55 John Street, 16<sup>th</sup> Floor  
Toronto, Ontario M5V 3C6

**Tel:** 416.392.8320  
**Fax:** 416.392.4426  
Pat.Scanga@toronto.ca

Reply to: Ana Maria Luciani  
Engineering Technical Coordinator  
Tel: 416.392.3986  
AnaMaria.Luciani@toronto.ca

**TO:** Oren Tamir, Manager, Community Planning  
Toronto & East York District, 18<sup>th</sup> Floor, East Tower, City Hall  
**Attn:** Catherine Jung

**FROM:** Pat F. Scanga, P. Eng., FEC, Manager, Development Engineering  
Toronto & East York District, 16<sup>th</sup> Floor, Metro Hall  
**Attn:** Ana Maria Luciani

**DATE:** April 8, 2021

**SUBJECT: Compliance Request - Draft Plan of Condominium**  
**No.: 15268792 STE 21 CD**  
**Request for Comments Dated:** November 19, 2021  
**Owner:** Rose of Sharon (Ontario) Retirement Community  
**Applicant:** David Tang Gowling Lafleur Henderson LLP  
**Location:** 165-171 Vaughan Road

**Ward: 12**

---

The purpose of this memorandum is to respond to your request of November 19, 2021 to provide clearance of the Engineering & Construction Services' draft plan of condominium conditions to permit the release of the Plan of Condominium to the Land Registry Office for registration.

Staff reviewed the documentation submitted and advise as follows with respect to the various Draft Plan of Condominium conditions as set out in Attachment 1 of the Notice of Decision Under S.51(45) of the Planning Act, signed, July 11, 2016, as amended on January 13, 2021:

- **Condition No. 7** – The wording in the Condominium Declaration along with other condominium documentation contains the necessary wording respecting reciprocal rights-of-way/easements between the Owners of the condominium to be established and the freehold lands for vehicular access to and use of the underground garage, parking spaces, loading area, and garbage/recycling storage room;
- **Condition No. 8** – There is wording in Clause 1.7(b) in draft Declaration of Condominium respecting who is responsible for payment in full of the water bill to the local water authority; and,

- **Condition No. 9** – Certification from Gowling WLG (Canada) LLP, signed August 30, 2021, confirms that the necessary wording is included in the Shared Facilities Agreement; and,
- **Condition No. 10** –The lands along the entire frontage of the site on Vaughan Road, have been conveyed to the City, for public highway purposes, as per the Transfer document deposited in the Lands Registry Office on July 3, 2019, as Instrument AT5176027.

Accordingly, Notice of Decision Condition Nos. 7, 8, 9 and 10 have been satisfied. However, it is further noted that in connection with the specific conditions in Site Plan Agreement registered on title as Instrument No. CA517084, on December 31, 1997 and its amendment File No. 10/5/285, dated December 10, 2021, the following status is provided:

- **Condition Nos. 3, 4, 6, 7, 11, 12 , and Condition No. 13** – These conditions remain outstanding as the certifications respecting the completed works as well providing the 'as-built drawings', remain outstanding;
- **Condition No. 1(e) in Amending Site Plan Agreement** – respecting site servicing, grading and stormwater management, remains outstanding; and,
- There continues to be no record of the required streetscaping permit (Application No. 472279) for the works that were carried out within the public rights-of-way on Vaughan Road and Maplewood Avenue being issued or the required securities and payments in that respect submitted.

Given the history of this file coupled with the legal complexities that arose with this development (i.e. receivership), it may be advisable to seek Legal Services' input with respect to the outstanding Site Plan Agreement conditions.

Prepared by:  
Ana Maria Luciani  
Engineering Technical Coordinator, Development Engineering  
Toronto & East York District

Signed by:



Pat F. Scanga, P. Eng., FEC  
Manager, Development Engineering  
Engineering & Construction Services

**TAB H**

**From:** [Catherine Jung](#)  
**To:** "Parker, Brian"  
**Cc:** [Bricks, Hartley](#); [Shea, Patrick](#); [Daley, Darrell](#); [Pat Scanga](#); [Oren Tamir](#); [Reza Moazezi](#); [Ana Maria Luciani](#); [Amanda S. Hill](#); [Daniel Reynolds](#)  
**Subject:** [EXT] RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD  
**Date:** Wednesday, April 13, 2022 1:00:30 PM  
**Attachments:** [Attachment 2 -Certification Templates.pdf](#)

---

Hi Brian,

I met with City legal, Engineering and Transportation services this morning regarding the outstanding site plan matters. I have been advised that the release of the condo for registration until these matters have been addressed shouldn't take place.

We ask that you please be in touch with the consultants who produced the stormwater report, the site servicing and grading plans and the other drawings approved by the City, in the site plan agreement which is registered on title, to collect a copy of the necessary documents and to complete the requested certificates.

We need confirmation that the site plan agreement has been executed as agreed to, and do not have another mechanism to do so.

I hope that this can be done in a timely way in order to proceed.

Please confirm receipt of this email and that you are proceeding with collecting the required documents.

Thanks,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Parker, Brian [mailto:Brian.Parker@gowlingwlg.com]  
**Sent:** April 12, 2022 4:01 PM  
**To:** Catherine Jung <Catherine.Jung@toronto.ca>; Oren Tamir <Oren.Tamir@toronto.ca>; Pat Scanga <Pat.Scanga@toronto.ca>

**Cc:** Bricks, Hartley <hbricks@deloitte.ca>; Shea, Patrick <Patrick.Shea@gowlingwlg.com>; Daley, Darrell <darrell.daley@gowlingwlg.com>

**Subject:** RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine, can we speak please at your earliest convenience.

We cannot execute the 3 Certificates as contemplated as we do not have:

- a) the Storm water Report or the plans that were accepted by the city which apparently accord with the Report;
- b) or the site servicing and grading drawings originally accepted by the city, or
- c) in context of solid waste compliance, the registered set of site plan drawings dating to December 31, 2007 as amended dating to December 10, 2003 SPA File 10/5/285.

In short, we're at a stalemate, as our engineer cannot certify construction completion in accordance with approved plans and specifications when neither we nor the City have a-c above.

What is clear however, is that all original building permits for the original construction of the building, as it remains today, were cleared very recently and therefore the City's building file on this project is closed.

We remain of the view that the condominium "conditions" are those that have been all settled and signed off on as noted in Mr. Scanga's most recent letter, and registration therefore should be permitted to proceed. We would ask that this concluding step now be undertaken by your department.

We remain of the view that the Attachment 2 Advisory Notes appended to the Draft Approval are "advisory" only, NOT conditions, and there is a process outside of Section 51 PA to deal with Section 41 matters if the City remains so inclined to hold us to a certification process today, to an Agreement that is now 25 years old, and to compliance with plans and amended plans that cannot be produced.

Please advise on your proposed next step.

Kind regards,  
Brian

Brian Parker  
*Land Planner M.Sc, RPP*  
T +1 416 369 7248  
brian.parker@gowlingwlg.com

\_\_\_\_\_

---

**From:** Catherine Jung <Catherine.Jung@toronto.ca>

**Sent:** April-09-22 9:26 AM

**To:** Parker, Brian <Brian.Parker@ca.gowlingwlg.com>; 'Bricks, Hartley' <hbricks@deloitte.ca>; Shea, Patrick <Patrick.Shea@ca.gowlingwlg.com>

**Cc:** Oren Tamir <Oren.Tamir@toronto.ca>; Pat Scanga <Pat.Scanga@toronto.ca>; Reza Moazezi <Reza.Moazezi@toronto.ca>; Ana Maria Luciani <AnaMaria.Luciani@toronto.ca>; Daniel Reynolds <Daniel.Reynolds@toronto.ca>; Robert Lee <Robert.Lee@toronto.ca>

**Subject:** RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hi Brian,

Please find attached the memo that I received from ECS. They have cleared the condo conditions. Unfortunately, the site plan matters referenced in the advisory notes remain unresolved to their satisfaction.

It was shared with me that the attached certificates if completed would address Condition 4 of the Site Plan Agreement regarding site grading and drainage. Please let me know your response to/ideas about completing the attached certificates.

Thanks,

Catherine

---

**From:** Parker, Brian [<mailto:Brian.Parker@gowlingwlg.com>]

**Sent:** April 8, 2022 12:55 PM

**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; 'Bricks, Hartley' <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>

**Cc:** Oren Tamir <[Oren.Tamir@toronto.ca](mailto:Oren.Tamir@toronto.ca)>

**Subject:** RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hello Catherine;

Pat Scanga and I just spoke, I understand you have received a reply now from ECS. Could you please share that with us at your earliest convenience and advise as to what next steps remain.

Thanks kindly for your efforts at keeping this moving,

Brian

Brian Parker  
Land Planner M.Sc, RPP  
T +1 416 369 7248  
[brian.parker@gowlingwlg.com](mailto:brian.parker@gowlingwlg.com)



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Toronto ON M5X 1G5  
Canada



[gowlingwlg.com](http://gowlingwlg.com)

[Gowling WLG](http://Gowling_WLG) | 1,400+ legal professionals | 18 offices worldwide

---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** April-07-22 6:30 PM  
**To:** 'Bricks, Hartley' <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Cc:** Shea, Patrick <[Patrick.Shea@ca.gowlingwlg.com](mailto:Patrick.Shea@ca.gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@ca.gowlingwlg.com](mailto:Kirsty.Strong@ca.gowlingwlg.com)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>; Parker, Brian <[Brian.Parker@ca.gowlingwlg.com](mailto:Brian.Parker@ca.gowlingwlg.com)>; Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>; Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; Reza Moazezi <[Reza.Moazezi@toronto.ca](mailto:Reza.Moazezi@toronto.ca)>; Oren Tamir <[Oren.Tamir@toronto.ca](mailto:Oren.Tamir@toronto.ca)>  
**Subject:** RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Hartley,

I apologize. I do not have ECS's clearance yet. I have been in correspondence with ECS and know that they are working on it but I have not been provided with their clearance yet. I would let you know as soon as I do.

Regards,

Catherine

---

**From:** Bricks, Hartley [<mailto:hbricks@deloitte.ca>]  
**Sent:** April 7, 2022 12:03 PM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>

**Cc:** Shea, Patrick <[Patrick.Shea@gowlingwl.com](mailto:Patrick.Shea@gowlingwl.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwl.com](mailto:Kirsty.Strong@gowlingwl.com)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>; 'Parker, Brian' <[Brian.Parker@gowlingwl.com](mailto:Brian.Parker@gowlingwl.com)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwl.com](mailto:Kelly.Fawcett@gowlingwl.com)>; Daley, Darrell <[darrell.daley@gowlingwl.com](mailto:darrell.daley@gowlingwl.com)>; Reza Moazezi <[Reza.Moazezi@toronto.ca](mailto:Reza.Moazezi@toronto.ca)>; Oren Tamir <[Oren.Tamir@toronto.ca](mailto:Oren.Tamir@toronto.ca)>  
**Subject:** RE:165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

It's a week later. Anything from ECS on clearing the conditions?

Thanks,

Hartley

---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>

**Sent:** Thursday, March 31, 2022 5:11 PM

**To:** Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>

**Cc:** Shea, Patrick <[Patrick.Shea@gowlingwl.com](mailto:Patrick.Shea@gowlingwl.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwl.com](mailto:Kirsty.Strong@gowlingwl.com)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>; 'Parker, Brian' <[Brian.Parker@gowlingwl.com](mailto:Brian.Parker@gowlingwl.com)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwl.com](mailto:Kelly.Fawcett@gowlingwl.com)>; Daley, Darrell <[darrell.daley@gowlingwl.com](mailto:darrell.daley@gowlingwl.com)>; Reza Moazezi <[Reza.Moazezi@toronto.ca](mailto:Reza.Moazezi@toronto.ca)>; Oren Tamir <[Oren.Tamir@toronto.ca](mailto:Oren.Tamir@toronto.ca)>

**Subject:** [EXT] RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hello Hartley,

Thank you for your email. I have been in touch with ECS and have received confirmation that they are working to clear the conditions of the revised Notice of Decision. I hope to have a response from them in the next day or so.

I had a call with Brian Parker several weeks ago, and explained to him, and he understood, that the delay was not City Planning. Once I have their clearance of the conditions of the condo approval, I will be in a position to have the final condo plans signed and delivered to the Land Registry Office.

I will be in touch with you as soon as I have a response from ECS regarding the release of the condo for registration.

Regards,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Bricks, Hartley [<mailto:hbricks@deloitte.ca>]  
**Sent:** March 31, 2022 4:52 PM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Cc:** Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwlg.com](mailto:Kirsty.Strong@gowlingwlg.com)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>; 'Parker, Brian' <[Brian.Parker@gowlingwlg.com](mailto:Brian.Parker@gowlingwlg.com)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Subject:** RE:165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

I hope all is well. I had left you a voice message yesterday and figured I should follow up with an email. It appears that our application has been languishing for some time now and I have a number of stakeholders calling me weekly asking when this will be complete. I tell them I can't give them a time frame because every time I have its never been met. Life lease purchasers are eager to close the purchase of their condo and stop the interest clock from ticking, Arirang can't close the sale of the nursing home until the condominium is established, and CMHC continues to see significant interest accumulate on a loan they have insured. Can we please have a call ASAP to deal with whatever issues are outstanding and move this to finish line.

Regards,

---

**Hartley Bricks**

Senior Vice President  
Deloitte Restructuring Inc.  
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[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca) | [www.deloitte.ca](http://www.deloitte.ca)

---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** Tuesday, February 15, 2022 12:50 PM  
**To:** 'Parker, Brian' <[Brian.Parker@gowlingwlg.com](mailto:Brian.Parker@gowlingwlg.com)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Cc:** Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwlg.com](mailto:Kirsty.Strong@gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>  
**Subject:** [EXT] RE: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Brian,

ECS is still working on their review. It may be the case that a discussion is necessary with City Legal to discuss the issue of the Advisory Notes.

Regards,

Catherine

Catherine Jung

Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Parker, Brian [<mailto:Brian.Parker@gowlingwlg.com>]  
**Sent:** February 15, 2022 11:18 AM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Cc:** Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwlg.com](mailto:Kirsty.Strong@gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine;

When we last spoke on February 3, I have noted that you had offered to follow up with both Ana and Jason. I believe that you were going to reconfirm our understanding with Jason on the outcome of his previous search efforts for both the 1997 plans and amending “variations” plan in 2003, that these are no longer available. And with Ana, that you would further discuss the statutory context of the Advisory Notes and combined with the almost 25 year history here, that it is reasonable to maintain ECS’s clearance focus on their conditions 7-10 which we believe have been appropriately satisfied based on the materials submitted. Would you have an update please on where these two threads to concluding this process stand?

We’re remain grateful for your efforts throughout.

Thank you,  
Brian

Brian Parker  
*Land Planner M.Sc, RPP*  
T +1 416 369 7248  
[brian.parker@gowlingwlg.com](mailto:brian.parker@gowlingwlg.com)



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Canada



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**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** February-14-22 9:36 AM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowingwlg.com](mailto:Kelly.Fawcett@ca.gowingwlg.com)>; Daley, Darrell <[darrell.daley@ca.gowingwlg.com](mailto:darrell.daley@ca.gowingwlg.com)>  
**Cc:** Parker, Brian <[Brian.Parker@ca.gowingwlg.com](mailto:Brian.Parker@ca.gowingwlg.com)>; Shea, Patrick <[Patrick.Shea@ca.gowingwlg.com](mailto:Patrick.Shea@ca.gowingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@ca.gowingwlg.com](mailto:Kirsty.Strong@ca.gowingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Good Morning Kelly,

I'm sorry to share that I do not have an update to share with you. When the application was circulated to the commenting divisions it was requested that a response be provided ASAP. I have followed up with them.

I will let you know as soon as I hear. I have extended your teams invitation to meet with staff.

Regards,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowingwlg.com>]  
**Sent:** February 14, 2022 9:30 AM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@gowingwlg.com](mailto:darrell.daley@gowingwlg.com)>  
**Cc:** Parker, Brian <[Brian.Parker@gowingwlg.com](mailto:Brian.Parker@gowingwlg.com)>; Shea, Patrick <[Patrick.Shea@gowingwlg.com](mailto:Patrick.Shea@gowingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowingwlg.com](mailto:Kirsty.Strong@gowingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Ana Maria

Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

Further to your previous call with Darrell and Brian, can you kindly provide an update on this file?

Thanks,

Kelly Fawcett

*Law Clerk*

T +1 613 786 0281

[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>

**Sent:** January-31-22 3:54 PM

**To:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>

**Cc:** Parker, Brian <[Brian.Parker@ca.gowlingwlg.com](mailto:Brian.Parker@ca.gowlingwlg.com)>; Shea, Patrick <[Patrick.Shea@ca.gowlingwlg.com](mailto:Patrick.Shea@ca.gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@ca.gowlingwlg.com](mailto:Kirsty.Strong@ca.gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Ana Maria Luciani <[AnaMaria.Luciani@toronto.ca](mailto:AnaMaria.Luciani@toronto.ca)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Darrell, Kelly and Brian,

I've heard from Ana Maria, who is handling the file from ECS. She is waiting for clearance of a number of the conditions from other commenting partners.

She is looking for documentation in support of items (1) (a) and 1(b) and (2) of the Advisory Notes section of the Notice of Decision. I do not see these items addressed in the cover letter that accompanied the latest submission.

Can you please share with us the documentation to clear those conditions.

Thanks,

Catherine

Catherine Jung

Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Daley, Darrell [<mailto:darrell.daley@gowlingwlg.com>]  
**Sent:** January 31, 2022 8:58 AM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>  
**Cc:** Parker, Brian <[Brian.Parker@gowlingwlg.com](mailto:Brian.Parker@gowlingwlg.com)>; Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwlg.com](mailto:Kirsty.Strong@gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Good morning Catherine,

Can we set up a call with you and ECS some time this week? If you can propose a couple of times that would be much appreciated.

Thanks,  
Darrell

Darrell Daley  
*Partner*  
T 613 783 8847  
M 613 878 8468  
[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** January-28-22 3:10 PM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>; Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>  
**Cc:** Parker, Brian <[Brian.Parker@ca.gowlingwlg.com](mailto:Brian.Parker@ca.gowlingwlg.com)>; Shea, Patrick <[Patrick.Shea@ca.gowlingwlg.com](mailto:Patrick.Shea@ca.gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@ca.gowlingwlg.com](mailto:Kirsty.Strong@ca.gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Kelly,

I have follow up with them. I'll let you know when I hear back. I hope to be able to provide you with a timeline in which we will hear from them about the conditions.

Regards,

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwl.com>]  
**Sent:** January 28, 2022 2:32 PM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@gowlingwl.com](mailto:darrell.daley@gowlingwl.com)>  
**Cc:** Parker, Brian <[Brian.Parker@gowlingwl.com](mailto:Brian.Parker@gowlingwl.com)>; Shea, Patrick <[Patrick.Shea@gowlingwl.com](mailto:Patrick.Shea@gowlingwl.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwl.com](mailto:Kirsty.Strong@gowlingwl.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

We have not heard anything this week. Can you please provide an update from ECS?

Thanks,

Kelly Fawcett  
*Law Clerk*  
T +1 613 786 0281  
[kelly.fawcett@gowlingwl.com](mailto:kelly.fawcett@gowlingwl.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** January-21-22 1:37 PM  
**To:** Daley, Darrell <[darrell.daley@ca.gowlingwl.com](mailto:darrell.daley@ca.gowlingwl.com)>  
**Cc:** Parker, Brian <[Brian.Parker@ca.gowlingwl.com](mailto:Brian.Parker@ca.gowlingwl.com)>; Shea, Patrick <[Patrick.Shea@ca.gowlingwl.com](mailto:Patrick.Shea@ca.gowlingwl.com)>; Strong, Kirsty <[Kirsty.Strong@ca.gowlingwl.com](mailto:Kirsty.Strong@ca.gowlingwl.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwl.com](mailto:Kelly.Fawcett@ca.gowlingwl.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Darrell,

Thank you for your email. Your patience is much appreciated.

I too am unaware of the cause of the delay. I have followed up with Engineering and Construction Services on a number of occasions to provide information to aid their review. I will follow up with them again.

Hopefully we can get movement on this next week. I will follow up with you when I hear from them.

Regards,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Daley, Darrell [<mailto:darrell.daley@gowlingwlg.com>]

**Sent:** January 21, 2022 1:23 PM

**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>

**Cc:** Parker, Brian <[Brian.Parker@gowlingwlg.com](mailto:Brian.Parker@gowlingwlg.com)>; Shea, Patrick <[Patrick.Shea@gowlingwlg.com](mailto:Patrick.Shea@gowlingwlg.com)>; Strong, Kirsty <[Kirsty.Strong@gowlingwlg.com](mailto:Kirsty.Strong@gowlingwlg.com)>; Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>; Fawcett, Kelly <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Good afternoon Catherine,

We have been very patient to date, but we are getting a lot of pushback, not only from our client, but also from life lease purchasers, among others, about why this is taking so long. They are all trying to get ready to close but our November 5<sup>th</sup> submission continues to sit with the City with no real date in sight. Our final declaration has been at the LRO since that date as well.

