

CONDOMINIUM BY-LAWS OF VOGUE  
CONDOMINIUM CORPORATION NO. 171 0503

**BY-LAWS**  
**FOR**  
**CONDOMINIUM CORPORATION NO. 171 0503**

**(VOGUE - CALGARY, ALBERTA)**

# 1. DEFINITIONS

In these By-Laws, unless the context or subject matter requires a different meaning:

- (a) "Act" means the *Condominium Property Act* Revised Statutes of Alberta, 2000, Chapter C-22, and, where the context so requires, the Regulation, as amended from time to time, or any statute or statutes or Regulation or Regulations in substitution therefor or amendment thereof;
- (b) "Applicable Law" means all applicable provisions of laws, statutes, ordinances, bylaws, rules, regulations and orders of all governmental, legislative, administrative or other bodies (whether federal, provincial, municipal or otherwise);
- (c) "Board" means the board of directors of the Corporation;
- (d) "By-Laws" mean the registered By-Laws of the Corporation, as amended from time to time;
- (e) "Commercial Owners" means the owners of the Commercial Units, and "Commercial Owner" means the owner of a Commercial Unit;
- (f) "Commercial Parking Units" means those Parking Units identified by the Developer as Commercial Parking Units prior to the first annual general meeting of the Corporation, which Parking Units may be used by the Developer or other parties for commercial parking purposes, subject to any applicable Rules;
- (g) "Commercial Units" means Units 504 to 507 (inclusive) as shown on the initial registered Condominium Plan, or the successor units to these units resulting from any re-divisions to all or any of them, and "Commercial Unit" means any one of the Commercial Units;
- (h) "Common Expense" or "Common Expenses" means the expenses of performance of the objects and duties of the Corporation and all expenses specified as common expenses in these By-Laws. Unless otherwise expressed, "Common Expense" or "Common Expenses" shall include, without restricting the generality of the definition thereof, all costs and expenses of the Corporation incidental to the use or ownership of Common Property and all property owned by the Corporation or in which the Corporation has any interest and whether real or personal property, including, without limiting the generality of the foregoing, any assessments or contributions to cover contingencies and/or replacements and/or additional anticipated common expenses and/or deficiencies from the prior year or years;

- (i) "Common Property" means so much of the Project as is not comprised in any Unit shown on the Condominium Plan;
- (j) "Condominium Plan" means the plan registered at the Land Titles Office under the Act as No. 1710503, as amended from time to time in accordance with the Act and these By- laws;
- (k) "Contribution" has the meaning as provided for in the Act, and includes an amount levied under Section 39 of the Act or under these By-laws, and may also be referred to as "assessments" in these By-Laws;
- (l) "Common Units" means Units 508, 510, 512, and 514 and includes any successor units to those units resulting from re-division of any or all of them, which provide access or service areas to the Loft Units on floors 6, 7, 8 and 9 of the Building;
- (m) "Corporation" means the condominium corporation constituted under the Act by the registration of the Condominium Plan, whose legal name is Condominium Corporation No. 1710503;
- (n) "Corporation Property" means any property owned by the Corporation or in which it has any interest, and includes, without limitation, the Common Units;
- (o) "Developer" means La Caille Sixth Avenue Inc. or any successor or assignee thereof;
- (p) "Insurance Trustee" means a trust company authorized to carry on the business of a trust company under the laws of Alberta selected from time to time by resolution of the Board, whose duties include the receiving, holding and disbursing of proceeds of policies of insurance pursuant to the By-Laws and the Act. If no Insurance Trustee is appointed, then the Insurance Trustee shall be the Board;
- (q) "Interest Rate" means that rate of interest per annum which may be or shall become payable hereunder by an Owner in respect of the monies owing by him to the Corporation and shall be equal to the commercial prime lending rate in Calgary of the Canadian chartered bank with which the Corporation conducts its banking business from time to time plus six (6%) percent, PROVIDED THAT such Interest Rate shall not exceed eighteen (18%) percent per annum or such greater or lesser rate established, from time to time, by the Regulation, on the earliest date on which any portion of the said monies becomes due and payable by an Owner;
- (r) "Manager" means the professional manager first retained by the Developer or any successor contractually appointed by the Board;
- (s) "Occupant" or "Tenant" means a person present in or on, or a person in possession of a Unit or of the real property of the Corporation or the Common Property with the

permission of an Owner or the Corporation, as the case may be, whether or not the Occupant or Tenant is an Owner, and includes all family members, invitees, licensees, servants, customers and guests of such Occupant or Tenant;

- (t) "Loft Units" means Units 509, 511, 513, 515 as shown on the registered Condominium Plan, or the successor units to these units resulting from re-division of any or all of these Units, that are used or intended to be used for residential purposes as more fully outlined in these By-Laws, and "Loft Unit" means any one of the Loft Units;
- (u) "Loft Parking Units" means those Parking Units identified by the Developer as Loft Parking Units prior to the first annual general meeting of the Corporation, which Parking Units may be used by the Developer or other parties for Loft Unit parking purposes, subject to any applicable Rules;
- (v) "Office Units" - Intentionally deleted;
- (w) "Loft Owners" means the owners of the Loft Units, and "Loft Owner" shall mean an owner of a "Loft Unit";
- (x) "Ordinary Resolution" means a resolution:
  - (i) passed at a properly convened meeting of the Corporation by a majority of not less than 50% of all the persons present or represented by proxy at such meeting and entitled to exercise the powers of voting conferred by the Act or these By-Laws, or
  - (ii) signed by a majority of all the persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or these By-laws and representing more than 50% of the total Unit Factors for all of the Units;
- (y) "Owner" means a person who is registered as the owner of the fee simple estate in a Residential Unit, Loft Unit, Commercial Unit, or Parking Unit and, where the term Owner is used in By-Law 3, that term includes a Tenant;
- (z) "Parcel" means the land comprised in the Condominium Plan;
- (aa) "Parkade" means levels 1, 2, 3, 4 and 5 of the underground parking structure of the Project, and levels 3, 4 and 5 of the above-grade parking structure of the Project, in each case including any portions of the Common Property or Corporation Property to the extent that they provide services or access to such parking structures, including but not limited to, driveways, aprons, overhead doors and mechanical systems, stairways and elevators;

- (bb) "Parking Owners" means the respective owners of the Parking Units, and "Parking Owner" means the owner of a Parking Unit;
- (cc) "Parking Units" means Units 1 to 271 inclusive, as shown on the initial registered Condominium Plan, or the successor units to these units resulting from re-division of any or all of these Units, and "Parking Unit" means any one of the Parking Units;
- (dd) "Parking Unit Storage Cage" means the wire storage cage structurally designed and installed in a Parking Unit as part of the original Project construction;
- (ee) "Project" means the Parcel and all buildings, improvements, recreational facilities, chattels and property of every kind situate within, under or upon such Parcel (except those chattels which are the separate property of the Owners or Occupants of Units);
- (ff) "Regulation" or "Regulations" means the Condominium Property Regulation, currently being Alberta Regulation 168/2000, and any other Regulation made from time to time in substitution, replacement or addition therefor pursuant to the Act;
- (gg) "Residential Owners" means the owners of the Residential Units, and "Residential Owner" means the owner of a Residential Unit;
- (hh) "Residential Units" means Units 272 to 503 inclusive, as shown on the initial registered Condominium Plan, or the successor units to these units resulting from re-division of any or all of these Units, that are used or intended to be used for residential purposes, and "Residential Unit" means any one of the Residential Units;
- (ii) "Residential Parking Units" means those Parking Units identified by the Developer as Residential Parking Units prior to the first annual general meeting of the Corporation, which are used or intended to be used for parking of Vehicles by the Owners of Residential Units in accordance with the Rules;
- (jj) "Rules" means the policies, rules, or regulations attached hereto as Appendix I, and such other policies, rules and regulations as may be established by the Board from time to time in addition to or in replacement or substitution therefor, which may differentiate between Loft Units, Commercial Units, Residential Units, Residential Parking Units, Loft Parking Units, Commercial Parking Units, and Visitor Parking, with the Board to act reasonably in establishing such policies, rules, or regulations;
- (kk) "Special Resolution" means a resolution:
  - (i) passed at a properly convened meeting of the Corporation by a majority of not less than seventy-five percent (75%) of all the persons entitled to exercise the powers of voting conferred by the Act or these By-Laws and

representing not less than seventy-five percent (75%) of the total Unit Factors for all of the Units; or

- (ii) signed by not less than seventy-five percent (75%) of all the persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or these By-Laws and representing not less than seventy-five percent (75%) of the total Unit Factors for all the Units;
- (ll) "Standard Insurable Unit Description" means the description of the standard fixtures and finishings of a typical Residential Unit, Loft Unit and for Parking Units shall mean the replacement value of the Parking Units as such Parking Units were typically provided to purchasers by the Developer, being the items the Corporation's insurance is to cover, as determined by the Corporation from time to time in accordance with Regulation;
- (mm) "Storage Tenants" means the owners who have written agreements for the exclusive use of a Storage Area, and "Storage Tenant" means the owner who by a lease, license or other agreement is authorized to have exclusive use of a Storage Area;
- (nn) "Storage Areas" means those units designated as a storage area by the Corporation from time to time, and "Storage Area" means any one of the Storage Areas;
- (oo) "Unit" means an area of a building upon the Parcel designated as a unit by the Condominium Plan, and described in the Condominium Plan by reference to floors, walls and ceilings, or areas within the Unit;
- (pp) "Unit Factor" means the unit factor for each Unit as more particularly specified or described and apportioned in the Condominium Plan;
- (qq) "Utilities" means all shallow and deep utilities as are installed for the use and enjoyment of the Units including, but not limited to, all mains, pipes, wires, sewers, ducts and cables related to the provision of all sewage, water, sanitation, gas, electrical transmission, telephone, telecommunication and cable television facilities to the Units;
- (rr) "Vehicles" means private passenger automobiles, 4 x 4 vehicles, motorcycles, sports utility vehicles, vans (but not camper vans) and small pick-up trucks;
- (ss) "Visitor Parking" means those parking stalls within the Common Property portions of the Parkade which are used or intended to be used for the parking of Vehicles by visitors to the Residential Units and Loft Units, subject to the provisions of these Bylaws.

## **2. INTERPRETATION**

Words and expressions which have a special meaning assigned to them in the Act have the same meaning in these By-Laws unless otherwise defined herein, and other expressions used in the By-Laws and not defined in the Act or in these By-Laws have the same meaning as may be assigned to them in the *Land Titles Act of Alberta*, or the *Law of Property Act of Alberta*, as amended from time to time, or in any statute or statutes passed in substitution therefor. Words importing the singular number include the plural, and vice versa, words importing the masculine gender include the feminine gender or neuter, and vice versa, and words importing persons include firms and corporations and vice versa, where the context so requires.

The headings used throughout these By-Laws are inserted for reference purposes only and are not to be considered or taken into account in construing or interpreting the terms or provisions of any By-Law.

The Corporation, the Owners and anyone in possession of a Unit shall be bound by these By-Laws. The rights and obligations given or imposed on the Corporation, the Owners and anyone in possession of a Unit under these By-Laws are in addition to any rights or obligations given or imposed on the Corporation, the Owner and anyone in possession of a Unit under the Act. If there is any conflict between these By-Laws and the Act and Regulation, the Act and Regulation shall prevail.

Any amendment to these By-Laws which in any way affects the rights, interests or obligations of the Commercial Owners, shall, in addition to the requirement of a Special Resolution, require the prior written consent of a majority of not less than 50% of the Commercial Owners entitled to exercise the powers of voting conferred by the Act or these By-Laws, and representing more than 50% of the total Unit Factors for all of the Commercial Units.

If and whenever reference hereunder is made to "repair", it is hereby implied and extended to include in its meaning the making of improvements or betterments or the enhancement or replacement with a better thing of or for any thing to which such repair could be made.

## **3. DUTIES OF THE OWNERS**

- (a) In respect to a Residential Unit, a Residential Owner shall:
  - (i) subject always to the Act, permit the Corporation and its agents, at all reasonable times on a minimum of twenty-four (24) hours written notice (except in case of emergency when no notice is required), to enter his Unit for the purpose of inspecting the Unit and maintaining, repairing or renewing pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of utilities for the time being existing in the

Unit, or for the purpose of maintaining, repairing or renewing Common Property, or for the purpose of ensuring that the By-Laws are being observed or for the purpose of doing any work for the benefit of the Corporation generally or for the purpose of gaining access to meters monitoring the use of any Utilities. The written notice must state the reason for the entry and name both a date and time of entry that complies with the Act. In the event the Corporation must gain access for the aforesaid purposes by using a locksmith, the cost of such locksmith shall be borne by the Owner;

- (ii) forthwith carry out all work that may be ordered by any municipality or public authority in respect of his Unit, other than such work as may be for the benefit of any other Units within the Project generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Unit;
- (iii) duly and properly clean, wash, repair and maintain his Unit, including, as and when he determines, painting the interior of his Unit and replacing or refurbishing the interior finishings to the walls, floors and ceilings of his Unit (provided that all floor covering installations must meet the minimum sound attenuation criteria set forth by the Corporation from time to time), and including all windows and doors of the Unit that are located on interior walls of the Unit, and the interior surface of doors which provide a means of ingress and egress from the Unit, including interior casings, trim and mouldings of such doors, and door locks related to such doors (provided always that changes to locking hardware must comply with Rules of the Corporation for locking hardware), AND including the interior casings, trim and mouldings of all windows that are located on the exterior walls of the Unit, as well as cleaning of the interior glazing of all such windows (PROVIDED THAT, any repairs to the Unit required as a result of other repairs made by the Corporation shall be the responsibility of the Corporation, and not the Owner), AND shall not overload the floors, ceilings or wall structures of the Unit; AND keep the Unit in a state of good repair, except for reasonable wear and tear and such maintenance, repairs or damage as is insured against by the Corporation or for which the Corporation is responsible pursuant to these By-Laws; AND shall maintain in a neat, clean, tidy and sightly condition and appearance consistent with and in total integrity with the balance of the Project, the Unit and any area which is located on any part of the Common Property to which the Owner has been granted a lease, exclusive or private use pursuant to the provisions hereof (By-Laws 5(f), 5(g), and 68) and, if the Owner shall not maintain such leased, private or exclusive use areas to a standard similar to that of the remaining Common Property, the Corporation may give one (1) month's notice to the Owner to that effect



and, if such notice has not been complied with at the end of that month, then the Corporation may carry out such work and shall have a lien against the estate or interest of the non-complying Owner in such Unit who has been served with such notice, and the provisions of By-Laws 50 and 52 shall have effect;

- (iv) in applying any window coverings, install at the Owner's own expense and in accordance with any guidelines provided by the window manufacturer or Building contractor, and from time to time properly maintain, only fitted drapes or venetian blinds (which drapes or blinds or the linings thereof shall be white or ivory, or such other colour as approved by the Corporation from time to time where visible from the outdoors, and such drapes or blinds shall be of such material and constitution so as not to impair the operation of the heating and air conditioning systems), and an Owner shall not place foil, opaque materials, political signs, "For Sale" signs or any advertising notices in or on or visible from any window or on any Common Property;
- (v) prior to the commencement of any alterations to his Unit, obtain the written approval of the Corporation and provide the Corporation with renovation plans, the disclosure of all contractors and sub-contractors and evidence of appropriate insurance coverage;
- (vi) pay to the Corporation a non-refundable administration charge and/or a refundable damage deposit, in an amount or amounts to be established by the Board from time to time, not to exceed the maximum amounts prescribed in the Act and Regulation (currently the greater of \$1,000 or one month's rent charged for the Unit), during the time in which renovations are being carried out to his Unit;
- (vii) not make any repairs, additions or alterations to the exterior of his Unit or to the building (including interior and exterior load bearing walls forming part of the Unit) or to the building's fire safety system or the plumbing, mechanical, electrical systems within the Unit (except for maintenance thereof as specifically required herein) without first obtaining the written consent of the Corporation and, except as otherwise specifically permitted herein, not do or permit anything to be done that may cause damage to or that will alter the appearance of any of the Common Property (including any area to which the Owner has been granted a lease or private or exclusive use) without first obtaining the written consent of the Corporation and, in particular, shall not permanently place, install or affix any mats, carpets or similar coverings, or apply any paint or other such floor finish, on the patio or balcony exclusive use areas adjacent to the Unit, and PROVIDED THAT furnishings or plant pots shall be placed

upon cushions or support devices to protect against damage to the balcony membrane;

- (viii) not install hardwood, tile or other hard flooring in any area of his Unit without the written consent of the Corporation, which consent shall, amongst other things, be contingent upon the Corporation receiving assurance that the installation of such flooring material will be completed in such a manner as to meet the Corporation's minimum requirements for sound transmission abatement, which shall be equal to or better than the sound abatement specifications utilized during original construction of the Project;
- (ix) use and enjoy the Common Property and, in particular, the recreational areas and amenities, and any Corporation Property in accordance with these By-Laws and all Rules prescribed by the Corporation and in such manner as to not unreasonably interfere with the use and enjoyment thereof by other Owners or Occupants, or their families or visitors and to be courteous to and respect the rights of such other Owners or Occupants, their families and visitors, but in all cases, shall not allow such use of the Common Property to negatively affect the use and enjoyment of Condominium Units adjacent to, above, below, or near such Common Property, and shall not cause or contribute to any nuisance to the use and enjoyment of Condominium Units adjacent to, above, below, or near such Common Property;
- (x) to use the gas fireplace (if any) in a safe manner, AND not to use his Unit or permit it to be used for the storage of hazardous materials, AND not to use the Unit or permit it to be used for any purpose which may be illegal, injurious or that will cause a nuisance or hazard to any Occupant of another Unit (whether an Owner or not) or the family members, invitees, servants, and guests of such Occupant;
- (xi) notify the Corporation forthwith upon any change of ownership of his Unit or of any lease or other dealing in connection with the Unit;
- (xii) comply strictly with and cause all his Tenants, family, visitors and other Occupants of his Unit to comply with these By-Laws and with the Rules;
- (xiii) pay to the Corporation (or if requested by the Corporation, pay to the Manager), when due, all contributions levied or assessed against his Unit, together with interest on any arrears thereof calculated from the due date of such amounts at the Interest Rate defined herein;
- (xiv) in the event of leasing his Unit, obtain from the Tenant prior to occupancy, or have the manager who leases the Unit on behalf of the Owner obtain

from the Tenant of the Unit, an undertaking in writing to the following effect:

"I, \_\_\_\_\_, Tenant of Suite # \_\_\_\_\_ covenant and agree that I, the members of my household and my guests from time to time will, in using the Unit rented by me, any exclusive use areas related to the Unit and all of the Common Property, comply with the Condominium Property Act, the By-Laws, and all Rules of Condominium Corporation No. 1710503 during the term of my tenancy."

