



**A PROPOSED
VACANT LAND CONDOMINIUM PLAN
BY WARREN D. SINCLAIR CONSTRUCTION LTD.**

**PROPOSED
BY-LAW NO. 1**

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Article I. Interpretation and Effect

a. *(Definitions and Interpretation)*

In this by-law:

- References to “Corporation” mean Norfolk Vacant Land Condominium Corporation No. _____;
- references to the “Plan” refer to Norfolk Vacant Land Condominium Plan No. _____;
- references to the “Act” are to the *Condominium Act, 1998*, its amendments and regulations, including any successor legislation;
- references to the “Declaration” mean the declaration and any amendments thereto registered in accordance with the Act that create or modify the Corporation and/or the Plan;
- the term “Board” means the board of directors of the Corporation;
- the term “Director” refers to a member of the Board;
- the term “Officer” refers to an officer of the Corporation appointed or elected by the Board;
- other terms used herein shall have the meanings ascribed to them in the Act or the Declaration;
- the use of the masculine gender shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires, and vice versa; and
- the use of headings in this by-law is for convenience of reference only and shall not affect the interpretation of this by-law.

b. *(Effective Date)*

This by-law is prepared by the Declarant and comes into force on the day that the Declaration is first registered until amended, replaced or repealed by the Corporation in accordance with the Act, whether or not this by-law is registered on title to the units.

Article II. Board of Directors

a. *(Number and Qualifications of Directors; Terms of Office)*

There shall be three (3) positions on the Board, who need not be owners or residents of the Corporation. Their respective terms of office shall be one (1) year.

b. *(Notification and Consent to be a Director)*

Notification of candidacy pursuant to subsections 28(2) and/or (3) of the Act shall be deemed to be consent in writing to act as director for the purposes of subsection 30(3) of the Act unless the individual should, prior to or at the meeting and prior to the election, give written notice to the property manager (if any), the Board or any member thereof that such individual has withdrawn his or her candidacy.

c. *(Indemnification of Officers and Directors)*

Every Director and Officer and his or her heirs, executors, administrators, estate trustees and other legal personal representatives shall from time to time be indemnified and saved harmless by the Corporation from and against,

- any liability and all costs, charges and expenses that the Director or Officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against the person for or in respect of anything that the person has done, omitted to do or permitted in respect of the execution of the duties of office; and
- all other costs, charges and expenses that the person sustains or incurs in respect of the affairs of the Corporation.

No Director and Officer shall be indemnified by the Corporation in respect of any liability, costs, charges or expenses that the person sustains or incurs in or about an action, suit or other proceeding as a result of which the person is adjudged to be in breach of the duty to act honestly and in good faith.

d. *(Corporation shall purchase liability insurance for Directors and Officers)*

If the insurance is reasonably available, the Corporation shall purchase and maintain insurance for the benefit of a Director or Officer against all liability and all costs, charges and expenses that the Director or Officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against the person for or in respect of anything that the person has done, omitted to do or permitted in respect of the execution of the duties of office except there shall be no such insurance provided to protect a Director or Officer against a liability, cost, charge or expense of the Director or Officer incurred as a result of a breach of the duty to act honestly and in good faith.

e. *(Deemed resignation)*

A Director is deemed to have resigned:

- If he or she misses more than fifty per cent (50%) of the meetings of the board in any six (6) month period or should he or she fail to attend three (3) sequential board meetings, however such deemed resignation may be overturned at the discretion of a majority of the remaining members of the board;
- forthwith upon becoming a party (be it applicant, plaintiff, complainant, defendant, respondent or otherwise) to a law suit or application wherein the Corporation is an opposing party to such director; or
- if a certificate of lien is registered under subsection 85(2) of the Act against a unit owned by such director, and such resignation shall not be voided upon discharge of the lien.

Article III. Meetings of the Board

a. *(Frequency, Time and Location of Meetings of the Board)*

The board may by resolution determine the frequency, times and specific locations of its meetings, provided that the board shall meet not less than once in every three-month period within any fiscal year of the Corporation.

No notice of the time, date or place of a meeting need be given to any director who was present at the meeting when the resolution with respect to the same was passed.

Any director may propose a time, date and location for a meeting of the board by providing notice thereof in accordance with the provisions of this by-law and the Act, which notice shall include an explanation of the purpose and proposed business of such meeting, and attendance at such proposed time, date and place by a quorum of the board shall cause such meeting to be deemed to have been validly called and duly constituted notwithstanding the absence of any other member(s) of the board.

b. *(Means of giving notice to the Directors of meetings of the Board)*

Notice of meetings of the Board is to be given in writing to each Director by:

- personal delivery of the notice of meeting at least forty-eight (48) hours before the time when the meeting is to be held;
- mailing the notice of meeting by ordinary mail at least seven days before the time when the meeting is to be held;
- facsimile (telecopier) transmission at least forty-eight (48) hours before the time when the meeting is to be held; or,
- any other generally accepted means of giving notice, electronic or otherwise as well as any means of notice that the Director to be given notice has agreed to in writing provided that such notice is given at least forty-eight (48) hours before the time when the meeting is to be held.