Can you please provide us with a timeline for this approval? We were not aware of the current delay

in approving condominiums.

Regards,  
Darrell

Darrell Daley

*Partner*

**T** 613 783 8847

**M** 613 878 8468

[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** January-14-22 9:32 AM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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---

Hello Kelly,

I have not yet heard from ECS.

Regards,

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]  
**Sent:** January 14, 2022 9:20 AM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

Have you received an update from ECS?

Thanks,

Kelly Fawcett

*Law Clerk*

T +1 613 786 0281

[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** January-11-22 1:11 PM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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---

Hello Kelly.

I've heard from ECS. They're working on it and will have a response as soon as possible.

Regards,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]  
**Sent:** January 11, 2022 10:36 AM  
**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>

**Cc:** Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

Is there any way to get a response from ECS this week? Our Declaration has been with the registry office awaiting registration since mid-November.

Your help would be much appreciated!

Kelly Fawcett

*Law Clerk*

T +1 613 786 0281

[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>

**Sent:** January-04-22 10:22 AM

**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>; Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>

**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Kelly,

I have followed up with ECS again. I'll let you know when I have information to share.

Catherine

Catherine Jung

Planner, Community Planning

Toronto & East York District

City Hall, 12th Floor – East Tower

100 Queen St W

Toronto, ON M5H 2N2

[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]

**Sent:** January 4, 2022 8:52 AM

**To:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@gowlingwl.com](mailto:darrell.daley@gowlingwl.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Good morning Catherine,

Following up on the email below. Can you kindly provide an update?

Thanks,

Kelly Fawcett  
*Law Clerk*  
T +1 613 786 0281  
[kelly.fawcett@gowlingwl.com](mailto:kelly.fawcett@gowlingwl.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** December-21-21 2:21 PM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwl.com](mailto:Kelly.Fawcett@ca.gowlingwl.com)>; Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwl.com](mailto:darrell.daley@ca.gowlingwl.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hello Kelly,

Thanks for writing. I have written Engineering to inquire about a timeframe. I had requested a response on or before Dec 3.

I'll let you know when I hear back.

Regards,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]  
**Sent:** December 21, 2021 12:07 PM  
**To:** Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>; Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine,

Can you kindly advise re below and provide an estimated timeframe to complete this?

Thanks,

Kelly Fawcett  
*Law Clerk*  
T +1 613 786 0281  
[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>  
**Sent:** December-16-21 11:02 AM  
**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hi Kelly,

It looks like Catherine is still awaiting comments from ECS. I would advise you follow up with her directly when she is back.

Happy holidays,

**Corinna Prior** (she/her)  
Planner, Community Planning  
Toronto & East York District  
City of Toronto

T: 416-392-5651

E: [Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]  
**Sent:** December 16, 2021 10:43 AM  
**To:** Corinna Prior <[Corinna.Prior@toronto.ca](mailto:Corinna.Prior@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>  
**Subject:** FW: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Corinna,

I received Catherine's out of office from the email below. Are you able to provide any update?

Thanks,

Kelly Fawcett  
*Law Clerk*  
T +1 613 786 0281  
[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Fawcett, Kelly  
**Sent:** December-16-21 10:36 AM  
**To:** 'Catherine Jung' <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Greg Whitfield <[Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Catherine and Greg,

We have not received an update to the matter below. Can you kindly advise?

Thanks,

Kelly Fawcett  
*Law Clerk*  
T +1 613 786 0281  
[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>  
**Sent:** November-19-21 1:14 PM  
**To:** Greg Whitfield <[Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca)>; Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>  
**Cc:** Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Thanks Greg! The file has been circulated.

I'll be in touch when I hear back from ECS.

Thanks,

Catherine

Catherine Jung  
Planner, Community Planning  
Toronto & East York District  
City Hall, 12th Floor – East Tower  
100 Queen St W  
Toronto, ON M5H 2N2  
[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)

---

**From:** Greg Whitfield  
**Sent:** November 19, 2021 9:44 AM  
**To:** 'Fawcett, Kelly' <[Kelly.Fawcett@gowlingwlg.com](mailto:Kelly.Fawcett@gowlingwlg.com)>  
**Cc:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>  
**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Thanks, Kelly.

Your resubmission has been received and forwarded to Planning for review and circulation.

Regards,  
Greg

**Greg Whitfield**

Planning Consultant | Toronto & East York District  
Toronto Building  
First Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON, M5H 2N2

T: 416-397-4842

E: [greg.whitfield@toronto.ca](mailto:greg.whitfield@toronto.ca)

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---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]

**Sent:** November 18, 2021 3:04 PM

**To:** Greg Whitfield <[Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca)>

**Cc:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

Hi Greg,

Further to our call, please find attached the resubmission form. If you require anything further, please let me know.

Thanks,

Kelly Fawcett

*Law Clerk*

T +1 613 786 0281

[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



---

**From:** Greg Whitfield <[Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca)>

**Sent:** November-18-21 2:08 PM

**To:** Fawcett, Kelly <[Kelly.Fawcett@ca.gowlingwlg.com](mailto:Kelly.Fawcett@ca.gowlingwlg.com)>

**Cc:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@ca.gowlingwlg.com](mailto:darrell.daley@ca.gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>

**Subject:** RE: Rose of Sharon - City File No. 15 268792 STE 21 CD

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Hi Kelly,

Apologies for the delay in getting back to you on this.

We will require a resubmission form and cover letter completed to finish processing the submission. See link below for the resubmission form.

<https://www.toronto.ca/wp-content/uploads/2017/08/9748-Resubmission-Form-0043.pdf>

Regards,

Greg

**Greg Whitfield**

Planning Consultant | Toronto & East York District  
Toronto Building  
First Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON, M5H 2N2

T: 416-397-4842

E: [greg.whitfield@toronto.ca](mailto:greg.whitfield@toronto.ca)

We are not accepting in-person payments at our service counters at this time. All payments required to be made through EFT will take 2-3 business days to process. Please work with your banks to ensure these transfers are done in a timely manner in order to ensure payment is received to allow permits to be issued within this time frame. City staff hours are Monday through Friday 8:30 to 4:30; payments received outside of these hours will not be processed / until the following business day.

---

**From:** Fawcett, Kelly [<mailto:Kelly.Fawcett@gowlingwlg.com>]

**Sent:** November 5, 2021 10:46 AM

**To:** Greg Whitfield <[Greg.Whitfield@toronto.ca](mailto:Greg.Whitfield@toronto.ca)>

**Cc:** Catherine Jung <[Catherine.Jung@toronto.ca](mailto:Catherine.Jung@toronto.ca)>; Daley, Darrell <[darrell.daley@gowlingwlg.com](mailto:darrell.daley@gowlingwlg.com)>; [dmiret@ravissurveying.com](mailto:dmiret@ravissurveying.com); Bricks, Hartley <[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)>

**Subject:** Rose of Sharon - City File No. 15 268792 STE 21 CD

Good afternoon Greg,

Please find attached our documentation to clear the condominium conditions. The surveyor, Dario Miret, will be delivering the condominium plans.

Kindly let us know if you require anything further.

Thanks,

Kelly Fawcett

Law Clerk

T +1 613 786 0281

[kelly.fawcett@gowlingwlg.com](mailto:kelly.fawcett@gowlingwlg.com)



Gowling WLG (Canada) LLP  
Suite 2600, 160 Elgin Street  
Ottawa ON K1P 1C3  
Canada



**[gowlingwlg.com](http://gowlingwlg.com)**

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**TAB I**

May 4, 2022

**Via E-Mail**

**Michael S. Polowin**  
Direct +1 613 786 0158  
Direct Fax +1 613 788 3485  
michael.polowin@gowlingwlg.com

City of Toronto  
26th Flr., Metro Hall, Stn. 1260, Legal Services  
55 John St.  
Toronto, Ontario M5V 3C6

**Attention: Amanda Hill**  
**Solicitor, Planning and**  
**Administrative Tribunal Law**

Dear Ms. Hill:

**Re: 165 Vaughan Rd - Rose of Sharon - City File No. 15 268792 STE 21 CD**

As you may know, we are counsel to Deloitte Restructuring Inc., the Court-appointed Receiver and Manager of Rose of Sharon (Ontario) Retirement Community, with respect to the matter referred to above. Our client is an Officer of the Court performing a Court-mandated and supervised role that includes the conversion of the building to condominiums.

We have been asked to review the requirements of the City with respect to revised conditions of approval under s. 51(45) of the *Planning Act* (the "Act"). As you may know, our client is certainly not the original Applicant, and is attempting to complete a matter of long-standing. And it is about the age of these proceedings that raise the concerns we write to you today.

We have been advised that Planning Staff are seeking compliance with the Advisory notes, attached to the Revised Conditions, issued January 13, 2021. We are concerned about this position, for the following reasons:

1. It is clear that Advisory Notes have no status under the Act. They could not be appealed, and as such do not bind the Applicant;
2. The Advisory Notes are incorrect:
  - a. The registered Site Plan Agreement is dated December 31, 1997, not 2007; and,
  - b. The amending SPA (File 10/5/285) (the "Amending SPA") which is not registered, is dated December 10, 2003, not 2013;
3. The very age of the documents referred to make it impossible to deal with these notes. We do not, and nor does the City, have a copy of the Amending SPA. This was confirmed to us

approximately 4 years ago by Parick Karremans of Toronto Building and Jason Tsang, the city planner assigned to this matter at the time;

4. The original building permit pursuant to which the as-built structure as it exists today was inspected and the City's permit file respecting this construction was fully closed on July 16, 2018;
5. In October 2007, by memo, a copy of which is attached, the City advised that no further City Approvals and Requirements existed; and
6. Finally, by memo dated February 9, 2016, a copy of which is attached, the addressed the Receiver's application and advised that there were no outstanding Site Plan Agreement conditions that were required to be satisfied prior to the release of the plan of condominium for registration.

In light of all of this, we ask that you direct Planning Staff that satisfaction of the Advisory Notes is not required for this matter to move forward. We thank you for your attention to this matter.

Yours very truly,



Michael S. Polowin  
Partner

MSP

cc: Client

**TAB J**

OFFICE SCHEDULE

AT 6082534

CERTIFICATE OF RECEIPT,  
RÉCÉPISSÉ  
TORONTO (66)

MAY 18 2022 16:20

LAND REGISTRAR

*Gene Sapiro*

**DECLARATION**

**CONDOMINIUM**

**ACT, 1998**

**TORONTO STANDARD CONDOMINIUM PLAN NO. 2911**

**NEW PROPERTY IDENTIFIER'S BLOCK 76911**

**RECENTLY: PART OF PIN 10468-0599**

**DECLARANT: ROSE OF SHARON (ONTARIO)**

**RETIREMENT COMMUNITY**

**SOLICITOR: Darrell Daley  
Gowling WLG (Canada) LLP**

**ADDRESS: Suite 2600, 160 Elgin Street  
Ottawa ON K1P 1C3**

**PHONE: 613-233-1781**

**FAX: 613-563-9869**

**No. OF UNITS** 179

**FEES:** \$77.35 + (\$5.00 x number of units) = \$972.35

**DECLARATION  
MADE PURSUANT TO THE CONDOMINIUM ACT, 1998**

**THIS DECLARATION** is made and executed pursuant to the provisions of the *Condominium Act, 1998*, S.O. 1998, c. 19, and the regulations made thereunder, as amended from time to time, by:

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**  
(hereinafter called the "Declarant")

and

**DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager of the assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity, pursuant to an Order of the Ontario Superior Court of Justice dated September 27, 2011 in Court File No. CV-11-9399-00CL**

**WHEREAS:**

- A. The Declarant is the registered owner of the property (which includes the appurtenant interests) with an absolute title under the *Land Titles Act*, R.S.O. 1990, c. L.5, situate in the City of Toronto, in the Province of Ontario and being more particularly described in Schedule "A" annexed hereto and in the description submitted herewith by the Declarant (hereinafter called the "Description") for registration in accordance with the Act (the "Property");
- B. The Declarant has converted or will convert that portion of an existing building upon the Property to a condominium containing, *inter alia*, 91 residential units, 17 parking units, 51 storage units, 9 combined parking/storage units, 1 lobby/corridor unit, 1 garbage collection room unit, 1 security unit, 1 transformer unit, 1 recycling room unit, 1 lobby unit, 1 communications unit, 1 power distribution unit, 1 diesel tank unit, 1 plumbing room unit and 1 mechanical unit as more particularly described in the Declaration;
- C. Rose of Sharon (Ontario) Retirement Community is the Declarant for the purposes of the Act;
- D. Deloitte Restructuring Inc., formerly known as Deloitte & Touche Inc., is the court-appointed receiver and manager of the assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity (the "Receiver"), pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) dated September 27, 2011 in Court File No. CV-11-9399-00CL and registered as Instrument Number AT2905656 (the "Order") as amended by Application To Change Name-Instrument registered as Instrument No. AT5759673;
- E. The Receiver has the authority, pursuant to the Order, to do all things and execute all documents reasonably necessary and incidental to obtaining registration of the Property as a freehold standard condominium under the Act, including executing the Declaration for the proposed condominium on behalf of the Declarant (but solely in its capacity as a Receiver and Manager of the Declarant pursuant to the Order and not in its personal capacity) and causing the Declaration and Description and all necessary by-laws to be registered on title to the Property; and
- F. The Declarant intends that the land and interest appurtenant to the land in the Description and Schedule "A" of the Declaration together with the buildings constructed thereon shall be governed by the Act and that the registration of the Declaration and the Description will create a freehold standard condominium corporation.

**NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:**

**ARTICLE I  
INTRODUCTORY**

**1.1 Definitions**

The terms used in the Declaration shall have the meaning ascribed to them in the Act

unless the Declaration specifies otherwise or unless the context otherwise requires and in particular:

- (a) "Act" means the *Condominium Act, 1998*, S.O. 1998, c. 19, and the regulations made thereunder, as amended from time to time;
- (b) "Adjoining Lands" means Part of Lots 24, 25, and 26, Block F, Plan 875 (York), being Parts 3, 8, 10, 13, 14, 15, and 16 on Plan 66R-30578; City of Toronto;
- (c) "Amenities" means those parts of the common elements being the Party Lounge, and the residential laundry room on Level A and identified as such in the Description.
- (d) "Board" means the Corporation's Board of Directors;
- (e) "Combined Parking/Storage Units" means Units 3, 6, 10 and 12 on Level A and Units 3, 5, 7, 8 and 9 on Level B;
- (f) "Communications Unit" means Unit 18, Level A;
- (g) "Corporation" or "Condominium" means the condominium corporation created by the registration of the Declaration and of the Description under the Act;
- (h) "Declarant" means Rose of Sharon (Ontario) Retirement Community;
- (i) "Declaration" means this declaration;
- (j) "Description" shall have the meaning ascribed to it in Recital A;
- (k) "Diesel Tank Unit" means Unit 20, Level A;
- (l) "Disabled Parking Unit" means Unit 11, Level A;
- (m) "Garbage Collection Room Unit" means Unit 2, Level 1;
- (n) "Insurance Trust Agreement" shall have the meaning ascribed to it in Section 8.1;
- (o) "Liabilities" shall have the meaning ascribed to it in Section 7.4;
- (p) "Lobby/Corridor Unit" means Unit 1, Level 1;
- (q) "Lobby Unit" means Unit 17, Level A;
- (r) "LTC Mechanical Room" means the mechanical room situate within Part of Lot 24 and 25, Block F, Registered Plan 875 (York), designated as Part 16, Plan 66R-30578;
- (s) "Mechanical Unit" means Unit 1, Level 10;
- (t) "Order" has the meaning ascribed to it in Recital D;
- (u) "Parking Units" means Units 1, 2, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 on Level A and Units 1, 2, 4, 6 and 10 on Level B;
- (v) "Party Lounge" means the party lounge on Level 9 which forms part of the common elements and identified as such in the Description, including the kitchen and roof garden/patio to which the party lounge has exclusive access;
- (w) "Plumbing Room Unit" means Unit 11, Level B;
- (x) "Power Distribution Unit" means Unit 19, Level A;
- (y) "Property" shall have the meaning ascribed to it in Recital A;
- (z) "Proportionate Shared Unit Interest" means the respective ownership share by each component of the condominium with respect to the Service Units as determined in accordance with the Declaration and the Shared Facilities Agreement;
- (aa) "Receiver" has the meaning ascribed to it in Recital D;

- (bb) "Recycling Room Unit" means Unit 5, Level 1;
- (cc) "Residential Unit(s)" means Units 1 to 14, Level 2; Units 1 to 14, Level 3; Units 1 to 12, Level 4; Units 1 to 12, Level 5; Units 1 to 12, Level 6; Units 1 to 10, Level 7; Units 1 to 10, Level 8; and Units 1 to 7, Level 9;
- (dd) "Security Unit" means Unit 3, Level 1;
- (ee) "Service Units" means collectively the Communications Unit, Diesel Tank Unit, Lobby/Corridor Unit, Lobby Unit, Garbage Collection Room Unit, Mechanical Unit, Plumbing Room Unit, Power Distribution Unit, Recycling Room Unit, Security Unit and Transformer Unit;
- (ff) "Shared Facilities" shall mean the Service Units, the common foundation and servicing pipes, wires, cables, conduits, mechanical servicing systems, electrical servicing systems and such other facilities, systems and services serving or benefiting the Service Units or both of the Property and Adjoining Lands, including, without limitation, all pertinent portions of the hydroelectric, water, storm and sanitary sewer systems, gas systems, emergency systems, computer controlled building access systems, generator(s), alarm systems, telephone systems, internet systems, television systems, fire protection systems (as well as pertinent portions of various ancillary computer software and/or mechanical, electronic, and/or electrical fixtures and equipment appurtenant thereto), which provide power, heat, water, drainage, emergency service, telephone service, internet service, television service, facilities access, alarm service, fire protection service and/or any other type of service to the Service Units or more than one of the Property and Adjoining Lands (whether presently existing or installed subsequent to the date of registration of the Declaration), and including, without limitation, those items which are more particularly set out in the Shared Facilities Agreement (including, without limitation, the shared services referred to therein), subject to the exclusions therein;
- (gg) "Shared Facilities Agreement" means the mutual easement and cost sharing agreement, as amended or replaced from time to time, governing the use and sharing of costs of certain services and facilities, including the Shared Facilities, between the Corporation and the owner of the Adjoining Lands;
- (hh) "Shared Facilities Costs" means the aggregate of all costs and expenses incurred in connection with the Shared Facilities, all as provided in the Shared Facilities Agreement and shall include without limitation, the costs and expenses incurred in connection with the maintenance, repair, replacement, operation and management of the Shared Facilities, including without limitation, the cost of maintaining and repairing all electrical and mechanical equipment, fixtures and installations comprising same or appurtenant thereto, together with the amount of any municipal, provincial or federal taxes and/or common expenses assessments attributable to the Shared Facilities (or any portion thereof);
- (ii) "Storage Unit(s)" means Units 15, 16, 17, 18, 19, 20, 21 and 22, on Level 3; Units 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 on Level A; and Units 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 on Level B;
- (jj) "Transformer Unit" means Unit 4, Level 1; and
- (kk) "Unit(s)" means a part or parts of the Property included in the Description and designated as a Unit by the Description, and comprises the space enclosed by its boundaries and all the material parts of the land within such space in accordance with the Declaration and Description.

## 1.2 Statement of Intention

The Declarant intends that the Property described in Schedule "A", and in the Description, together with all interests appurtenant thereto, be governed by the Act and its regulations and any amendments thereto. The registration of the Declaration and the Description will create a freehold standard condominium corporation as defined in the Act.

1.3 Consent of Encumbrancers

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

1.4 Exclusion/Inclusion of Units

It is expressly stipulated and declared that the following items, matters or things are included/excluded from (as the case may be) each of the Units described below, namely:

(a) **Residential Units**

- (i) Each Residential Unit shall include all pipes, wires, cables, conduits, ducts, mechanical and electrical apparatus and the branch piping extending to, but not including, the common pipe risers, all of which provide a service or utility to the particular Unit, regardless of whether or not same are located outside the Unit boundaries described in Schedule "C". Each Residential Unit shall also include the heating, air conditioning and ventilation equipment and appurtenant fixtures attached thereto, including the shut-off valve, all of which provide a service or utility to that particular Unit, regardless of whether or not same are located outside the Unit boundaries described in Schedule "C".
- (ii) Each Residential Unit shall exclude any load bearing wall or column that provides support to another Unit or the common element, exterior door and frame, window and frame, all pipes, wires, cables, conduits, ducts, shafts, flues and mechanical and electrical apparatus, carbon monoxide detectors, fire alarms, security or sprinkler systems, all of which are situate in the Unit and provide a service or utility to another Unit(s) or the common elements.