- (xv) not utilize a Residential Unit, or any part thereof, for any purpose other than a private residential use, or a use which may be illegal or injurious to the reputation of the Project, for any commercial, professional or other business purposes, for any purpose which may be illegal or injurious to the reputation of the Project, for any commercial, professional or other business purposes, for hotel or guest house type purposes, for any rental to any party for a period less than 30 days; for short term employee accommodation, or for any purpose involving the attendance of the public at such Unit unless such use constitutes an authorized, permitted or discretionary use or approved "class 1 home occupation" (or its successor) as defined in the relevant City of Calgary bylaw, provided such home occupation does not require deliveries, signage, storage of stock-in-trade, or public visits to the Unit. No Owner or Occupant shall use a Unit to provide a day care centre or commercial baby-sitting services; or for any purpose other than as a single family residential dwelling;
- (xvi) not to do any act or alter the Unit in any manner which alters the exterior appearance or the structure comprising the Unit;
- (xvii) pay a non-refundable administration charge, in an amount to be established by the Board from time to time, such charge to be applicable for each move-in or move-out from his Residential Unit or Loft Unit (except for the first move-in following the sale of the Residential Unit or Loft Unit by the Developer), and to be applicable only to move-ins or move-outs where substantially all of the furnishings are moved in or moved out of the Residential Unit or Loft Unit, and such charge to be payable to the Corporation prior to gaining access to the designated freight elevator;
- (xviii) pay to the Corporation all utility accounts charged indirectly to him by means of a subcontractor, check meter or sub-meter; and
- (xix) at the request of the Board, make suitable arrangements for payment of duly assessed Common Expenses related to the Unit, either through pre-authorized bank withdrawals or a series of monthly post-dated cheques provided to the Corporation.

- (b) In respect to a Loft Unit, the provisions of Section 3(a)(i) to (xiv) inclusive and Section 3(a)(xvi) to (xix) inclusive shall apply *mutatis mutandis* to the Loft Owner and Loft Unit. In addition, in respect to a Loft Unit, a Loft Owner shall not utilize a Loft Unit, or any part thereof, for any purpose other than a private residential use, or a use which may be illegal or injurious to the reputation of the Project, or for any commercial, professional or other business purposes (other than the leasing of the Unit, including without limitation, short-term rentals subject to municipal bylaws, and including, without further limitation, rentals under 30 days such as, for example only, and without further limitation, Air B&B type rentals, which shall all be permitted, subject to compliance with municipal bylaws, where applicable), hotel or guest house type purposes (PROVIDED THAT, any use of the Unit for hotel or guest house type purposes shall be subject to registration and compliance with an approved accommodation program in accordance with the rules set out for such registration by the Corporation, together with other rules and limitations outlined in the Corporation's policies governing such use to ensure the protection and enjoyment of Common Property, Corporation Property, other Units, Unit Owners, and Occupants, and payment of any security deposits or fees associated with such use of the Unit), for short term employee accommodation, or for any purpose involving the attendance of the public at such Unit unless such use constitutes an authorized, permitted or discretionary use or approved "class 1 home occupation" (or its successor) as defined in the relevant City of Calgary bylaw, provided such home occupation does not require deliveries of a commercial nature, signage, storage of stock-in-trade, or public visits to the Unit (other than showings to prospective renters). No Owner or Occupant shall use a Unit to provide a day care centre or commercial baby-sitting services;
- (c) In respect to a Commercial Unit, a Commercial Owner shall:
- (i) use only those portions of the Common Property relating to the customary uses of a Commercial Unit and access thereto, but shall have, in particular, no right of access to any of the amenities or facilities intended to only serve Residential Owners, as designated by the Board from time to time, acting reasonably;
  - (ii) use his Unit only for that purpose, or those purposes which have been approved by the City of Calgary approving authority from time to time under the land use or the development permit applicable to the Project, and not use the Unit, or any part thereof, for any purpose which may be illegal or injurious to the to the reputation of the Project;
  - (iii) forthwith carry out all work that may be ordered by any municipality or public authority in respect of his Unit, other than such work as may be for the benefit of any other Units within the Project generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Unit;

- (iv) pay to the Corporation (or if requested by the Corporation, pay to the Manager), when due, all contributions levied or assessed against his Unit, together with interest on any arrears thereof calculated from the due date of such amounts at the Interest Rate defined herein;
- (v) in the event of leasing his Unit, obtain from the Tenant prior to occupancy, or have the manager who leases the Unit on behalf of the Owner obtain from the Tenant of the Unit, an undertaking in writing to the following effect:

"I, \_\_\_\_\_, Tenant of Suite # \_\_\_\_\_ covenant and agree that I, my agents, employees, invitees, and guests from time to time will, in using the Unit rented by me, any exclusive use areas related to the Unit and all of the Common Property, comply with the Condominium Property Act, the By-Laws, and all Rules of Condominium Corporation No. 1710503 during the term of my tenancy."

- (vi) subject always to the Act, permit the Corporation and its agents, at all reasonable times on a minimum of twenty-four (24) hours written notice (except in case of emergency when no notice is required), to enter his Unit for the purpose of inspecting the Unit and maintaining, repairing or renewing pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of utilities for the time being existing in the Unit, or for the purpose of maintaining, repairing or renewing Common Property, or for the purpose of ensuring that the By-Laws are being observed or for the purpose of doing any work for the benefit of the Corporation generally or for the purpose of gaining access to meters monitoring the use of any Utilities. The written notice must state the reason for the entry and name both a date and time of entry that complies with the Act. In the event the Corporation must gain access for the aforesaid purposes by using a locksmith, the cost of such locksmith shall be borne by the Owner;
- (vii) provide notice to the Corporation of any alterations to his Unit, including copies of renovation plans together with evidence such plans have been effectively coordinated with the Project's structural, mechanical, electrical and other common area components, and evidence of appropriate insurance coverage for such renovation work;
- (viii) not make any repairs, additions or alterations to the exterior of his Unit or to the Building (including interior and exterior load bearing walls, ceilings and floors forming part of the Unit) or to the building's fire safety system or plumbing, mechanical or electrical systems and other facilities for the furnishing of Utilities existing in the Unit and related to any other Unit or Common Property (except for maintenance thereof as specifically required

herein) without first obtaining the written consent of the Corporation and, except as otherwise specifically permitted herein, not do or permit anything to be done that may cause damage to or that will alter the appearance of any of the Common Property (including any area to which the Owner has been granted a lease, or private or exclusive use) without first obtaining the written consent of the Corporation;

- (ix) not install signage on the exterior of the Building, or on more than ten percent (10%) of the area of the interior surface of any windows or door glazing that is visible from the exterior of the Building without first obtaining the written consent of the Corporation, and subject to the provisions of the Act.
- (x) duly and properly clean, wash, repair and maintain his Unit, keeping the Unit in a state of good repair, except for reasonable wear and tear and such maintenance, repairs or damage as is insured against by the Corporation or for which the Corporation is responsible pursuant to these By-Laws, including, as and when he determines, refurbishing the interior finishings to the walls, floors, ceilings of his Unit, AND including all windows and doors of the Unit that are located on exterior walls of the Unit (including frames and the door assembly components), AND including all hardware and locks for doors which provide a means of ingress and egress from the Unit, as well as cleaning of the interior glazing of all such windows, AND including all fixtures, wiring, plumbing, and mechanical apparatus; AND shall not overload the floors, ceilings or wall structures of the Unit; AND shall maintain the Unit in a neat, clean, tidy and sightly condition and appearance consistent with and in total integrity with the balance of the Project, as well as any area which is located on any part of the Common Property to which the Owner has been granted a lease, exclusive or private use pursuant to the provisions hereof (By-Laws 5(f), 5(g), and 68) and, if the Owner shall not maintain such leased, private or exclusive use areas to a standard similar to that of the remaining Common Property, the Corporation may give one (1) month's notice to the Owner to that effect and, if such notice has not been complied with at the end of that month, then the Corporation may carry out such work and shall have a lien against the estate or interest of the non-complying Owner in such Unit who has been served with such notice, and the provisions of By-Laws 50 and 52 shall have effect;
- (xi) ensure that business in his Unit is conducted in a manner befitting the Project, and that displays or other items visible to the general public from outside the Unit are neat and tidy, and that all storage is screened from public view;

- (xii) notify the Corporation forthwith upon any change of ownership of his Unit or of any lease or other dealing in connection with the Unit;
  - (xiii) comply strictly with and cause all his tenants, invitees and other occupants of the Unit to comply with these By-Laws and with the Rules; and
  - (xiv) pay to the Corporation all utility accounts charged indirectly to him by means of a subcontractor, check meter or sub-meter.
- (d) In respect to a Parking Unit, a Parking Owner shall:
- (i) at all times keep his Parking Unit (including the Parking Unit Storage Cage, if any) in a clean, tidy and sanitary condition, and will observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority and all by-laws, rules, regulations, agreements, decisions and determinations duly made by the Corporation for the time being applicable to the Parking Unit(s) or the use thereof and all restrictions, covenants, conditions and provisions of the By-Laws and any amendments thereof duly made affecting the Parking Unit(s), and will indemnify the Corporation against all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance thereof by the Parking Owner or any Occupant of his Parking Unit;
  - (ii) permit the Corporation and its agents to inspect his Parking Unit and examine the state of repair and conditions thereof, and to clean, maintain, repair the Parking Unit in accordance with the Corporation's duties;
  - (iii) use and allow the use of his Parking Unit only for the parking of Vehicles and storage of items in accordance with the By-Laws and any Rules issued by the Corporation from time to time governing the parking of Vehicles and storage of items in the Parking Unit;
  - (iv) NOT allow or cause any household items or personal effects or articles belonging to him to be stored within the Parking Unit unless such items are contained within the Parking Unit Storage Cage (if any), AND shall not overload the capacity of the Parking Unit Storage Cage (by weight or by volume), AND shall only use or permit the use of the Parking Unit Storage Cage for the storage of commonplace, usual and ordinary household items (of a non-toxic, nonperishable, non-environmentally hazardous and safe nature), AND shall not use it for any purpose which may be illegal, injurious or that will cause a nuisance or hazard to any Occupant of another Unit (whether an Owner or not) or the family members, invitees, servants, and guests of such Occupant;

- (v) the use of the Parking Unit Storage Cage shall be reasonable and normal for the use intended thereof, and shall be subject to such regulations (as the case may be) generally imposed upon occupants of the Project by the Corporation; and
- (vi) not erect or place on his Parking Unit any building or structure including fences and walls, nor make any additions or alterations to the Parking Unit or Parking Unit Storage Cage, nor place or maintain thereon any signs, posters, or bills whatsoever;
- (vii) pay to the Corporation (or if requested, to the Manager), when due, all contributions levied or assessed against his Parking Unit, together with interest on any arrears thereof calculated from the due date of such amounts at the Interest Rate defined herein;
- (viii) indemnify and hold the Corporation harmless against all claims and demands for loss or damage, including without limitation property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of his Parking Unit, or any accident or fire upon the Parking Unit or any nuisance made or suffered therein, or any failure by the Parking Owner to keep his Parking Unit in a safe condition, or any other liability whatsoever in relation to the Parking Unit and will reimburse the Corporation for its costs and expenses including reasonable legal fees incurred in connection with the defence of any such claims;
- (ix) use commercially reasonable efforts to sell, assign, transfer or otherwise dispose of any Parking Unit only to a Residential Owner, Commercial Owner or Loft Owner; if there is no such sale, assignment, transfer or otherwise disposition of the Parking Unit to a current Residential Owner, Commercial Owner, or Loft Owner within 12 months of a former Residential Owner, former Commercial Owner, or former Loft Owner ceasing to be a Residential Owner, Commercial Owner, or Loft Owner, the Board shall be entitled to deny access to and use of such Parking Owner's Parking Unit;
- (x) not lease or rent the Parking Unit to another party, unless that party is a Residential Owner or a Tenant of a Residential Unit, a Loft Unit or a Tenant of a Loft Unit, or a Commercial Owner or a Tenant of a Commercial Unit, in which event the Parking Unit Owner shall obtain from the Parking Unit Tenant prior to occupancy, an undertaking in writing to the following effect:

"I, \_\_\_\_\_, Tenant of Parking Unit # \_\_\_\_\_ covenant and agree that I, my agents, employees, invitees, and guests from time to time will, in using the Unit rented by me, and all of the Common Property,



comply with the Condominium Property Act, the By-Laws, and all Rules of Condominium Corporation No. 1710503 during the term of my tenancy."

- (xi) not be entitled to use any portion of the Common Property if the Parking Owner is not also the owner of a Residential Unit, a Loft Unit, or a Commercial Unit or a Tenant of a Residential Unit, a Loft Unit or a Commercial Owner;
- (xii) observe and abide by the Rules relating to the safe and orderly flow of traffic in or on the Parcel, including, but without limiting the generality of the foregoing, speed limits and directional controls;
- (xiii) notify the Corporation forthwith upon any change of ownership of his Parking Unit or of any lease or other dealing in connection with the Unit;
- (xiv) advise the Corporation as to who is using the Parking Unit owned by the Parking Unit Owner.