Notice is to be directed to the Director at the latest address, facsimile or electronic mail address of the Director as shown on the records of the Corporation.

Article IV. Meetings of Owners

a. *(Meetings to be held locally)*

All meetings of owners are to be held within the municipality in which the Corporation is situated or, at the discretion of the Board, the geographical region in which the majority of owners reside, and at such specific locations as the Board may determine by resolution in accordance with the further provisions hereof. Until the turn-over meeting of the Corporation meetings of the owners may be held anywhere in the province of Ontario.

b. *(Representation at meetings of corporate owners and those who do not attend or are unable to be present or represent themselves)*

The following persons may represent owners or mortgagees at meetings of the owners and may vote in the same manner and to the same extent as such owners or mortgagees:

- an executor/estate trustee;
- an administrator;
- an attorney for property;
- a committee of a mentally incompetent person;
- a guardian;
- a trustee;
- if a corporation is an owner or acts as one of the foregoing, any person duly appointed a proxy for such corporation; or
- a properly appointed proxy;

upon filing with the Secretary of the meeting sufficient proof of his, her or its appointment, prior to the commencement of the meeting in question.

c. *(Provisions relating to requisitioned meetings)*

A requisition for a meeting of owners may be made pursuant to subsection 46(1) of the Act by those owners who, at the time the Board receives the requisition,

- own at least 15 per cent of the units in the Plan,
- are listed in the record maintained by the Corporation under subsection 46.1(1) of the Act, and
- are entitled to vote.

In order to permit the Board to determine if the persons signing the requisition are shown on the register and entitled to vote, the names of all the requisitionists must be legibly printed or typed under the signature of each requisitionist. Any signature that is not identified by a legibly printed or typed name of the signatory shall not be counted or otherwise considered in determining if the requisite percentage of owners have signed the requisition for meeting.

d. *(Provisions relating to the election of a Director to a reserved position on the Board)*

- i. At the time that this by-law is being made, the Act requires that where at least (15) per cent of the units of a condominium corporation are owner-occupied there must be one position on the board of directors designated such that only the owners of owner-occupied units may elect a person to or remove a person from such position (the "owner-occupied position"). A unit is considered "owner-occupied" where the unit is a residential unit, the owner of the unit is entitled to vote at a meeting of owners to elect or remove a director, and the record required to be kept by the Corporation pursuant to section 83(3) of the Act does not indicate that the unit was leased within the 60-day period prior to notice of the meeting being given. An individual may stand for both the owner-occupied position on the Board and that of regular Board member. If an election is to take place at a meeting for both positions, the election for the owner-occupied position must be held first. Anyone who has stated an intention to stand for both positions and given notice as required by subsection 28(2) and (3) of the Act and who is elected to be the owner-occupied position is deemed to have withdrawn his or her candidacy for the regular Board position(s). However, should the said individual not be elected to be the owner-occupied position, such individual may then be considered for the position of a regular Board member at the election to be held following the election of the owner-occupied position at the same meeting.
- ii. Upon the coming into force of the *Protecting Condominium Owners Act, 2016*, which amends various provisions of the Act, the foregoing sub-clause 'i' of this clause 'f' is repealed in its entirety and the following shall be in effect: If the Corporation is required in accordance with the Act to have a position on the board reserved for election by the owners of non-leased voting units, an individual may stand for election to both that position and that of regular Board member. If an election is to take place at a meeting for both positions, the election for the non-leased voting unit position must be held first. Anyone who has stated an intention to stand for both positions and has given notice as required by the relevant provisions of the Act and who is elected to be the non-leased voting unit position is deemed to have withdrawn his or her candidacy for a regular Board position. However, should the said individual not be elected to be the non-leased voting unit position, such individual may then be considered for the position of a regular Board member at the election to be held following the election of the non-leased voting unit position at the same meeting.
- e. *(Provisions relating to the Record of Owners' Names and Addresses, and Voting)*

(Record of Owners)

For the purposes of the record of unit owners' names and addresses required to be maintained by the Corporation pursuant to the Act (the "Unit Owner Information Record"), and subject to the further provisions of the Act, each owner of every unit is required to provide the Corporation with written notice of such owner's name and unit number and, if wanted, the owner's current address for service (if other than the owner's unit) within 30 days of becoming an owner in the Corporation or within 30 days of this by-law coming into force and effect, whichever is earlier, as well as immediately upon there being any change to such owner's name and/or address for service.

