

TWIN BROOKS CONDOMINIUM CORPORATION

AMENDED DECLARATION

OTTENHEIMER BAKER

Barristers & Solicitors
6th Floor
Baine Johnston Centre
10 Fort William Place
P.O. Box 5457
St. John's, NL
A1C 5W4

Registry of Condominiums

Registered 19 day of MAY
20 13 at 11:00 O'Clock Am
Registration No. 76 CM
Fee Paid \$ 35.00 Receipt No. 800047LC
[Signature]
Registrar of Condominiums

AMENDED DECLARATION

MADE this 16 day of MAY, 2013, pursuant to the *Condominium Act, 2009*, SNL 2009, Chapter C-29.1, as amended, (the "Act"), by

TWIN BROOKS CONDOMINIUM CORPORATION

WHEREAS on the 30th day of April, 2007 REARDON CONSTRUCTION AND DEVELOPMENT LIMITED, as Declarant, and the registered owner in fee simple of the lands and premises situate at Gisborne Place, St. John's in the Province of Newfoundland and Labrador, caused to be registered in the Registry of Condominiums a Declaration and Plan, thereby creating Twin Brooks Condominium Corporation, the said Lands being more particularly described in Schedules "A" attached thereto (the "Lands");

AND WHEREAS the Lands, including the Buildings thereon and the Buildings to be built thereon and all appurtenances thereto (hereinafter referred to as the "Property") were henceforth to be governed by the provisions of the *Condominium Act*, RSNL 1990, c. C-29;

AND WHEREAS by virtue of the said Act, the provisions of the Declaration, the Description, the By-laws and the Common Element Rules were imposed upon the Property to enure to the benefit of and be binding upon the Unit Owners, all persons interested therein and the Declarant and the heirs administrators, successors and assigns of the Declarant;

AND WHEREAS at the time of registration of the Declaration and Plan on the 30th day of April, 2007 the Declarant had constructed three Buildings upon the Lands which together contained a total of nine (9) residential dwelling units, as described in Schedule "B" thereto, with the further intention to construct additional Buildings on the Lands containing additional units, which would bring the total number of residential dwelling units to eighty one (81);

AND WHEREAS Buildings containing a total of eighty one (81) residential dwelling units were in fact constructed on the Lands;

AND WHEREAS the *Condominium Act*, RSNL 1990, c. C-29 was repealed on the 1st day of December, 2011 with the proclamation into force of the *Condominium Act, 2009*, SNL 2009, c. C-29.1 (hereinafter the "Act");

AND WHEREAS pursuant to section 10 of the Act, the owners of not less than 80% of the Common Elements consent to the within amendment as evidenced by their respective signatures on the Certificate attached hereto,

NOW THEREFORE THE MEMBERS OF TWIN BROOKS CONDOMINIUM CORPORATION HEREBY CONFIRM THE FOREGOING AND DECLARE AS FOLLOWS: the aforementioned Declaration (with the exception of the Preamble thereto, and the Schedules and Plan originally filed therewith and any subsequent Plan Amendments to add

additional Units) are hereby amended by deleting all remaining provisions in their entirety and replacing them with the following provisions:

I – INTRODUCTORY PROVISIONS

1.01 Definitions

The terms used herein, whether capitalized or not capitalized, are as defined by the Act, in particular sub-section 2(1) of the Act, or, where not inconsistent with the Act, shall have the meanings set out in this Declaration.

II – THE CONDOMINIUM CORPORATION

2.01 Objects and Powers

- (a) The objects of the Corporation are to manage its property and assets. The Corporation shall have all corporate powers and all corporate capacities necessary to enable it to do all acts and things that are incidental or conducive to or consequential upon the attainment of its objects.
- (b) The Corporation may, with the consent of the owners of at least 66% of the Common Elements,
 - (i) acquire by purchase, gift, devise, bequest or another means, real or personal property and sell, mortgage, convey or otherwise deal with the property;
 - (ii) borrow money;
 - (iii) mortgage or pledge its property or rights, including a future right to be paid money as a result of a levy made under this Act, in order to secure repayment of money borrowed by it or the payment or performance of obligations;
 - (iv) grant easements affecting the Common Elements;
 - (v) grant leases of the Common Elements;
 - (vi) make capital expenditures;
 - (vii) consolidate into one unit 2 or more adjacent units that are included in the property that is managed by the corporation; and
 - (viii) levy special assessments for extraordinary Common Element Expenses.