(e) In respect to a Storage Area, a Storage Tenant shall:

- (i) at all times keep the Storage Area in a clean, tidy and sanitary condition, and will comply with the terms of the Storage Lease or license agreement entered into between the Corporation and the Storage Tenant for the exclusive use of the Storage Area (the "Exclusive Use Agreement") and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority and all by-laws, rules, regulations, agreements, decisions and determinations duly made by the Corporation for the time being applicable to the Storage Area or the use thereof and all restrictions, covenants, conditions and provisions of the Exclusive Use Agreement and the By-Laws and any amendments thereof duly made affecting the Storage Area, and will indemnify the Corporation against all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance thereof by the Storage Tenant or any Occupant of his Storage Area;
- (ii) permit the Corporation and its agents to inspect his Storage Area and examine the state of repair and conditions thereof, and to clean, maintain, repair the Storage Area in accordance with the Corporation's duties in these By-laws or the Exclusive Use Agreement;
- (iii) only use or permit the use of the Storage Area for the storage of commonplace, usual and ordinary business or household items (of a non-toxic, nonperishable, non-environmentally hazardous and safe nature) and associated activities or as otherwise permitted or prohibited by the terms of the Exclusive Use Agreement, AND shall not use it as a dwelling unit or for any purpose which may be illegal, injurious or that will cause a

nuisance or hazard to any Occupant of another Unit (whether an Owner or not) or the family members, invitees, servants, and guests of such Occupant; AND shall not overload the floors, ceilings or wall structures of the Storage Area;

- (iv) the use of the Storage Area shall be reasonable and normal for the use intended thereof, and shall be subject to such regulations (as the case may be) generally imposed upon occupants of the Project by the Corporation;
- (v) provide notice to the Corporation of any alterations to his Storage Area, including copies of renovation plans together with evidence such plans have been effectively coordinated with the Project's structural, mechanical, electrical and other common area components, and evidence of appropriate insurance coverage for such renovation work;
- (vi) not make any repairs, additions or alterations to the exterior of his Storage Area or to the Building (including interior and exterior load bearing walls, ceilings and floors forming part of the Storage Area) or to the building's fire safety system or plumbing, mechanical or electrical systems and other facilities for the furnishing of Utilities existing in the Storage Area and related to any other Unit or Common Property (except for maintenance thereof as specifically required herein) without first obtaining the written consent of the Corporation and, except as otherwise specifically permitted herein, not do or permit anything to be done that may cause damage to or that will alter the appearance of any of the Common Property without first obtaining the written consent of the Corporation;
- (vii) pay to the Corporation (or if requested, to the Manager), when due, all rents levied for the exclusive use of his Storage Area as indicated in the Exclusive Use Agreement;
- (viii) indemnify and hold the Corporation harmless against all claims and demands for loss or damage, including without limitation property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of his Storage Area, or any accident or fire upon the Storage Area or any nuisance made or suffered therein, or any failure by the Storage Tenant to keep his Storage Area in a safe condition, or any other liability whatsoever in relation to the Storage Area and will reimburse the Corporation for its costs and expenses including reasonable legal fees incurred in connection with the defence of any such claims;
- (ix) use commercially reasonable efforts to assign, transfer the Exclusive Use Agreement for a Storage Area only to a Residential Owner, Commercial Owner or Loft Owner; if there is no such assignment or transfer of the Exclusive Use Agreement of the Storage Area to a current Residential

Owner, Commercial Owner, or Loft Owner within 12 months of a former Residential Owner, former Commercial Owner, or former Loft Owner ceasing to be a Residential Owner, Commercial Owner, or Loft Owner, the Board shall be entitled to repossess such Storage Area, subject to any other rights of repossession as provided for in the Exclusive Use Agreement;

- (x) not sublease or rent the Storage Area to another party, except as permitted in the Exclusive Use Agreement, and unless that party is a Residential Owner or a Tenant of a Residential Unit, a Loft Unit or a Tenant of a Loft Unit, or a Commercial Owner or a Tenant of a Commercial Unit, in which event the Storage Tenant shall obtain from the Storage Area Tenant prior to occupancy, an undertaking in writing to the following effect:

"I, \_\_\_\_\_, Tenant of Storage Area # \_\_\_\_\_ covenant and agree that I, my agents, employees, invitees, and guests from time to time will, in using the Storage Area rented by me, and all of the Common Property, comply with the Condominium Property Act, the By-Laws, and all Rules of Condominium Corporation No. 1710503 during the term of my tenancy."

- (xi) notify the Corporation forthwith upon any change of or any assignment of the Exclusive Use Agreement regarding his Storage Area or of any sublease or other dealing in connection with the Storage Area;

#### **4. DUTIES OF THE CORPORATION**

In addition to the duties of the Corporation set forth in the Act, the Corporation, through its Board, shall:

- (a) control, manage, maintain and administer the Common Property (except as hereinbefore and hereinafter set forth), and the Common Units, and all real property, chattels, personal property or other property owned by the Corporation for the benefit of all of the Owners and for the benefit of the entire Project, and all property it is required to control, manage, maintain and administer pursuant to either Applicable Law or agreements entered into with third parties;
- (b) without limiting the generality of the foregoing:
  - (i) keep in a state of good and serviceable repair and properly maintain (including replacement where reasonably necessary) the fixtures, fittings, recreational facilities and other apparatus and equipment used in connection with the Common Property and any other Corporation Property, including, without limiting the generality of the foregoing, all

elevators and related equipment located in or on the Parcel, exterior lighting, chimneys, automatic garage doors, the security system annunciator panels, elevator machinery room, telephone room, mechanical rooms and mechanical penthouse areas, sump pumps and pits, the ground floor entrances, lobbies, vestibules, loading bay, parkade access doors and systems, storage and janitorial equipment spaces (other than storage spaces assigned for the exclusive use of Owners), window washing systems, mail areas, electrical rooms, enter-phone systems, camera, surveillance and other security systems, water meter and sprinkler system rooms, emergency generator room, garbage enclosures, hallways, stairs and stairwells;

- (ii) maintain lawns, gardens and walkways on the Common Property, any Corporation Property and on any property it is required to maintain pursuant to Applicable Law or agreements with third parties, as well as any public walkways which are capable of being used in connection with the enjoyment of more than one Unit or Common Property;
- (iii) maintain and repair (including renewal where reasonably necessary) any pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of Utilities in the Parcel and to Units within the Project, whether such facilities are within the Common Property or within individual Units within the Project, AND including equipment and systems for control and distribution of heating, cooling and ventilation within the Units, including periodic filter changes;
- (iv) subject always to any obligations imposed by these By-Laws or by the Corporation upon any Owner to maintain any part of the Common Property or a Unit, clean, maintain, and repair (including replacement where reasonably necessary), the following:
  - (A) the exterior or outside surfaces of the buildings comprising the Units, including, without limiting the generality of this obligation, windows and doors located on exterior walls of a Unit (including replacement of any glazing which is not necessitated by the actions or failure to act of the Owner or Occupant, and including any leakage around exterior windows), and including any frames and hardware associated with such doors and windows (including door closers, thresholds, weatherstripping, and sweeps), and any interior frames, trims and casings related to such doors and windows, and which obligations shall include colour and regularity of painting or finishing of exterior surfaces of window frames, doors, garage doors, and including painting and refurbishing of the whole of the exterior of the buildings usually painted at time intervals to be recommended by the Board or at such more frequent intervals as may be decided

by the Corporation, as well as other cleaning, maintenance and repair (including replacement where reasonably necessary) of building exteriors including, without limiting the generality of the foregoing, roofing materials, eavestroughs, exterior drains, walls, and all building structural elements, whether interior or exterior, whether such maintenance is for the purpose of weather proofing, structural integrity, or building appearance, and this responsibility for the Corporation to clean, maintain and repair the building exterior or outside surfaces shall apply regardless of whether or not any portion of the building exterior or outside surface is within the Common Property or individual Units;

- (B) all fencing, rails, posts, roadways, ramps, steps, terraces, plazas, driveways and sidewalks within the Common Property;
- (C) all Parking Units and parkade areas, including:
  - (1) cleaning and washing;
  - (2) painting,
  - (3) lighting;
  - (4) surface maintenance; and
  - (5) structural repairs;
  - (6) repairs to the Parking Unit Storage Cage;

PROVIDED ALWAYS THAT, maintenance and repair expenses incurred by the Corporation with respect to Parking Units as a result of a Parking Owner's violation or default under these By-Laws or the Rules shall be for the account of said Parking Owner and the Corporation shall have the same rights to recovery of such expenses as other contributions assessed to Unit Owners;

- (D) all other outside hardware and accoutrements affecting the appearance, useability, value or safety of the Common Property or the Units, including the structural repair of any balcony or any parking area or any storage area located on any part of the Common Property to which an Owner has been granted exclusive use pursuant to these By-Laws, and including all concrete balcony walls, railings, fences, and related posts (provided that the Corporation's maintenance and repair duty shall not include any re-sloping or similar work to eliminate ponding or accumulation of water on balconies, and further provided that the general cleaning and surface maintenance of any exclusive use areas designated to an Owner

under these By-Laws shall be the prime responsibility of the Owner to whom such exclusive use area has been assigned; and

- (E) all recreational or amenity areas, facilities and furnishings or equipment provided within such recreational or amenity facilities and facilities, AND maintenance or installation of sound attenuation materials required within such recreational or amenity facilities to maintain quiet use and enjoyment of Units adjoining, above, below, or near such recreational or amenity facilities;
- (c) provide and maintain in force all such insurance as is required by the Act and the provisions of these By-Laws and enter into any insurance trust agreements from time to time as required by any Insurance Trustee and approved by the Board and, on the written request of an Owner or registered mortgagee of a Unit, produce to the Owner or mortgagee, or a person authorized in writing by the Owner or mortgagee, the policy or policies (or a certified copy of the policy or policies) of insurance effected by the Corporation or a certificate or memorandum thereof, and the receipt or receipts (or certified copies thereof) for the last premium or premiums in respect thereof within the times specified in the Act;
- (d) collect and receive, or cause to be collected and received, all contributions towards the Common Expenses paid by the Owners and deposit, or cause to be deposited, same in a separate trust account with a chartered bank, trust company, Alberta Treasury Branch or Credit Union incorporated under the Credit Union Act, provided that all Contributions shall be deposited within three (3) banking days of receipt;
- (e) pay all sums of money properly required to be paid on account of all services, supplies and assessments pertinent to or for the benefit of the Corporation, including, but not limited to, management fees, maintenance expenses, fire and liability insurance and other maintenance expenses, and equipment leases charged against or referable to any Corporation Property, or Common Property for lighting, snow removal and landscape maintenance, water and sewer services, cost of legal, accounting and auditing services, recreational and amenity equipment and facilities, security services, appraisal fees and cost of a Manager, if any, and such other costs as the Board deems justifiable in the management or administration of the entire Project;
- (f) subject always to and in accordance with the Act and the Regulation, conduct or cause to be conducted and prepared a reserve fund study, a reserve fund report and, by and under a reserve fund plan, establish and maintain out of the contributions to be levied by the Corporation towards the Common Expenses, or otherwise, such amounts as the Board may, considering the requirements of the Act and the Regulation, determine from time to time to be fair and prudent for a capital replacement reserve fund to be used to provide sufficient funds that can reasonably be expected to provide for major repairs and replacements of any real and personal property owned by the Corporation

and the Common Property, or any property that the Corporation is responsible to maintain pursuant to Applicable Law or agreements with third parties, where the repair or replacement is of a nature that does not occur annually and:

- (i) such funds shall be kept in a separate trust account registered in the name of the Corporation and shall not be commingled with any other funds of the Corporation or any other condominium corporation;
- (ii) monies shall not be taken from a capital replacement reserve fund for the purposes of making capital improvements or additions not contemplated or provided for in a reserve fund study or report unless such improvements or additions are authorized by Special Resolution and then only if there are sufficient monies remaining in the fund to meet the requirements of subsection (f) above or if such is necessary to maintain the Corporation's property and Common Property to comply with health, building and maintenance and occupancy standards as required by law;
- (iii) funds from the reserve fund may be used to pay for a reserve fund study and reserve fund report required by the Regulation and any other report prepared by an expert examining the condition of the real and personal property of the Corporation and the Common Property;
- (iv) the capital replacement reserve fund shall be an asset of the Corporation and no part of that money shall be refunded or distributed to any Owner of a Unit except where the Project ceases to be governed by the Act;
- (v) subject always to and in accordance with the Act and the Regulation, the Corporation shall continue to maintain the funding of its capital replacement reserve fund at an amount sufficient and appropriate enough to meet its obligations;
- (vi) the Corporation shall, for each fiscal year, prepare an annual report of the capital replacement reserve fund in accordance with the Regulation and provide a copy of such report to each Owner before or with its notice of the next annual general meeting of the Corporation so long as the same is provided no less than fourteen (14) days prior to the annual general meeting; the annual report shall set out the amount of the reserve fund as of the last day of the immediately preceding fiscal year, all payments made into and out of the reserve fund for that year and the sources and uses of those payments, a list of depreciating property that was repaired or replaced during the year and the costs incurred in respect of the repair or replacement of that property, the amount of the reserve fund projected for the current fiscal year, total payments by Ordinary or Special Resolutions into, and payments out of, the reserve fund for the current fiscal year, and a list of the depreciating property projected to be repaired or replaced

- during the current fiscal year and the projected costs of the repairs and replacements;
- (vii) the Corporation shall carry out a new reserve fund study, prepare a new reserve fund report and approve a new reserve fund plan every five (5) years or at such other intervals as prescribed in the Regulation;
  - (viii) within ten (10) days of receipt of a written request from an Owner, purchaser or mortgagee of a Unit, provide to the person making the request a copy of the most recent reserve fund report, reserve fund plan or annual report;
- (g) at all times keep and maintain for the benefit of the Corporation and all Owners copies of all warranties, guarantees, drawings and specifications, plans, written agreements, certificates, approvals and such other Corporation documents and information as required, and for such time periods as mandated by the Act and Regulation, including, without limitation, Section 44.2 of the Act and Schedule 3 of the Regulation;
  - (h) repair, replace and maintain the roof, exterior building walls, party walls separating Units or separating Units from Common Property, floors and ceilings separating Units or separating Units from Common Property, provided that, if the reason or cause for such repair, replacement or maintenance is the negligent act or omission of an Owner, the costs of such repair, replacement or maintenance shall be for the account of such Owner provided however all repairs to or replacement or renewals of the finishing to walls, floors and ceilings shall be the responsibility of the Owner and not the Corporation;
  - (i) not plant any trees or substantial landscaping or make any unauthorized grade changes within any lands which are the subject of an easement, restrictive covenant, caveat or similar grant to any utility company, municipality or local authority;
  - (j) remove ice, snow, slush, dirt and debris from and keep and maintain in good order all walkways, roadways, ramps, driveways, parkades, parking lots and areas designated or intended for pedestrian and/or vehicular traffic, including surface coatings and parkade membranes;
  - (k) upon the written request of an Owner, purchaser or mortgagee of a Unit, and the payment of an administration charge or fee, the Corporation shall, within ten (10) days of receiving that request, provide to the person making the request any of the documents or information prescribed by the Act and Regulation (including Section 20.52 of the Regulation), including, but not limited to, copies of annual financial statements, budgets, minutes of proceedings of general meetings of the Corporation or the Board, policies of insurance, and reserve fund plans and reports.



- (l) obtain and retain by contract the services of a professional management firm for such purposes and on such terms as the Board may from time to time decide;
- (m) obtain one or more fidelity bonds or insurance policies sufficient to cover losses directly caused by the fraudulent and dishonest acts of a member of the Board, the Manager or by any employee who handles the Corporation's money. Such policy must provide coverage for an amount that is at least the sum of the reserve fund balance plus the operating account balance as at the start of the Corporation's current fiscal year. Such bond and /or insurance shall be reviewed by the Board at least once every 2 years and updated in coverage, as required;
- (n) establish Rules related to the use, enjoyment, safety and cleanliness of recreational and amenity facilities for the purpose of preserving the use and enjoyment of such facilities for all Unit Owners, and the use and enjoyment of those Units adjacent to, above, below or nearby the recreational and amenity facilities.