In the event of any dispute or question as to the correct name and address for service for the owner of a unit, reference shall be had to the most recent written notice received by the Corporation in accordance with this provision and the same shall be deemed to be correct as at the date of such dispute or question.

In the event no such notice has been received by the Corporation with respect to a unit, for the purpose of preserving the owners' right to count toward quorum and vote in respect of any owners' meeting of the Corporation, and regardless of whether or not the owner of the unit resides in the unit, the name of the owner(s) as registered on title to the unit and the municipal address of the unit shall be deemed to be, respectively, the owner's name and address for service for the purposes of the Unit Owner Information Record and may be recorded therein as such.

Notwithstanding the foregoing, if an owner fails or refuses to deliver notice of such owner's name and unit number or other address for service at least 20 days prior to the date of any meeting of the Corporation, such owner shall not be entitled to notice of the same, notwithstanding such owner may retain the right to count toward quorum and vote at the meeting if attending the same.

(Multiple Owners)

For the purposes of ensuring that votes for each unit are properly cast and counted in accordance with the relevant provisions of the Act, the Board is entitled to require a unit owner:

- to inform the Corporation in writing as to whether the unit owner holds title to such owner's unit exclusively or as a "joint tenant" or "tenant-in-common" with one or more other owner(s) and to provide the legal name(s) of such other owner(s); and
- to inform the Corporation in writing of such owner's percentage ownership interest in the title to the unit where such title is held as a tenant-in-common; and/or,
- to provide a copy of the registered transfer/deed of such unit owner's unit to the Board;

and such information shall be entered into the Unit Owner Information Record upon receipt.

If the most current information provided by or on behalf of the owners of the Corporation for the foregoing purposes indicates:

- that there is more than one (1) unit owner of the unit, but fails to set out whether title to the unit is held in joint tenancy or as tenants-in-common, the Chair of the meeting shall proceed on the basis that the title is held in joint tenancy unless prior to the vote in question the Chair is provided with a copy of the most current transfer/deed of the unit or other reasonable evidence in the discretion of the Chair that establishes that title to the unit is held in other than joint tenancy; or,
- that title to the unit is held by the unit owners of such unit as tenants-in-common (including any tenancy-in-common share that is owned jointly as being deemed to be owned by all of the owners as tenants-in-common) but fails to provide what percentage share each of the owners holds, the Chair of the meeting shall proceed on the basis that the title is held equally as between or amongst the tenants-in-common unless prior to the vote in question the Chair is provided with a copy of the most current transfer/deed of the unit or other reasonable evidence in the discretion of the Chair that establishes that the percentage interests are other than equal as between or amongst the tenancy-in-common owners.

(Joint Tenants)

Where the Unit Owner Information Record indicates that title to a unit is held by unit owners as joint tenants, and only one (1) of the unit owners of the unit attends a meeting of the Corporation in person or by proxy, the Corporation shall be entitled to:

- count such attendance toward quorum for the meeting; and
- rely on a vote cast by such unit owner and treat the same as valid and representing and being the vote cast on behalf of all of the unit owners of the unit;

provided the Corporation has not been advised in writing to the contrary by any other unit owner of the unit in question prior to such vote being cast.

Where the Unit Owner Information Record provides that title to a unit is held by unit owners as joint tenants, and more than one (>1) of the unit owners of the unit attends a meeting of the Corporation in person or by proxy, the Corporation shall be entitled to:

- count such attendance toward quorum for the meeting; and
- rely on a vote cast by such unit owner(s) or any one of them and treat the same as valid and representing and being the vote cast on behalf of all of the unit owners of the unit;

provided:

- the Corporation has not been advised in writing to the contrary by any other unit owner of the unit in question prior to the vote being cast; and
- provided no other unit owner of the unit purports to vote on the same question by a separate vote; and
- no objection to the vote being made by such unit owner or owners, as the case may be, is made to the Chair by any other unit owner of the unit who is present at the meeting in person or by proxy, prior to the vote in question being cast.

In determining if the majority of the unit owners of a unit are agreed on how to exercise a vote, in circumstances where the unit owners of the unit who are present at the meeting in person or by proxy are evenly divided on how to exercise the vote, the Board shall assume that any owners of the same unit not present at the meeting in person or by proxy abstain from voting or having any opinion on the vote in question so that the vote cast for the unit in question shall not be counted.

(Tenants-in-Common)

If one (1) or more tenancy-in-common share(s) of the title to a unit is/are owned jointly as between or amongst the owners of the tenancy-in-common share, all of the owners of the unit shall be deemed to hold title as tenants-in-common and the joint owners of the tenancy-in-common share or shares of the title shall each be deemed to own an equal portion of the tenancy-in-common share of the title of which they are joint owners.