(b) **Parking Units, Combined Parking/Storage Units and Storage Units**

- (i) Each Parking Unit, Combined Parking/Storage Unit and Storage Unit has no inclusions, excepting the Combined Parking/Storage Unit which shall include the locker door and frame.
- (ii) Each Parking Unit, Combined Parking/Storage Unit and Storage Unit shall exclude, all equipment or apparatus including any fans, pipes, wires, cables, conduits, ducts, flues, shafts, fire hoses, floor area drains and sump pumps, sprinklers, lighting, fixtures, air-conditioning or heating equipment appurtenant thereto, which provide any service to the common elements or Units, including all wall structures and support columns and beams as well as any additional floor surfacing (membranes and coatings included), which may be located within any Parking Unit, Combined Parking/Storage Unit and Storage Unit.

(c) **Service Units**

- (i) Each Service Unit shall include exterior doors, door frames, windows and frames (if applicable) louvers and gratings, all pipes, wires, cables, ducts, shafts and mechanical and electrical apparatus, which provide a service or utility to the Unit only, regardless of whether or not same are located outside the Unit boundaries of each Service Unit described in Schedule "C".
- (ii) Each Service Unit shall exclude any pipe, wire, cable, conduit, duct, shaft, mechanical or electrical apparatus, which provides a service or utility to another Unit or the common elements.

1.5 Common Interest and Common Expense Allocation

Each owner shall have an undivided interest in the common elements as a tenant in common with all other owners in the proportions set forth opposite each Unit number in Schedule "D" attached hereto and shall contribute to the common expenses in the proportion set forth opposite each Unit number in Schedule "D" attached hereto. The total of the proportions of the common interest and proportionate contribution to common expenses shall each be one hundred (100%) percent.

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

The Corporation's address for service shall be 15 Maplewood Avenue, Toronto, Ontario M6C 4B4 or other address as the Corporation may by resolution of the Board determine, and the Corporation's mailing address shall be 15 Maplewood Avenue, Toronto, Ontario M6C 4B4. The Corporation's municipal address is 15 Maplewood Avenue, Toronto, Ontario M6C 4B4.

1.7 Approval Authority Requirements

The following conditions have been imposed by the approval authority to be included in the Declaration:

- (a) Non-disabled owners and/or occupants of the Disabled Parking Unit shall be obligated, upon notification by the Corporation, to exchange, at no cost to the person with a disability, the use of the Disabled Parking Unit with the person with a disability for the Parking Unit which was purchased by the person with the disability, in accordance with Section 4.3(e) herein.
- (b) Water to the Property and Adjoining Lands will be bulk metered. The Corporation shall be responsible to the local water authority for payment in full of the water bill.

1.8 Architect/Engineer Certificates

The certificate(s) of the architect(s) and/or engineer(s) confirming that all buildings on the Property have been constructed in accordance with the regulations made under the Act is/are contained in Schedule "G" attached hereto.

**ARTICLE II  
COMMON EXPENSES**

2.1 Specification of Common Expenses

The common expenses shall comprise the expenses of the performance of the objects and duties of the Corporation and such other expenses, costs and sums of money incurred by or on behalf of the Corporation that are specifically designated as (or collectable as) common expenses pursuant to the Act and/or the Declaration and without limiting the generality of the foregoing, shall include those expenses set out in Schedule "E" attached hereto.

2.2 Payment of Common Expenses

Each owner, including the Declarant, shall pay to the Corporation his/her proportionate share of the common expenses, and any special assessments and the assessment and collection of the contributions toward common expenses may be regulated by the Board pursuant to the by-laws of the Corporation. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of breach of any provision of the Declaration, or in any by-laws or rules in force from time to time, by any owner or by members of his/her family and/or their respective tenants, invitees or licensees, shall be borne and paid for by such owner and may be recovered by the Corporation against such owner in the same manner as common expenses.

2.3 Reserve Fund

- (a) The Corporation shall establish and maintain one or more reserve funds and shall collect from the owners as part of their contribution towards the common expenses, all amounts that are reasonably expected to provide sufficient funds for major repair and/or replacement of common elements and assets of the Corporation, all in accordance with the provisions of the Act;
- (b) No part of the reserve fund shall be used except for the purposes for which the fund was established. The reserve fund shall constitute an asset of the Corporation and shall not be distributed to any owner except on termination of the Corporation and in accordance with the provisions of the Act; and
- (c) For the purposes of the Act, the Declaration and/or the Shared Facilities Agreement, any and all portions of the Shared Facilities not comprising part of the registered Description of this condominium shall be deemed to be an "asset"

of the Corporation for the purposes of utilizing any of its reserve fund(s) in connection with this Corporation's responsibility to share the costs of repairing and/or replacing the Shared Facilities.

2.4 Status Certificate

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

**ARTICLE III  
COMMON ELEMENTS**

3.1 Use of Common Elements

Subject to the provisions of the Act, the Declaration, the by-laws and any rules, each owner has the full right to reasonable use, occupancy and enjoyment of the whole or any parts of the common elements, except as herein otherwise provided.

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

- (a) will result in a contravention of any term or provision set out in the Act, the Declaration, the by-laws, rules or policy of the Corporation, as adopted and/or amended from time to time, or pursuant to any agreement or instrument registered on title;
- (b) is likely to damage the property of the condominium, or impair the structural integrity of any Unit or common element area;
- (c) is likely to cause an injury or an illness or that is likely to affect or put at risk the health, safety and security of other owners or occupants of the common elements and/or their respective Units or that is in breach of any advice, recommendation and instructions issued by the Office of the Chief Medical Officer of Health, or other public health official;
- (d) create or causes any unreasonable noise, smell, or disruption that is deemed to be a nuisance, annoyance or disruption to an individual in a Unit, the common elements or the assets of the Corporation;
- (e) will unreasonably interfere with the use and enjoyment by the other owners of the common elements and/or their respective Units;
- (f) is in breach of any federal, provincial or municipal legislation, regulation, by-law order or ordinance; or
- (g) may result in the cancellation (or threatened cancellation) of any policy of insurance obtained or maintained by the Corporation, or that may significantly increase any applicable insurance premium(s) with respect thereto, or any deductible portion in respect of such policy.

No one shall, by any conduct or activity undertaken in or upon any part of the common elements, impede, hinder or obstruct any right, privilege, easement or benefit given to any party, person or other entity pursuant to the Declaration, any by-law and/or the rules or pursuant to any agreement or instrument registered on title.

3.2 Exclusive Use Common Elements

Subject to the provisions of and compliance with the Act, the Declaration, the by-laws and the rules, the owner of each Unit referred in Schedule "F" attached hereto shall have the exclusive use and enjoyment of those parts of the common elements as set out in Schedule "F" attached hereto.

3.3 Restricted Access

- (a) Except as provided in the Shared Facilities Agreement, without the consent in writing of the Board, no owner shall have the right of access to the Service Units or to those parts of the common elements used from time to time for the care, maintenance or operation of the Property or any part thereof as designated by the Board, from time to time; and
- (b) This Section 3.3 shall not apply to any mortgagee holding mortgages on at least thirty percent (30%) of the Units who shall have a right of access for inspection upon forty-eight (48) hours notice to the Corporation or its property manager.

3.4 Modifications of Common Elements, Assets and Services

(a) General Prohibition

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

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

The Corporation may make a non-substantial addition, alteration, or improvement to the common elements, a non-substantial change in the assets of the Corporation or a non-substantial change in a service that the Corporation provides to the owners in accordance with Section 97 of the Act.

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

The Corporation may, by a vote of owners who own at least sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the Units, make a substantial addition, alteration or improvement to the common elements, a substantial change in the assets of the Corporation or a substantial change in a service the Corporation provides to the owner in accordance with Section 97 of the Act.

3.5 Pets

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

3.6 Amenities

Only owners of a Residential Unit in the Condominium from time to time and their respective residents, tenants and invitees shall be entitled to use and enjoy the Amenities and only in accordance with any rules or by-laws of the Corporation which may require, *inter alia*, a fee per use for same as well as, in respect of the Party Lounge, a damage/security deposit, a service/cleaning charge, and a security charge to the extent it is deemed by the Board, in its sole and absolute discretion, that temporary security personnel is required to monitor the access and egress of the guests invited to the Party Lounge.

3.7 Declarant Rights

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

- (a) the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their respective authorized agents, representatives and/or invitees shall have free and uninterrupted access to and egress from the common elements, for the purposes of implementing, operating and/or administering the marketing, sale, construction and/or customer-service program(s) of the Declarant and/or Receiver with respect to any unsold Units in the condominium, from time to time;
- (b) the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their respective authorized agents or representatives shall be entitled to erect and maintain signs and displays for marketing/sale purposes, as well as model suites and one or more offices for marketing, sales, construction and/or customer-service purposes, upon any portion of the common elements, and within or outside any unsold Units, within the Amenities space and within and at such other locations and having such dimensions as the Declarant and/or Receiver may determine in its sole and unfettered discretion, all without any charge to the Declarant and/or Receiver for the use of the space(s) so occupied nor for any utility services (or any other usual or customary services) supplied thereto or consumed thereby, nor shall the Corporation (or any one else acting on behalf of the Corporation) prevent or interfere with the provision of utility services (or any other usual or customary services) to the marketing/sales/construction/customer-service office(s) and said model suites of the Declarant and/or Receiver; and
- (c) the Corporation shall ensure that no actions or steps are taken by anyone which would prohibit, limit or restrict the access and egress of the Declarant and/or Receiver or a subsidiary body corporate, holding body corporate or affiliated body corporate of the Declarant and/or Receiver and their respective authorized agents, representative and/or invitees in and over the common elements of the Corporation including the use of the amenity space for sales and marketing purposes,

until such time as all of the Units in this condominium have been transferred by the Declarant and/or Receiver.

**ARTICLE IV  
UNITS**

4.1 General Use

The occupation and use of the Units shall be in accordance with the following restrictions and stipulations:

- (a) No Unit shall be occupied or used by a Unit owner or anyone else, in such a manner as is likely to damage or injure any person or property (including any other Units, any portion of the common elements and/or any portion of the Adjoining Lands) or in a manner that will impair the structural integrity, either patently or latently, of the Units, common elements and/or Adjoining Lands, or in a manner that will unreasonably interfere with the use or enjoyment by other owners of the Adjoining Lands, the common elements or their respective Units, or that may result in the cancellation or threat of cancellation of any insurance policy referred to in the Declaration or in the Shared Facilities Agreement, or that may increase any insurance premiums with respect thereto, or in such a manner as to lead to a breach by a Unit owner, by the Corporation and/or the owner of the Adjoining Lands of any provisions of the Declaration, the by-laws, and/or any agreement authorized by by-law including, without limitation, the Shared Facilities Agreement. If the use made by an owner of a Unit, other than the Declarant and/or Receiver (except as is contemplated in the Declaration or in the by-laws, or in any agreement authorized by by-law including without limitation, the Shared Facilities Agreement) causes injury to any person or causes latent or patent damage to any Unit, to any part of the common elements and/or the Adjoining Lands, or results in the premiums of any insurance policy obtained or maintained by the Corporation and/or the owner of the Adjoining Lands being

increased, or results in such policy being cancelled, then such owner shall be personally liable to pay and/or fully reimburse the Corporation and/or the owner of the Adjoining Lands, as applicable, for all costs incurred in the rectification of the aforesaid damages, and for such increased portion of the insurance premiums so payable by the Corporation and/or the owner of the Adjoining Lands, as applicable (as a result of such owner's use) and such owner shall also be liable to pay and/or fully reimburse the Corporation and/or the owner of the Adjoining Lands, as applicable, for all other costs, expenses and liabilities suffered or incurred by the Corporation and/or the owner of the Adjoining Lands, as applicable, as a result of such owner's breach of the foregoing provisions of this subparagraph as applicable to the condominium and such owner shall pay with his or her next monthly contribution towards the common expenses after receipt of a notice from the Corporation, all increases in premiums in respect of such policy or policies of insurance. All payments pursuant to this clause are deemed to be additional contributions towards common expenses and recoverable as such;

- (b) Each owner shall comply and shall require all members of his or her family, occupants, residents, tenants, invitees, servants, agents, contractors and licensees to his or her Unit to comply with the Act, the Declaration, the by-laws, the rules, and all agreements authorized by by-law including, without limitation, the Shared Facilities Agreement;
- (c) No change shall be made in the colour of any exterior glass, window, door or screen of any Unit except with the prior written consent of the Board. Each owner shall ensure that nothing is affixed, attached to, hung, displayed or placed on the exterior walls, including awnings and/or storm shutters, doors or windows of the building, nor shall an owner grow any type of plant, shrubbery, flower, vine or grass outside his or her Unit, except with the prior written consent of the Board, and further, when approved, subject to the rules. All shades or other window coverings shall be white or off-white when visible from the outside and all draperies shall be lined in white or off-white to present a uniform appearance to the exterior of the building. No clothesline or similar device shall be allowed on any portion of the Property nor shall clothes or other laundry be hung anywhere on the Property; and
- (d) No exterior aerial, antenna or satellite dish shall be placed on the Property, including Units and common elements, unless the Board consents in writing to the said antenna, aerial or satellite dish which consent may be arbitrarily withheld. Notwithstanding the foregoing, the Corporation shall be permitted to place one or more satellite dishes on the roof of the building if required to provide communication and television service to Units in the Corporation.

#### 4.2 Residential Units

- (a) Each Residential Unit shall be occupied and used for single-family residential purposes in accordance with the applicable zoning by-laws pertaining to the Property and for no other purpose whatsoever. The number of individuals who may occupy a Residential Unit shall be the same as the number permitted by the local municipal by-laws from time to time. The foregoing shall not prevent the Declarant and/or Receiver from completing the building and all improvements to the Property, maintaining Units as models for display and sale purposes, and otherwise maintaining, displays and signs for marketing/sales/leasing purposes upon the common elements, and within or outside any unsold Unit, until all Units in the Corporation have been sold by the Declarant and/or Receiver, or their related companies.
- (b) No sign, advertisement or notice of any type shall be inscribed, painted, affixed or displayed on any part of the inside or outside of any Unit without the express written consent of the Board, except for signs marketing the Property or the condominium or Units contained therein by the Declarant and/or Receiver or their related companies.
- (c) No animal, livestock or fowl of any kind other than two (2) general household domestic pets, including cats, dogs, canaries, budgies or other small caged birds, or an aquarium of goldfish or tropical fish, shall be kept or allowed in any Unit. No pet, which is deemed by the Board or the property manager, in their absolute discretion, to be a nuisance shall be kept by any owner in any Unit. Such owner shall, within two (2) weeks of receipt of a written notice from the Board requesting

the removal of such pet, permanently remove such pet from the Property. No breeding of pets for sale or otherwise shall be carried on, in or around any Unit. Notwithstanding the generality of the foregoing, no pet deemed by the Board in their sole and absolute discretion, to be a danger to the residents of the Corporation shall be permitted in any Unit.

- (d) In the event the Board determines, in its sole discretion, acting reasonably, that any noise, odour or offensive action is being transmitted to another Unit and that such noise, odour or offensive action is an annoyance and/or a nuisance and/or disruptive (regardless of whether that Unit is adjacent to or wherever situated in relation to the offending Unit), then the owner of such Unit shall at his or her own expense take such steps as shall be necessary to abate such noise, odour or offensive action to the satisfaction of the Board. In the event the owner of such Unit fails to abate the noise, odour or offensive action, the Board shall take such steps as shall be necessary to abate the noise, odour or offensive action and the owner shall be liable to the Corporation for all expenses incurred by the Corporation in abating the noise, odour or offensive action, which expenses are to include reasonable solicitor's fees on a solicitor and his or her own client basis which shall be deemed to be additional contributions to common expenses and recoverable as such.
- (e) No owner of a Unit shall make any change, addition, modification or alteration, except for any change, addition, modification or alteration which is solely decorative in nature, in or to his or her Unit without the prior written consent of the Board, which consent shall be in the sole and unfettered discretion of the Board and may be subject to such conditions may be determined by the Board.

#### 4.3 Parking Units

- (a) Each Parking Unit shall be used only for the parking of one (1) motor vehicle, no greater than two (2) metres in height, provided that where the size of a Parking Unit or space will so accommodate and the Corporation's rules so permit, more than one (1) vehicle may be parked therein.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use and occupation of Parking Units.
- (c) No owner of a Parking Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Parking Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Parking Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Parking Units not sold to purchasers and may dispose of its interest in any such retained Parking Units in accordance with the terms of the Declaration, including, without limitation, designating any Parking Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Parking Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.
- (e) The Disabled Parking Unit shall be subject to the following:
  - (i) In the event that a "person with a disability" as defined in the regulations promulgated pursuant to the *Highway Traffic Act*, R.S.O. 1990 c. H.8, as amended from time to time, including a person whose licence plate incorporates the international symbol for the disabled, purchases a Residential Unit and a Parking Unit which is not the Disabled Parking Unit, the owner or any person occupying the Disabled Parking Unit shall, if not disabled, upon notice from the Corporation and at the request of the person with a disability, exchange the right to occupy the Disabled Parking Unit with the person with a disability for the Parking Unit which was purchased by the person with a disability, said exchange of the right to

occupy said space to continue for the full period of the person with a disability's residence in the building.

- (ii) When a person with a disability requests an exchange of occupancy rights for the Disabled Parking Unit, the Corporation shall forthwith notify the owner of and any person occupying the Disabled Parking Unit and the owner and/or occupant shall complete the exchange of use immediately upon delivery of the notice provided said owner or occupant is not a person with a disability.
- (iii) No rent, charges, fees or costs whatsoever shall be charged by the owner, occupant or the Corporation in connection with the exchange of the right to occupy.

#### 4.4 Combined Parking/Storage Units

- (a) Each parking portion of a Combined Parking/Storage Unit shall be used only for the parking of one (1) motor vehicle, no greater than two (2) metres in height, provided that where the size of the parking portion of a Combined Parking/Storage Unit will so accommodate and the Corporation's rules so permit, more than one (1) vehicle may be parked therein. Each storage portion of a Combined Parking/Storage Unit shall be used for the sole purpose of storage of personal belongings.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use and occupation of Combined Parking/Storage Units.
- (c) No owner of a Combined Parking/Storage Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Combined Parking/Storage Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Combined Parking/Storage Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Combined Parking/Storage Units not sold to purchasers and may dispose of its interest in any such retained Combined Parking/Storage Units in accordance with the terms of the Declaration, including, without limitation, designating any Combined Parking/Storage Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Combined Parking/Storage Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.

#### 4.5 Storage Units

- (a) Storage Units shall be used for the sole purpose of storage of personal belongings.
- (b) Subject to the Act, the Declaration and the Corporation's by-laws, the Board may, from time to time, make and pass such rules regarding the use of Storage Units.
- (c) No owner of a Storage Unit shall sell, transfer, gift or otherwise dispose of same except to: the Corporation; to an owner of a Residential Unit in this condominium; to the Declarant; or to the owner of the Adjoining Lands. No Storage Unit may be leased or licensed, either in writing or otherwise, except to: any owner, tenant or licensee of a Residential Unit in this condominium; the Corporation; the Declarant; or the owner or any tenant of the Adjoining Lands. The term of any lease or license of a Storage Unit to a tenant or licensee of a Residential Unit or the Adjoining Lands shall not extend beyond the term of the tenancy or license of such Residential Unit or Adjoining Lands.
- (d) The Declarant may retain ownership of any Storage Units not sold to purchasers and may dispose of its interest in any such retained Storage Units in accordance

with the terms of the Declaration, including, without limitation, designating any Storage Units for alternate uses, provided that any such variation in use is in accordance with the requirements and by-laws of the City of Toronto, or transferring such Storage Units to the Corporation, or to owners or purchasers of Residential Units in the condominium, or to the owner of the Adjoining Lands, with or without consideration, at any time in its sole and unfettered discretion.

#### 4.6 Leasing of Units

- (a) Where an owner leases his/her Unit, the owner shall within ten (10) days of entering into a lease or a renewal thereof:
  - (i) notify the Corporation that the Unit is leased;
  - (ii) provide the Corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in accordance with the form prescribed by Section 40 of Regulation 49/01; and
  - (iii) provide the lessee with a copy of the Declaration, by-laws and rules of the Corporation.
- (b) If a lease of a Unit is terminated and not renewed, the Unit owner shall notify the Corporation in writing forthwith and in any event not later than the tenth (10<sup>th</sup>) day following termination.
- (c) No tenant shall be liable for the payment of common expenses unless notified by the Corporation that the owner is in default of payment of common expenses, in which case the tenant shall deduct, from the rent payable to the owner, the owner's share of the common expenses and shall pay the same to the Corporation.
- (d) An owner leasing his/her Unit shall not be relieved thereby from any of his/her obligations with respect to the Unit, which shall be joint and several with his/her tenant.