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

In addition to the powers of the Corporation set forth in the Act, and subject always to the provisions of the Act, the Corporation, through its Board, may:

- (a) purchase, hire or otherwise acquire real and/or personal property:
  - (i) for the maintenance, repair or replacement of any real or personal property of the Corporation or the Common Property; or
  - (ii) in connection with the enjoyment of the real and personal property of the Corporation or the Common Property;

PROVIDED that real property shall only be acquired or disposed of on approval by Special Resolution;
- (b) borrow monies required by it in the performance of its duties or the exercise of its powers, provided that each such borrowing in excess of 15% of the current year's budget has been approved by Special Resolution;
- (c) secure the repayment of monies borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by any combination of those means;
- (d) invest, as it may determine but subject always to investment restrictions set forth in relevant sections of the Act, any monies it holds that are not immediately required by Corporation;

- (e) make an agreement with any Owner, Tenant or Occupant for the provision of amenities or services by it to the Unit or to the Owner, Tenant or Occupant thereof;
- (f) grant to an Owner the right to exclusive use and enjoyment of part of the Common Property, or special privileges in respect thereof for such consideration and on such terms and conditions as it deems requisite, and, except for the provisions of these By-Laws relating to personal storage areas or lockers, and any balcony or patio attached to a Unit, and except with respect to exclusive use areas assigned to a Commercial Unit, the grant to be determinable on reasonable notice, unless the Corporation by Special Resolution otherwise resolves, and the Corporation may delegate its responsibility to care for and maintain that area or those areas to that Owner or Owners; Exclusive use areas assigned to Commercial Units shall not be terminable without the consent of such Commercial Owners;
- (g) grant to an Owner a lease in respect of areas adjoining or relating to such Owner's Unit, as shown and dimensioned (if applicable) on the Condominium Plan, on such terms and conditions as may be determined by the Board from time to time in accordance with these By-Laws, PROVIDED THAT such lease shall be available for the benefit of Owners, purchasers, Tenants and other lawful Occupants of such Unit, shall not be assignable to anyone who is not an Owner or purchaser by agreement for sale to such Unit and may be terminable upon thirty (30) days' notice by the Corporation as against any grantee, lessee or assignee who ceases to be an Owner or purchaser under an agreement for sale of such Unit;
- (h) amend the Rules to the extent it may deem necessary or desirable from time to time in relation to the use, enjoyment, safety, security and cleanliness of recreational and amenity facilities, if any, and other parts of the Common Property or of any Corporation Property, including without limitation, the parking areas, provided that, the Rules shall not be amended to restrict the business of the Commercial Units or in any manner. Such Rules must be passed by a clear majority of the Board. The Board shall provide written notice to all Owners and Occupants of those Rules at least 30 days before such Rules come into effect as required by the Regulation. Subject to the Regulation, the Board may pass emergency Rules that come into effect immediately upon notice being provided to the Owners and Occupants as required to address safety and security concerns provided such rules will cease to have effect upon the emergency situation having been resolved. Any Rule established by the Board may be amended or repealed by an Ordinary Resolution;
- (i) do all things reasonably necessary for the enforcement of the By-Laws and for the control, management and administration of the Common Property generally and of any Corporation Property, including the commencement of an action related to the enforcement of sanctions in accordance with the Act and all subsequent proceedings related thereto;

- (j) provide and maintain out of the contributions to be levied by the Corporation towards the Common Expenses, or otherwise, such amount as the Board may determine from time to time to be fair and prudent for a contingency reserve fund; the contingency reserve fund shall be an asset of the Corporation;
- (k) determine from time to time the amounts to be raised and collected for the purposes hereinbefore mentioned;
- (l) raise amounts so determined by levying assessments for contributions to the Owners in proportion to the Unit Factor for their respective Units, SUBJECT TO any provisions of these By-Laws relating to the limitation or allocation of certain costs solely to the Residential Owners, or to the Loft Owners, or to the Commercial Owners, or to the Parking Owners, or any other special cost allocations or limitations outlined in these By-Laws;
- (m) recover from Owners:
  - (i) either by an action for debt or otherwise, any sum of money expended by the Corporation for repairs or work done by it or at its direction related to the Unit or Common Property leased or granted to the Owner or Tenant or Occupant of the Unit in accordance with these By-Laws, regardless of whether such repairs or work were required pursuant to these By-Laws or by a notice, demand or order of or by a local authority or any other authority having jurisdiction;
  - (ii) upon the passing of a resolution by the Board whereby a contribution is levied against the Owner of a Unit, recover such contribution by an action for debt or otherwise:
    - (A) from the party that was Owner at the time when the resolution was passed; and
    - (B) from the party that was Owner at the time when the action was instituted;both jointly and severally;
- (n) charge interest, in accordance with the Act and based on the applicable Interest Rate, on any contribution or other monies owing to it by any Owner or other person;
- (o) join any organization serving the interests of the Corporation and assess the membership fee in the organization as part of the Common Expenses;
- (p) authorize the Manager, in writing, to carry out any of the duties and powers of the Corporation or the Board herein contained;

- (q) pay an honorarium, stipend or salary to members of the Board in the manner and in the amounts as may be, from time to time, determined by Ordinary Resolution at a general meeting;
- (r) provide and maintain a fund to pay expenses not properly chargeable to the capital replacement reserve fund or maintenance expenses. The fund shall be called a contingency fund and shall be used to cover the cost of unexpected or abnormal repairs or expenses not budgeted or not covered by the operating budget or the capital replacement reserve fund;
- (s) do all things which are, either or both, incidental or conducive to the exercise of its powers granted under the Act and these By-Laws; and
- (t) subject to any limitations and prohibitions contained in the Act, these By-Laws and otherwise by law, have such powers and be able to do all such things which any body corporate shall be empowered and authorized to do under the Business Corporations Act of Alberta (as amended and replaced from time to time) and be able to do all things and have such rights, powers and privileges of a natural person.

## **6. THE CORPORATION AND THE BOARD**

The powers and duties of the Corporation shall, subject to any valid restriction imposed or direction given pursuant to a resolution passed at a general meeting, be exercised and performed by the Board, or the Manager, as authorized by the Board. Every member of the Board shall exercise the powers and discharge the duties of the office of the member of the Board honestly and in good faith.

Where a member of the Board has a material interest in any agreement, arrangement or transaction to which the Corporation is or is to become a party, that person:

- (a) shall declare to the Board that person's interest in the agreement, arrangement or transaction,
- (b) shall not vote in respect of any matter respecting that agreement, arrangement or transaction, and
- (c) shall not be counted when determining whether a quorum exists when a vote or other action is taken in respect of the agreement, arrangement or transaction.

## **7. COMPOSITION OF BOARD**

Until the first annual general meeting of the Owners after the Developer has sold over half of the Units, the Board shall consist of a nominee or nominees of the Developer. Thereafter, the Board shall be elected at each annual general meeting (although members may also be elected at a special general meeting) and shall consist of not less than three (3) nor more than seven (7) individuals who are 18 years of age or older, and PROVIDED THAT the Board members shall be Owners (or representatives thereof in the case of corporate Owners) or representatives of mortgagees with interests in one or more Units who have notified the Corporation of their mortgage interests. Subject to the appointment rights of the Commercial Owners contained hereafter, the number of members of the Board for the next ensuing year shall be fixed by resolution at the annual general meeting, which resolution shall immediately precede the election of the Board. Where a Unit has more than one Owner, only one Owner in respect of that Unit may sit on the Board at any point in time. Notwithstanding any other provision of this By-Law, in the event that a representative of the Commercial Owners is not otherwise elected to the Board, then the Commercial Owners shall, within ninety (90) days of announcement of results of election of the Board Members, be permitted, to appoint (by election among the Commercial Owners only) from amongst them one representative to the Board, and in the event such appointment is made the resolution fixing the number of Board members for the year shall be deemed to be increased by one (1) member to accommodate such appointment.

## **8. ELECTION TO BOARD**

At each annual general meeting of the Corporation, all the members of the Board shall retire from office and the Corporation shall elect a new Board to hold office until the close of the next annual general meeting. Notwithstanding the provisions of By-Law 6 or 7, if a Board is not elected at an annual general meeting, the incumbent directors shall continue in office until their successors are elected.

## **9. ELIGIBILITY FOR ELECTION**

A retiring member of the Board shall be eligible for re-election.

In order to be eligible to be elected, an individual must not be in arrears, and must not represent an Owner that is in arrears, of payment of contributions to the Corporation at the date of election to the Board.

Any prospective member of the Board shall, as a condition of nomination, make full disclosure of any potential conflict of interest and any direct or indirect relationships he or she may have with the Corporation, either contractual, financial or employment related.

## **10. REMOVAL FROM BOARD**

The Corporation may, by Ordinary Resolution at a special general meeting, remove any member or all members of the Board before the expiration of their respective terms of office and appoint another Owner or Owners, as the case may be, to hold office until the next annual general meeting.

## **11. CONSENT TO ACT**

A person who is elected or appointed to the Board at a meeting where he or she was not personally present shall not become a member of the Board unless he or she has consented, in writing, to act as such a member within ten (10) days thereafter. In the event that a person elected or appointed to the Board does not consent to act as a member, that person's position on the Board shall be regarded as a casual vacancy in accordance with these By-Laws. In the event that more than one person elected or appointed to the Board does not consent to act as a member, the Board shall convene a special general meeting of the Corporation within thirty (30) days for the purpose of electing the additional Board members required to fulfil the minimum number of Board members in accordance with these By-Laws.

## **12. CASUAL VACANCY**

Any vacancy on the Board may be filled by the remaining members of the Board appointing a person to fill that vacancy for the remainder of the former member's term, provided such person qualifies for membership pursuant to these By-Laws, or in the event that such vacancy does not cause the Board membership to be reduced below the minimum number required under these By-Laws, the Board may choose not to replace the Board vacancy prior to the next election of the Board.

## **13. MEETINGS OF THE BOARD**

The Chairman of the Board may at any time, and the secretary of the Corporation shall, upon the request of a member of the Board, summon a meeting of the Board. Notice of meetings of the Board shall be given to each member thereof not less than forty-eight (48) hours before the time when the meeting is to be held. Each newly elected Board may, without notice, hold its first meeting for the purposes of organization and the election and appointment of officers immediately following the meeting of the Corporation at which such Board was elected, provided a quorum of the Board is present. A member of the Board may, in any manner, waive a notice of a meeting of the Board and attendance by a member at a meeting of the Board shall be considered to be a waiver of notice of the meeting, except when attendance at that meeting is for the sole and express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Notice of an adjourned

meeting of the Board is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. A member of the Board may participate in a meeting of the Board or of a committee of the Board by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other. All meetings of the Board shall be held within the City of Calgary unless the Owners agree, by Ordinary Resolution, to hold the meetings in another location.

#### **14. QUORUM**

A quorum of the Board is two (2) where the Board consists of four (4) or less members, and three (3) where it consists of five (5) or six (6) members, and four (4) where it consists of seven (7) or eight (8) members (where a Commercial Owner is appointed pursuant to the last sentence of Section 7 of this Bylaw). Any member of the Board may waive notice of a meeting before, during or after the meeting and such waiver shall be deemed the equivalent of receipt of due and proper notice of the meeting.

#### **15. OFFICERS**

At the first meeting of the Board held after each annual general meeting of the Corporation, the Board shall elect from among its members a President, a Vice-President, a Treasurer and a Secretary who shall hold their respective offices until the conclusion of the next annual general meeting of the Corporation or until their successors are elected or appointed.

The President shall preside as chairman at all meetings of Owners and at all meetings of the Board and he shall have such other powers and duties as the Board may determine from time to time by resolution.

The Secretary shall attend to the giving and service of all notices of the Corporation and shall keep the minutes of all meetings of the Corporation and of the Board and of committees of the Board and a book or books shall be kept for that purpose. Subject to the control of the Board, the Secretary shall perform all acts incidental to the office of Secretary.

The Treasurer shall have general charge of the finances of the Corporation. He shall deposit, within the time, and utilizing the methods, prescribed in the Act, all monies and other valuable effects of the Corporation in the name and to the credit of the Corporation in trust accounts with such banks or other depositories as the Board may from time to time designate by resolution, and shall render to the Board whenever directed by the Board, an account of the financial condition of the Corporation and of all his transactions as Treasurer. As soon as possible after the close of each financial year he shall make and submit to the Board a like report for such financial year. He shall have charge and custody of and be responsible for the keeping of the books of account required to be kept. Subject to the control of the Board, the Treasurer shall perform all acts incidental to the office of Treasurer.

A person ceases to be an officer of the Corporation if he or she ceases to be a member of the Board. Where a person ceases to be an officer of the Corporation, the Board shall designate from its members a person to fill that office for the remainder of the term. A person may simultaneously hold more than one office.

**16. ABSENCE OF CHAIRMAN**

The President of the Board shall act as chairman of every meeting of the Board where he or she is present. Where the President is absent from any meeting of the Board, or vacates the chair during the course of any meeting, the Vice-President shall act as the chairman of the meeting and shall have all the duties and powers of the President while so acting. In the absence of both the President and Vice-President, the members present shall from among themselves appoint a chairman for that meeting who shall have all the duties and powers of the President while so acting.

**17. FURTHER DUTIES**

The other duties of the officers of the Board shall be as determined by the Board from time to time.

**18. MAJORITY VOTE**

At meetings of the Board all matters shall be determined by simple majority vote. The chairman of the meeting shall not have a casting vote in addition to his or her original vote, and resolutions receiving a tie vote shall be deemed to have been defeated. A resolution of the Board, in writing, signed by all of the members shall have the same effect as a resolution passed at a meeting of the Board duly convened and held.

**19. POWERS OF BOARD**

The Board MAY:

- (a) meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit;
- (b) appoint or employ for and on behalf of the Corporation such agents and servants as it thinks fit in connection with the control, management and administration of the Common Property and other Corporation Property and the exercise and performance of the powers and duties of the Corporation;



- (c) subject to any valid restriction imposed or direction given pursuant to an Ordinary Resolution passed at a general meeting of Owners, delegate to one (1) or more of the members of the Board such of its powers and duties as it thinks fit, and at any time revoke such delegation;
- (d) obtain and retain by contract the services of a Manager or of any professional real property management firm or professional real property manager or agent for such purposes (including, but not so as to limit the generality of the foregoing, the supervision, management and performance of any or all of the duties of the Corporation) and upon such terms as the Board may from time to time decide, SUBJECT ALWAYS to the control and direction of the Board, such Manager to be reasonably fit and suited to perform such duties. The Manager employed by the Board need not devote its full time to the performance of duties for the Corporation so long as those duties are performed in a good and sufficient fashion.
- (e) enter into an insurance trust agreement in a form and on terms as required by any Insurance Trustee; and
- (f) set and charge for and on behalf of the Corporation fees to compensate the Corporation for expenses it incurs in producing or providing any documents, information, or copies of documents required to be issued by it under the Act and Regulation or pursuant to these By-Laws, up to the maximum amounts prescribed by the Regulation (currently \$200.00 for an estoppel certificate, \$100.00 for an information statement, and for any other document a charge of either \$10.00 where the document is provided electronically or does not exceed 40 pages, or if such document exceeds 40 pages and is provided in paper format, a charge of \$0.25 per page) plus any permitted rush fee, if applicable.

## **20. DUTIES OF BOARD**

The Board SHALL:

- (a) subject to any valid restriction or direction given pursuant to a resolution passed at a general meeting, carry on the day to day business and affairs of the Corporation;
- (b) keep minutes of its proceedings and upon written request and at the expense of the person requesting, provide copies to Owners and to mortgagees who have notified their interests to the Corporation;
- (c) cause minutes to be kept of general meetings of the Owners and upon the written request and at the expense of the person so requesting, provide copies thereof to Owners and to mortgagees who have notified the Corporation of their interests;

- (d) administer funds of the Corporation in accordance with these By-Laws, whereby:
- (i) the Board shall cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which receipt and expenditure shall take place;
  - (ii) all such money shall, except as otherwise authorized in writing, pursuant to a resolution of the Board, be deposited to a separate trust account registered in the name of the Corporation within three (3) banking days of receipt;
  - (iii) all such money is deemed to be held in trust for the performance of the duties and obligations of the Corporation in respect of which the payment was made; and
  - (iv) all such trust money shall be kept intact and not commingled with other funds except as otherwise authorized in writing pursuant to a resolution of the Board;
- (e) prepare, or cause to have prepared, annual financial statements comprising proper accounts relating to all monies of the Corporation, and the income and expenditure thereof, and at least fourteen (14) days prior to each annual general meeting, distribute copies thereof to each Owner and to each mortgagee who has notified the Corporation of its interest. Such financial statements shall be prepared in accordance with generally accepted accounting principles;
- (f) on written application of an Owner or mortgagee who has notified the Corporation of its interest, or any person authorized in writing by these parties, within twenty-eight (28) days make the books of account available for inspection at a time reasonably convenient to such party;
- (g) keep a register noting the names and addresses of all Owners and all mortgagees who have given notice of their interests to the Corporation;
- (h) at least once in each year, cause financial statements of the Corporation, including receipts of contributions by all Owners and disbursements made by the Corporation, to be prepared by an independent accountant registered as a public accounting firm under the Regulated Accounting Professions Act of Alberta (as amended or replaced from time to time), with the nature of the financial statement preparation (unaudited or audited) and the appointment of the independent accountant to be made by resolution at each annual general meeting of the Corporation. The financial statements of the Corporation thus prepared are to be distributed to each Owner and to each mortgagee who has notified its interest to the Corporation at least fourteen (14) days prior to the annual general meeting. **SUBJECT ALWAYS** to any accounting or reporting requirements of the Act and the Regulation, the accounting and reporting obligations

under this paragraph may be altered or waived upon the passing of an Ordinary Resolution to that effect at an annual general meeting of the Corporation;

- (i) within thirty (30) days from the conclusion of the Corporation's annual general meeting, file or cause to be filed at the Land Titles Office a notice in the prescribed form stating the names and addresses of the members of the Board;
- (j) file or cause to be filed at the Land Titles Office a notice in the prescribed form of any change in the address for service of the Corporation adopted by resolution of the Board; and
- (k) file or cause to be filed at the Canada Customs and Revenue Agency office, required returns for payroll source deductions of Corporation employees (if any), GST returns, if required, an annual notice of the non-profit status of the Corporation and any other reports, statements or returns required by Canada Customs and Revenue Agency or any other government body or agency under Applicable Law.

## **21. VALIDITY OF ACTS**

All acts done in good faith by the Board are, notwithstanding it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the Board, as valid as if the member had been duly appointed or had duly continued in office.