2.02 Duties and Powers

The Corporation has the duty to

- (a) control, manage and administer the Common Elements and the assets of the Corporation;
- (b) maintain, repair and where necessary renew the Common Elements;
- (c) take all reasonable steps to ensure that the owners, the occupiers of units, the lessees of Common Elements and the agents and employees of the corporation comply with the Act, the regulations, the declaration, the bylaws and the rules; and
- (d) perform any other duties which it is required to perform by the Act.

2.03 Quorum

A quorum for the transaction of business at a meeting of the members of the Corporation is the presence, either in person or by proxy, of the owners of at least 30% of the Common Elements. Where a quorum is not present at the opening of, or during, a meeting of members, the owners present shall adjourn the meeting to a fixed time and place.

2.04 Voting Rights

The Owner of each Unit shall have voting rights in the Corporation as set out in the Act on the basis of one vote per Unit. Where two or more persons entitled to vote in respect of one Unit disagree on their vote, the vote in respect of that Unit shall not be counted. Voting rights may be exercised by proxy.

2.05 Assignment of Voting Rights

An Owner may authorize a mortgagee in possession having a mortgage against his Unit, during the continuance of the mortgage security, to vote or consent, in the place of the Owner, at all meetings of the Corporation on any or all issues on which, but for the existence of the mortgage security, the Owner would be entitled to vote or consent.

2.06 Exercise of Voting Rights by Mortgagee

A mortgagee in possession who has been granted the right to vote or consent in the place of the Owner who gave the mortgage, may exercise his right to vote only upon filing with the Corporation a Notice (the "Voting Notice") in writing setting out the grant of the right to vote. The Voting Notice must be filed at least ten (10) days prior to the date of the meeting at which the mortgagee intends to exercise the right to vote, and must specify an address to which notices may be sent by the Corporation. A mortgagee may appoint a proxy to vote for him at any meetings at which the mortgagee is, by virtue of Articles 2.05 and 2.06 hereof, entitled to vote.

2.07 Board of Directors

- (a) Subject to the Act, the affairs of the Corporation shall be administered and managed by a Board of Directors with power to appoint agents, solicitors and other persons to help it in the administration and management of the Property and the Assets.

III - UNITS

3.01 Identification

There are 81 Units in total. Each Unit shall be identified by the Civic number assigned to it by the City of St. John's.

3.02 Location

The location of each Unit on the Property and within the Buildings, as they were then identified, was more particularly shown in the Schedules and Plan filed with the original Declaration as referred to in the Preamble to this Amended Declaration.

3.03 Boundaries

The boundaries of each Unit are described as follows:

(a) Horizontally

- on the floor level, by the upper surface of the wooden floor.
- on the ceiling level, by the underside of the drywall sheathing on the ceilings of the Unit.

(b) Vertically

- the unit side surface of the drywall sheathing on the walls
- the interior surfaces of the window frames, and the interior surfaces of all glass panels therein
- the exterior doors and door frames and the interior surfaces of all glass panels therein
- in the vicinity of ducts and pipe spaces, etc., the Unit boundaries shall be the Unit side face of the drywall sheathing surrounding such spaces.

Notwithstanding the foregoing, no Unit shall include:

- (a) any concrete floor slab, load bearing column, wall, joist, structural member or load bearing partitions contained within the Unit;
- (b) exterior windows, window frames, exterior doors and exterior door frames;
- (c) such pipes, wires, cables, conduits, ducts, flues, shafts or utility lines used for the distribution of power, water, cable television, heating, sewerage or drainage and other services within the boundaries of the Unit, or within any wall or floor of the Unit, which provides any service or

utility to another Unit or Units, but the Unit shall include the fixtures, outlets and other facilities with respect to such service facilities which service the Unit only;

- (d) any heating equipment, including without limitation, furnaces, ducts and controls and electrical services which are connected through or provide service to more than one Unit or to all or a portion of the Common Elements but excluding electrical equipment located in and servicing one Unit only;
- (e) any enclosure reserved for the use of items set out in paragraph (c) hereof and shown on the Plan.

3.04 Interior Layout

It is hereby expressly declared that the interior layout and arrangement of each Unit, including the placement of partitions and the nomenclature used to describe and distinguish compartments and rooms in each Unit are, to the extent to which they may be referred to in the Declaration (as amended) and Description, inserted for convenience and ease of description only, and are expressly declared not to be part of either this Amended Declaration or the Description.