#### 4.7 Service Units

- (a) Service Units shall only be used to house the equipment and provide the services for which they were designed for the benefit of the Corporation and the owner of the Adjoining Lands, and in accordance with the terms of the Shared Facilities Agreement.
- (b) Ownership of the Service Units shall ultimately be conveyed by the Declarant to the Corporation and the owner of the Adjoining Lands, as tenants-in-common, each as to an undivided 50% interest.
- (c) The actual transfer of ownership of the Service Units by the Declarant to the owner of the Adjoining Lands and the Corporation shall occur within one hundred and twenty (120) days after the date the Condominium has been registered by the Declarant or as soon as possible thereafter.
- (d) Once an interest in the Service Units has been transferred to the owner of the Adjoining Lands by the Declarant as aforesaid, any further sale, transfer, mortgage, charge, encumbrances or other conveyance of the whole or any portion of the Service Units shall require the consent of the co-owner of the Service Units (unless such sale, transfer, mortgage, charge, or other conveyance includes both the Adjoining Lands and all the owner of the Adjoining Land's interest in the Service Units) and shall also require (in addition to any other approvals which may be required pursuant to the provisions of the Act, this Declaration and/or the Shared Facilities Agreement) every prospective new owner, mortgagee, chargee or encumbrancer of the Service Units to execute (by way of counterpart or otherwise) an agreement in favour of the co-tenant(s) of the Service Units, covenanting to be bound by all of the terms and provisions of the Declaration and the Shared Facilities Agreement, as applicable, to the same extent and effect as if it had been an original party thereto, but only to the extent that such new owner, mortgagee, chargee or encumbrancer goes into possession of; or becomes a registered owner of the Service Units. Until a mortgagee, chargee or encumbrancer becomes an owner of the Service Units or goes into possession of the Service Units, it shall have no liability hereunder. If a

person does become an owner of an interest in the Service Units or goes into possession of the whole or any portion of the Service Units and thereafter either conveys such ownership portion of the Service Units to a third party, which third party executes an agreement in favour of the co-tenant of the Service Units covenanting to be bound by all of the terms and provisions of the Declaration and Shared Facilities Agreement, or goes out of possession of such portion of the Service Unit to which they are entitled (in the case of a mortgagee, chargee or other encumbrancer), in compliance with the provisions hereof; then such owner, mortgagee, chargee or encumbrancer shall thereafter have no further liability under this Declaration or the Shared Facilities Agreement with respect to the Service Units or part thereof so conveyed.

- (e) Once ownership of the Service Units has been transferred to the Corporation by the Declarant as aforesaid, any further sale, transfer, mortgage, charge, encumbrances or other conveyance of the whole or any portion of the Service Units by the Corporation shall require the consent of the co-owner of the Service Units, together with the prior approval of two-thirds of the Residential Unit owners (with such Unit owners' approvals being procured from owners who are present, in person or by proxy, at a meeting duly called for the purpose of obtaining such approval). In addition, every new owner, mortgagee, chargee or encumbrancer of the Service Units shall be required to execute (by way of counterpart or otherwise) an agreement in favour of the co-tenant(s) of the Service Units, covenanting to be bound by all of the terms and provisions of the Declaration and the Shared Facilities Agreement as applicable, to the same extent and effect as if it had been an original party thereto, but only to the extent that such new owner, mortgagee, chargee or encumbrancer goes into possession of, or becomes a registered owner of the Service Units.
- (f) Any instrument or other document purporting to sell, transfer, convey, mortgage, charge or encumber an owner's undivided interests as tenants-in-common in the Service Units, without the new agreement or counterpart being executed and delivered (as the case may be) as required in the immediately preceding subparagraphs, shall be null and void and of no force or effect whatsoever.

#### **ARTICLE V MAINTENANCE AND REPAIRS**

##### **5.1 Repairs and Maintenance by Owner**

- (a) Each owner shall maintain his/her Unit, and subject to the provisions of the Declaration, each owner shall repair his or her Unit including repair or replacement after wear and tear and/or damage and all improvements and betterments made or acquired by an owner or as defined by reference to a standard unit for the class of unit to which the Unit belongs, all at his or her own expense, save and except for any repair after damage for which the cost of repair is recovered under any policy of insurance held or maintained by the Corporation. Repairs and maintenance of Units shall be performed by the owners to a standard and using material consistent with the quality of those used in the original construction therefor and as may otherwise be required by the Board. In addition, without limiting the generality of the foregoing, each owner shall maintain:
  - (i) The temperature in the Unit above ten (10) degrees Celsius at any and all time. To effect and maintain such temperature, the Corporation shall be entitled to repair and, if necessary, replace the heating apparatus or take other reasonable steps required to maintain such temperature, at the expense of the Owner. Any costs incurred by the Corporation in maintaining the temperature within a Unit at said temperature, or as a result of the owner having failed to maintained such temperature, including damage to the common elements or to any portion of any Unit for which the Corporation has not been indemnified under its master insurance policy, shall be payable by the Unit owner forthwith upon the expenditure being incurred or payment being demanded. Any payment required under this Article shall be deemed to be a common expense of the Unit and shall be recoverable as such;
  - (ii) the interior surface of doors which provide the means of ingress and egress from his Unit and repair damage to those doors caused by the

- negligence of the owner and/or residents, family members, guests, visitors, tenants, licensees or invitees to such Unit;
- (iii) the interior surface of all windows in Residential Units and interior and exterior surfaces of all windows and window sills contiguous to his or her Unit and which are accessible by the terrace or balcony, together with the terrace or balcony which has been designated as an exclusive use area in respect of such Unit; and shall be responsible for the costs incurred by the Corporation to repair damage to those windows caused by an act or omission of the owner, residents, family members, guests, visitors, tenants, licensees or invitees to the Unit;
  - (iv) all pipes, wires, cables, conduits, ducts and mechanical or similar apparatus, that supply any service to his or her Unit only;
  - (v) all exhaust fans and fan motors located in the kitchen and bathroom areas of the Unit or adjacent common elements that service his or her Unit only;
  - (vi) his or her Parking Unit (including the parking portion of a Combined Parking/Storage Unit) in a clean and sightly condition, notwithstanding that the Corporation may make provision in its annual budget for the cleaning of said Units;
  - (vii) the exclusive use terrace or balcony to which his or her Unit has exclusive use in a clean and sightly condition; and
  - (viii) the fireplace, if applicable, which shall be repaired and maintained by a certified technician as required and on a regular basis.
- (b) Each owner shall further maintain, repair and replace the heating, air conditioning (if applicable) and ventilation equipment, including thermostatic controls contained within and servicing the owner's Unit only, such maintenance to include regularly scheduled inspections of all such equipment. Such periodic maintenance shall include the cleaning and replacement of air filters. The Corporation may make provision in its annual budget for the maintenance and repair of the heating system, servicing each Unit, including the replacement of air filters, whereupon such costs shall be allocated as part of the common expenses. Each owner shall be liable for any damage due to the malfunction of such equipment caused by the act or omission of an owner, his servants, agents, tenants, family or guests. No owner shall make any change, alteration or addition in or to such equipment without the prior written consent of the Board;
- (c) The Corporation shall conduct such maintenance and make any repairs that an owner is obliged to make and that he/she does not make within a reasonable time and in such an event, an owner shall be deemed to have consented to having said maintenance and/or repairs done by the Corporation, and an owner shall reimburse the Corporation in full for the cost of such maintenance and repairs, including any legal or collection costs incurred by the Corporation to collect the costs of such maintenance and repairs, and all such costs shall bear interest at the Prime Rate of interest charged from time to time by the financial institution that holds the Corporation's operating account plus 3% per annum calculated monthly not in advance, until paid by the owner. The Corporation may collect all such costs in such installments as the Board may decide upon. The installments shall form part of the monthly contributions towards the common expenses of such owner, after the Corporation has given written notice thereof. All such payments are deemed to be additional contributions towards the common expenses and recoverable as such.

## 5.2 Responsibility of Owner for Damage

Each owner shall be responsible for all damage to any and all other Units and to the common elements, which is caused by the failure of the owner, his or her residents, family members, guests, visitors, tenants, licensees or invitees to his or her Unit, to so maintain and repair his or her Unit and such parts of the common elements for which he or she is responsible or caused by the negligence or willful misconduct of the owner, his or her residents, family members, guests, visitors, tenants, licensees or invitees, save and except for any such damage for which the cost of repairing same is recovered under any policy of insurance held by the Corporation.

5.3 Repair and Maintenance by Corporation

- (a) Save as otherwise specifically provided in the Declaration to the contrary, the Corporation shall maintain, and repair after damage, the common elements (other than as provided in the subsequent sentence and other than any improvements to and/or any facilities, services or amenities installed by any Unit owner upon any common element areas set aside for the exclusive use of any owner). The Corporation shall further maintain and repair those common elements and other facilities shared between the Property and the Adjoining Lands, such maintenance and repairs to be carried out by the Corporation and the owner of the Adjoining Lands pursuant to the Shared Facilities Agreement. In order to maintain a uniformity of appearance throughout the condominium, the Corporation's duty to maintain and repair shall extend to all exterior surfaces of doors which provide access to the Units, exterior door frames, exterior window frames and all exterior window surfaces, and any exterior perimeter fences erected by the Declarant along the boundaries of the Property, save and except as provided for in Section 5.1(b)(ii).
- (b) Notwithstanding anything provided in Section 5.3(a) hereof to the contrary, it is understood and agreed that each owner shall be responsible for the maintenance of all interior door and window surfaces with respect to his or her Residential Unit.
- (c) Every owner shall forthwith reimburse the Corporation for repairs to windows and doors serving his or her Unit, following damage to same caused by such owner's negligence, or the negligence of his or her residents, tenants, invitees or licensees.

5.4 Repair and Maintenance of Shared Facilities

The Corporation shall, with respect to any damage to any portion of the Shared Facilities comprising any Unit or portion of the common elements of this condominium, make (or arrange for) any repairs that any owner is obligated to make and that he or she does not make within a reasonable time, after written notice is given to such owner by the Corporation. In such event, an owner shall be deemed to have consented to having repairs done to his or her Unit by the Corporation. The owner shall reimburse the Corporation in order to collect the costs of such repairs, and all such costs shall bear interest at the Prime Rate of interest charged from time to time by the financial institution that holds the Corporation's operating account plus 3% per annum calculated monthly not in advance, until paid by the owner. The Corporation may collect such costs in such instalments as the Board may decide upon, which instalments shall be added to the monthly contributions towards the common expenses of such owner, after receipt of written notice from the Corporation thereof, and shall be treated in all respects as common expenses, and be recoverable as such.

**ARTICLE VI  
INDEMNIFICATION**

- 6.1 Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act or omission of such owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees, to or with respect to the common elements and/or all other Units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) for an insurable event for which the Corporation has been indemnified under any policy of insurance held or maintained by the Corporation.
- 6.2 Each owner shall also indemnify the Declarant and the Corporation for all their legal costs and disbursements (including legal fees on a solicitor and client basis) incurred:
  - (a) As a result of a breach to, or in effecting compliance with, the Declaration, by-laws, rules, policy and/or the Act by such owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees or anyone for whom the owner is responsible at law;
  - (b) In bringing, defending or responding to any court or tribunal application or other legal action or proceeding or threat of legal action or proceeding or circumstances that could give rise to any of the foregoing involving the owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees

or anyone for whom the owner is responsible at law pursuant to the Act or on account or related to the provisions of the Declaration, by-laws, rules or policy of the Corporation.

- 6.3 Each owner is responsible for indemnifying the Corporation or the Declarant, as the case may be, for the legal costs, fees and disbursements incurred by the Corporation or the Declarant, as the case may be, in effecting such compliance or pursuant to such court or tribunal application or other legal action or proceeding even if the owner is not in possession of the Unit but has leased the same or granted any other right of occupation with respect to same.
- 6.4 If damage should occur or be caused to any part of the common elements and/or the standard unit portion of any Unit by an owner, his or her residents, family members, guests, visitors, tenants, licensees, or invitees or anyone for whom the owner is responsible at law, the owner shall be responsible to pay the amount that is the lesser of the cost of repairing the said damage and the deductible limit of the Corporation's insurance policy and such cost, and any cost associated with the collection or attempted collection of such cost, shall be added to the common expenses payable on account of the owner's unit.
- 6.5 All payments to be made by an owner pursuant to this Article shall be deemed to be additional contributions toward common expenses payable by such owner and shall be recoverable as such.

## ARTICLE VII INSURANCE

### 7.1 By the Corporation

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

(a) "All Risk" Insurance

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

- (i) the Property and building, but excluding improvements made or acquired by an owner; and
- (ii) all assets of the Corporation, but not including furnishings, furniture, or other personal property supplied or installed by the owners;

in an amount equal to the full replacement cost of such real and personal property, and of the Units and common elements, without deduction for depreciation. This insurance may be subject to a loss deductible clause as determined by the Board from time to time, and which deductible shall be the responsibility of the Corporation in the event of a claim with respect to the Units and/or the common elements (or any portion thereof), provided however that if an owner, tenant or other person residing in the Unit with the knowledge or permission of the owner, through an act or omission causes damage to such owner's Unit, or to any other Unit(s), or to any portion of the common elements, then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's Unit.

(b) Public Liability Insurance

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

(c) Boiler, Machinery and Pressure Vessel Insurance

Insurance against the Corporation's liability arising from the ownership, use or occupation, by or on its behalf of boilers, machinery, pressure vessels and motor vehicles to the extent required as the Board may from time to time deem advisable.

(d) Policy Provisions

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

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

7.2 General Provisions

- (a) The Corporation, its Board and its officers shall have the exclusive right, on behalf of itself and as agents for the owners, to adjust any loss and settle any claims with respect to all insurance placed by the Corporation, and to give such releases as are required, and any claimant, including the owner of a damaged Unit, shall be bound by such adjustment, provided, however, that the Board may in writing, authorize any owner, in writing, to adjust any loss to his/her Unit;
- (b) Every mortgagee shall be deemed to have agreed to waive any right to have proceeds of any insurance applied on account of the mortgage where such application would prevent application of the insurance proceeds in satisfaction of an obligation to repair. This Section 7.2(b) shall be read without prejudice to the right of any mortgagee to exercise the right of an owner to vote or to consent if the mortgage itself contains a provision giving the mortgagee that right;
- (c) A certificate or memorandum of all insurance policies, and endorsements thereto, shall be issued as soon as possible to each owner, and a duplicate original or certified copy of the policy to each mortgagee who has notified the Corporation of its interest in any Unit. Renewal certificates or certificates of new insurance policies shall be furnished to each owner and to each mortgagee noted on the Record of the Corporation who has requested same. The master policy for any insurance coverage shall be kept by the Corporation in its office, available for inspection by any owner or mortgagee on reasonable notice to the Corporation;
- (d) No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation. No insured shall be entitled to direct that the loss shall be payable in any manner other than as provided in the Declaration and the Act;

- (e) Where insurance proceeds are received by the Corporation or any other person rather than the insurance trustee, they shall be held in trust and applied for the same purposes as are specified otherwise in Article VIII; and
- (f) Prior to obtaining any new policy or policies of insurance and at such other time as the Board may deem advisable and also upon the request of a mortgagee or mortgagees holding mortgages on fifty percent (50%) or more of the Units and in any event, at least every three (3) years, the Board shall obtain an appraisal from an independent qualified appraiser of the full replacement cost of the assets for the purpose of determining the amount of insurance to be effected and the cost of such appraisal shall be a common expense.

7.3 By the Owner

- (a) It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that the following insurance must be obtained and maintained by each owner at such owner's own expense:
  - (i) insurance on any improvements to a Unit to the extent same are not covered as part of the standard unit for the class of unit to which the owner's Unit belongs by the insurance obtained and maintained by the Corporation and for furnishings, fixtures, equipment, decorating and personal property and chattels of the owner contained within the Unit and the personal property and chattels stored elsewhere on the Property, including automobiles, and for loss of use and occupancy of the Unit in the event of damage. Every such policy of insurance shall contain waiver(s) of subrogation against the Corporation, its directors, officers, manager, agents, employees and servants, and against the other owners and any members of their household or guest except for any damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused or contributed by any of the aforementioned parties.
  - (ii) public liability insurance covering any liability of any owner or any resident, tenant, invitee or licensee of such owner, to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation.
  - (iii) insurance covering the deductible on the Corporation's master insurance policy for which an owner may be responsible.
- (b) Owners are recommended to obtain, although it is not mandatory, insurance covering:
  - (i) additional living expenses incurred by an owner if forced to leave his or her Unit by one of the hazards protected against under the Corporation's policy; and
  - (ii) special assessments levied by the Corporation and contingent insurance coverage in the event the Corporation's insurance is inadequate.

7.4 Indemnity Insurance for Directors and Officers of the Corporation

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

**ARTICLE VIII  
INSURANCE TRUSTEE AND PROCEEDS OF INSURANCE**

- 8.1 The Corporation may enter into an agreement ("Insurance Trust Agreement") with an insurance trustee which shall be a Trust Company registered under the *Loan and Trust Corporations Act*, R.S.O. 1990, c. L.25, or shall be a Chartered Bank, which agreement shall, without limiting its generality, provide the following:
- (a) the receipt by the insurance trustee of any proceeds of insurance in excess of fifteen percent (15%) of the replacement costs of the property covered by the insurance policy.
  - (b) the holding of such proceeds in trust for those entitled thereto pursuant to the provisions of the Act, the Declaration, and any amendments thereto.
  - (c) the disbursement of such proceeds in accordance with the provisions of the Insurance Trust Agreement.
  - (d) the notification by the insurance trustee to the mortgagees of any insurance monies received by it.

If the Corporation is unable to enter into such agreement with such Trust Company or such Chartered Bank, by reason of its refusal to act, the Corporation may enter into such agreement with such other corporation authorized to act as a trustee, as the owners may approve by by-law at a meeting called for that purpose. The Corporation shall pay the fees and disbursements of any insurance trustee and any fees and disbursements shall constitute a common expense.

8.2 In the event that:

- (a) the Corporation is obligated to repair or replace the common elements, any Unit, or any asset insured in accordance with the provisions of the Act, the insurance trustee shall hold all proceeds for the Corporation and shall disburse same in accordance with the provisions of the Insurance Trust Agreement in order to satisfy the obligation of the Corporation to make such repairs;
- (b) there is no obligation by the Corporation to repair or replace, and if there is termination in accordance with the provisions of the Act, or otherwise, the insurance trustee shall hold all proceeds for the owners in the proportion of their respective interest in the common elements and shall pay such proceeds to the owners in such proportions upon registration of a notice of termination by the Corporation. Notwithstanding the foregoing, any proceeds payable as aforesaid shall be subject to payment in favour of any mortgagee or mortgagees to whom such loss is payable in any policy of insurance and in satisfaction of the amount due under a Certificate of Lien registered by the Corporation against such Unit, in accordance with the priorities thereof;
- (c) the Board, in accordance with the provisions of the Act, determines that:
  - (i) there has not been substantial damage to twenty-five percent (25%) of the buildings; or
  - (ii) there has been substantial damage to twenty-five percent (25%) of the buildings and within sixty (60) days thereafter the owners who own eighty percent (80%) of the Units do not vote for termination,

the insurance trustee shall hold all proceeds for the Corporation and owners whose Units have been damaged as their respective interest may appear and shall disburse same in accordance with the provisions of the Declaration and the Insurance Trust Agreement in order to satisfy their respective obligations to make repairs pursuant to the provisions of the Declaration and the Act.

**ARTICLE IX  
SHARED FACILITIES**

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

- (a) Save as otherwise provided in the Declaration to the contrary, any easement that the Property enjoys or is subject to, shall be used only in accordance with the

provisions of the Shared Facilities Agreement by the persons entitled thereto. Save as otherwise provided in the Shared Facilities Agreement to the contrary, no provision contained in any of the by-laws or rules of the Corporation shall restrict the access to, egress from and/or use of the Shared Facilities by the persons entitled thereto, save for any reasonable controls or restrictions imposed on access thereto by the Board for the Shared Facilities as permitted by the Shared Facilities Agreement.

- (b) The Corporation's share of the Shared Facilities Costs shall be calculated and paid as provided in the Shared Facilities Agreement. The annual budget for the Corporation shall incorporate budgeted amounts for the same period for Shared Facilities Costs anticipated to be incurred by the Corporation pursuant to the Shared Facilities Agreement.

9.2 Water, Gas and Electricity Consumption

- (a) The main supply for utilities to the Property and the Adjoining Lands from the local authorities, including water, gas, and electricity, is connected to the Property and same are not separately metered in respect of the common elements of the Corporation and the Units, nor in respect of the Property and the Adjoining Lands. As such, each such utility is bulk metered and the costs incurred in respect of same shall correspondingly comprise part of the common expenses of the Corporation. Notwithstanding the foregoing, each Residential Unit in this condominium shall be individually check metered for its respective electricity consumption, so that the cost of the electricity utilized or consumed by each owner's Residential Unit, and any exclusive use common element area(s) appurtenant thereto, shall not comprise part of the common expenses, but rather shall be borne and paid for by each Residential Unit owner, in addition to the common expenses attributable to the owner's Residential Unit.
- (b) The costs attributable to the Adjoining Lands for utilities consumed by, or attributable to, the Adjoining Lands shall be paid/reimbursed to the Corporation by the owner of the Adjoining Lands in accordance with the terms of the Shared Facilities Agreement.