## **22. VACATION OF OFFICE**

The office of a member of the Board shall be vacated if the member:

- (a) dies; or
- (b) ceases to qualify for membership pursuant to these By-Laws; or
- (c) commences any legal proceedings against the Board or the Corporation; or
- (d) becomes bankrupt under the Bankruptcy and Insolvency Act (Canada), or any legislation passed in substitution therefor or replacement thereof; or
- (e) is more than sixty (60) days in arrears in payment of any contribution required to be made by him (or the Owner he represents) as an Owner; or
- (f) is more than sixty (60) days in default of a judgment by a court of any money owing to the Corporation; or

- (g) is found lunatic or becomes of unsound mind or is the subject of a certificate of incapacity issued under The Mental Health Act (Alberta), the Adult Guardianship and Trusteeship Act (Alberta) or any legislation passed in substitution therefor or replacement thereof; or
- (h) is convicted of an indictable offence for which the member is liable to imprisonment for a term of not less than 2 years; or
- (i) resigns his or her office by serving notice in writing upon the Corporation; or
- (j) is absent from three (3) consecutive meetings of the Board, without permission of the remaining members of the Board, and a majority of the remaining members resolve at the next, subsequent meeting of the Board that his or her office be vacated; or
- (k) is refused bonding, at a reasonable premium, by a recognized bonding institution.
- (l) or such other circumstances as may be prescribed by the Act from time to time.

## **23. SIGNING AUTHORITIES**

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

## **24. CORPORATE SEAL**

The Corporation shall have a corporate seal, which shall at no time be used or affixed to any instrument except in the presence of at least two (2) members of the Board or in the presence of any one (1) or more members of the Board as may be authorized from time to time by resolution of the Board, who shall each sign every instrument to which the corporate seal is affixed, except that where there is only one (1) member of the Board, his or her signature shall be sufficient for the purpose for this By-Law.

## **25. ANNUAL GENERAL MEETINGS**

The first annual general meeting shall be called by the Board in accordance with the requirements of the Act. Subsequent annual general meetings shall be held once in each calendar year, and not more than fifteen (15) months shall elapse between the date of one annual general meeting and that of the next. All such meetings shall be held within the City of Calgary unless the Owners agree, by Ordinary Resolution, to hold the meetings in another location.

## **26. SPECIAL GENERAL MEETINGS**

All general meetings other than the annual general meetings shall be called special general meetings.

## **27. CONVENING MEETINGS**

The Board may, whenever it thinks fit, and shall, upon a requisition in writing by Owners representing not less than fifteen percent (15%) of the total Unit Factors for all the Units or upon the request in writing from mortgagees holding registered mortgages (and who have notified the Corporation of their interests) against Units in respect of which corresponding Unit Factors represent not less than fifteen percent (15%) of the total Unit Factors for all the Units, or a combination of such Owners and mortgagees entitled to vote with respect to fifteen percent (15%) of the total Unit Factors for all the Units convene a special general meeting which meeting by providing written notice to each Owner or mortgagee no less than fourteen (14) days prior to the day on which the meeting is to be convened, and which shall be held within thirty (30) days of the Board's receipt of the said requisition. The agenda for such meeting shall include any legally valid items specified by the requisitioners, and the notice for such meeting shall include the purpose of the meeting, and include the proposed wording of any resolution(s) being proposed. All such meetings shall be held within the City of Calgary, unless the Owners agree, by means of an Ordinary Resolution, to hold the meetings in another location.

## **28. NOTICE OF GENERAL MEETINGS**

A minimum of fourteen (14) days' notice but no more than thirty (30) days' notice of every annual general meeting and special general meeting, specifying the place, the date and the hour of meeting, the agenda for the meeting, and in the case of special business, the proposed wording of any resolution to be put forward for a vote and the general nature of such business, shall be given to all Owners and registered mortgagees who have notified their interests to the Corporation.

The notice of every annual general meeting shall include an annual report respecting the reserve fund, the financial statements for the Corporation's preceding fiscal year, and a copy of the Corporation's annual budget.

Notice shall be given to each Owner, to each member of the Board and to such mortgagees who have given the Corporation written notice of their interests, in the manner prescribed in these By-Laws, but the accidental omission to give notice thereto or the non-receipt by such persons does not invalidate the meeting or any proceedings thereat. A notice of meeting is not required to be sent to Owners who were not registered on the records of the Corporation on the record date hereinafter referred to.

In computing the number of days notice of a general meeting required under these By-Laws, the day on which the notice is deemed to have been received and the day of the meeting shall be counted.

Notice of such meeting may be waived either at, before or after the meeting by persons entitled to vote at the meeting and such waiver shall be deemed to be the equivalent of receipt of due and proper notice of the meeting and attendance of that person is a waiver of notice of the meeting, except when he or she attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully convened.

Within 60 days after an annual general meeting, the Corporation shall provide to each Owner and mortgagee (who has notified the Corporation of its interests) a copy of the draft minutes of the annual general meeting (or approved minutes, if available).

## **29. RECORD DATE**

For the purpose of determining Owners entitled to receive notice of a meeting, the Board may fix in advance a date as the record date for that determination of Owners, but that record date shall not precede by more than thirty (30) or by less than seven (7) days the date on which the meeting is to be held. If no record date is fixed, the record date for the determination of Owners entitled to receive notice of a meeting shall be at the close of business on the last business day preceding the day on which the notice is sent or, if no notice is sent, the day on which the meeting is held.

## **30. PROCEEDINGS AT GENERAL MEETINGS**

- (a) All business that is transacted at an annual general meeting, or at any special general meeting, with the exception of the consideration of accounts and financial statements, appointment of auditors and solicitors, election of members to the Board, election of the Chairman, calling of the roll and certification of proxies and proving notice of meeting, shall be deemed to be special business.
- (b) The nature of such special business and the text of any resolution to be submitted to the meeting shall be set out in sufficient detail in the notice of the meeting so as to permit an Owner or mortgagee to form a reasoned judgement on the nature of that business.
- (c) No such item of special business shall be effective to direct or limit the exercise by the Board of any authority or power vested in it under the Act or these By-Laws.
- (d) Unless otherwise specifically required by the Act and these By-Laws, all business may be conducted or approved by Ordinary Resolution.

### **31. QUORUM FOR GENERAL MEETINGS**

Except as otherwise provided in these By-Laws, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business and the presence of fifteen percent (15%) of the persons entitled to vote, representing not less than 1500 of the Unit Factors, either in person or by proxy shall constitute a quorum.

### **32. ADJOURNMENT FOR LACK OF QUORUM**

If, within ten (10) minutes from the time appointed for a general meeting, a quorum is not present, the meeting shall stand adjourned for fifteen (15) minutes on the same day, at the same place, and if at the reconvened meeting following such adjournment, a quorum is not present within five (5) minutes from the time the meeting is reconvened, the persons entitled to vote who are present shall be conclusively deemed to constitute a quorum for all purposes of these By-Laws.

### **33. CHAIRMAN**

The President of the Board shall be the Chairman of all general meetings or, in his absence from the meeting or in case he shall vacate the chair, the Vice-President of the Board shall act as Chairman; provided always that, if the President and Vice-President be absent or shall vacate the chair or refuse to act, the meeting shall elect a Chairman.

### **34. ORDER OF BUSINESS**

The order of business at general meetings, and as far as is appropriate at all special meetings, shall be:

- (a) if the President or the Vice-President of the Board shall be absent, or elects to vacate the chair or refuses to act, the election of the Chairman of the meeting;
- (b) calling to order by the meeting Chairman, calling of the roll, certifying the proxies, and establishing quorum;
- (c) proof of notice of meeting or waiver of notice;
- (d) reading and disposal of any unapproved minutes;
- (e) report of officers;
- (f) report of committees;

- (g) consideration of financial statements and the annual report respecting the reserve fund;
- (h) appointment of auditors and solicitors for the Corporation;
- (i) resolution establishing the number of Board members for the upcoming year;
- (j) resignation of the Board (to be effective upon the election of a new Board);
- (k) election of the Board;
- (l) unfinished business from the previous general meeting;
- (m) new business;
- (n) any special business; and
- (o) adjournment.

### **35. SHOW OF HANDS SUFFICIENT**

At any general meeting, a resolution by the vote of the meeting shall be decided on a show of hands, unless a poll is demanded by any Owner or registered mortgagee present in person or by proxy PROVIDED THAT the voting for election of members of the Board may be conducted by written secret ballot in such manner as the Chairman deems fit that is consistent with and in compliance with these By-Laws and the Act. Unless a poll be so demanded prior to the vote, or promptly after a show of hands, a declaration by the Chairman that a resolution has, on the show of hands, been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour or against the resolution. Except for matters requiring a Special Resolution, all matters shall be decided by Ordinary Resolution. The party demanding a poll may withdraw the request for a poll at any time prior to the vote.

### **36. WHEN POLL REQUIRED**

A poll, if demanded, shall be taken in whatever manner the Chairman thinks fit, and the result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded. In the case of equality in the votes, whether on a show of hands or on a poll, the Chairman of the meeting is entitled to a casting vote in addition to his original vote.

### **37. VOTES OF OWNERS**

On show of hands, each Owner shall have one vote; on a poll, the number of votes that a person may cast shall correspond to the Unit Factors for the respective Units represented by



that person. If a body corporate or association is an Owner, the Corporation shall recognize any individual authorized by written resolution of the directors or governing body of the body corporate or association to represent such Owner at meetings of Owners. An individual so authorized may exercise on behalf of the body corporate or association he represents all the powers it could if it were an individual Owner.

### **38. METHOD OF VOTING**

On a show of hands or on a poll, votes may be given either personally or by proxy. On a show of hands, each Owner shall have one vote per Unit owned. On a poll, an Owner shall have votes corresponding to the Unit Factor number for the Unit(s) owned by that Owner.

### **39. RECORDS OF VOTES IN MEETING MINUTES**

The results of any vote held at a general meeting must be recorded in the minutes of such meeting as follows:

- (a) for a Special Resolution, the minutes must include the number of votes in respect of persons entitled to vote, who voted in favour of, and opposed to, the Special Resolution along with the Unit Factors represented by such persons;
- (b) for an Ordinary Resolution, voted on by a show of hands, the minutes must include the results of the vote;
- (c) for an Ordinary Resolution voted on by a poll vote, the minutes must include the number of persons entitled to exercise the power of voting who voted in favour of, or opposed to, the resolution along with the number of Unit Factors represented by such persons voting in favour of, or opposed to the resolution;
- (d) for an election of board members determined by a vote, the minutes must include the number of votes in favour of each candidate.

### **40. PROXY**

- (a) Every Owner or mortgagee entitled to vote at a meeting of the Corporation may appoint a proxy, to attend and act at any such meeting, in the same manner, to the same extent and with the same powers as if the Owner or mortgagee were present at the meeting. The individual appointed as the proxy must meet the eligibility requirements of the Act and Regulation, including, without limitation, Section 31.2.
- (b) The form of proxy must be in writing (in hard copy or electronic format) and comply with the requirements of the Act and Regulation. The proxy form shall include the

name and unit number of the Owner or mortgagee giving the proxy, the name of the individual to whom the proxy is given, the date the proxy is given, and the signature of the Owner or mortgagee giving the proxy, or in the case of an Owner or mortgagee that is not an individual, the signature of a person authorized to sign for that Owner or mortgagee.

- (c) A proxy shall expire on the earliest of:
- (i) the expiry date set out on the proxy;
  - (ii) 6 months from the date on which the proxy was given; or
  - (iii) the date on which the person who gave the proxy ceases to be an Owner or mortgagee of the Unit in respect of which the proxy was given.

#### **41. ELIGIBILITY TO VOTE**

No Owner is entitled to vote at any general meeting if any contribution payable in respect of the Owner's Unit or any other obligation owing to the Corporation in respect of the Owner's Unit or the Common Property is in arrears for more than 30 days prior to the date that the power of voting may be exercised, or for more than 30 days prior to the date that the power of voting may be exercised, a judgement by a court for any money owing to the corporation by the owner remains unsatisfied. Regardless of the eligibility or ineligibility to vote, as the case may be, the presence of any such Owner shall be included in the attendance count for the purposes of establishing quorum pursuant to these By-Laws.

#### **42. CO-OWNERS: ELIGIBILITY**

Co-Owners may vote by proxy, but only if the proxy is jointly appointed by them or by one of the co-Owners appointed by the other or all others, as the case may be, and in the absence of such proxy, only one co-Owner shall be entitled to vote on a show of hands, but any one co-Owner may demand a poll.

#### **43. CO-OWNERS: SHARE OF VOTE ON A POLL**

On any poll, each co-Owner is entitled to such part of the vote applicable to their Unit as is proportionate to his or her interest in the Unit. The joint proxy (if any) on a poll shall have a vote proportionate to the interest in the Unit of the co-Owners that do not otherwise vote either personally or by individual proxy.

#### **44. SUCCESSIVE INTERESTS**

Where Owners are entitled to successive interests in a Unit, and the Unit is not subject to a registered mortgage where the Corporation has been notified in writing by the mortgagee of its interests in the Unit, the Owner entitled to the first interest alone is entitled to vote, whether on a show of hands or a poll. In the event that an Owner's interest in his or her Unit is subject to a registered mortgage, the power of voting conferred on the Owner by the Act or these By-Laws may be exercised as follows:

- (a) first, by the mortgagee, if any, that is first entitled in priority, only if that mortgagee has notified the Corporation of its interest in the Unit in writing, and if that mortgagee or its duly authorized representative or proxy is present at the meeting at which the vote is being conducted;
- (b) second, by the Owner, provided that the Owner or his duly authorized representative or proxy is present at the meeting at which the vote is being conducted; and
- (c) third, and subsequently, in order of their priority among themselves, by any other mortgagees who are subsequent in priority to the mortgagee referred to in clause (a) of this paragraph, if and only if the subsequent mortgagee wishing to exercise the power of voting has notified the Corporation of the mortgage in writing and is present (or its duly authorized representative or proxy is present) at the meeting at which the vote is being conducted.

#### **45. TRUSTEE**

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

#### **46. MORTGAGEE**

Notwithstanding provisions of these By-Laws with respect to appointment of a proxy, where the Owner's interest is subject to a registered mortgage, and where the mortgage or these By-Laws or any statute provides that the power of vote conferred on an Owner may or shall be exercised by the mortgagee, SUBJECT TO the priority provisions of the Act with respect to the voting rights of first mortgagees, Owners and second and subsequent mortgagees, and where the mortgagee has given written notice of its mortgage to the Corporation, no instrument or proxy shall be necessary to give the mortgagee the said power to vote. A mortgagee is not entitled to vote if any contribution payable in respect of the Owner's Unit or any other obligation owing to the Corporation in respect of the Owner's Unit or the Common Property is in arrears for more than 30 days prior to the date that the power of voting may be exercised, or if for more than 30 days prior to the date that the power of voting

may be exercised, a judgement by a court for any money owing to the corporation by the owner remains unsatisfied

#### **47. ALLOCATION OF COMMON EXPENSES**

- (a) All of the Common Expenses of the Corporation (net of the expenses for which the Commercial Owners are assessed as set forth in subparagraphs (b) below, and net of any expenses for which the Parking Owners are separately assessed as set forth in subparagraph (c) below) shall be paid by the Residential Owners, Loft Owners and Parking Owners in proportion to their Unit Factors for their respective Units (which proportion to be paid by such an Owner shall be determined by a division calculation, with the numerator being the Unit Factors for the Residential Unit(s), Loft Unit(s) and Parking Unit(s) owned by him, and the denominator being the aggregate Unit Factors for all of the Residential Units, Loft Units and Parking Units and, without limiting the generality hereof, such Common Expenses shall include the following:
- (i) all levies or charges on account of electricity, water, sewer, gas and fuel service supplied to the Corporation for the Project and for the benefit of all Owners and not charged directly to any one Owner or group of Owners either by meter or otherwise, and such levies or charges against the real or personal property of the Corporation;
  - (ii) all costs of maintaining insurance as required under these By-Laws or the Act and Insurance Trustee fees, if any, except to the extent that policies of insurance may be carried in respect to property owned or used solely by a certain group of Owners who are separately billed for the costs thereof;
  - (iii) all charges on account of maintaining the heating, ventilation, and air conditioning systems servicing the Building, including without limitation, periodic servicing and filter changes for individual fan coil or ventilation units within Units;
  - (iv) all charges on account of maintenance for Common Property (including, without limitation, recreation and amenity areas), Corporation Property and any other property (including portions of the Units) for which the Corporation is responsible under these By-Laws or it is required to maintain pursuant to Applicable Law (including, without limiting the generality of the foregoing, all charges on account of maintaining and repairing elevators and building safety or security systems, exterior building walls, roof, foundation and other structural components of the building upon the Parcel, cleaning, painting and maintaining the parkade, interior walls, floors and ceilings (but not the finishes or decorations thereto unless such interior walls, floors and ceilings form part of the Common property);

