

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE

)

THURSDAY, THE 10TH

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 positioned above a horizontal line.

SCHEDULE "A"

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR) THURSDAY, THE 10TH
)
JUSTICE MCEWEN) DAY OF JUNE, 2021

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

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.



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)

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

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
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100 King Street West
Toronto, ON M5X 1G5

E. PATRICK SHEA (LSUC. No. 39655K)
Tel: (416) 369-7399
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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 (10th) 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.

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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 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%
TOTAL:		100.0000%	100.0000%

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