**ARTICLE X  
DUTIES OF THE CORPORATION**

10.1 In addition to any other duties or delegations of the Corporation set out elsewhere in the Act, the Declaration, and/or in the by-laws of the Corporation, the Corporation shall have the following duties, namely:

- (a) to assume and/or enter into the Shared Facilities Agreement as soon as reasonably possible following the registration of the Declaration, and to observe and comply (and insofar as possible, compel the observance and/or compliance by all Unit owners, residents and their respective tenants and/or invitees) with all terms and provisions contained in the Shared Facilities Agreement in addition to complying (and insofar as possible compelling the observance and/or compliance by all Unit owners, residents and their respective tenants and/or invitees) with all of the requirements set forth in the Act, and all of the terms and provisions set forth in the Declaration and by-laws of this Corporation;
- (b) to ensure that no actions or steps are taken by the Corporation or by any Unit owner which would prohibit, limit or otherwise restrict, the enjoyment of the benefit of any of the easements over the servient portion of the Property by the owners, residents, tenants, subtenant, permitted occupants and/or invitees of the Adjoining Lands or any other parties entitled thereto;
- (c) to not interfere with the supply of (and insofar as the requisite services are supplied from the Corporation's property, to cause) heat, hydro, water, gas and all other requisite utility services (including such services which constitute Shared Facilities) to be provided to the Property or Adjoining Lands so that same are fully functional and operable during normal or customary hours of use;
- (d) to ensure that no actions or steps are taken by any Unit owner, or any owner of the Adjoining Lands or by their respective representatives, agents, contractors, residents, tenants, invitees and/or permitted occupant which would constitute a breach by the Corporation or the owner of the Adjoining Lands of the Shared

Facilities Agreement, and to enforce the provisions of the Shared Facilities Agreement against such parties where applicable;

- (e) to operate, maintain and keep in good repair (or cause to be operated, maintained and/or repaired) as would a prudent owner of similar premises at all times, those parts of the common elements of this condominium which service or benefit or constitute the Shared Facilities;
- (f) to take all reasonable steps to collect from each Unit owner his or her proportionate share of the common expenses and to maintain and enforce the Corporation's lien arising pursuant to the Act, against each Unit in respect of which the owner has defaulted in the payment of common expenses;
- (g) to take all reasonable steps to maintain and enforce the Corporation's charge arising pursuant to the provisions of the Shared Facilities Agreement, against the owners from time to time of the Adjoining Lands with respect to a default in payment of any money pursuant to the Shared Facilities Agreement by the owners from time to time of the Adjoining Lands;
- (h) to pay the costs and expenses owing by or required by the Corporation pursuant to the Shared Facilities Agreement;
- (i) to, upon request, provide the requesting party with a certificate of compliance, with respect to the Shared Facilities Agreement, in the manner set out in the Shared Facilities Agreement. The Corporation shall forthwith provide the Declarant and/or Receiver with such a certificate of compliance, as may be requested from time to time by or on behalf of the Declarant and/or Receiver in connection with a sale or mortgage of any Unit, all at no charge or fee to the Declarant and/or Receiver or the person requesting same on behalf of the Declarant and/or Receiver;
- (j) to accept and register the transfer/deed from the Declarant of this Corporation's Proportionate Shared Unit Interest and/or an undivided interest in the Service Units (in accordance with, and at the time(s) contemplated by, the Declaration and Shared Facilities Agreement) and to complete and execute all requisite documentation and affidavits necessary to effect the registration of such conveyance, all without cost to the Declarant;
- (k) to execute forthwith upon the request of the Declarant following the transfer of title to the Service Units such documents, releases and assurances as the Declarant may reasonably require in order to evidence and confirm the formal cessation of all the Declarant's liabilities and obligations under the Shared Facilities Agreement and/or with respect to the Shared Facilities (as same relate to the condominium and for which the Declarant was responsible for prior to the registration of the condominium, if any);
- (l) the Board shall, after notification thereof, adopt without amendment and be bound by, all decisions of the parties to the Shared Facilities Agreement in connection with matters dealt with in the Shared Facilities Agreement as if such decisions were made by the Board itself, including decisions with respect to the determination of the Shared Facilities Costs;
- (m) to take all actions reasonably necessary as may be required to fulfil any of the Corporation's duties and obligations pursuant to this Declaration and the Shared Facilities Agreement; and
- (n) to accept and register within thirty (30) days of being requested by the Declarant, a transfer/deed of land of any Parking Units, Storage Units, and/or Combined Parking /Storage Units (or similar type Units) not sold by the Declarant.

**ARTICLE XI  
GENERAL MATTERS AND ADMINISTRATION**

**11.1 Rights of Entry to the Unit**

- (a) The Corporation or any insurer of the Property or any part thereof, their respective agents, or any other person authorized by the Board, shall be entitled to enter any Unit or any part of the common elements over which any owner has the exclusive use, at all reasonable times and upon giving reasonable notice, to

perform the objects and duties of the Corporation, and, without limiting the generality of the foregoing, for the purpose of making inspections, adjusting losses, making repairs, correcting any conditions which violate the provisions of any insurance policy and remedying any condition which might result in damage to the Property or any part thereof or carrying out any duty imposed upon the Corporation. In addition, the Corporation, its agents or any other person authorized by the Board shall be entitled to enter where necessary, any Unit or any part of the common elements over which the owners of such Units have the exclusive use at such reasonable time(s) to facilitate window washing;

- (b) In case of an emergency, an agent of the Corporation may enter a Unit at any time and this provision constitutes notice to enter the Unit in accordance with the Act for the purpose of repairing the Unit, common elements, including any part of the common elements over which any owner has the exclusive use, or for the purpose of correcting any condition which might result in damage or loss to the Property. The Corporation or anyone authorized by it may determine whether an emergency exists;
- (c) If an owner shall not be personally present to grant entry to his Unit, the Corporation or its agents may enter upon such Unit without rendering it, or them, liable to any claim or cause of action for damages by reason thereof provided that they exercise reasonable care;
- (d) The Corporation shall retain a master key to all locks to each Unit. No owner shall change any lock or place any additional locks on the doors to any Unit or any doors within the Unit or to any part of the common elements of which such owner has the exclusive use without the prior written consent of the Board. Where such consent has been granted by the Board, said owner shall forthwith provide the Corporation with keys to all new locks (as well as keys to all additional locks) so installed, and all such new or additional locks shall be keyed to the Corporation's master key entry system; and
- (e) The rights and authority hereby reserved to the Corporation, its agents, or any insurer or its agents, do not impose any responsibility or liability whatever for the care or supervision of any Unit except as specifically provided in the Declaration or the by-laws.

11.2 Invalidity

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

11.3 Waiver

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

11.4 Interpretation of Declaration

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

11.5 Headings

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

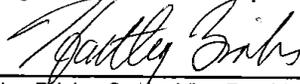
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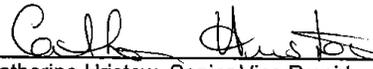
**WITNESS** that pursuant to the Order registered as Instrument No. AT2905656, the Receiver and Manager has signed this Declaration by the hands of its proper officer duly authorized in that behalf.

The Court Order is still in full force and effect.

DATED at Toronto, this 26<sup>th</sup> day of OCTOBER, 2021

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY by DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager and not in its personal capacity**

Per:   
Hartley Bricks, Senior Vice President

Per:   
Catherine Hristow, Senior Vice President

We have authority to bind the Corporation.

**SCHEDULE "A"**

**DESCRIPTION OF LANDS**

In the City of Toronto and in the Province of Ontario, being composed of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), designated as Parts 1, 2, 4, 5, 6, 7, 9, 11 and 12, Plan 66R-30578, being part of PIN 10468-0599 (LT) (hereinafter referred to as the "**Condominium Lands**").

SUBJECT TO an easement in favour of the owners, their successors and assigns of Part of Lots 23 and 24, Block F, Registered Plan 875 (York), as more particularly described in Instrument No. TB412477, being all of PIN 10468-0425 (LT), over Part of Lot 24, Block F, Registered Plan 875 (York), designated as Part 1, Plan 66R-30578, for the purposes as set out in Instrument No. TB374581 and Instrument No. CA439308.

TOGETHER WITH an easement over Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), being Parts 1 and 2 on Plan 66R-23529 as in Instrument No. AT5176027; City of Toronto.

**Easements in favour of the Long Term Care Facility Lands**

**RESERVING** non-exclusive easements, rights-of-way or rights in the nature of easements in favour of the owners from time to time of Part of Lots 24, 25 and 26, Block F, Registered Plan 875 (York), designated as Parts 3, 8, 10, 13, 14, 15 and 16, Plan 66R-30578, being part of PIN 10468-0599 (LT) (hereinafter referred to as the "**Long Term Care Facility Lands**"), and their contractors, agents, employees, tenants and invitees, which said non-exclusive rights-of-way or rights in the nature of easements are as follows:

- a) in, over, along, upon and through the common elements of the Condominium on Levels 1, A and B of the Condominium, including the ramps, driveways, drive aisles, receiving areas, exterior sidewalks and exterior walkways situate thereon, for the purposes of providing ingress and egress of pedestrians and (where practicable) vehicles, including, but not limited to vehicles for garbage and recycling, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands and for the purpose of ingress and egress of pedestrians and vehicles to and from the Long Term Care Facility Lands through the parking garage;
- b) in, over, along, upon and through that part of the common elements of the Condominium designated as Parts 4, 9, 11 and 12, Plan 66R-30578, including the stairwells, vestibules, lobbies and hallways situate thereon, for the purposes of providing pedestrian ingress and egress, including, but not limited to, pedestrian ingress and egress to and from the Long Term Care Facility Lands, emergency egress, the transport of garbage and recycling materials, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands;
- c) in, over, along, upon and through that part of the common elements of the Condominium designated as Part 6, Plan 66R-30578, including the receiving area situate thereon, for the purposes of providing vehicular and pedestrian ingress and egress, including, but not limited to, vehicles for garbage and recycling, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Long Term Care Facility Lands;
- d) in, over, along, upon and through the common elements of the Condominium, for the purpose of allowing the access of persons, materials, vehicles and equipment necessary for the construction, maintenance, repair, operation, inspection, installation, reconstruction, alteration, relocation and replacement of any part of the building or building's installations or appurtenances situated thereon which service the Long Term Care Facility Lands, and any mechanical or electrical apparatus, installation or equipment including, but not limited to, gas mains, transformers, water mains, storm and sanitary sewers, storm water retention facilities, sprinkler mains, irrigation systems, pumping stations, window washing equipment and all appurtenances, electrical cables, wires, conduits or ducts, telephone, telecommunication and television cables, wires, conduits or ducts, fire alarm systems, security systems and sump pumps, and various other services and utilities, all of which are situated within the Condominium Lands, and which are necessary for the operation of the building or buildings situated within the

Long Term Care Facility Lands and to further permit the crossing, penetrating, boring or travelling onto or through any transfer slab, floor slab, ceiling slab, concrete block or masonry wall or drywall enclosure or other similar installations to facilitate such work;

- e) in, over, along, upon and through the common elements of the Condominium for the purpose of maintaining support and, without limiting the generality of the foregoing, in and through all structural members, including, but not limited to, load bearing walls, pillars, columns, beams, floor and roof slabs, footings, foundation and soil situated within the common elements of the Condominium, and which are necessary for support of the Long Term Care Facility Lands including, without limitation, the building or buildings, installations and all appurtenances thereto situate within the Long Term Care Facility Lands;
- f) in, over, along, upon and through the common elements of the Condominium for the access of persons, vehicles, materials and equipment necessary for the maintenance, repair, operation, construction and reconstruction of the building(s) or other improvements or any portion thereof situated within the Long Term Care Facility Lands; and
- g) in, over, along, upon and through the common elements of the Condominium for the purpose of free, unimpeded, unobstructed and uninterrupted flow of air in and through the air intake and air exhaust shafts situate therein;

subject to the limitations and provisions of any agreements registered on title to the Condominium Lands or the Long Term Care Facility Lands.

#### **Easements in favour of the Condominium Lands**

**TOGETHER WITH** appurtenant non-exclusive easements, rights-of-way or rights in the nature of easements in favour of the Condominium Lands, over the Long Term Care Facility Lands, which said non-exclusive easements, rights-of-way or rights in the nature of easements are as follows:

- a) in, over, along, upon and through the corridor situate on that part of the Long Term Care Facility Lands described as Part of Lots 25 and 26, Block F, Registered Plan 875 (York), designated as Part 8, Plan 66R-30578, for the purposes of providing pedestrian ingress and egress to and from the Condominium including, but not limited to, the transport of garbage and recycling materials, on-loading, off-loading, the transport of goods and materials, delivery, and moving, necessary for the operation of the Condominium Lands;
- b) in, over, along, upon and through the vestibule situate on that part of the Long Term Care Facility Lands described as Part of Lot 26, Block F, Registered Plan 875 (York), designated as Part 10, Plan 66R-30578, for the purposes of providing access to and egress from the Security Unit, necessary for the operation of the Condominium Lands;
- c) in, over, along, upon and through the mechanical room situate on that part of the Long Term Care Facility Lands described as Part of Lots 24 and 25, Block F, Registered Plan 875 (York), designated as Part 16, Plan 66R-30578 (the "**LTC Mechanical Room**"), for the purposes of providing access to and egress from the LTC Mechanical Room, necessary for the operation of the Condominium Lands;
- d) in, over, along, upon and through the Long Term Care Facility Lands for the purpose of maintaining support and, without limiting the generality of the foregoing, in and through all structural members, including, but not limited to, load bearing walls, pillars, columns, beams, floor and roof slabs, footings, foundation and soil situated within the Long Term Care Facility Lands, and which are necessary for support of the Condominium Lands including, without limitation, the building or buildings, installations and all appurtenances thereto situate within the Condominium Lands;
- e) in, over, along, upon and through the Long Term Care Facility Lands, for the purpose of allowing access of persons, materials, vehicles and equipment necessary for the construction, maintenance, repair, operation, inspection, installation, reconstruction, alteration, relocation and replacement of any part of the building or building's installations or appurtenances situated thereon which service the Condominium Lands, and any mechanical or electrical apparatus, installation or equipment including, but not limited to, gas mains, transformers, water mains, storm and sanitary sewers, storm water retention facilities, sprinkler mains, irrigation systems, pumping stations, window washing equipment and all appurtenances, electrical cables, wires, conduits or ducts,

telephone, telecommunication and television cables, wires, conduits or ducts, fire alarm systems, security systems and sump pumps, and various other services and utilities, all of which are situated within the Long Term Care Facility Lands, and which are necessary for the operation of the building or buildings situated within the Condominium Lands and to further permit the crossing, penetrating, boring or travelling onto or through any transfer slab, floor slab, ceiling slab, concrete block or masonry wall or drywall enclosure or other similar installations to facilitate such work;

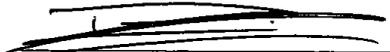
- f) in, over, along, upon and through the Long Term Care Facility Lands for the access of persons, vehicles, materials and equipment necessary for the maintenance, repair, operation, construction and reconstruction of the building(s) or other improvements or any portion thereof situated within the Condominium Lands and including, without limitation, access and egress to and from the LTC Mechanical Room;
- g) in, over, along, upon and through the Long Term Care Facility Lands for the purpose of free, unimpeded, unobstructed and uninterrupted flow of air in and through the air intake and air exhaust shafts situate therein; and
- h) in and through the Long Term Care Facility Lands for the purposes of emergency pedestrian egress;

subject to the limitations and provisions of any agreements registered on title to the Condominium Lands or the Long Term Care Facility Lands.

In my opinion, based on the parcel register and the plans and documents recorded in them, the legal description set out above is correct, the easements hereinbefore described will exist in law upon registration of the declaration and description and the declarant is the registered owner of the aforementioned land and appurtenant interests.

**GOWLING WLG (CANADA) LLP**

February 22, 2021  
Dated

  
Per: Darrell Daley, Solicitor

**SCHEDULE "B"****CONSENT****(under clause 7(2)(b) of the Condominium Act, 1998)**

1. We, Peoples Trust Company, have a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Number AT1450426 in the Land Registry Office for the Land Titles Division of Toronto (No. 66).
2. We, Peoples Trust Company, consent to the registration of this declaration pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
3. We, Peoples Trust Company, postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the declaration.
4. We, Peoples Trust Company, are entitled by law to grant this consent and postponement.

DATED this 3 day of November, 2021.**PEOPLES TRUST COMPANY**

Per: \_\_\_\_\_

Name: Michael Lombard  
Title: Chief Credit Officer

Per: \_\_\_\_\_

Name: Ray Brooker  
Title: Senior VP, Operations

I/We have authority to bind the Corporation.

**CONSENT**

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

2383431 Ontario Inc. has a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Instrument Number AT1949790, as transferred by Instrument Numbers AT2908311 and AT3416400, in the Land Registry Office for the Land Titles Division of Toronto (No. 66).

Turfpro Investments Inc. has a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Instrument Number CA600752, as transferred by Instrument Number AT1040360, in the Land Registry Office for the Land Titles Division of Toronto (No. 66).

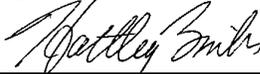
Turfpro Investments Inc. has a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Instrument Number E579089 in the Land Registry Office for the Land Titles Division of Toronto (No. 66).

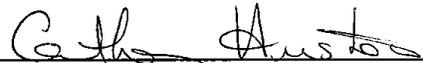
2381682 Ontario Inc. has a registered mortgage within the meaning of clause 7(2)(b) of the *Condominium Act, 1998*, registered as Instrument Number AT1040424, as transferred by Instrument Numbers AT1450745, AT2318865 and AT3461665, in the Land Registry Office for the Land Titles Division of Toronto (No. 66).

The Consent of each of the above Chargees to the registration of the Declaration pursuant to the Act against the land and other interests appurtenant to the land, as the land and the interests are described in the Declaration and the postponement of each respective mortgage and interest under it to the Declaration and the easements described in Schedule "A" to the Declaration have been dispensed with by the Order of Justice McEwen of the Ontario Superior Court of Justice dated June 10, 2021 under Court File No. CV-11-9399-00CL (the "Order"). A copy of the Order was registered in the Land Registry Office for the Land Titles Division of Toronto (No. 66) on June 29, 2021 as Instrument Number AT5781875. The Order is in full force and effect, unamended as of the date hereof.

Dated this this 26<sup>th</sup> day of OCTOBER, 2021

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY by DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager and not in its personal capacity**

Per:   
Hartley Bricks, Senior Vice President

Per:   
Catherine Hristow, Senior Vice President

We have authority to bind the Corporation.

## SCHEDULE "C"

Each Residential Unit, Parking Unit, Combined Parking/Storage Unit, Storage Unit and Service Unit shall comprise the area within the heavy lines shown on Part 1, Sheets 1 and 3 to 6 inclusive of the Description with respect to the Unit numbers indicated thereon. The monuments controlling the extent of the Units are the physical surfaces and planes referred to immediately below, and are illustrated on Part 1, Sheets 1 and 3 to 6 inclusive of the Description and all dimensions shall reference to them.

Without limiting the generality of the foregoing, the boundaries of each Unit are as follows:

### 1. BOUNDARIES OF THE RESIDENTIAL UNITS

(being Units 1 to 14 inclusive on Levels 2 and 3, Units 1 to 12 inclusive on Levels 4, 5 and 6, Units 1 to 10 inclusive on Levels 7 and 8 and Units 1 to 7 inclusive on Level 9).

- a) Each Residential Unit is bounded vertically by:
  - i) the upper surface and plane of the concrete floor slab and its production.
  - ii) the lower surface and plane of the concrete ceiling slab and its production.
- b) Each Residential Unit shall be bounded horizontally by:
  - i) the backside surface and plane of the drywall sheathing and its production on walls separating one Unit from another Unit or from the Common Element.
  - ii) the unit side surfaces of exterior doors, door frames, windows, and window frames, said doors and windows being in a closed position, and the unit side surfaces of all glass panels contained therein.
  - iii) in the vicinity of ducts, pipe spaces and concrete columns, the unit boundaries are the backside surfaces and planes of the drywall sheathing enclosing said ducts, pipe spaces and concrete columns.
  - iv) the vertical plane established by the centreline of the demising wall and production, for Units 11 and 12 on Level 4 and Units 9 and 10 on Level 7.
  - v) the vertical plane established by measurement for Units 9 and 10 on Level 7.

### 2. BOUNDARIES OF THE PARKING UNITS

(being Units 1, 2, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 on Level A and Units 1, 2, 4, 6 and 10 on Level B).

### 3. BOUNDARIES OF THE COMBINED PARKING/STORAGE UNITS

(being Units 3, 6, 10 and 12 on Level A and Units 3, 5, 7, 8 and 9 on Level B).

- a) Each Parking Unit and Combined Parking/Storage Unit is bounded vertically by:
  - i) the upper surface and plane of the concrete garage floor slab and production.
  - ii) the plane 2.00 metres perpendicularly distant above and parallel to the upper surface and plane of the concrete garage floor slab.
- b) Each Parking Unit and Combined Parking/Storage Unit is bounded horizontally by one or a combination of the following:
  - i) the vertical plane established by measurement.