- (v) all reserves for repairs and replacement of the property described in (iv) above;
- (vi) all costs of borrowing money for the purpose of carrying out the duties or responsibilities of the Corporation as set forth in these By-Laws;
- (vii) management fees and wages, salaries, taxes and other expenses payable to or on account of employees or individual contractors of the Corporation;
- (viii) all charges on account of ice, snow and debris removal from Common Property, excepting exclusive use or privacy areas, and all charges related to garbage removal;
- (ix) all charges on account of landscaping of Common Property;
- (x) all charges for maintaining and replacing lighting or electrical fixtures situated on Common Property, excepting the light fixtures, their bulbs, and electrical service in connection with lighting which, although installed on Common Property, are separately metered to Units and billed to the Owners of such Units;
- (xi) all charges on account of any resident manager's suite owned or leased by the Corporation;
- (xii) all realty taxes and other municipal and governmental levies or assessments against any Unit owned by the Corporation or other real property owned by it;
- (xiii) all charges and payments due pursuant to any easement;
- (xiv) all costs and charges for all manners of consultation, professional and servicing assistance required by the Corporation, including, without limiting the generality of the foregoing, all legal, accounting and appraisal fees, management fees, wages, salaries and other expenses payable to or on account of employees of the Corporation, and engineering fees (including replacement reserve fund studies, reserve fund reports, reserve fund plans and annual reserve fund reports); and any and all disbursements related to such services;
- (xv) all costs and charges of furnishings, tools and equipment for use in and about any recreational facilities or amenities including the acquisition, leasing, repair, maintenance or replacement thereof;
- (xvi) all costs of obtaining and maintaining fidelity bonds as provided in these By-Laws;
- (xvii) all costs whatsoever of the Corporation incurred in connection with the Common Property or in furtherance of any valid purpose of the Corporation or in the discharge of any obligation of the Corporation; and

- (xviii) all costs of GST or any similar tax imposed on the condominium contributions hereunder as required by Canada Customs and Revenue Agency or any other federal body, or any municipal or provincial government.
- (b) Each Owner, the Corporation and the Board recognize and agree that the special circumstances of ownership and occupation of the Commercial Units, and their limited rights to use the Common Property (as set out in these By-Laws) suggest that separate and distinct consideration and exception be given and made to the general obligations of the Commercial Owners to contribute to Common Expenses, and therefore the Commercial Owners shall only be obligated to contribute towards the following Common Expenses to the extent described below:
- (i) the following Common Expenses of the Corporation shall be paid by the Commercial Owners in proportion to their Unit Factors for their respective Commercial Units, which proportion for each of such Owners shall be determined by dividing the aggregate Unit Factors of the Commercial Units owned by that Owner by 10,000 (being the aggregate Unit Factors for all Units):
    - (A) all levies or charges on account of electricity, water, sewer, gas and fuel service supplied to the Corporation for the Project and for the benefit of all Owners and not charged directly to any one Owner or group of Owners either by meter or otherwise, and such levies or charges against the real or personal property of the Corporation;
    - (B) if the Commercial Owners are not then responsible for separate insurance costs under Bylaw 47(b)(ii)(D) below, then all costs of maintaining insurance as required under these By-Laws or the Act and Insurance Trustee fees, if any, except to the extent that policies of insurance may be carried in respect to property owned or used solely by a certain group of Owners who are separately billed for the costs thereof;
    - (C) all charges on account of maintaining the heating, ventilation, and air conditioning systems servicing the Building, including without limitation, periodic servicing and filter changes for individual fan coil or ventilation units within Units;
    - (D) all charges on account of maintenance for those portions of a Unit for which the Corporation is responsible under these By-Laws which pertain to the maintenance of the exterior walls, roof, foundation and other structural costs of maintaining the building upon the Parcel;
    - (E) all reserves for repairs and replacement of the property described in (D) above;

- (F) all costs of borrowing money for the purpose of carrying out the duties or responsibilities of the Corporation as set forth above; and;
  - (G) management fees and wages, salaries, taxes and other expenses payable to or on account of employees or individual contractors carrying out management functions of the Corporation; and
  - (H) all costs of GST or any similar tax imposed on the condominium contributions hereunder as required by Canada Customs and Revenue Agency or any other federal body, or any municipal or provincial government.
- (ii) The following Common Expenses of the Corporation shall be paid by the Commercial Owners in proportion to their Unit Factors for their respective Commercial Units, which proportion for each of such Owners shall be determined by dividing the aggregate Unit Factors of the Commercial Units owned by that Owner by the aggregate Unit Factors for all of the Commercial Units:
- (A) window washing to the Commercial Units, including all canopies, if applicable;
  - (B) store front maintenance (excluding all wall and structural elements);
  - (C) plate glass insurance for the Commercial Units, including glazed canopies, if any such insurance is separately carried by the Corporation;
  - (D) insurance for that portion of the Project which houses the Commercial Units, if such insurance is carried in a separate insurance policy by the: Corporation;
  - (E) the consumption by Commercial Units, of power, gas, water, sewer and like utility usage as determined by separate meters, where available;
  - (F) the door locks to the Commercial Units (if applicable);
  - (G) the maintenance and replacement of all HVAC (heating, ventilating and air conditioning) units servicing only the Commercial Units, if any;
  - (H) commercial sign maintenance (if applicable); and
  - (I) all costs of GST or any similar tax imposed on the condominium contributions hereunder as required by Canada Customs and Revenue Agency or any other federal body, or any municipal or provincial government.

(c) Each Owner, the Corporation and the Board recognize and agree that the operating and maintenance expenses related to the Parking Units are unique in comparison to the operating and maintenance expenses for the other Units, and that, at the Corporation's discretion, separate and distinct allocations of expenses may be made to the Parking Units for the purposes of determining the assessments to the Parking Unit Owners. The Parking Unit Owners recognize and agree that Unit Factors for the Parking Units have been assigned on a nominal basis of One (1) Unit Factor for each Parking Unit, and that allocation of expenses to the Parking Units based solely on Unit Factors may not result in an equitable allocation of expenses. Therefore the following Common Expenses of the Corporation may be allocated to the Parking Owners (and be removed from expenses allocated to the Residential Owners and Parking Owners in subparagraph (a) above) in proportion to their Unit Factors for their respective Parking Units, which proportion for each of such Owners shall be determined by dividing the aggregate Unit Factors of the Parking Units owned by that Owner by the aggregate Unit Factors for all of the Parking Units (failing which, such expenses shall remain within the expenses allocated to the Residential Owners and Parking Owners in subparagraph (a) above):

- (i) all charges, costs and expenses incurred in maintaining, repairing, managing, administering and operating the Parkade, including but not limited to, ongoing maintenance, cleaning, painting, repairs, and provision of mechanical, electrical, heating, ventilation and air conditioning systems servicing the Parkade;
- (ii) all charges, costs and expenses incurred in connection with the provision of utilities, electricity, water, sewer, gas and fuel service for the operation of the Parkade;
- (iii) all charges, costs and expenses incurred in connection with maintaining or repairing building safety systems, security systems and repairs to any walls or structural components of the Parkade;
- (iv) all charges, costs and expenses incurred in maintaining appropriate insurance coverage for the Parkade in accordance with the requirements of these By-Laws;
- (v) all costs, charges and expenses properly attributable to the property taxes for the Parkade;
- (vi) all costs, charges and expenses incurred in establishing and maintaining a reasonable reserve fund for any of the repairs or replacement costs as described herein;
- (vii) all costs, charges and expenses incurred in respect of the Parkade shall, wherever possible, be separately itemized, allocated and assigned however, in respect of any expenses incurred which may be of general



application to the Project but which benefit the Parkade, then the Manager shall be entitled to allocate a reasonable portion of such expense to the Parkade based on a determination by the Manager of the proportionate degree to which the Parkade derives a benefit from such expense.

- (d) In all cases, if the Board, acting reasonably, determines that certain services, areas, or other items in which expenses are incurred, are exclusively or primarily for the benefit of certain Owners or a certain category or categories of Owners, the Board may allocate expenses in connection therewith to such Owners or category or categories of Owners.
- (e) Units owned by the Corporation, if any, are not assessable for Common Expenses and shall be deemed to have zero Unit Factors for the purposes of allocating Common Expenses.

#### **48. ASSESSMENTS FOR COMMON EXPENSES AND BUDGETS**

- (a) At least thirty (30) days prior to the end of each fiscal year, the Corporation shall deliver or mail to each Owner at the address provided to the Corporation for such notices (but if no address has been provided by an Owner the notice shall be to the municipal address of the Unit owned by the Owner) and mortgagee (who has notified its interest to the Corporation):
  - (i) a copy of the applicable budget for each class of Owners for the ensuing fiscal year which has been adopted by resolution of the Board; and
  - (ii) a notice of the assessment for the Owner's contribution towards the Common Expenses for the Owner's Unit.

If the Corporation revises the budget, it shall provide a copy of the revised budget to the Owners and mortgagees as soon as possible.

- (b) The budgets shall be determined on a reasonable economic basis, be prepared in accordance with generally accepted accounting principles and shall set out by categories an estimate of the Common Expenses of the Corporation for the next fiscal year. The budgets shall include a reasonable provision for contingencies and replacements (that is, contributions to the replacement reserve fund in keeping with the replacement reserve plan) plus any deficiencies from the previous year or years. In preparing the budget, the Corporation shall deduct any surplus accumulated in the preceding year, but shall exclude the amount then outstanding in the contingency reserve fund.
- (c) Subject to the Act, the replacement reserve fund may be used for the repair or replacement of any real and personal property owned by the Corporation, the buildings

upon the Parcel and the Common Property, but is not intended to be used to cover annually recurring maintenance and repair costs which are to be set out and provided for in the annual budget. Subject to the Act, the Board may by resolution determine the maximum amount that may be paid from the replacement reserve fund in respect of a single expenditure. Notwithstanding the foregoing, to the extent reserve funds are contributed to solely by a certain class of Owners then that reserve fund shall be used solely for the purpose for which it was established.

- (d) All the contributions for the Common Expenses shall be payable by each Owner to the Corporation, or to any person, firm or corporation to whom the Corporation shall direct payment to be made from time to time, in twelve (12) equal, consecutive monthly installment payments payable, in advance, on the first day of each month, the first installment to be made on the first day of the month immediately following receipt of such notice of contribution or such other time as may be prescribed by the Corporation.
- (e) All payments of whatsoever nature required to be made by each Owner and not paid within ten (10) days from the due date for payment shall bear interest at the Interest Rate from the date when due until paid. All payments on account shall first be applied to interest and then to the contribution payment first due.
- (f) The Corporation shall, on the application of the Owner, purchaser or mortgagee, or the solicitor of an Owner, purchaser or mortgagee or any person authorized in writing by any of those persons, certify, within ten (10) days:
  - (i) the amount of any contribution determined as the contribution of the Owner;
  - (ii) the manner in which the contribution is payable;
  - (iii) the extent to which the contribution has been paid by the Owner; and
  - (iv) the interest owing, if any, on any unpaid balance of a contribution;and, in favour of a person dealing with that Owner the certificate so issued shall be conclusive proof of the matters certified in it.
- (g) The omission by the Board, or the Manager, to fix the contributions hereunder for the next ensuing year shall not be deemed a waiver or modification in any respect of the provisions of these By-Laws, or a release of the Owner or Owners from their obligation to pay the contribution or special contributions, or any installments thereof, for any year or period, but the contribution fixed for the preceding year shall continue until new contributions are fixed. Furthermore, no Owner can exempt himself from liability for his contributions toward the Common Expenses by waiver of the use or enjoyment of any of the Common Property or by vacating or abandoning his Unit.

#### **49. SPECIAL LEVIES**

If, at any time after the cessation of management by the Developer, it appears that the annual assessment or contribution towards the Common Expenses will be insufficient to meet the Common Expenses, the Corporation may assess and collect a special contribution or special levy against each Unit in an amount sufficient to cover the additional anticipated Common Expenses or raise additional funds for the types of shortfalls and expenses as permitted in the Act and Regulation, PROVIDED THAT before assessing a special contribution or levy to pay for the cost of a structural addition, the cost of which exceeds twenty-five thousand dollars (\$25,000.00), the Corporation shall first secure a Special Resolution approving such expenditure. The Corporation shall give notice of such further assessment to all Owners, as soon as possible after the Corporation has passed a resolution, which shall include a written statement setting out the reasons for the special levy, the total amount of the special levy, the method used to determine each Unit's share of the special levy, the amount of the Unit Owner's share of the special levy, and the date by which the special levy is to be paid (or, if the special levy is payable in instalments, the dates by which the instalments are to be paid) and each assessment shall be due and payable by each Owner in the manner and on the date or dates specified in the notice. Each such special contribution shall be determined and assessed against the Owners in the same proportion as Contributions (payable by the Owner of the Unit) as contemplated by these By-laws, . All such special contributions shall be payable on or before the due date for payment as specified in the notice, and if not so paid, shall bear interest at the Interest Rate from the due date until paid.

#### **50. DEFAULT IN PAYMENT AND LIEN FOR UNPAID AMOUNTS**

- (a) The Corporation shall and does hereby have a lien on and a charge against the estate or interest of any Owner for any unpaid Contribution, assessment, special levy, installment or payment due to the Corporation, which lien shall be a prior paramount lien against such estate or interest, subject only to the rights of any registered first mortgagee and any municipal or local authority in respect of unpaid realty taxes, assessments or charges of any kind against the Unit title or interest of such Owner. The Corporation shall have the right to file a caveat or encumbrance against the Unit title or interest of such Owner in respect of the lien or charge for the amount of such unpaid Contribution, assessment, special levy, installment or payment and for so often as there shall be any such unpaid installment or payment; provided that each such caveat or encumbrance shall not be registered until after the expiration of thirty (30) days following the due date for the first payment in arrears. As further and better security, each Owner responsible for any such unpaid Contribution, assessment, special levy, installment or payment which is in arrears for more than thirty (30) days, shall give to the Corporation a mortgage or encumbrance for the full amount thereof, and all installments and/or payments and interest thereon at the Interest Rate herein prescribed from the due date or dates for payment of the same, and the Corporation shall be

entitled to enforce its lien, charge and security and pursue such remedies as may be available to it at law or in equity, from time to time. In determining the amount payable to the Corporation, the Owner responsible for any such unpaid amount shall also be responsible for the Corporation's reasonable costs associated with such unpaid amount, including, without limiting the foregoing, legal expenses and fees incurred by the Corporation, and disbursements on a solicitor and his own client basis. The Corporation shall ensure that, in commencing legal proceedings to collect amounts owing to it by an Owner, it complies with any applicable time limit provisions of the Limitations Act so as to preclude such Owner raising a defense of immunity from liability in respect of the Corporation's claim.

- (b) Any other Owner or person, firm or corporation whatsoever may pay any unpaid Contribution, assessment, special levy, installment or payment after the expiration of thirty (30) days following the due date for payment by the Owner in default, with respect to a Unit, and upon such payment, such party, person, firm or corporation shall have a lien, subject to the estates or interests hereinbefore mentioned, and shall be entitled to file a caveat or encumbrance in respect of the amount so paid on behalf of the Owner in default, and shall be entitled to enforce his lien, thereby created, in accordance with the other terms and conditions of this provision.
- (c) Notwithstanding and in addition to any other term, condition or provision herein contained or implied, each unpaid contribution, assessment, special levy, installment or payment shall be deemed a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed and collectible as such. Any action, suit or proceeding to recover such debt or to realize on any judgment therefor shall be maintainable as a separate action, suit or proceeding without foreclosing or waiving the lien, charge or security securing the same.
- (d) In the event of any assessment against or installment or payment due from an Owner remaining due and unpaid for a period of ninety (90) days, the Board shall give notice of such default to all mortgagees having an interest in such Owner's Unit who have, in writing, notified their interests to the Corporation.
- (e) In the event of any contribution, assessment, special levy against or installment or payment due from an Owner remaining due and unpaid for a period of sixty (60) days, the Board, at its election, may accelerate the remaining monthly contributions, assessments, special levy, installments and payments for the then current fiscal year upon notice to the Owner in arrears, and thereupon all such unpaid and accelerated monthly contributions, assessments, special levy, installments and payments shall become payable on and as of the date of the said notice.
- (f) Mortgagee Protection: Notwithstanding all other provisions hereof any lien, charge or security created, as hereinbefore mentioned and referred to in the preceding

paragraphs, shall be subject always and subordinate to, and shall not affect the rights of the holder of, any indebtedness secured by any registered first mortgage and the Corporation or other party shall, upon the request of such first registered mortgagee, at the expense of such other party or the Corporation, as the case may be, execute and deliver such postponements, agreements or instruments of subordination as the said mortgagee shall reasonably require to fully and effectively establish or maintain its priority as a first registered mortgagee in respect of a Unit title against which it has registered its mortgage.