Where the Unit Owner Information Record provides that title to a unit is held by unit owners as tenants-in-common, and only one (1) of the said unit owners attends a meeting of the Corporation, the Corporation is not required to:

- count such attendance toward quorum for the meeting; or
- rely on a vote cast by such tenant-in-common unit owner or treat the same as valid and binding upon the unit;

unless the Chair of the meeting in question is satisfied that:

- such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is in person by either, the unit owner who possesses the majority ownership interest in the title to the unit, or unit owners whose interests taken together constitute the majority ownership interest in the title to the unit and such unit owners wish to cast a vote for the same conclusion or outcome; or
- such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is by proxy and:
 - the proxy is granted by an owner of the unit who possesses the majority ownership interest in the unit; or
 - the proxy is granted by two (2) or more unit owners of the unit whose interests taken together constitute the majority ownership interest in the title to the unit; or
 - there is more than one (1) proxy each of which is granted by one (1) or more of the unit owners of the unit whose interests, when taken together, constitute the majority ownership interest in the title to the unit and such proxies wish to cast a vote for the same conclusion or outcome; or
- such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is by one (1) or more unit owners in person and one (1) or more unit owners by proxy, whose interests when taken together constitute the majority ownership interest in the unit and proxy(ies) and unit owner(s) wish to cast a vote for the same conclusion or outcome.

(Other Occupants)

Each owner of a unit must advise the Board in writing of the name of any person who occupies or lives in the unit owned by such owner forthwith upon any such person occupying or commencing to live in the unit.

Article V. Provisions Affecting Meetings of the Board and Owners

a. *(Chairperson of Meetings of the Board and Owners)*

The president of the Corporation is to act as chair of meetings of the Board and meeting of owners if the President is present at such meetings. If the President is not present at a meeting, the Secretary is to act as chairperson of meetings of the Board and owners. Despite the foregoing, those present at a meeting may vote to have someone else act as chair of the meeting, including, for example, the Corporation's solicitor or property manager.

b. *(Voting at meetings of the Board and owners)*

Voting at owners' and Directors' meetings shall be by ballot, show of hands or recorded vote.

With respect to votes by a show of hands, a declaration by the Chair as to the outcome of the vote and an entry to that effect in the minutes of the meeting shall, in the absence of specific evidence to the contrary, be accepted as accurate. In such case no other proof is required of the number or proportion of the votes recorded in favour of or against any question or resolution.

If voting by a show of hands is proposed, any Director or owner may demand (prior to the vote being taken) that voting take place by ballot. Such a demand may be withdrawn.

c. *(Rules of Parliamentary Procedure)*

The Board may by resolution decide from time to time the rules of parliamentary procedure (e.g., Robert's or Nathan's) to be adopted by the Corporation ("Rules of Order"). Such Rules of Order shall be the parliamentary authority of the Corporation. Notwithstanding the foregoing, at any duly constituted meeting of the Board or owners, the meeting may, by a vote of a majority of those in attendance who are entitled to vote at the meeting, adopt special rules of order or modify or suspend portions or all of such Rules of Order. Such

adoption, modification or suspension remains in effect for such length of time as determined by the said vote and may extend if so determined by such vote to subsequent meetings.

d. *(Rescheduling of meetings lacking sufficient attendance)*

If, thirty (30) minutes after the time appointed for the holding of any meeting of Directors or owners, a quorum (which shall be the minimum number prescribed by the Act) is not present, or should such numbers of persons leave a meeting of Directors or owners at which quorum had been attained so that quorum no longer remains, the meeting shall immediately be adjourned.

Any such meeting of Directors that does not acquire or loses quorum shall be adjourned to a date, time and place that is established by a quorum of Directors and of which notice is given as prescribed herein and by the Act, failing which the same shall automatically be adjourned to the next regularly scheduled meeting of the Board notice of which need not be given to anyone.

Any meeting of owners that does not acquire or loses quorum shall be adjourned to a date, time and place that is established by the Board and of which notice is given as prescribed herein and by the Act. There is no different requirement for notice of such adjourned meeting than there is for any other meeting of owners.

Article VI. Officers

a. *(Appointment of Officers)*

The Board shall appoint or elect, as the case may be, a president ("President"), secretary ("Secretary") and treasurer ("Treasurer") as Officers of the Corporation. One person may hold the offices of Secretary and Treasurer at the same time.

The Board may appoint such other Officers, or assistants to any of the existing Officers, as it deems appropriate, including one or more vice-presidents and/or authorized signing officers, and may assign such duties to such other Officers and/or assistant Officers or may re-assign duties as between existing Officers and/or assistant Officers, as the Board in its absolute discretion deems appropriate. The Board may, as it deems appropriate, change the titles and/or duties of any of the Officers of the Corporation.