- ii) the vertical plane established by the line and face of concrete columns and the production thereof.
- iii) the vertical plane established by the centreline of columns and the production thereof.
- iv) the unit side surface and plane of the concrete or concrete block walls and the production thereof.
- v) the vertical plane established perpendicular to the concrete wall, located at the rear of the Unit, and passing through the centre line of the concrete column and production thereof.
- vi) the vertical plane established by measurement and perpendicular to the concrete wall, located at the rear of the Unit.

4. **BOUNDARIES OF THE STORAGE UNITS**

(being Units 15 to 22 inclusive on Level 3, Units 21 to 49 inclusive on Level A and Units 12 to 25 inclusive on Level B).

- a) Each Storage Unit is bounded vertically by one or a combination of the following:
  - i) the upper surface and plane of the concrete floor slab and production.
  - ii) the plane 2.00 metres perpendicularly distant above and also being parallel to the upper surface and plane of the concrete floor slab.
  - iii) the lower surface and plane of the steel wire mesh and frame and production.
  - iv) the lower surface and plane of the concrete ceiling slab and production.
- b) Each Storage Unit is bounded horizontally by one or a combination of the following:
  - i) the unit side surface and plane of the concrete or concrete block walls, where applicable and production thereof.
  - ii) the backside surface and plane of the drywall sheathing and production thereof, where applicable.
  - iii) the unit side surface of the steel wire mesh and frame and production.
  - iv) the unit side surface of the exterior door and frame said door being in a closed position.

5. **BOUNDARIES OF THE SERVICE UNITS**

(being Unit 1 on Level 1, (Elevator Lobby/Corridor)

Unit 2 on Level 1, (Garbage Collection Room)

Unit 3 on Level 1, (Security Room)

Unit 4 on Level 1, (Transformer Room)

Unit 5 on Level 1, (Recycling Room)

Unit 1 on Level 10, (Mechanical Room)

Unit 17 on Level A, (Lobby)

Unit 18 on Level A, (Communications Room)

Unit 19 on Level A, (Power Distribution Room)

Unit 20 on Level A (Diesel Tank Room)

Unit 11 on Level B, (Plumbing Room).

- a) Each Service Unit is bounded vertically by:
- i) the upper surface and plane of the concrete floor slab and production.
  - ii) the lower surface and plane of the concrete ceiling slab and production.
- b) Each Service Unit is bounded horizontally by one or a combination of the following:
- i) the unfinished exterior surface and plane of the exterior door and door frame, the said door being in a closed position.
  - ii) the unit side surface and plane of the concrete or concrete block walls and production.
  - iii) the back side surface and plane of the drywall sheathing and walls separating the Unit from the Common Element or another Unit.
  - iv) the vertical plane established by measurement.
  - v) the vertical plane established by the centreline of the demising wall and production.

I hereby certify that the written description of the monuments and boundaries of the Units contained herein accurately corresponds with the diagrams of the Units shown on Part 1, Sheets 1 and 3 to 6 inclusive of the Description.

August 3, 2021  
Dated

  
\_\_\_\_\_  
D. Miret  
Ontario Land Surveyor

Reference should be made to the provisions of the Declaration itself, in order to determine the maintenance and repair responsibilities for any Unit and whether specific physical components (such as any wires, pipes, cables, conduits, equipment, fixtures, structural components and/or any other appurtenances) are included or excluded from the Unit, regardless of whether same are located within or beyond the boundaries established for such Unit.

SCHEDULE "D"PROPORTION OF COMMON INTEREST AND  
COMMON EXPENSE EXPRESSED IN PERCENTAGE

Unit No.	Level No.	% Interest in Common Elements	%Interest in Common Expenses
1	1	0.0001%	0.0001%
2	1	0.0001%	0.0001%
3	1	0.0001%	0.0001%
4	1	0.0001%	0.0001%
5	1	0.0001%	0.0001%
1	2	0.6725%	0.6725%
2	2	0.8650%	0.8650%
3	2	0.9207%	0.9207%
4	2	1.0452%	1.0452%
5	2	0.6779%	0.6779%
6	2	0.9583%	0.9583%
7	2	0.9262%	0.9262%
8	2	0.9480%	0.9480%
9	2	1.5585%	1.5585%
10	2	0.7380%	0.7380%
11	2	1.3490%	1.3490%
12	2	0.8410%	0.8410%
13	2	0.7759%	0.7759%
14	2	0.9233%	0.9233%
1	3	0.7820%	0.7820%
2	3	1.1842%	1.1842%
3	3	1.0544%	1.0544%
4	3	1.0586%	1.0586%
5	3	0.6742%	0.6742%
6	3	0.9611%	0.9611%
7	3	0.9266%	0.9266%
8	3	0.9469%	0.9469%
9	3	1.5637%	1.5637%
10	3	0.7350%	0.7350%
11	3	0.7201%	0.7201%
12	3	0.8396%	0.8396%
13	3	0.7759%	0.7759%
14	3	0.9231%	0.9231%
15	3	0.1257%	0.1257%
16	3	0.0671%	0.0671%
17	3	0.0586%	0.0586%
18	3	0.0567%	0.0567%
19	3	0.0632%	0.0632%
20	3	0.0632%	0.0632%
21	3	0.0493%	0.0493%
22	3	0.0493%	0.0493%
1	4	0.9369%	0.9369%
2	4	1.0033%	1.0033%
3	4	0.7167%	0.7167%
4	4	0.6419%	0.6419%
5	4	1.4140%	1.4140%
6	4	1.2585%	1.2585%
7	4	0.8126%	0.8126%
8	4	0.8300%	0.8300%
9	4	0.7859%	0.7859%
10	4	1.2063%	1.2063%
11	4	1.0378%	1.0378%
12	4	1.0990%	1.0990%
1	5	0.9694%	0.9694%
2	5	1.0935%	1.0935%
3	5	0.6896%	0.6896%
4	5	0.8241%	0.8241%

Unit No.	Level No.	% Interest in Common Elements	%Interest in Common Expenses
5	5	1.4169%	1.4169%
6	5	1.0946%	1.0946%
7	5	0.8148%	0.8148%
8	5	0.8368%	0.8368%
9	5	0.7879%	0.7879%
10	5	1.2168%	1.2168%
11	5	1.0516%	1.0516%
12	5	0.6893%	0.6893%
1	6	0.9766%	0.9766%
2	6	1.0867%	1.0867%
3	6	0.6909%	0.6909%
4	6	0.8246%	0.8246%
5	6	1.4195%	1.4195%
6	6	1.0951%	1.0951%
7	6	0.8123%	0.8123%
8	6	0.8357%	0.8357%
9	6	0.7866%	0.7866%
10	6	1.2181%	1.2181%
11	6	1.0490%	1.0490%
12	6	0.6972%	0.6972%
1	7	0.9701%	0.9701%
2	7	1.0938%	1.0938%
3	7	1.7138%	1.7138%
4	7	1.4169%	1.4169%
5	7	1.1488%	1.1488%
6	7	1.0962%	1.0962%
7	7	1.0920%	1.0920%
8	7	1.2159%	1.2159%
9	7	1.0479%	1.0479%
10	7	0.6983%	0.6983%
1	8	0.9736%	0.9736%
2	8	1.0907%	1.0907%
3	8	1.5004%	1.5004%
4	8	1.4169%	1.4169%
5	8	1.6607%	1.6607%
6	8	1.0955%	1.0955%
7	8	0.7920%	0.7920%
8	8	1.2157%	1.2157%
9	8	1.0490%	1.0490%
10	8	0.6981%	0.6981%
1	9	1.4985%	1.4985%
2	9	1.0963%	1.0963%
3	9	1.7386%	1.7386%
4	9	2.0594%	2.0594%
5	9	1.0930%	1.0930%
6	9	1.4998%	1.4998%
7	9	0.5606%	0.5606%
1	10	0.0001%	0.0001%
1	A	0.1194%	0.1194%
2	A	0.1194%	0.1194%
3	A	0.1834%	0.1834%
4	A	0.1194%	0.1194%
5	A	0.1194%	0.1194%
6	A	0.1872%	0.1872%
7	A	0.1194%	0.1194%
8	A	0.1194%	0.1194%
9	A	0.1194%	0.1194%
10	A	0.2493%	0.2493%
11	A	0.1194%	0.1194%
12	A	0.2485%	0.2485%
13	A	0.1194%	0.1194%

Unit No.	Level No.	% Interest in Common Elements	% Interest in Common Expenses
14	A	0.1194%	0.1194%
15	A	0.1194%	0.1194%
16	A	0.1194%	0.1194%
17	A	0.0001%	0.0001%
18	A	0.0001%	0.0001%
19	A	0.0001%	0.0001%
20	A	0.0001%	0.0001%
21	A	0.0389%	0.0389%
22	A	0.0385%	0.0385%
23	A	0.0385%	0.0385%
24	A	0.0409%	0.0409%
25	A	0.0382%	0.0382%
26	A	0.0382%	0.0382%
27	A	0.0413%	0.0413%
28	A	0.0397%	0.0397%
29	A	0.0447%	0.0447%
30	A	0.0432%	0.0432%
31	A	0.0435%	0.0435%
32	A	0.0435%	0.0435%
33	A	0.0440%	0.0440%
34	A	0.0420%	0.0420%
35	A	0.0474%	0.0474%
36	A	0.0463%	0.0463%
37	A	0.0463%	0.0463%
38	A	0.0470%	0.0470%
39	A	0.0463%	0.0463%
40	A	0.0451%	0.0451%
41	A	0.0443%	0.0443%
42	A	0.0451%	0.0451%
43	A	0.0455%	0.0455%
44	A	0.0455%	0.0455%
45	A	0.0459%	0.0459%
46	A	0.0574%	0.0574%
47	A	0.0806%	0.0806%
48	A	0.0956%	0.0956%
49	A	0.0532%	0.0532%
1	B	0.1194%	0.1194%
2	B	0.1194%	0.1194%
3	B	0.1834%	0.1834%
4	B	0.1194%	0.1194%
5	B	0.1799%	0.1799%
6	B	0.1194%	0.1194%
7	B	0.2061%	0.2061%
8	B	0.2030%	0.2030%
9	B	0.1884%	0.1884%
10	B	0.1194%	0.1194%
11	B	0.0001%	0.0001%
12	B	0.0451%	0.0451%
13	B	0.0424%	0.0424%
14	B	0.0420%	0.0420%
15	B	0.0424%	0.0424%
16	B	0.0443%	0.0443%
17	B	0.0440%	0.0440%
18	B	0.0417%	0.0417%
19	B	0.0424%	0.0424%
20	B	0.0424%	0.0424%
21	B	0.0428%	0.0428%
22	B	0.0424%	0.0424%
23	B	0.0420%	0.0420%
24	B	0.0428%	0.0428%

Unit No.	Level No.	% Interest in Common Elements	%Interest in Common Expenses
25	B	0.0856%	0.0856%
<b>TOTAL:</b>		<b>100.0000%</b>	<b>100.0000%</b>

**SCHEDULE "E"****SPECIFICATION OF COMMON EXPENSES**

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

1. all sums of money paid or payable by the Corporation in connection with the performance of any of its objects, duties and powers whether such objects, duties and powers are imposed by the Act, the Declaration or by-laws of the Corporation or by other law or agreement;
2. all sums of money properly paid by the Corporation on account of any and all public and private suppliers to the Corporation of insurance coverage, utilities and services including, without limiting the generality of the foregoing, levies or charges payable on account of:
  - (a) insurance premiums;
  - (b) water, sewage, gas and electricity respecting common elements and Units, unless metered separately;
  - (c) maintenance materials, tools and supplies;
  - (d) snow removal from the common elements (excluding exclusive use common element areas) and landscaping throughout the common elements (excluding exclusive use common element areas);
  - (e) garbage and recycling collection;
  - (f) costs, expenses, and charges payable under the Shared Facilities Agreement.
3. all sums of money paid or payable by the Corporation pursuant to any management contract which may be entered into between the Corporation and a manager;
4. all sums of money required by the Corporation for the acquisition or retention of real property for the use and enjoyment of the Property or for the acquisition, repair, maintenance or replacement of personal property for the use and enjoyment in or about the common elements and all sums of money required to be paid by the Corporation as its share of the costs of the maintenance, repair and replacement of the Shared Facilities;
5. all sums of money paid or payable by the Corporation to any and all persons, firms, or companies engaged or retained by the Corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the objects, duties and powers of the Corporation including, without limitation, legal, engineering, accounting, auditing, expert appraising, advising, maintenance, managerial, secretarial or other professional advice and service required by the Corporation;
6. the cost of furnishings and equipment for use in and about the common elements including the repair, maintenance or replacement thereof;
7. the cost of borrowing money for the carrying out of the objects, duties and powers of the Corporation;
8. the fees and disbursements of the insurance trustee, if any, and of obtaining insurance appraisals;
9. the cost of maintaining fidelity bonds as may be provided by the by-laws;
10. all sums required to be paid to the reserve or contingency fund as required by the Declaration or in accordance with the agreed upon annual budget of the Corporation, including amounts payable on account of the Shared Facilities;
11. all sums required to fulfil the obligations of the Corporation pursuant to the Shared Facilities Agreement.

**SCHEDULE "F"**

Subject to the provisions of the Declaration, the By-laws and Rules of the Corporation and the right of entry in favour of the Corporation thereto and thereon, for the purposes of facilitating any requisite maintenance and/or repair work or to give access to the utility and service areas appurtenant thereto:

- a) the Owner(s) of Residential Units 3, 4 and 11 on Levels 2 and 3, Units 2 to 4 inclusive and 6 to 12 inclusive on Level 4, Units 2, 6 and 12 on Level 5, Unit 2 on Levels 6 to 8 inclusive and Unit 1 on Level 9, shall have the exclusive use of a Terrace to which the said Units provide direct and sole access, as indicated on the Unit plans.

**NOTE:**

The upper limit and extent of the exclusive use for the terraces, shall be the lower surface and plane of the uppermost ceiling and production of the Residential Units that have access to the said terraces.

**SCHEDULE "G"**

**Form 2 – Certificate of Architect or Engineer**

(under clause 8(1)(e) or (h) of the *Condominium Act, 1998*)

I certify that:

*[Strike out whichever is not applicable:*

Each building on the property

OR

*(In the case of an amendment to the declaration creating a phase:*

~~Each building on the land included in the phase)~~

has been constructed in accordance with the regulations made under the *Condominium Act, 1998*, with respect to the following matters:

*(Check whichever boxes are applicable)*

- 1.  The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
- 2.  Except as otherwise specified in the regulations, floor assemblies are constructed to the sub-floor.
- 3.  Except as otherwise specified in the regulations, walls and ceilings of the common elements, excluding interior structural walls and columns in a unit, are completed to the drywall (including taping and sanding), plaster or other final covering.
- 4.  All underground garages have walls and floor assemblies in place.

OR

There are no underground garages.

- 5.  All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a licence, except for elevating devices contained wholly in a unit and designed for use only within the unit.

OR

There are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.

- 6.  All installations with respect to the provision of water and sewage services are in place.
- 7.  All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.
- 8.  All installations with respect to the provision of air conditioning are in place.

OR

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

- 9.  All installations with respect to the provision of electricity are in place.

*Alku*

~~40~~ 40

10.  All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.

OR

There are no indoor and outdoor swimming pools.

11.  Except as otherwise specified in the regulations, the boundaries of the units are completed to the drywall (not including taping and sanding), plaster or other final covering, and perimeter doors are in place.

Dated this ..23..... day of ..August....., ..2021.....

.....*Norman Lee*.....  
(signature)

Norman Lee.....  
(print name)

(Strike out whichever is not applicable:  
Architect  
Professional Engineer)

**TAB K**

Court File No. CV-11-9399-00CL

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) TUESDAY , THE 10<sup>th</sup> DAY  
)  
JUSTICE MESBUR ) OF SEPTEMBER, 2013

BETWEEN:



PEOPLES TRUST COMPANY

**Applicant**

- and -

ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY

**Respondent**

**ORDER**  
*(ALUS SETTLEMENT APPROVAL)*

**THIS MOTION** made by Peoples Trust Company (“**Peoples**”) for an Order giving effect to a settlement (the “**Settlement**”) between Peoples and the arms length purchasers of units in the Property (the “**ALUs**”) represented by Kronis, Rotsztain, Margles, Cappel LLP as representative counsel (the “**Representative Counsel**”) pursuant to the Order of Justice Mesbur dated April 11<sup>th</sup>, 2013 was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Peoples’ Compendium and the documents contained therein, Peoples’ Factum and Supplementary Factum and on hearing the submissions of counsel for Peoples, Representative Counsel and counsel for Deloitte Restructuring Inc. in its capacity as

receiver and manager (the “**Receiver**”) in relation to the property, assets and undertaking (the “**Property**”) of Rose of Sharon (Ontario) Retirement Community (“**Rose of Sharon**”) and those other counsel appearing on the counsel slips provided to this Court, no one appearing for any other party although duly served as appears from the Affidavits of Service of Haddon Murray, sworn September 4, 2013, September 5, 2013 and September 6, 2013.

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the Settlement reached between the ALU’s (as defined below) and Peoples, as comprehensively set out in the further terms of this Order, is hereby approved and Representative Counsel and the Receiver are hereby authorized and directed to take all steps necessary to implement the Settlement.
3. THIS COURT ORDERS that the Receiver is hereby authorized to take commercially reasonable steps to register the residential and long term care facility that comprises the Property as a condominium pursuant to *Condominium Act* and related regulations.
4. THIS COURT ORDERS that upon and conditional upon registration of the Property as a condominium, each arms length purchaser of units in the Property (the “**ALUs**”) represented by Kronis, Rotsztain, Margles, Cappel LLP as representative counsel (the “**Representative Counsel**”) pursuant to the Order of Justice Mesbur dated April 11<sup>th</sup>, 2013 shall be given a notice (the “**Purchase Notice**”) by the Receiver providing that they or their authorized assignee may acquire title to the condominium unit(s) identified in their respective Right to Occupy Agreements, as amended (“**RTOAs**”) upon payment of the sum of the following amounts (the “**Unit Purchase Price**”), in immediately available funds:
  - (a) the total amount set out in the attached chart (the “**Payment Chart**”) in the column entitled “Settlement Amount Owing” subject to such adjustments as the Receiver may determine are appropriate to reconcile payments of principal

amounts due under RTOA's actually received by the Receiver from ALUs after the appointment of the Receiver;

- (b) the total amount of any unpaid sums for common area maintenance fees due and owing on the date this settlement is approved by the Court (the "**Settlement Date**"); and
  - (c) the total amount of any unpaid interest required to be paid pursuant to RTOAs on the positive balances set out in the Payment Chart in the column entitled "Balance Owing After Notes".
5. THIS COURT ORDERS that each ALU shall have sixty (60) days from the date of delivery of the Purchase Notices to pay the Unit Purchase Price to the Receiver.
  6. THIS COURT ORDERS that in default of payment of the Unit Purchase Price for a unit within the period prescribed in paragraph 4 above, the Receiver may sell the unit free and clear of any and all claims of the ALU and anyone claiming through them, including any tenant of the ALU, and the Receiver shall be entitled to obtain applicable vesting orders and writs of possession in respect of each such unit.
  7. THIS COURT ORDERS that upon payment of the Unit Purchase Price, the Receiver shall sell and each of the ALUs shall purchase their units on an "as-is, where-is" basis and the Receiver and Peoples shall have no liability in respect of the units and shall be released and discharged from all claims arising from or related to the unit, the RTOAs or any dealings of the ALUs with the Receiver, Rose of Sharon or the Property.
  8. THIS COURT ORDERS that any amounts required to be contributed to the condominium reserve fund for the Property, either before or after registration of the condominium and whether forming part of common area maintenance charges applicable to a unit or otherwise, shall be for the account of the ALUs and neither the Receiver nor Peoples shall have any liability in respect of these contributions.
  9. THIS COURT ORDERS that ALUs shall pay all common area maintenance fees required in relation to their units which arise after the Settlement Date, as and when they become

due and that, provided these payments are made, each ALU may continue to occupy their units until the earlier of:

- (a) the date which is sixty (60) days after the date of delivery of the Purchase Notices; or
- (b) the date which is 12 months after the Settlement Date, subject to Peoples' subsequent written agreement (which agreement shall be in Peoples' sole discretion) to extend to a later date (the "**Outside Date**").

- 10. THIS COURT ORDERS that in the event that the Property is not registered as a condominium by the Outside Date, all rights and obligations provided for under paragraphs 2, 3, 4, 5, 6 and 7 of this Order shall lapse and be of no further force and effect.
- 11. THIS COURT ORDERS AND DECLARES that the Receiver shall not be obliged to deliver the disclosure statement contemplated by s. 72(1) of the *Condominium Act* in respect of the ALUs' units unless and until the Purchase Notices have been delivered by the Receiver.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:



SEP 11 2013



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SCHEDULE "A"  
Unit # Sq. Ft.