## **51. ESTOPPEL CERTIFICATES**

Any certificate as to the Owner's position with regard to expense assessments or otherwise, issued by an officer of the Corporation, under the corporate seal, or signed by the Manager, shall be deemed an estoppel certificate, and the Corporation and all of the Owners shall be estopped from denying the accuracy of such certificate against any mortgagee, purchaser or other person dealing with that Owner; but this shall not prevent the enforcement against the Owner of all obligations of that Owner, whether improperly stated in such estoppel certificate or not.

## **52. VIOLATION OF BY-LAWS**

- (a) Any infraction or violation of or default under these By-Laws or the Rules on the part of an Owner, his servants, agents, licensees, invitees or Tenants or Occupants that has not been corrected, remedied or cured within two (2) weeks of having received written notification from the Corporation to do so, may be corrected, remedied or cured by the Corporation and any costs or expenses expended or incurred by the Corporation, including legal costs on a solicitor and client basis, in correcting, remedying or curing such infraction, violation or default shall be charged to such Owner and shall be added to and become part of the Contribution of such Owner for the month next following the date when such costs or expenses are expended or incurred (but not necessarily paid) by the Corporation and shall become due and payable on the date of payment of such monthly Contribution and shall bear interest at the Interest Rate prescribed herein until paid.
- (b) The Corporation may recover from an Owner, by an action for debt in any court of competent jurisdiction, any sum of money which the Corporation is required to expend as a result of any act or omission by the Owner, his servants, agents, licensees, invitees or Tenants or Occupants, which violates these By-Laws or the Rules, and for which two (2) weeks prior written notice has been given by the Corporation, and there shall be added to any judgment all costs of such action, including costs as between solicitor and client. Nothing herein shall be deemed to limit any right of any Owner to bring an

action or proceeding for the enforcement and protection of his rights and the exercise of his remedies.

- (c) In addition to, but not so as to limit the powers of the Corporation under paragraphs (a) and (b) of this By-Law, the Corporation may impose monetary sanctions on Owners, Tenants, Occupants, and invitees of Owners who fail to comply with these By-Laws. The Corporation shall use its discretion in determining the severity or seriousness of each violation and impose monetary sanctions which it considers reasonable in the circumstances. Such monetary sanctions shall not be less than fifty dollars (\$50.00) or greater than a maximum of \$500.00 for the first violation and a maximum of \$1,000.00 for the second and all subsequent violations (or such other maximum sanction amount provided for in the Regulation). If the Corporation elects to take proceedings in the Court of Queen's Bench, it may seek to recover a monetary sanction as set out above and/or an injunction. In imposing monetary sanctions the Corporation shall be guided by rules of natural justice, including giving the violating Owner, Tenant, Occupant or invitee the right, on adequate notice, to appear before the Board of the Corporation to answer the By-Law violation allegations of the Corporation. The Corporation may only impose other, non-monetary sanctions if directed to do so by Ordinary Resolution, which Ordinary Resolution shall specify the general nature of such non-monetary sanctions. The Corporation may impose non-monetary sanctions against Owners or Occupants that violate the Rules but cannot impose monetary sanctions.
- (d) In order to levy a monetary sanction, the Board must deliver the required notice of proposed sanction and then, if the default is not remedied, deliver the notice of sanction all as required by the Regulation. Such respective notices shall specify all the information and details as required by Regulation Section 73.7.
- (e) Where a person fails to abide by a sanction or to pay to the Corporation a monetary sanction imposed hereunder, the Corporation may proceed to enforce the sanction in accordance with the Act.
- (f) A sanction may not be imposed that has the effect of prohibiting or restricting the devolution of Units or any transfer, lease, mortgage or other dealing with the Units or of destroying or modifying any easement implied or created by the Act.

### **53. DEVELOPER'S MANAGEMENT AND RIGHTS**

- (a) During such time as the Developer of the Project, or a party affiliated with the Developer, is the Owner or Tenant of one (1) or more Residential Units or Loft Units, it shall be entitled to, and have the right:

- (i) to maintain any such Unit or Units, whether owned or leased by it, as a display Unit or Units and to carry on all sales functions it considers necessary from such Unit or Units; in particular, but without limiting the generality of the foregoing, the Developer, or such affiliated party, together with its agents, employees and mortgage inspectors, shall be entitled to bring and allow prospective purchasers in and upon the Common Property and portions thereof; and
  - (ii) to the use of the Common Property for the purpose of displaying signs to indicate the sale of Units (or any units to be comprised within the condominium plan affecting the land adjacent to the Parcel and approved under the same development approval as for the Parcel) and will be entitled to effect all other reasonable use of the Common Property and Units to assist in completion of the Project and to assist in selling any of the Units (or any units to be comprised within the condominium plan affecting the land adjacent to the Parcel and approved under the same development approval as for the Parcel) including the use of show suites for such purposes and including the bringing and allowing of prospective purchasers in and upon the Project and portions thereof and allowing access upon the Common Property to the contractors to complete the Project.
  - (iii) To effect the re-division of Units contemplated in Section 69(b).
- (b) During such time as the Developer of the Project, or a party affiliated with the Developer, is the Owner of one (1) or more Residential Units or Loft Units, monthly assessments for common expenses or contributions to capital replacement reserves related to such Units shall be limited to a maximum amount of One Hundred Dollars (\$100.00) per month for each such Unit, until the earlier of:
  - (i) the first day of the month following the one (1) year anniversary of the date on which the Condominium Plan was registered; or
  - (ii) the first day of the month following the date on which that Unit is occupied under a rental agreement.
- (c) During such time following registration of the Condominium Plan, but prior to the initial general meeting of the Owners, the Developer may provide loans to the Corporation to pay its obligations from time to time, which loans shall be interest-bearing at the Interest Rate specified herein, and which loans shall be repaid by the Corporation no later than ninety (90) days following the initial general meeting of the Corporation.

- (d) The Developer shall have the right to amend these By-Laws at any time prior to Condominium Plan registration, or following Condominium Plan registration in accordance with the Act.
- (e) Notwithstanding anything to the contrary contained in these By-Laws, the Developer shall not be obliged to observe By-Laws 3(a)(v), (vi), (vii) or (viii).
- (f) Until such time as the first general meeting of the Owners (not comprised solely of the Developer) following Condominium Plan registration, the Developer shall be entitled, through its nominee(s) on the Board, to exercise all of the powers vested in the Board by these By-laws, and the Owners shall indemnify the Developer and its representatives against all claims, losses, costs and expenses, including legal counsel fees, reasonably incurred in connection with any action, suit or proceeding to which the Developer or its representatives may be made a party by reason of fulfilling the duties of the Board.
- (g) Without limiting the general rights and powers of the Developer to exercise the duties of the Board prior to the said first general meeting of the Owners, the Developer shall have the right to permanently assign balcony or patio area(s) (if any) adjoining each Residential Unit as privacy area(s) to such Unit with the sale of each Unit, and may permanently assign personal property storage areas or lockers within the Common Property to specific Units or Unit Owners, and may, if it elects to do so, grant leases for such Common Property pursuant to the Act and these By-Laws on behalf of the Corporation, which right of assignment or lease shall only be extinguished following the sale of all Units in the Project.

#### **54. DAMAGE OR DESTRUCTION**

- (a) In the event of damage or destruction as a result of fire or other casualty, the Board shall determine, within thirty (30) days of the occurrence, whether there has been substantial damage and shall give notice thereof to the Insurance Trustee immediately upon such determination. For the purpose of this paragraph, substantial damage shall mean damage to the extent of fifty percent (50%) or more of the replacement value of all Units and Common Property immediately prior to the occurrence. Prior to making any determination under this paragraph, the Board shall obtain the opinion of an independent insurance appraiser to the effect that substantial damage has or has not occurred. If there has been substantial damage, the Board shall convene a special general meeting and give at least ten (10) days' notice by registered mail to all mortgagees who have provided the Corporation with written notice of their mortgage interests. Unless there has been substantial damage and the Owners, by Special Resolution, resolve not to proceed with repair or restoration within one hundred twenty (120) days after damage or destruction, the Board shall arrange for prompt repair and restoration using proceeds of insurance for that purpose. The Board or the Insurance



Trustee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any costs of such repairs and restorations in excess of the insurance proceeds shall constitute a Common Expense and the Board may include such deficiency as part of the Common Expenses. The obligation to repair hereunder is mutually exclusive of the general obligation to maintain and does not include the repair or improvements made to any Unit by any Owner (other than the Developer) after registration of the Condominium Plan, except to the extent that such improvements have been duly added to the Corporation's insurance coverage in accordance with these By-Laws.

Where there has been substantial damage and the Owners resolve by Special Resolution within one hundred twenty (120) days after the damage or destruction not to repair, the Board shall make application to terminate the condominium status of the Parcel in accordance with the provisions of the Act, and each of the Owners shall be deemed to consent to such application. Upon termination of the condominium status, the proceeds of insurance shall be paid firstly to the Insurance Trustee and then to the Owners and mortgagees as their respective interests may appear in proportion to their respective interests in the Parcel and in accordance with the terms of any Insurance Trust Agreement in effect, AND In making any apportionment hereunder, the Insurance Trustee shall have regard to the interest of all Owners, mortgagees and the Corporation, and shall make a just and equitable apportionment. Any apportionment proposed by the Insurance Trustee shall be first notified to all the Owners, mortgagees who have notified the Corporation of their mortgages and the Corporation, and no distribution of proceeds shall be made until after the expiry of thirty (30) days after the last of such parties has been notified. If any of such parties shall dispute the apportionment made by the Insurance Trustee, then such party must notify the Insurance Trustee in writing within thirty (30) days of his receipt of notice as aforesaid. If no party disputes the proposed distribution, the Insurance Trustee may proceed with the distribution as proposed. If any such party shall dispute the proposed distribution, the Insurance Trustee shall refer the matter to the Court authorized to deal with schemes and terminations under the Act, and the distribution shall be settled and determined by such Court on such terms and conditions as it may deem just and equitable.

- (b) No Owner shall be entitled to claim any compensation from the Corporation for any loss or damage to the property or person of the Owner arising from any defect or want of repair of the Common Property or any part thereof, unless such loss or damage is covered by the insurance held or required to be held by the Corporation pursuant to the Act or these By-Laws, whichever is greater.
- (c) The Corporation shall not be responsible to the Owner for any loss, damage or expense caused by an overflow or leakage of water from any adjoining building(s) or by the

breaking or bursting of any pipes or plumbing fixtures, or in any other manner whatsoever, unless such damage shall result from the negligent act or omission on the part of the Corporation, its servants, agents, employees or officers or such damage is insured against.

- (d) Subject always to the Act, where the Corporation is required to enter a Unit for the purpose of maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the Unit and capable of being used in connection with the enjoyment of any other Unit or the Common Property, the Corporation and its servants, employees and agents shall, in carrying out any work or repairs, do so in a proper and workmanlike manner and shall make good any damage to the Unit occasioned by such works and restore the Unit to its former condition, leaving the Unit clean and free from debris.
- (e) An Owner shall indemnify and save harmless the Corporation from the expense of any maintenance, repair or replacement rendered necessary to the Common Property, to other Corporation Property or to any Unit by his act or omission or by that of any member of his family or his or their guests, servants, agents, invitees, licensees, Tenants or Occupants.
- (f) In the event of any damage where the Corporation's insurance policy covers the loss and such insurance proceeds are actually received, the Corporation shall make repairs or arrange for and supervise the repairs to a Unit and its fixtures and finishing to the Standard Insurable Unit Description, or such lesser standard as provided for in the Act or Regulation, as may be applicable.

## **55. INSURANCE**

- (a) The Board, on behalf of the Corporation, shall obtain and maintain at all times, subject always to the Act and the Regulation, to the extent available, the following insurance:
  - (i) property insurance with extended coverage endorsement for such perils as the Board shall deem advisable (the perils insured against shall be "all risks" as that term is generally understood in the insurance industry, and, in any event, not less than any and all of the perils prescribed or otherwise required to be insured against by the Regulation for physical loss or damage) insuring:
    - (1) all of the insurable Common Property;
    - (2) all insurable property of the Corporation, both real and personal, of any nature whatsoever;

- (3) all of the Units and all of the improvements and betterments made to the Units by the Developer and by the Owners (provided the Board has been formally notified of such improvements and betterments with detailed drawings, specifications and photographs, and provided that the Board has been provided with a statement of replacement value for such improvements and betterments, such statement to be prepared by a qualified contractor, architect or cost consultant and provided further that the Corporation's insurance shall be limited to such replacement value amount as certified, but excluding always any furnishings and other personal property of each Owner, whether or not installed in the Unit), for the full replacement cost thereof, without deduction for depreciation. For greater certainty, with respect to insuring the Units, the Corporation's insurance shall cover: i) Residential Units and Loft Units for the Standard Insurable Unit Description fixtures and finishings for the applicable Unit category; ii) Commercial Units for the replacement value of the Units, which, for greater certainty, excludes the replacement value of any fixtures and finishing in the Units; and iii) for the Parking Units, the Corporation's insurance shall cover the replacement value of the Parking Units as such Parking Units were typically provided to purchasers by the Developer;
- (ii) boiler and machinery insurance;
- (iii) general liability insurance, including any liability incurred by the Corporation arising out of a breach of duty as the occupier of the Common Property and Units (to the extent permitted in these By-Laws) and incident to the ownership or use of any property owned by the Corporation, including any machinery, equipment, pressure vessels and vehicles, insuring the Insureds (as hereinafter defined) against their liability for bodily injury, death and damage to property, to third parties or to Owners and their invitees, licensees, Occupants or Tenants incidental to the enforcement of these By-Laws and the control, management and administration of the Common Property, the Units and the Corporation Property and such insurance shall have limits of liability in amounts not less than \$2,000,000.00 inclusive for bodily injury and/or property damage per occurrence;
- (iv) liability insurance, including errors and omissions coverage, in such amounts and with such deductibles as the Board may determine, insuring the Board and every member and officer thereof from time to time and

each employee of the Corporation from and against all liabilities, charges, loss, costs, and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a member, employee or officer of the Corporation or arising out of any act or omission of that member, officer or employee with respect to carrying out the functions of a member, officer or employee, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for fines or penalties imposed in a criminal suit or action or for unjustified profit or advantage or for any wrongful act done or attempted in bad faith or dishonesty or for failing to discharge the duties of the office of a member of the Board honestly and in good faith; and

(v) such other insurance and coverage for such other risks or causes as the Board may determine or as may be determined by Ordinary Resolution.

(b) Any such insurance policies shall insure the interests of and name as insureds:

- (1) all of the Owners from time to time;
- (2) all mortgagees who have given written notice of their interests to the Corporation;
- (3) the Corporation; and
- (4) the Board and the Manager.

(hereinafter collectively called the "Insureds"), as their respective interests may appear; and

all insurance coverage dealt with in this By-Law shall be purchased from such parties that are licensed and registered to offer insurance in the Province of Alberta, and on such terms and conditions as the Board approves, including, without limiting the generality of the foregoing, any reasonable deductible amounts imposed or otherwise requested by the insurer(s).

(c) Each and every policy of insurance shall name the Insureds and shall, as available and where applicable, provide:

- (i) that the policy may not be cancelled or substantially modified without at least sixty (60) days' prior written notice to all of the Insureds;
- (ii) that such insurance shall be deemed to be primary insurance, and that insurance coverage purchased by any Owner or mortgagee shall be considered to be excess coverage;

- (iii) standard mortgage endorsements attached to each such policy;
  - (iv) a waiver by the insurer of its rights of subrogation against the Corporation, the Board, its Manager, agents, employees and servants, and the Owners and any member of the household or guests of any Owner, except for arson, fraud and vehicle impact;
  - (v) that no breach of any statutory condition or other condition of any policy by any Insured shall invalidate the insurance or forfeit the insurance and, in the event of such breach by any Insured, the insurance may only be subject to forfeiture or defence of breach of condition insofar as the separate interest of the Insured person or party in breach are concerned and, in any event, the Insureds shall not be held responsible for failure to comply with warranties or conditions of the policy in any portion of the property insured over which the Insured(s) have neither knowledge nor control;
  - (vi) a cross liability endorsement wherein the rights of any Insured shall not be prejudiced with respect to another Insured and the insurance indemnifies each Insured as if a separate policy had been issued to each Insured; and
  - (vii) that the Insurance Trustee shall have the right, at its sole option, to obtain a cash settlement (without deduction for depreciation) in the event of substantial damage to the building(s) and the determination by resolution of the persons entitled to vote or by order of the Court of Law having jurisdiction in that behalf to terminate the condominium status of the building(s), and the insurer's option to reconstruct the damaged premises shall be deleted or waived.
- (d) At least every three (3) years, the Board shall obtain an appraisal or appraisal update from a duly qualified appraiser setting out the full replacement cost of the Common Property, Units, buildings and all of the property of the Corporation. A copy of such appraisal or appraisal update shall, on request, be delivered to each mortgagee who has given written notice of its mortgage to the Corporation. The Board shall forthwith, upon receiving the appraisal or appraisal update, ensure that its insurance coverage under any and all such applicable policies of insurance are in accordance with such appraisal or appraisal update to insure the full replacement value as set forth in such appraisal or appraisal update, without deduction for depreciation. In addition to such insurance coverage for the replacement value of the Common Property, Units, buildings and any other property of the Corporation, the Board shall review and adjust the level of insurance coverage for other risks (including liability) to such amounts and levels required by and as would be maintained by an owner of similar property in the locality in which the Project is situated.