Subject to any relevant provisions of the Act, an Officer does not need to be a member of the Board or an owner, but must be appointed by the Board by resolution.

The Board may remove any Officer at its pleasure by passing a resolution removing such Officer.

b. *(Duties of Officers)*

Subject to the further provisions hereof, the duties and responsibilities of Officers are determined by the Board. The following offices shall possess the following minimum duties and responsibilities:

(President)

The President has the responsibility to generally supervise the business and affairs of the Corporation. The President may delegate some or all of his or her authority to another member of the Board. The President must be elected by the Directors by show of hands, or by secret written ballot if one of the Directors so requests.

(Secretary)

The Secretary is responsible for giving notices of meetings or otherwise as required by the Act. The Secretary is responsible to ensure that proper minutes of meetings are recorded. The Secretary must use his or her best efforts to attend all meetings of the Board and owners. If the Secretary cannot attend a meeting, the Secretary may appoint someone deemed suitable by the Secretary to act in the place of the Secretary. The Secretary is the custodian of all books, papers, records, documents and other instruments belonging to the Corporation other than financial documents to be maintained by the Treasurer. The Secretary may, with the consent of the Board permit the property manager or such other person as the Board deems suitable to be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.

(Treasurer)

The Treasurer is responsible to see that proper financial records of the Corporation are kept. The Treasurer is also responsible for the safe keeping of financial documents and evidence of investment and liability. The Treasurer may, with the consent of the Board delegate some or all of the actual accounting responsibilities and safekeeping of documents to the property manager or such other person as the Board deems suitable.

c. *(Property Manager)*

The Board may appoint or hire a property manager and authorize such manager to manage some or all of the day-to-day affairs of the Corporation. The property manager may be delegated some or all of the responsibilities of the Officers of the Corporation, but is not an Officer of the Corporation.

d. *(Compensation)*

The Board may determine by resolution from time to time compensation to be paid to any Officer of the Corporation for services rendered in such capacity. Furthermore, reimbursement for reasonable out of pocket expenses incurred in connection with the fulfilment of an Officer's duties toward the Corporation shall be paid with such reasonable exceptions as the Board of Directors in their absolute judgement may determine by resolution from time to time. Where an Officer is also a Director, care shall be taken that no compensation is paid for such person's activities as a Director save and except in accordance with a duly enacted by-law of the Corporation authorizing the same.

Article VII. Banking and Execution of Documentsa. *(Free to deal with Banks, etc.)*

The Corporation may transact its financial affairs with such banks, credit units or trust companies as the Board may choose from time to time. The banking of the Corporation may be done by such Officers or assistant Officers or the property manager, and in such manner, as the Board may decide.

b. *(Most documents require two signatories)*

Subject to specific resolutions of the Board to the contrary, documents, including cheques, signed on behalf of the Corporation must be signed by any two Officers or Directors or by a Director and an Officer of the Corporation. No Director or Officer may be a signatory on a cheque made out to such Director or Officer or to a member of such Director's or Officer's family or to a business of which such Director or Officer is a principal or employee.

c. *(Specific resolution may permit one person to sign documents)*

The Board may by resolution direct a particular person to sign any specified document or set of documents, and specify that such document(s) need only be signed by such individual and no other person. A resolution giving general signing authority to just one person is not permitted unless such person is the property manager appointed by the Board and under contract to the Corporation.

Article VIII. Financial Mattersa. *(Year-end)*

Each fiscal year of the Corporation shall end on the last day of the month which is the anniversary of the month in which the Corporation came into existence by registration of the Declaration, or on such other day as the Board may, by resolution, decide from time to time.

b. *(Borrowing)*

Subject to the Act, the Directors may from time to time borrow money on the credit of the Corporation on behalf of the Corporation, whether by loan or by line of credit or by other legal means, provided such borrowing is authorized specifically by by-law or as otherwise permitted under the Act, and may:

- issue, sell or pledge securities (including bonds, debentures, debenture stock or other like liabilities) of the Corporation, save and except that no invitation shall be extended to the public to subscribe for any such securities; and/or
- charge, mortgage, hypothecate or pledge any existing or future real or personal, movable or immovable property of the Corporation, including book debts, rights, powers, franchises and undertaking, to secure any debt or liability of the Corporation.

c. *(Matters Relating to Common Expenses)*

- *Assessment*

(Regular Annual Budget)

The Board shall from time to time and at least annually prepare a budget for the next fiscal year or remainder of the current fiscal year. Common expenses are to be assessed to each unit based on such budget and in accordance with the percentages set out in the declaration.