Units	Name of Unit Holder	Date of RTOA	Years	Life Lease Purchase/Selling Price	Deposits Paid	Price Adjustments/ Rebates/ Offsets Given by Rose of Sharon	Balance Owed	Loan(s) to Rose/ Promissory Note(s) from Rose	Balance Owning After Note(s)	3% Interest	New Value	Settlement Amount Owning
ALUS												
304	Mary Chon	24/08/2005	8	137,685.00	-41,304.85	-13,769.00	82,611.15	-82,612.00	-0.85	33,044.40	170,729.40	33,044.40
306	Mary Chon	10/05/2005	8	189,610.00	-93,261.00	-18,961.00	77,388.00	-77,388.00	0.00	45,506.40	235,116.40	45,506.40
308	Youngsook Cha	18/08/2006	7	182,240.00	-54,672.00	0.00	127,568.00	0.00	4,884.00	38,270.40	220,510.40	165,838.40
706	Sung-Sun Yoon/MH-Kyung Yoon	22/09/2003	10	111,195.00	-31,770.00	0.00	79,425.00	-74,561.00	4,864.00	33,358.50	144,553.50	38,222.50
707*	Soon Sup Lee / Hyung Good Lee	06/08/2009	4	177,645.00	-95,403.00	0.00	82,242.00	-73,935.00	8,307.00	21,317.40	199,962.40	29,624.40
708	Kyung Yurl Lee/Lung Ja Lee	06/11/2009	4	196,000.00	-76,300.00	0.00	119,700.00	-119,700.00	0.00	23,520.00	219,520.00	23,520.00
709	Young Jeon	26/10/1996	17	132,407.00	-69,804.00	0.00	62,603.00	-62,603.00	0.00	67,527.57	199,934.57	67,527.57
711	Young Jeon	26/10/1996	17	114,439.00	-69,804.00	0.00	44,635.00	-52,347.00	-32,712.00	58,363.89	172,802.89	58,363.89
803**	Boq Shim Shin	30/12/1999	14	143,000.00	-94,000.00	0.00	49,000.00	0.00	49,000.00	60,080.00	203,080.00	109,080.00
805	Han Hyeong Lee/Hae Jeong Kang	31/12/2003	10	195,000.00	-195,000.00	0.00	0.00	0.00	-25,000.00	58,500.00	253,500.00	58,500.00
806	EunKyung Yim	13/05/2005	8	182,838.00	-54,851.00	-9,141.90	118,845.10	0.00	118,845.10	43,981.12	228,719.12	162,726.22
807	Jong Ran Kim	10/12/2007	6	214,500.00	-233,966.00	0.00	-19,466.00	0.00	-19,466.00	38,610.00	253,110.00	38,610.00
810	Sun Hwa Lee	05/09/2003	10	100,000.00	-23,285.99	0.00	76,714.01	-105,353.54	-53,619.53	30,000.00	130,000.00	30,000.00
812	Sun Hwa Lee	05/09/2003	10	197,000.00	-45,834.01	0.00	151,165.99	-207,546.46	-56,380.47	59,100.00	256,100.00	59,100.00
906	Woo Sam Park	06/04/2006	7	163,000.00	-48,300.00	-16,300.00	97,800.00	0.00	72,800.00	34,230.00	197,230.00	107,030.00
907	Myung Hee Kim/Jun Do Sung	27/11/2004	9	221,000.00	-66,300.00	-22,100.00	132,600.00	0.00	132,600.00	59,670.00	280,670.00	192,270.00
908	Han Hyeong Lee/Hae Jeong Kang	22/09/2003	10	107,600.00	-107,600.00	0.00	0.00	0.00	0.00	32,280.00	139,880.00	32,280.00
909	Mansoo Chun	21/07/2008	5	150,000.00	-44,400.00	0.00	125,600.00	0.00	0.00	22,500.00	172,500.00	145,100.00
911	Hyang Ok Hong/John Bai	23/12/2002	11	182,600.00	-44,260.00	0.00	138,340.00	-40,000.00	98,340.00	60,258.00	242,858.00	158,598.00
912	Chang Jeon Kim/Soon Ja Kim/Sar	09/11/2010	3	217,960.00	-123,280.00	0.00	94,700.00	-90,600.00	4,100.00	19,618.20	237,598.20	23,718.20
1002	Brenda (Chun Ja) Ha	31/07/1996	17	159,319.00	-103,552.00	0.00	55,767.00	0.00	55,767.00	81,252.69	240,571.69	137,019.69
1005	Young Sohn	30/05/2007	6	320,900.00	-96,270.00	0.00	224,630.00	0.00	224,630.00	57,762.00	378,662.00	282,392.00
1008	Mal Hwa Kim/Ellen Kim	30/05/2007	6	150,000.00	-25,000.00	0.00	125,000.00	0.00	125,000.00	27,000.00	177,000.00	152,000.00
1009	Morgiana Lee	14/06/2011	2	155,000.00	-65,000.00	0.00	90,000.00	0.00	90,000.00	9,300.00	164,300.00	99,300.00
11010	Gye-Soon Kim/Joon Kie Kim	12/03/2010	3	227,000.00	-148,200.00	0.00	78,800.00	-50,000.00	28,800.00	20,430.00	247,430.00	49,230.00
11108	Jae Won Byun	27/09/2004	9	329,810.00	-98,846.00	-32,981.00	197,883.00	-188,555.00	11,328.00	89,048.70	418,858.70	100,376.70
1112***	Hee Jun Park/Na Rae Choi	29/03/2005	8	209,600.00	-62,880.00	0.00	146,720.00	0.00	146,720.00	50,304.00	259,904.00	197,024.00
PH6****	Jong Ryel Lee/Chang Hun Shin	29/05/2007	6	441,000.00	-44,100.00	0.00	396,900.00	-88,000.00	308,900.00	79,380.00	520,380.00	388,280.00
Units = 28			8,33929	5,308,368.00	-2,237,923.85	-113,252.90	2,957,191.25	-1,267,201.00	1,589,980.25	1,254,093.27	6,562,461.27	2,987,262.37

\* - Changed from 16 to 4 years. ALU advised that 2009 RTOA is for new unit, and therefore, reflects 2009 unit prices - not 1997 unit price. Affidavit is consistent with this. Documents support this and are available if required.  
 \*\* - This should have been 14 years but had been recorded as 5 years.  
 \*\*\* - Changed from 13 years to 8 years. RTOA is dated 2005 but contains a notation that it is a renewal of agreement dated 2000. ALU advises that this is incorrect as only immigrated to Canada in 2002 and only signed one RTOA in 2005. Affidavit is consistent with this.  
 \*\*\*\* - Changed from -44,000 to -88,000. See payment summary of Receiver. Two notes of \$44,000 each. ALU advises that the two notes, plus the initial deposit, total the 30% deposit required.

**PEOPLES TRUST COMPANY**  
Applicant

v.

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**  
Respondent

**ONTARIO SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**ORDER**

**GOWLING LAFLEUR HENDERSON LLP**

Barristers and solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
TORONTO, Ontario  
M5X 1G5

**Clifton Prophet / C. Haddon Murray**

LSUC No.: 34845K / 61640P  
Telephone: (416) 862-3509 / (416) 369-3604  
Facsimile: (416) 862-7661  
Lawyers for the Applicant,  
Peoples Trust Company

**TAB L**

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) THURSDAY , THE 13<sup>th</sup> DAY  
)  
JUSTICE MESBUR ) OF DECEMBER, 2013

**B E T W E E N:**

**PEOPLES TRUST COMPANY**

**Applicant**

**- and -**

**ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Respondent**

**ORDER**

**THIS MOTION** made by Peoples Trust Company ("**Peoples**") for an Order:

1. approving a settlement (the "**Settlement**") between Peoples and certain purchasers of units in the Property (the "**Settling Unitholders**" enumerated particularly below) as set out in the Fifth Report of the Receiver dated December 10, 2013 (the "**Fifth Report**").
2. declaring that Peoples is entitled to priority over the claims of certain persons, including without limitation the claims of certain life lessees against the Property (as defined below) or its proceeds, whether under Right to Occupy Agreements

(“RTOAs”) or otherwise, and any tenants of such life lessees (collectively, “**Life Lease Claimants**”), with respect to the property owned and operated by Rose of Sharon (Ontario) Retirement Community (“**Rose of Sharon**”) known municipally as 15-17 Maplewood Avenue, Toronto, Ontario and/or units in the said building (the “**Property**”), save and except for any construction lien claims found to be valid and prior by a judge presiding over the Superior Court of Justice (Commercial List); and

3. A declaration of priority over the following mortgages:

- a. a second mortgage for \$700,000.00 held registered on title on November 14, 2008 (and which was originally held IWOK Corporation (“**IWOK**”));
- b. a third mortgage for \$100,000.00 held by Turfpro registered on May 14, 1999 (and which was originally a first mortgage held by Mikal Construction Inc. that was transferred to Turfpro on January 19, 2006);
- c. a fourth mortgage for \$590,000.00 held by Turfpro registered on title as a second mortgage on August 2, 2002; and,
- d. a fifth mortgage for \$150,000.00 held by IWOK registered on title January 19, 2006 (and which was originally a third mortgage held by Mijo Holdings Inc. and transferred to Unimac Group Ltd. (“**Unimac**”) On May 18, 2007, and subsequently transferred to IWOK on March 2, 2010).

(the “**Subordinate Mortgages**”)

**ON READING** Peoples’ Compendium and the documents contained therein, Peoples’ Factum and Supplementary Factum, the Fifth Report and on hearing the submissions of counsel for Peoples, <sup>2383431 Ontario Inc ✓ he</sup> ~~Representative Counsel~~, the Receiver, Unimac Group Ltd. and Trisura Guarantee Insurance Company, no one appearing for any other party although duly served as appears from the Affidavits of Service of Haddon Murray sworn September 4, 2013, September 6, 2013, October 25, 2013 and December 13, 2013.

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Amended Notice of Motion and the Compendium herein is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**SETTLEMENT**

2. **THIS COURT ORDERS** that the Settlement<sup>by</sup> by payment of the amounts set out in the table attached as Schedule "A" to this order in the column titled "Settlement Price" plus:

<sup>or</sup> (a) the total amount of any unpaid sums for common area maintenance fees due and owing on the date this settlement is approved by the Court (the "Settlement Date"); and,

<sup>or</sup> (b) the total amount of any unpaid interest required to be paid pursuant to RTOAs on the positive balances set out in the Payment Chart in the column entitled "Balance Owing After Notes"

<sup>or by</sup> and compliance with the terms and conditions set out in <sup>or other</sup> ~~in the Fifth Report, a sample of which is attached at Schedule "B" to this order as between:~~ <sup>therein</sup>

- (a) Steven Yu with respect to unit 801;
- (b) Jane Kim with respect to unit 802;
- (c) Klara Kim with respect to unit 804;
- (d) Sang-Hyun An/Chang Y An with respect to units 809, 811 and 1111;
- (e) Albert Yoon with respect to units 1001 and 1003;
- (f) Lawrence (Myung Kyou) Kim with respect to units 1007 and 1109;
- (g) Olivia Yoon with respect to unit 1107
- (h) Mugungwha Homes with respect to unit 205;
- (i) Robert Berg (ACC) with respect to unit 203; and,

(j) Assured Care Consulting Inc. with respect to unit 903,

(the "Settling Unitholders")

*Re approved by [signature]*  
and Peoples and the Receiver, is hereby approved and the Receiver is hereby authorized and directed to take all steps necessary to implement the Settlement.

### **PRIORITY**

**3. THIS COURT ORDERS AND DECLARES** that Peoples is entitled to priority over the claims of all persons claiming an interest in the following units in the Property and the proceeds thereof:

- (k) unit 902 with an RTOA held by Soon Ki Chang;
- (l) units 201, 910 and 1103 with a RTOAs held by Anne Marie Heinrichs;
- (m) units 204, 209, 210 and 211 with RTOAs held by Mike Ridley;
- (n) unit 206 with an RTOA held by Aaron & Helen Klassen;
- (o) units 208 and 214 with RTOAs held by Tim Schaner;
- (p) units 212 and 213 with RTOAs held by Hans Goetze;
- (q) unit 311 with an RTOA held by John Chon;
- (r) unit 701 with an RTOA held by Choo-Kook Chang;
- (s) unit 901 with an RTOA held by Yun Ok Lee; and,
- (t) unit 703 with an RTOA held by Jang Hoon Lee/Vivian Rhee (Lee).

except for any construction lien claims found to be valid and prior by a judge presiding over the Superior Court of Justice (Commercial List).

4. **THIS COURT ORDERS AND DECLARES** that Peoples is entitled to priority over the claims of all persons claiming under the Subordinate Mortgages including without limitation any assignee of a Subordinate Mortgage.

**GENERAL**

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

6. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.



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ENTRÉES ET INSCRITS À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 17 2013

NB

**SCHEDULE "A"**

Units	Name of Unit Holder	Settlement Price
801	Steven Yu	\$48,438.00
802	Jane Kim	\$62,400.00
804	Klara Kim	\$37,908.00
809	Sang-Hyun An/Chang Y An	\$110,601.66
811	Sang-Hyun An/Chang Y An	\$144,698.34
1001	Albert Yoon	\$90,764.33
1003	Albert Yoon	\$83,509.08
1007	Lawrence (Myung Kyou) Kim	\$55,183.02
1107	Olivia Yoon	\$40,440.27
1109	Lawrence (Myung Kyou) Kim	\$79,224.00
1111	Sang-Hyun An/Chang Y An	\$75,622.80
205	Mugungwha Homes	\$74,368.70
203	Robert Berg (ACC)	\$50,400.00
903	Assured Care Consulting Inc.	\$78,949.40

Units: 14

**PEOPLES TRUST COMPANY** v. **ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**  
Applicant Respondent

**ONTARIO SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**ORDER**

**GOWLING LAFLEUR HENDERSON LLP**  
Barristers and solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
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M5X 1G5

Clifton Prophet  
LSUC No.: 34845K

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Lawyers for the Applicant,  
Peoples Trust Company

**TAB M**

# Agreement of Purchase and Sale Condominium Resale

## Form 101

for use in the Province of Ontario

If you use a Schedule, change the total page # to include it.

This Agreement of Purchase and Sale dated this ..... day of ..... 20.....

**BUYER**, ..... (Full legal names of all Buyers), agrees to purchase from

**SELLER**, **See Schedule "A"** ..... (Full legal names of all Sellers), the following

**PROPERTY:**  
a unit in the condominium property known as ..... **Unit** ..... No. ....  
(Apartment/Townhouse/Suite/Unit)

located at **15 Maplewood Avenue** .....

in the **City of Toronto, Province of Ontario, M6C 4B4** .....

being **Toronto Standard Condominium Corporation** ..... Condominium Plan No **2911**  
(Legal Name of Condominium Corporation)

Unit Number ..... Level No. .... Building No. .... together with ownership  
or exclusive use of Parking Space(s) ..... together with ownership or exclusive use of  
(Number(s), Level(s))

Locker(s) ..... together with Seller's proportionate undivided tenancy-in-common interest  
(Number(s), Level(s))  
in the common elements appurtenant to the Unit as described in the Declaration and Description including the exclusive right to use such other parts of the common elements appurtenant to the Unit as may be specified in the Declaration and Description: the Unit, the proportionate interest in the common elements appurtenant thereto, and the exclusive use portions of the common elements, being herein called the "Property".

**PURCHASE PRICE:** ..... Dollars (CDN\$) .....  
..... Dollars

**DEPOSIT:** Buyer submits ..... (Herewith/Upon Acceptance/as otherwise described in this Agreement)  
..... Dollars (CDN\$) .....

by negotiable cheque payable to **Milborne Group, Brokerage** ..... "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

**Buyer agrees to pay the balance as more particularly set out in Schedule A attached.**

**SCHEDULE(S) A** ..... **and B** ..... **attached hereto form(s) part of this Agreement.**

**1. IRREVOCABILITY:** This offer shall be irrevocable by ..... until ..... a.m./p.m. on the .....  
(Seller/Buyer)  
day of ..... 20 ....., after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

**2. COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the ..... day of **See Schedule "A"**,  
20 ..... Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

NTD: TO BE AMENDED DEPENDING ON PURCHASER

**INITIALS OF BUYER(S):** 

**INITIALS OF SELLER(S):** 

**3. NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

FAX No.: ..... (For delivery of Documents to Seller)      FAX No.: ..... (For delivery of Documents to Buyer)  
 Email Address: ..... (For delivery of Documents to Seller)      Email Address: ..... (For delivery of Documents to Buyer)

**4. CHATELS INCLUDED:** **None / TBC**  
 .....  
 .....  
 .....  
 .....

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

**5. FIXTURES EXCLUDED:** **None**  
 .....  
 .....  
 .....

**6. RENTAL ITEMS (Including Lease, Lease to Own):** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:  
**None**  
 .....  
 .....  
 .....

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

NTD: 7. and 8. TO BE AMENDED DEPENDING ON PURCHASER

**7. COMMON EXPENSES:** Seller warrants to Buyer that the common expenses presently payable to the Condominium Corporation in respect of the Property are approximately \$ ..... per month, which amount includes the following: .....  
 .....  
 .....

**8. PARKING AND LOCKERS:** Parking and Lockers are as described above or assigned as follows: .....  
 ..... at an additional cost of: .....

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

**9. HST:** If the sale of the Property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be **included in** ..... the Purchase Price. If the sale of the Property is not subject to HST, Seller agrees to certify on or before closing, that the sale of the Property is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

**10. TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the ..... day of ....., 20....., (Requisition Date) to examine the title to the Property at Buyer's own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy Buyer that there are no outstanding work orders or deficiency notices affecting the Property, and that its present use (.....) may be lawfully continued. If within that time any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

**11. TITLE:** Buyer agrees to accept title to the Property subject to all rights and easements registered against title for the supply and installation of telephone services, electricity, gas, sewers, water, television cable facilities and other related services; provided that title to the Property is otherwise good and free from all encumbrances except: (a) as herein expressly provided; (b) any registered restrictions, conditions or covenants that run with the land provided such have been complied with; (c) the provisions of the Condominium Act and its Regulations and the terms, conditions and provisions of the Declaration, Description and By-laws, Occupancy Standards By-laws, including the Common Element Rules and other Rules and Regulations; and (d) any existing municipal agreements, zoning by-laws and/or regulations and utilities or service contracts.

**12. CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, nonregistrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.

**13. STATUS CERTIFICATE AND MANAGEMENT OF CONDOMINIUM:** Seller represents and warrants to Buyer that there are no special assessments contemplated by the Condominium Corporation, and there are no legal actions pending by or against or contemplated by the Condominium Corporation. The Seller consents to a request by the Buyer or the Buyer's authorized representative for a Status Certificate from the Condominium Corporation. Buyer acknowledges that the Condominium Corporation may have entered into a Management Agreement for the management of the condominium property.

NTD: TO BE AMENDED DEPENDING ON PURCHASER

**14. DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. Seller agrees to deliver to Buyer, if it is possible without incurring any costs in so doing, copies of all current condominium documentation of the Condominium Corporation, including the Declaration, Description, By-laws, Common Element Rules and Regulations and the most recent financial statements of the Condominium Corporation. ~~If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.~~

NTD: TO BE AMENDED DEPENDING ON PURCHASER

**15. MEETINGS:** Seller represents and warrants to Buyer that at the time of the acceptance of this Offer the Seller has not received a notice convening a special or general meeting of the Condominium Corporation respecting; (a) the termination of the government of the condominium property; (b) any substantial alteration in or substantial addition to the common elements or the renovation thereof; OR (c) any substantial change in the assets or liabilities of the Condominium Corporation; and Seller covenants that if Seller receives any such notice prior to the date of completion Seller shall forthwith notify Buyer in writing and Buyer may thereupon at Buyer's option declare this Agreement to be null and void and all monies paid by Buyer shall be refunded without interest or deduction.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

- 16. INSPECTION:** Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the Property.**
- ~~**17. APPROVAL OF THE AGREEMENT:** In the event that consent to this sale is required to be given by the Condominium Corporation or the Board of Directors, the Seller will apply forthwith for the requisite consent, and if such consent is refused, then this Agreement shall be null and void and the deposit monies paid hereunder shall be refunded without interest or other penalty to the Buyer.~~
- 18. INSURANCE:** The Unit and all other things being purchased shall be and remain at the risk of the Seller until completion. In the event of substantial damage to the Property Buyer may at Buyer's option either permit the proceeds of insurance to be used for repair of such damage in accordance with the provisions of the Insurance Trust Agreement, or terminate this Agreement and all deposit monies paid by Buyer hereunder shall be refunded without interest or deduction. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
- ~~**19. DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer.~~
- 20. RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada; (b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
- 21. ADJUSTMENTS:** Common Expenses; realty taxes, including local improvement rates; mortgage interest; rentals; unmetered public or private utilities and fuel where billed to the Unit and not the Condominium Corporation; are to be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to the Buyer. There shall be no adjustment for the Seller's share of any assets or liabilities of the Condominium Corporation including any reserve or contingency fund to which Seller may have contributed prior to the date of completion.
- 22. PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the Property, save and except any property taxes that accrued prior to the completion of this transaction.
- 23. TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 24. TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.
- 25. FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless the spouse of the Seller has executed the consent hereinafter provided.
- ~~**26. UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the Property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.~~
- 27. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice.
- 28. CONSUMER REPORTS:** **The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
- 29. AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
- 30. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the Property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



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**31. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

..... (Witness) ..... (Buyer) ..... (Seal) DATE .....