- (e) A renewal certificate or memorandum of new insurance policies shall, on request, be furnished to each Insured forthwith upon placement or renewal of any insurance policies. The original policies of all insurance coverage shall be retained by the Corporation in its offices, and shall be available for inspection by any and all of the Insureds upon reasonable request. Further, a certificate or memorandum of all insurance policies and endorsements thereto shall be issued by the Board, or by the Manager on its behalf, within ten (10) days from the day of receiving a request therefor from a purchaser, Owner or mortgagee of a Unit and a duplicate original or certified copy of each such policy shall be forwarded within thirty (30) days from the day of receiving that request from a purchaser, Owner or mortgagee of a Unit.
- (f) Notwithstanding anything aforesaid, but subject to the terms of any Insurance Trust Agreement, all proceeds of insurance on loss or claim shall be paid:
  - (i) if the proceeds are less than FIVE THOUSAND DOLLARS (\$5,000.00), to the Corporation which shall apply such proceeds to the repair and restoration of the damage or loss; and
  - (ii) if the proceeds are equal to or in excess of FIVE THOUSAND DOLLARS (\$5,000.00), to the Insurance Trustee who shall apply such proceeds to the repair and restoration of the damage or loss (save as herein provided);

and the Board, on behalf of the Corporation, shall cause a separate loss payable endorsement to be issued in respect of any policies issued in favour of the Insurance Trustee. The exclusive authority to adjust losses and settle proceeds under all insurance policies shall be vested in the Board or its authorized representative, and the Insurance Trustee, and any expense associated with the Insurance Trustee or any deductible amounts payable under any insurance policy shall be treated as Common Expenses of the Corporation, subject always to the Corporation's ability to recover such costs from parties responsible for the loss claimed.

- (g) The Owners shall carry insurance on their own Units as permitted by the Act provided that the liability of the insurers issuing insurance obtained by the Board hereunder shall not be affected or diminished by reason of insurance so carried by a Unit Owner AND PROVIDED FURTHER that neither the Corporation nor the Board shall be required or have any duty to insure the interests of tenants against liability or the interests of tenants or Owners for their belongings, contents or other property, or the additional living expenses or loss of rental income that may be associated with loss of use for a Unit. The insuring of any contents within a Unit is the sole responsibility of the Owner, tenant or occupier of the Unit and they shall not require the Corporation or the Board to repair any damage to any contents or personal within or to the Unit however caused, and neither the Corporation nor the Board shall be responsible for any additional living expenses or loss of rental income due to a Unit becoming uninhabitable, regardless of the cause.

- (h) In the event that a claim arises that could be covered by a policy of insurance maintained by the Corporation and the cause of the loss or damage originates in or from the Owner's Unit or an exclusive use area or privacy area assigned to the Owner, then the Owner shall be absolutely liable to the Corporation for the applicable deductible under the Corporation's insurance policy, up to the maximum amount permitted by the Regulation (currently \$50,000) and subject to the limitations as set out in the Act and such amount shall be recoverable by the Corporation as a contribution from such Owner, in addition to all other costs, charges, and liabilities arising out of any such loss that may be sustained or incurred by the Corporation.
- (i) The Corporation shall provide all Owners with notification of all changes to the insurance policies maintained by the Corporation as required under Section 48 of the Act, as well as those additional insurance matters and documents as prescribed in the Regulation including Section 62.1.

## **56. LEASING OF UNITS**

- (a) In the event that any Owner desires to lease or rent his Unit, he shall furnish to the Corporation an undertaking signed by the proposed lessee or occupant (or proof that the lessee has covenanted in his lease) that the proposed lessee or occupant of the Unit will comply with the provisions of the Act and of the By-Laws of the Corporation as contained herein. The Owner shall not be released from any of his obligations and shall be jointly and severally liable with the proposed lessee or occupant with respect to such obligations. The Tenant, within twenty (20) days of occupancy, must provide to the Corporation a certificate of insurance evidencing existence of a Tenant's insurance policy.
- (b) In the event that a Residential Owner leases or rents his Residential Unit or Loft Unit, the Corporation is authorized to:
  - (i) impose and collect and deal with damage deposits in accordance with the Act and, if any deposit is used by the Corporation in accordance with the Act or these By-Laws the Owner shall replace that portion of the deposit used within ten (10) days of being notified, in writing, by the Board of its use;
  - (ii) give notices to give up possession of that Residential Unit or Loft Unit in accordance with the Act; and
  - (iii) make applications to the Court under the Act.
- (c) No Tenant shall be liable for the payment of contributions or assessments or Common Expenses under these By-Laws unless notified by the Corporation that the Owner from whom he rents the Unit(s) is in arrears of payment of contributions, in which case the

Tenant shall, upon the request by the Corporation, deduct from the rent payable to the Owner, such arrears contributions and shall pay the same to the Corporation for the purposes of applying that rent against the monthly contributions that are in arrears. Any such payment by the Tenant shall be deemed to be a rental payment made to the Owner, and any lease agreement between the Owner and a Tenant shall make provision for such redirection of rental payments.

## **57. SEVERABILITY**

The provisions hereof shall be deemed independent and severable and the invalidity, in whole or in part, of any By-Law, section, part or provision herein shall not affect the validity of the whole or remaining By-Laws, sections, parts or provisions herein contained which shall continue in full force and effect as if such invalid portion had never been included herein.

## **58. NOTICES**

Unless otherwise expressly provided in these By-Laws, service of any notice required to be given under the Act or under these By-Laws shall be well and sufficiently given if sent by prepaid registered mail to an Owner at the address of his Unit or if left with him or some adult person at the said address, or in the alternative at any electronic address, where such Owner has requested and consented to receive communications by electronic means, or to the Corporation at its address as shown on the Condominium Plan at Calgary, Alberta, or to a mortgagee at its address supplied to the Corporation. Any notices, demands or requests served shall be deemed to have been effected as follows:

- (a) immediately upon personal service;
- (b) on the date on which acknowledgment of receipt of registered mail is signed;
- (c) 7 days after the date on which the document is sent by ordinary mail; or
- (d) 24 hours after the document is left at the Unit or sent by electronic means.

An Owner or a mortgagee may, at any time in writing, advise the Corporation of any change of address at which notices shall be served or given, and thereafter, the address specified therein shall be deemed to be the address of such Owner or a mortgagee, as the case may be, for the giving of notices. The word "notice" shall include any request, statement or other writing required or permitted to be given hereunder or pursuant to the Act and these By-Laws.



**59. NOTICE OF DEFAULT TO MORTGAGEES**

Where a mortgagee has notified the Corporation of its interest, any notice of default sent to an Owner shall also be sent to the mortgagee.

**60. DEBT RETIREMENT ON TERMINATION**

Subject to the provisions of the Act and these By-Laws, upon termination of the Corporation for any purpose, all debts of the Corporation shall first be paid out of the assets, and the balance of the assets, if any, shall be distributed to the Owners in proportion to their Unit Factors, or in such other proportion as may be determined by court order, subject always to the interests of any mortgagees.

**61. COMPANY WHICH IS AN OWNER**

A corporation, trust or other entity which is an Owner may, by proxy, power of attorney, or resolution of its directors appoint an individual to act as its representative on the Board and to attend meetings thereof and vote at such meetings on behalf of the corporation, trust or other entity it represents, and such representative shall be entitled to so act provided notice in writing thereof shall have been given to the Board. Where the representative of such an entity is the only member of the Board, a minute or resolution signed by that representative shall be deemed to be a resolution of the Board.

**62. CORPORATION OWNED UNITS**

For the purposes of conducting a vote, a Unit owned by the Corporation is not considered a Unit for which the Owner has a right to vote. The total Unit Factors and total number of Units owned by the Corporation shall be deducted and not considered when determining if the requisite number of Unit Factors or Units have voted in favour or against a resolution.

**63. AMENDMENT OF BY-LAWS**

These By-Laws, or any of them, may be added to, amended or repealed by Special Resolution of the Corporation, provided that a minimum of thirty (30) days notice, together with a written copy of the By-Law proposed for amendment, repeal or replacement, has been provided of the special or annual general meeting at which the Special Resolution is to be voted on to all persons entitled to vote, and provided further that in the event such By-Law amendments directly affect the Commercial Owners, or any of them, that a majority of the Commercial Owners so affected provide formal consent to such amendments.

**64. REALTY TAXES**

- (a) The realty taxes and other municipal and governmental levies or assessments against land, including improvements comprising all or any part of the Units and the Common Property comprising the Parcel, shall be assessed and imposed in accordance with the provisions of the Act, but until such time as the assessing authority assesses each Unit and the share in the Common Property appurtenant thereto pursuant to the Act, such realty taxes and other municipal and governmental levies or assessments, shall be apportioned to each Owner based on the ratio of such Owner's Unit Factor to the total of all Unit Factors.
- (b) The realty taxes and other municipal and governmental levies or assessments against the Corporation Property (which is not included in the Condominium Plan) shall be included in the Common Expenses of the Corporation and dealt with as such in accordance with the provisions of these By-Laws.

**65. NON-PROFIT CORPORATION**

The Corporation is not organized for profit. No member of the Corporation or Board or person from whom the Corporation may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations thereof, and in no event shall any part of the funds or assets of the Corporation be paid as salary or compensation to, or distributed to, or enure to the benefit of any member of the Board. The foregoing, however, shall neither prevent nor restrict the following:

- (a) reasonable compensation may be paid to any member or manager while acting as an agent or employee of the Corporation for services rendered in effecting one or more of the purposes of the Corporation;
- (b) any member may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Corporation; and
- (c) members of the Board may receive an annual honorarium, stipend or salary established pursuant to these By-Laws.

**66. INDEMNIFICATION OF INDIVIDUALS**

The Corporation shall indemnify every Board member, Manager, officer or employee and his or her heirs, executors and administrators, including the Developer or its representatives when acting in the capacity of the Board, against all losses, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to

which he may be made a party by reason of his being or having been a Board member, Manager, employee or officer of the Corporation, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for fines or penalties imposed in a criminal suit or action or for unjustified profit or advantage or for any illegal act done or attempted in bad faith or dishonesty or failing to discharge his duties honestly and in good faith. All liability, loss, damage, costs and expenses incurred or suffered by the Corporation by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Corporation as Common Expenses.

**67. RESTRICTIONS ON USE OF COMMON PROPERTY**

- (a) Other than the right to access and use that portion of the Common Property utilized for access to the Commercial Units, or access to garbage disposal facilities, or designated for commercial parking, if any, and notwithstanding their ownership of the undivided interests in the Common Property of the Corporation, and the payment of a portion of the condominium contributions that include some of the costs of maintaining, repairing and replacing the Common Property, the Commercial Owners, and the Tenants and invitees of the Commercial Owners shall not be entitled to access or use of that portion of the Common Property above the main floor of the building comprised within the Project and the Commercial Owners shall ensure that their Tenants and invitees do not enter upon or use any such Common Property, and do hereby indemnify and save harmless the Corporation from any claim made against the Corporation by any licensee or invitee for said use and enjoyment or for any damages or claims thereunder.

**68. PRIVACY AREAS**

The Corporation shall be deemed to have permanently assigned the portion of the Common Property designed to be used exclusively by such Owner as a balcony, patio, or for exterior access (if any) to each Residential Unit and Commercial Unit as a privacy area immediately adjacent to such Unit as shown on the Condominium Plan which areas are labelled with a "B" preface or a "P" preface; and the Corporation may either directly or through the Developer acting on behalf of the Corporation, permanently assign a personal property storage area or locker to specific Units or Unit Owners as shown on the Condominium Plan which areas are labelled with a "S" preface, in which case the Board may, if it elects to do so, grant leases for such Common Property pursuant to the Act and these By-Laws. In the event that the Developer, acting on behalf of the Corporation, opts to enter into lease agreements with Unit Owners for these privacy areas or storage areas, the Developer shall be granted the authority to enter into such lease agreements on behalf of the Corporation. The exclusive use of privacy areas assigned to each Residential Unit and Commercial Unit shall follow title to the Unit, and be freely and fully transferable to successive Unit Owners, and the assignment of storage areas or lockers shall be freely and fully transferable by the Unit Owners in accordance with the

terms of such assignments or leases, provided that such storage areas or lockers shall be assigned to a Unit Owner and not to a party that is not a Unit Owner.

With respect to privacy areas assigned or leased to specific Units:

- (a) The Board may, in addition to other restrictions set out in these By-Laws, specify and limit the nature and extent of the use or uses of any such privacy areas assigned or designated by it hereunder.
- (b) Any such privacy areas shall be maintained in a clean and slightly condition at the sole expense of the Owner to whom it has been assigned, provided that the Corporation shall be responsible for structural maintenance, painting, refurbishing, and fence maintenance of the privacy areas to a standard considered reasonable by the Board. Landscaping contained in such privacy areas, if any, shall be maintained by the Corporation.

## **69. REDIVISION OF UNITS**

- (a) The Commercial Owners shall have the right, subject only to the approval and authority (if required) of the City of Calgary or other relevant approving authorities, to re-divide or consolidate the Commercial Units without the approval of the Corporation or any of the Owners. In the event that a Commercial Owner proposes to make such a re-division or consolidation, the Commercial Owner shall provide the Corporation with notice of such re-division or consolidation at least seven (7) days in advance of its submission for registration at the land titles office, and shall ensure that the re-divided or consolidated condominium unit(s) contain the same total area and total condominium unit factors as the original unit(s) prior to re-division or consolidation, as the case may be. In the event of such proposed re-division or consolidation, the Corporation shall provide any further documentation or approval required for the re-division or consolidation to proceed.

This Section 69(a) shall be the Owners' irrevocable authorization for re-division or consolidation of the Commercial Units, or all or any of them, and to enable the future registration of any plans of re-division or consolidation for the applicable Commercial Unit(s). Without limitation to the foregoing, each Owner shall forthwith sign such documents, consents, authorizations, certificates and resolutions required by the Commercial Owner in connection with the re-division or consolidation of the applicable Commercial Units, and execute and deliver promptly any documents, consents, authorizations, certificates and resolutions required to carry out the intent of Section 69(a). If 15 days after the date of a request by the Commercial Owner(s), an Owner has not executed the same, such hereby irrevocably appoints the Commercial Owner intending to effect a re-division or consolidation, as such Owner's mandatary/attorney with full power and authority to execute and deliver in the name

of the Owner, the documents, consents, authorizations, certificates and resolutions required.

- (b) During such time as the Developer of the Project, or a party affiliated with the Developer, is the Owner of one (1) or more Residential Units or Loft Units, it shall be entitled to, and have the right, subject only to the approval and authority (if required) of the City of Calgary or other relevant approving authorities, to re-divide or consolidate such Residential Units or Loft Units without the approval of the Corporation or any of the Owners. In the event of such a proposed re-division or consolidation, the Corporation shall be provided with a least notice seven (7) days in advance of its submission for registration at the land titles office, and such re-division shall be based on the re-divided or consolidated condominium unit(s) containing the same total area and total condominium unit factors as the original unit(s) prior to re-division or consolidation, as the case may be. In the event of such proposed re-division or consolidation, the Corporation shall provide any further documentation or approval required for the re-division or consolidation to proceed.

This Section 69(b) shall be the Owners' irrevocable authorization for re-division or consolidation of such Units, or all or any of them, and to enable the future registration of any plans of re-division or consolidation for the applicable Unit(s). Without limitation to the foregoing, each Owner shall forthwith sign such documents, consents, authorizations, certificates and resolutions required by the Developer in connection with the re-division or consolidation of the Unit(s), and execute and deliver promptly any documents, consents, authorizations, certificates and resolutions required to carry out the intent of Section 69(b). If 15 days after the date of a request by the Commercial Owner(s), an Owner has not executed the same, such hereby irrevocably appoints the Developer as such Owner's mandatary/attorney with full power and authority to execute and deliver in the name of the Owner, the documents, consents, authorizations, certificates and resolutions required.