(Notice of Annual Budget)

Subject to the relevant provisions of the Act when such come into force, notice of a budget described in the foregoing paragraph shall be delivered to all unit owners at least thirty (30) days prior to the date on which such budget is to come into effect. Such notice shall contain a copy of the proposed budget and shall set out the start and end dates of the period in respect of which the budget is made. The notice may also set out the

amount of the monthly contribution to the common expenses of the Corporation assessed on account of the unit(s) owned by the particular owner to whom the notice is sent. Failure to deliver notice of such budget in the time set out herein shall not invalidate such budget.

(Special Assessments)

In addition, expenditures not contemplated in such a budget or which exceed the amounts set out in such a budget for contemplated items of expenditure may be assessed any time by the Board (a "Special Assessment"). In order to make a Special Assessment, the Board must serve notice of such on all owners. The notice shall include a written statement setting out the reasons for the Special Assessment.

▪ *Payment*

(Monthly Contributions)

The owner of each unit must pay one-twelfth (1/12) of the annual assessment of common expenses levied on account of the unit of such owner on the first day of each month following delivery of such assessment until a new assessment is delivered to such owner. The proportionate share of any Special Assessment allocated to a unit shall be payable by the owner of such unit at such time or times as determined by the Board and set out in the written notice of such Special Assessment that is given to the owners.

(Application of Payments to Oldest Arrears)

Subject to the further provisions hereof, all payments made toward the contribution to common expenses for a unit, whether with respect to the annual assessment or any Special Assessment or any other amounts duly deemed to be common expenses, shall, notwithstanding any direction by the owner of such unit to the contrary, be applied first toward payment of the oldest arrears of common expenses owing on account of the owner's unit.

(Owner's Liability for Common Expenses Ends upon Transfer of Unit)

If any common expenses are payable after an owner transfers the title to the unit of such owner, such owner is not responsible to pay such common expenses. Any such common expenses shall be paid by the owner of the unit at the time such common expenses are payable.

▪ *Collection of Arrears*

(Interest on Arrears)

Arrears of common expenses will bear interest calculated monthly at fixed rate of eighteen percent (18%) per annum.

(Allocation of Payments made pursuant to a Lien)

Any payment made in response to a demand for payment of an amount owing pursuant to a lien arising under section 85 of the Act may be applied in the sole discretion of the Board toward paying all or part of any of,

- (1) arrears of common expenses that are not covered by the lien (provided only that if this is done the same shall be applied first toward payment of the oldest of such arrears),
- (2) arrears of common expenses giving rise to or otherwise covered by the lien (provided only that if this is done the same shall be applied first toward payment of the oldest of such arrears),
- (3) interest accruing in respect of any such arrears of common expenses, and
- (4) expenses covered by the lien as set out in the Act,

as the Board in its sole discretion determines is appropriate in the circumstances. Such decision of the Board must be evidenced by a written resolution of Board kept in the records of the Corporation. No such resolution of the Board in respect of any payment shall bind the Board with respect to the allocation of all or any part of any other payments made on account of the same unit or unit owner.

(Legal Action to collect Common Expense Arrears)

In addition to any remedies provided by the Act, the Board may bring legal action for the collection of common expenses that have been in arrears for at least fifteen (15) days. If such action is commenced the Corporation is entitled to be indemnified by the defaulting owner as part of such action for all costs of such action including legal costs as between a solicitor and his own client.

(Discharge or Release of Lien)

The Corporation shall not be required to discharge or release any lien until all arrears of common expenses, all interest accruing thereon and all other expenses covered by such lien have been paid in full.

d. *(Realty Tax Assessments)*

The Corporation is authorized, at the Board's discretion, to object to assessments under the *Assessment Act* or its successor legislation on behalf of owners provided it complies with the Act and its regulations. The costs

thereof shall be a common expense of the Corporation. The Corporation is authorized to defray the costs of a unit owner's objection to an assessment under the *Assessment Act* out of the common expenses, at the sole discretion of the Board.

Article IX. Insurance

a. *(Insurance Requirements)*

The Corporation shall maintain insurance as required by the Act.

b. *(Canada Mortgage and Housing Corporation ("CMHC") Insurance Requirements)*

Whereas CMHC has in the past dictated what insurance clauses must be within condominium documentation as a condition to providing mortgage insurance:

- Any reasonable insurance requirements that are required by any mortgagee on account of the requirements of CMHC or other recognized mortgage insurer or directly by CMHC or other recognized mortgage insurer shall be adhered to by the Corporation if such insurance is required as a precondition to providing mortgage financing or mortgage insurance. The foregoing is subject to the proviso that the Corporation does not have to place insurance that the Board is of the opinion is unusual or expensive.
- Any such requirements for insurance shall be made in writing by the mortgagee, proposed mortgagee or mortgage insurer. Any insurance placed in response to such request need only be kept in place for so long as the mortgagee has a registered mortgage with respect to one or more of the units of the Plan or in the case of a mortgage insurer for so long as such mortgage insurer has insured a registered mortgage with respect to one or more of the units of the Plan.