..... (Witness) ..... (Buyer) ..... (Seal) DATE .....

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

..... (Witness) ..... (Seller) ..... (Seal) DATE .....

..... (Witness) ..... (Seller) ..... (Seal) DATE .....

**SPOUSAL CONSENT:** The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O.1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

..... (Witness) ..... (Spouse) ..... (Seal) DATE .....

**CONFIRMATION OF ACCEPTANCE:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at ..... a.m./p.m. this ..... day of....., 20.....

..... (Signature of Seller or Buyer)

<b>INFORMATION ON BROKERAGE(S)</b>	
Listing Brokerage .....	Tel.No.(.....) .....
..... (Salesperson / Broker Name)	
Co-op/Buyer Brokerage .....	Tel.No.(.....) .....
..... (Salesperson / Broker Name)	

**ACKNOWLEDGEMENT**

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

..... DATE .....

(Seller)

..... DATE .....

(Buyer)

..... DATE .....

(Seller)

..... DATE .....

(Buyer)

Address for Service .....

..... Tel.No.(.....)

Address for Service .....

..... Tel.No.(.....)

Seller's Lawyer **Kirsty Strong, Gowling WLG (Canada) LLP** .....

Buyer's Lawyer .....

Address **1600-100 King Street West, Toronto, ON** .....

Address .....

Email **kirsty.strong@gowlingwlg.com** .....

Email .....

( **416** ) **842 4497** ..... (.....) .....

Tel.No. FAX No.

(.....) ..... (.....) .....

Tel.No. FAX No.

Property Manager: **STERLING KARAMAR PROPER** .....

(Name) (Address) (Tel No.,FAX No)

FOR OFFICE USE ONLY	<b>COMMISSION TRUST AGREEMENT</b>
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:	
In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.	
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.	Acknowledged by:
.....	.....
(Authorized to bind the Listing Brokerage)	(Authorized to bind the Co-operating Brokerage)

# Schedule A

## Agreement of Purchase and Sale – Condominium Resale

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER,** ....., and

**SELLER,** **See Schedule "A"** .....

for the purchase and sale of **15 Maplewood Avenue** .....

..... dated the ..... day of ....., 20 .....

Buyer agrees to pay the balance as follows:

**SEE SCHEDULE ATTACHED**

This form must be initialed by all parties to the Agreement of Purchase and Sale.

**INITIALS OF BUYER(S):** 

**INITIALS OF SELLER(S):** 

## SCHEDULE "A"

This Schedule forms part of the Agreement of Purchase and Sale between the Buyer, as set out in this Agreement and **DELOITTE RESTRUCTURING INC., SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTIES OF ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY AND NOT IN ITS PERSONAL CAPACITY**, as Seller.

1. **Seller:** The Seller is Deloitte Restructuring Inc., solely in its capacity as court-appointed Receiver and Manager of the assets, undertakings and properties of Rose of Sharon (Ontario) Retirement Community and not in its personal capacity.
2. **Property:** The Buyer hereby agrees with the Seller to purchase the residential unit located at 15 Maplewood Avenue, in the City of Toronto, Level [X], Unit [X] and referred to as unit [X] ("**Residential Unit**") [together with the parking space Level [X], Unit [X] (the "**Parking Space**"), and the locker unit Level [X], Unit [X] ("**Locker Unit**") all] as outlined for identification purposes in the plans attached hereto as Schedule "C", together with an undivided interest in the common elements and the exclusive use of those parts of the common elements attaching to the [Residential Unit / Parking Space / Locker Unit] as are more particularly described in the declaration of Toronto Standard Condominium Corporation No. 2911 (the "**Condominium Corporation**") registered as Instrument Number AT6082534 (the Residential Unit / Parking Space / Locker Unit, together with the undivided interest in, and the exclusive use of, the common elements referred to above being hereinafter referred to as the "**Property**").
3. **Completion Date:** [NTD: For ALUs and Non-ALU units] The Completion Date means the earlier of:
  - a. sixty (60) days following the date the Buyer receives notice from the Seller requiring payment of the Purchase Price; or
  - b. five (5) Business Days following the date the Seller advises the Buyer in writing that the Approval & Vesting Order, as defined in paragraph 910, has become a final order as to which:
    - i. no appeal, notice of appeal, motion for leave to appeal, motion to amend, vacate or make additional findings of fact, motion to alter or amend judgment, motion for rehearing, amendment, vacate, additional findings or alteration or amendment of judgment or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the Approval & Vesting Order in all material respects without the possibility for further appeal or rehearing thereon;
    - ii. the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and
    - iii. no stay is in effect; or
  - c. such other date as the Buyer and Seller may reasonably agree.

[NTD: For third party arms-length purchasers] The Completion Date means the date that is set out on page 1 of this Agreement.

4. **Purchase Price and Adjustments:** The Buyer shall pay the balance of the Purchase Price, subject to adjustments, to the Seller's Solicitor (or as the Seller may otherwise direct) by wire transfer using

the Large Value Transfer System on the Completion Date. The Buyer shall be responsible for any bank or wire fees incurred with sending funds to the Seller or the Seller's Solicitor. **[NTD: Remainder of this paragraph not required for third party arms-length purchasers]** In addition to the typical adjustments for a transaction of this nature, pursuant to the Settlement Agreements and the Order of Justice Mesbur dated **[For ALUs: September 10, 2013 For non-ALUs: December 13, 2013]** (the "Order") adjustments to the Purchase Price will also be made for i) unpaid sums for common area maintenance fees due and owing on **[For ALUs: September 10, 2013 For non-ALUs: December 13, 2013]**, ii) unpaid sums for common area maintenance fees due and owing after **[For ALUs: September 10, 2013 For non-ALUs: December 13, 2013]** up to the Completion Date, and iii) the total amount of any unpaid interest required to be paid pursuant to the Right to Occupancy Agreement entered into between the Buyer and the Seller on the positive balances set out in the Payment Chart (as defined in the Order) in the column entitled "Balance Owing After Notes" attached to the Order.

**[NTD: For ALUs and Non-ALU units]** In default of payment of the balance of the Purchase Price on the Completion Date, the Seller shall be entitled to sell the Property free and clear of any and all claims of the Buyer, or anyone claiming through them, or any tenant of the Buyer or original buyer, if applicable, and the Seller shall be entitled to obtain applicable vesting orders and writs of possession in respect of the Property.

5. **[NTD: Not required for third party arms-length units.] Insurance and costs prior to Completion Date:** Notwithstanding paragraphs 18 and 21 of this Agreement, the parties agree that the Buyer, who is residing at the Property, shall continue to be responsible for insuring its interest in the Property, and shall be solely responsible for its monthly common area maintenance fees, and all other expenses relating to the Property including, without limitation, common expenses; realty taxes, including local improvement rates; rentals; unmetered public or private utilities and fuel attributable to the Property to the Completion Date.
6. **[NTD: For ALUs and Non-ALU units, this amount will recognize the deposits paid up to the amount of the purchase price] Credit to Purchase Price:** A credit in the amount of **[\$X]** will be credited to the Buyer on account of the amount pre-paid by the Buyer.
7. **Requisitions and Encumbrances:** The Buyer acknowledges that, notwithstanding any statutory provisions to the contrary, the Buyer has no right to submit requisitions on title in respect of the Property or in regard to any outstanding work orders, deficiency notices, or orders issued by any governmental authority. The Buyer further acknowledges that it shall not be entitled to a conveyance of Transfer, but shall receive an Approval & Vesting Order, as defined in paragraph 910, whereby title to the Property will be vested in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

"Encumbrances" means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien (statutory or otherwise), claim, title retention agreement or arrangement, restrictive covenant, rights of way, easements, encroachments, reserves, or other encumbrance of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation.

"Permitted Encumbrances" means those items listed in Schedule "B" attached hereto.

8. **[NTD: For ALUs and Non-ALU units, not third party arms-length units (save for possibly one unit – TBC)] Vacant Possession:** The Buyer confirms, acknowledges and agrees that as the date of this

Agreement, they currently reside in the Residential Unit and accordingly vacant possession will not be provided to the Buyer on the Completion Date.

9. **Disclosure Statement:** The Buyer and Seller confirm, acknowledge and agree that pursuant to Section 72 of the Condominium Act the Seller delivered to the Buyer on the date of this Agreement, the disclosure statement, including the Residential Condominium Buyers' Guide. By their acceptance and execution of this Agreement, the Buyer confirms, acknowledges and agrees that they received the disclosure statement and Residential Condominium Buyers' Guide from the Seller and were satisfied with the contents of same prior to entering into this Agreement.
10. **[NTD: Not required for third party arms-length units.] Approval & Vesting Order Condition:** The obligations of the Buyer and Seller to complete this agreement shall be subject to the following conditions:
- a. an order will have been made by the Ontario Superior Court of Justice approving this Agreement and vesting in the Buyer all the right, title and interest of Rose of Sharon (Ontario) Retirement Community to the Property free and clear of any and all liabilities and encumbrances except for the Permitted Encumbrances (the "**Approval & Vesting Order**"), and such Approval & Vesting Order shall have become a final order as to which (i) no appeal, notice of appeal, motion for leave to appeal, motion to amend, vacate or make additional findings of fact, motion to alter or amend judgment, motion for rehearing, amendment, vacate, additional findings or alteration or amendment of judgment or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the Approval and Vesting Order in all material respects without the possibility for further appeal or rehearing thereon; (ii) the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) no stay is in effect;
  - b. no order, action or proceeding shall have been issued, pending or threatened which restrains or prohibits the completion of the Agreement; and
  - c. the Seller shall not have lost possession or control of the Property or any part thereof, other than in respect of the Buyer's possession therefore as contemplated by paragraph 8 of this Schedule. **[NTD: words from "other than..." to end of sentence are not required for 3<sup>rd</sup> party sales (subject to unit with tenant if assumed)].**

The foregoing conditions are for the mutual benefit of the Buyer and Seller. If any condition set out in this paragraph 10 is not satisfied or performed prior to **[X]**, the parties may: (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or (b) elect on written notice to the other party to terminate this Agreement.

11. **[NTD: For third party arms-length purchasers] Finance Condition:** This Agreement is conditional upon the Buyer arranging satisfactory financing by 8:59pm on the fifth (5th) Banking Day following their acceptance of this Agreement, otherwise, this Offer shall become null and void and the deposit money shall be returned to the Buyer in full without interest or deduction. This condition is included for the benefit of the Buyer and may be waived and or fulfilled at their sole option by notice in writing to the Seller as aforesaid within the time period stated herein.

12. **As-Is:** The Buyer acknowledges and agrees that the Property, including chattels and fixtures if any, will be purchased on an “as is, where is” basis, at the Buyer’s own risk and peril, and without any express or implied representation or warranty of any kind as to the physical or financial condition, suitability for development, fitness for a particular purpose, presence of any hazardous substances, physical characteristics, profitability, use or zoning, environmental condition, existence of latent defects, quality, title, or any other aspect or characteristic of the Property.

The Buyer shall rely solely on its own due diligence, review and verification of all aspects of the transaction contemplated in this Agreement, including, without limitation, all issues concerning title, descriptions, physical condition, financial matters, environmental condition, leases, tenancies, contracts, suppliers, zoning, compliance with applicable laws, outstanding work orders, permits, third party rights, merchantability and permitted use. The Seller shall have no obligations or responsibilities to the Buyer after the Completion Date with respect to any matter relating to the Property save and except as expressly provided in this Agreement.

As part of its agreement to purchase and accept the Property “as is, where is”, and not as a limitation on such agreement, the Buyer hereby unconditionally and irrevocably waives any and all actual or potential rights the Buyer might have against the Seller regarding any form of warranty, express or implied, of any kind or type, (including all applicable statutory warranties), such waiver is absolute, complete, total and unlimited in every way. Such waiver includes, but is not limited to, a waiver of express warranties, implied warranties, warranties of fitness for a particular use or purpose, warranties of merchantability, warranties of occupancy, all applicable statutory warranties, strict liability rights, and claims of every kind and type, including, but not limited to, claims regarding defects which might have been discoverable, claims regarding defects which were not or are not discoverable, product liability claims, product liability type claims, and all other extent or later created or conceived of strict liability or strict liability type claims and rights; The Buyer acknowledges to the Seller that it has inspected the Property and that the Seller is selling the Property on an "as is, where is" basis with all faults known, or unknown, as they shall exist as of the date of execution of this Agreement, or on the Completion Date. The Buyer further acknowledges that it has entered into this Agreement on the basis that the Seller does not guarantee title to the Property and that the Buyer has conducted such inspections of the condition of and title to the Property as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to any matter including, title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality, latent defects, cost, size, value, state of repair, environmental condition, environmental laws, zoning, permitted uses, permits, compliance with applicable laws of the governmental authorities, threatened claims, litigation, or in respect of any other matter or thing whatsoever concerning the Property or the right of the Seller to sell or assign same save and except as expressly represented or warranted herein. The description of the Property contained in this Agreement and the Schedules hereto or in any marketing material is for the purpose of identification only. No representation, warranty or condition has or will be given by the Seller concerning completeness or the accuracy of such descriptions. The Buyer acknowledges that it has relied entirely upon its own inspections and investigations with respect to the purchase of the Property including the quantity, quality and value thereof. The information and description of the Property in any marketing material, listing information, and any like material delivered or made available by the Seller, agents or any other party on its behalf to the Buyer or its representatives are believed to be correct, but if any misstatement, error, inaccuracy or omission (collectively the “**Inaccuracies**”) is found in the particulars thereof, the Buyer shall not be entitled to any abatement, damages, reimbursement, costs or to termination of this Agreement as a result thereof and the Buyer hereby releases the

Seller from any claims, damages, suits, costs, etc., the Buyer had, has or may have as a result of such Inaccuracies.

The provisions of this clause shall survive the closing of the transaction and continue to be binding upon the Buyer, its successors and assigns for the benefit of the Seller from and after closing. The Buyer agrees to provide an acknowledgment to this effect on closing (the "**As Is, Where Is Acknowledgment**").

13. **Common area maintenance fees and Disclosure Statement:** The Buyer acknowledges that the projected monthly common area maintenance fees for the Property are as set out in the disclosure statement. The Buyer confirms they have satisfied themselves as to the monthly common area maintenance fees for the Property, together with all other information contained in the disclosure statement, and associated condominium documents. Notwithstanding the foregoing, any amounts required to be contributed to the condominium reserve fund for the Property, whether forming part of the common area maintenance fees applicable to a unit or otherwise, shall be for the account of the Buyer and neither the Seller, nor any other person or entity, shall have any liability in respect of those contributions.

14. **Additional Costs:** In the event that the Buyer desires to:

(i) vary the name(s) or manner in which the Buyer has previously requested to take title to the Property;

(ii) change his/her solicitors; and/or

(iii) change any other information or documentation reflected on or comprising part of the closing package that is prepared by the Seller's solicitors;

but fails to inform the Seller's solicitors regarding any of the foregoing changes prior to the time that the closing package has been completed (even if the package has not yet been forwarded to or received by the Buyer or the Buyer's solicitors), then the Buyer shall be obliged to reimburse the Seller on the Completion Date for the legal fees and ancillary disbursements which may be incurred by the Seller and/or the Seller's solicitors in order to revise the closing package (or any portion thereof), to the Buyer, or the Buyer's solicitors, but without there being any obligation whatsoever on the part of the Seller or the Seller's solicitor to approve of, or to implement, any such changes so requested by the Buyer, and with such legal fees of the Seller's solicitors to be a minimum of \$300.00 plus HST.

15. **[NTD: Not required for third party arms-length units.] Service List:** The Seller covenants to ensure the Buyer is added to the Service List for any Motion seeking the Approval and Vesting Order.

16. **[NTD: Not required for third party arms-length units.] Paramouncy:** The Buyer and Seller agree that where the terms of this Agreement are inconsistent with the terms of the Settlement Agreement, the terms of this Agreement govern and are binding upon the Buyer and Seller.

17. **Binding Agreement:** Subject to the Approval & Vesting Order to be issued by the Court, this Agreement is intended to create binding obligations on the part of the Seller as set forth herein and on acceptance by the Buyer, is intended to create binding obligations on the part of the Buyer, as set out herein.

18. **Electronic signature.** The parties hereto consent and agree to the use of electronic signature pursuant to the Electronic Commerce Act 2000, S.O. 2000, c17 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.

**Schedule "B"**  
**Permitted Encumbrances**

This Schedule forms part of the Agreement of Purchase and Sale between the Buyer, as buyer, as set out in this Agreement and **DELOITTE RESTRUCTURING INC., SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTIES OF ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY AND NOT IN ITS PERSONAL CAPACITY**, as Seller.

1. The exceptions and qualifications contained in Section 44(1) of the Land Titles Act, R.S.O 1990, and any amendments thereto or any successor legislation;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. Any registered or unregistered easements or rights of way in favour of any governmental authority or public utility;
4. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
5. All agreements and easements, registered or otherwise, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties;
6. Any encroachments, defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property;
7. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations;
8. Any subdivision agreements, site plan agreements, developments and any other agreements with a municipality, region, publicly regulated utilities or other governmental authorities having jurisdiction;
9. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used on the date of acceptance of this Agreement;
10. The declaration, description, by-laws and rules and regulations of the Condominium Corporation;
11. The following instruments registered on title against the Property;
12. Instrument Nos. AT5176027, CA439307, CA439308, CA517084, 66R30578, TCP2911, AT6082534, AT2905656, AT5759673, and AT5781875, **[NTD: Check for each unit being transferred]**

**Schedule "C"**

**Residential Unit / Parking Space / Locker Unit Location**

This Schedule forms part of the Agreement of Purchase and Sale between the Buyer, as buyer, as set out in this Agreement and **DELOITTE RESTRUCTURING INC., SOLELY IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTIES OF ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY AND NOT IN ITS PERSONAL CAPACITY**, as Seller.

**Residential Unit**

**Parking Space**

**Locker Unit**

**TAB N**

**IN THE MATTER OF THE RECEIVERSHIP OF  
ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY**

**Receiver's Interim Statement of Receipts and Disbursements  
for the period September 27, 2011 to April 30, 2022**

	<b>Sept 27/11 to Apr 30/21</b>	<b>May 1/21 to Apr 30/22</b>	<b>Sept 27/11 to Apr 30/22</b>
<b>Receipts</b>			
Ministry of Health funding	\$ 29,676,019	\$ 3,748,190	\$ 33,424,209
Receipts from preferred accommodation re: nursing home residents	13,599,476	1,193,099	14,792,575
Receipts from life lease residence	9,388,467	1,630,781	11,019,249
Receiver borrowings	6,500,000	-	6,500,000
Receipts from life lease tenants (Life lease payments and		-	
Nursing Home - Return of excess funding	1,632,400	650,000	2,282,400
Cash in bank	404,887	-	404,887
HST refund	318,664	113,793	432,457
Proceeds from litigation settlements	660,000	-	660,000
Property tax refund	139,700	-	139,700
Misc. other receipts	395,694	4,953	400,647
<b>Total receipts</b>	<b>\$ 62,715,307</b>	<b>\$ 7,340,816</b>	<b>\$ 70,056,124</b>
<b>Disbursements</b>			
Funding of Nursing Home	\$ 41,699,059	\$ 6,066,036	\$ 47,765,095
Life lease residence disbursements	14,971,536	856,938	15,828,474
Receiver fees	2,404,843	184,484	2,589,327
Legal fees	2,392,256	97,136	2,489,392
HST/PST paid	709,831	38,927	748,758
Insurance	54,612	-	54,612
Consulting fees	154,955	7,278	162,232
Buyout of kitchen equipment lease	60,913	-	60,913
Property taxes	14,419	-	14,419
Building Condition Assessment	41,270	-	41,270
Appraisal fees	51,282	-	51,282
City of Toronto Development Charges	14,628	-	14,628
Ministry of Health & Long-Term Care fees	3,750	-	3,750
Other Miscellaneous disbursements	2,150	-	2,150
Bank Charges	10,611	1,011	11,622
<b>Total disbursements</b>	<b>\$ 62,586,114</b>	<b>\$ 7,251,810</b>	<b>\$ 69,837,924</b>
<b>Excess of receipts over disbursements</b>	<b>\$ 129,194</b>	<b>\$ 89,007</b>	<b>\$ 218,200</b>

**PEOPLES TRUST COMPANY**

-and-

**ROSE OF SHARON (ONTARIO) RETIREMENT  
COMMUNITY**

Applicant

Respondent

Court File No. CV-11-9399-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

PROCEEDING COMMENCED AT  
TORONTO

**MOTION RECORD**  
(Returnable 27 July, 2022)

**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

E. Patrick Shea (#39665K)  
Tel: (416) 369-7399  
Fax: (416) 862-7661

Lawyers for the Receiver