c. *(Standard Unit Definition)*

No portion of any Unit shall be considered to be standard. A result of this is that the Corporation shall have no obligation whatsoever to insure the Units.

d. *(Deductibles)*

- *Damage to Common Elements*

If damage should occur to part of the common elements and was caused by an act or omission of any occupant of or visitor to a unit, and was not caused by the Corporation or any servant, agent or employee thereof, then the amount that is the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy (regardless of whether or not a claim is made or proceeds are paid under the Corporation's insurance policy) will be the responsibility of the owner of the unit in question to pay to the Corporation. Any right of a unit owner to be indemnified by any other person, including an owner or occupant of any other unit, on account of such amount, is a matter between the said owner and such other person and shall not involve the Corporation nor affect its right to payment from the said owner in accordance with this paragraph.

- *Damage to Units*

If damage should occur to a unit and such damage or any part thereof is repaired at the expense of the Corporation, then, provided that such damage was not caused by the Corporation or any agent or employee thereof, the amount that is the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy (regardless of whether or not a claim is made or proceeds are paid under the Corporation's insurance policy) will be the responsibility of the owner who owns the damaged unit and shall be added to the common expenses payable on account of such unit. Any right of a unit owner to be indemnified by any other person, including an owner or occupant of any other unit, on account of such amount, is a matter between the said owner and such other person and shall not involve the Corporation nor affect its right to payment from the said owner in accordance with this paragraph.

Article X. Occupancy Standards

Section 57 of the Act allows the Corporation to establish by by-law standards for the occupancy of the units. Subject to sub-section 57(2) of the Act, no unit may be occupied by a number of persons that will result in a breach of the municipal or other legislated occupancy standards in force and applicable at the time to the unit.

Article XI. Notice

a. *(How notice is to be given)*

Other than as set out in this by-law to the contrary, any notice, communication or other document, including budgets and notices of assessments, ("Notice Document") required to be given or delivered by the Corporation to an owner or mortgagee of a unit, shall be sufficiently given in accordance with the provisions of the Act, and any Notice Document shall be deemed to have been given by the Corporation and received by the recipient:

- if delivered personally, when delivered;
- if mailed, on the day it is mailed; or,
- if sent by other form of electronic transmission, upon such transmission being made.

b. *(Notice to the Corporation)*

Any Notice Document to be given to the Board or Corporation shall be sufficiently given by mailing the Notice Document by prepaid ordinary mail or registered mail to the address for service of the Corporation and shall be deemed to have been received on the fifth business day following mailing (as evidenced by a post-mark on thereon).

c. *(Failure to give proper or any notice)*

Failure to give proper notice or any notice to anyone entitled to notice shall not invalidate any action taken at any meeting or other proceeding for which notice should have been given.

Article XII. Mediation

Subject to the relevant provisions of the Act, any mediation in respect of which a by-law may be made to establish or modify procedures and that involves any of the owners of units within the Plan and/or the Corporation shall, in the absence of a written agreement to the contrary by all participants be conducted in accordance with the following provisions:

Confidentiality

1. The mediation will be a confidential settlement process. Anything discussed in the mediation cannot be used in any proceeding by anyone.
2. Mediation sessions are settlement negotiations and disclosures are inadmissible during any further litigation or arbitration to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes in any future proceedings. No transcripts will be kept of the mediation conference.
3. The parties shall not rely on or introduce as evidence in subsequent arbitral or judicial proceedings:
 - a. any views expressed, or suggestions made, by the other party in respect of the possible settlement of the dispute;
 - b. any admissions made by the other party in the course of the mediation;
 - c. the fact that the other party had indicated a willingness to accept a proposal or recommendation for settlement made by the mediator;
 - d. proposals made or views expressed by the mediator.
4. All mediation conferences shall be held in private.
5. The only persons entitled to be present without the consent of the mediator, shall be the parties and/or their representatives.
6. During the mediation process the mediator may disclose to either party any information provided by either party, unless the disclosing party has specifically requested the mediator to keep the information confidential. The mediator will not disclose to anyone who is not a party to the mediation anything (i.e., any materials submitted to the mediator) except:
 - a. where applicable, to the lawyers or other professionals retained on behalf of the parties or to non-parties consented to in writing by the parties, as deemed appropriate or necessary by the mediator;
 - b. where ordered to do so by a judicial authority or where required to do so by law.
7. The mediator may disclose to any party or to her or his counsel any information provided by the other party which the mediator and the party believe to be relevant to the issues being mediated unless a

party or her/his counsel has specifically requested the mediator to keep such information confidential.

Summary of dispute

8. In order to facilitate a more complete understanding of the controversy and the issues to be mediated, the Parties will each provide the mediator with a written brief (of approximately 3 pages) of the controversy as they see it, not less than two days prior to the first mediation session.

Role of mediator

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

Voluntary participation

10. Following each party's initial attendance at the mediation session, each party's participation in the mediation is voluntary. Any Party or the mediator may withdraw from the mediation at any time for any reason.

Representation of Parties

11. Parties to a mediation are entitled to legal representation or advice prior to or during the mediation. They may have lawyers present at the mediation if they so desire. If the mediator selected by the parties is a qualified lawyer she (he) will not provide legal representation or legal advice to any party at any time, and the mediator will have no duty to assist or protect the legal rights and responsibilities of any party, or to raise any issue not raised by the parties themselves, or to determine who should participate in the mediation.

Payment of mediator's fees and expenses

12. If a settlement is obtained, each party shall pay the share of the mediator's fees and expenses that the settlement specifies. If the mediation fails, the mediator shall specify, in the notice outlining the failure, the share of the mediator's fees and expenses that each party shall pay.

Choice and role of mediator and mediation agreement

13. The Parties shall sign the form of mediation agreement (if any) required by the mediator.
14. Mediation shall be conducted by one mediator.
15. If the parties to a mediation do not select a mediator within 60 days after the parties submit the disagreement to mediation the disagreement shall proceed to arbitration under the *Arbitration Act, 1991* and the mediation shall be deemed to have failed.
16. The selected mediator will not represent either of the parties in any subsequent related legal proceeding between the parties or where they are opposed in interest.

Initial Meeting

17. The mediator shall on a date established by the mediator after consultation with the parties and/or their solicitors meet with the parties and/or their solicitors to determine all procedural matters, including the following:
- a. what issues are in dispute and which matters, if any, can be agreed upon;
 - b. what documents, correspondence, books or records exist or can be produced, when they shall be produced or exchanged and by whom;
 - c. whether "on site" inspections and/or interviews shall be part of the proceedings;
 - d. the retainer of experts or consultants by the mediator;
 - e. the basis upon which the mediator's fees shall be calculated, secured and paid, including any deposit to be paid in advance;
 - f. clarification of any initial perceived bias and agreement on dealing with it;
 - g. whether special services such as interpreters, document translations or security measures are required, and how such services shall be provided and paid for;
 - h. fixing the locale where the mediation is to be held; and
 - i. setting the date, time and place of the initial mediation conference.
18. At the initial meeting, the mediator shall disclose any personal interest in the dispute, or any previous relationship with any of the parties, or any specific bias regarding any of the issues.

19. The initial meeting may be held by teleconference with the consent of all parties and the mediator.
20. The address for service for each Party shall be provided by the Parties to the mediator at the preliminary meeting and service to this address shall be deemed good and sufficient.
21. Any consensus reached at the preliminary meeting shall be recorded in writing by the Mediator and such records shall be sent within four days of that meeting to each of the parties.

Mediation Conferences

22. The mediator shall schedule the date, time and location for any subsequent mediation conferences after consultation with the parties and/or their solicitors.
23. Unless the Parties otherwise agree, a party may be represented by a lawyer or agent if prior notice including the lawyer or agent's name and address, is given to the mediator and other party(-ies) at least 3 (three) days prior to the mediation conference.
24. A mediation conference may be terminated at any time by any party, her or his counsel or the mediator for any reason.
25. Each party's representative has full authority to settle the dispute at the mediation conference, otherwise agreed in writing.
26. Where a party fails to attend or be represented at a mediation conference despite proper notice, the mediator may adjourn the mediation conference to a later date with 14 days notice to all parties, and costs may be assessed against the defaulting party.

Report of Settlement

27. Upon obtaining a settlement between the parties with respect to the disagreement submitted to mediation, the mediator shall make a written report of the settlement which shall form part of the agreement or matter that was the subject of the mediation.

Notice of failure of mediation

28. If any one or more of the parties will not cooperate with the other(s) and/or the mediator (as determined by the mediator in the mediator's absolute discretion) or if the parties are unable with the assistance of the mediator, to settle their dispute, the mediator shall deliver a notice to the parties stating the mediation has failed, and if the nature of the dispute concerns a matter that falls within a category of disagreement described in the Act as requiring alternate dispute resolution, the parties agree to resolve their dispute thereafter by arbitration under the *Arbitration Act, 1991* (or its successor legislation).

Article XIII. Miscellaneous

- a. The invalidity of any part of this by-law shall not impair or affect in any manner the validity and enforceability or effect of the balance thereof.
- b. No restriction, condition, obligation or provision contained in this by-law shall be deemed to have been abrogated or waived because of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.