3.05 Occupation and Use

Each Unit shall be occupied and used as a single family residence and for not other purpose. The occupation and use of the Units shall also be in accordance with the following restrictions and stipulations:

- (a) no person under the age of 50 years may ordinarily reside in or occupy a Unit, with the exception of the following, which may be approved at the discretion of the Board of Directors:
 - (i) persons actually providing personal care assistance to the resident or occupant of any Unit and who are either a relative of the resident or occupant of the Unit or are providing such care for bona fides financial consideration;
 - (ii) any person who is 19 to 49 years of age, and children under the age of 19 years who are related to the resident of a Unit who do not occupy the Unit for a period in excess of 2 weeks in any 52 week period; or
 - (iii) any person who is 19-49 years of age who ordinarily resided or occupied a Unit immediately prior to the registration of this Amended Declaration.
- (b) no Unit shall be used, and nothing shall be done, or permitted to be done or brought into, or kept in a Unit which will give rise to an increase in rate or the cancellation or threat of cancellation of any policy of insurance maintained by the Corporation;

- (c) the owner of each Unit shall comply, and shall require and be responsible for the compliance by all residents and visitors to his Unit, with the Act, this Declaration and the By-laws;
- (d) the Owner of each Unit shall first obtain the consent in writing of the Board before making any alterations or repairs to his Unit, and the Owner shall submit to the Board proper plans and specifications outlining the proposed alterations and repairs prior to the Board's granting of consent. The consent shall only be granted by the Board if the alterations or repairs are being made in accordance with all relevant municipal and other governmental By-laws, regulations or ordinances and the conditions, if any, imposed by the Board. The Board shall otherwise approve the plans and give its consent unless, in the opinion of the Board, whose opinion shall be final, the proposed alterations, repairs or the manner of carrying them out are likely to damage or impair the value of any other Unit or the Common Elements; and
- (e) those additional restrictions and stipulations set out in the By-laws of the Corporation

3.06 Restrictions on Leasing

An Owner may lease his Unit provided that such lease meets the requirements set out in Article 3.05(a) herein and provided that an Owner first causes the tenant to deliver to the Corporation an undertaking signed by the tenant to the following effect:

"I, _____, undertake that I, the members of my household and my guests from time to time, will, in using the Unit rented by me and the Common Elements, comply with the *Condominium Act, 2009*, the Declaration, the By-laws, and other rules and directions of the Condominium Corporation during the term or period of my tenancy".

Any Owner leasing his Unit shall not be relieved thereby from any of his obligations with respect to the Unit, which shall be joint and several with his tenant.

3.07 Corporation Easements

There shall be implied by way of covenant in respect of each Unit in favor of and against the owner of the Unit, their heirs, executors, administrators, successors and assigns an easement, right and privilege:

- (a) of shelter and support by or for the common elements and by or of every Unit capable of enjoying or providing shelter and support;
- (b) for the provision and passage of pipes, wires, cables, conduits, ducts, flues, shafts and utility lines used or to be used for the distribution of power, water, cable television, closed circuit television, telephone, internet, intercom services, gas, air conditioning, heating, sewerage, drainage and other services within the boundaries of each Unit which provide such services to another Unit or Units in, on or under those portions of each Unit more particularly delineated on the Description and Plans;

- (c) in favour of the owner of the benefit or advantage of the easement referred to in paragraphs (a) and (b) to enter and to permit a person acting for and on his or her behalf to enter upon the property upon which the easements referred to in paragraphs (a) and (b) are located, for the purposes of repairing, replacing, renewing or restoring a part of the property or services affecting or interfering with the easements referred to in paragraphs (a) and (b).

IV - COMMON ELEMENTS

4.01 Specification of Common Elements

The Common Elements shall comprise all areas and spaces on the Property not specifically designated as Units and, in particular, but without limitation of the foregoing, shall include:

- (a) the Land more particularly described in the Schedules and Plan filed with the original Declaration as referred to in the Preamble to this Amended Declaration, together with all landscaping and walkways;
- (b) driveways, parking spaces and all ways and passages for vehicular traffic which are not owned and serviced by the City of St. John's;
- (c) the outside surfaces of the Buildings, including all outside painted surfaces, siding, cladding, roofs, shingles, eaves, rear eaves trough, soffit, fascias;
- (d) all walls, (except interior partitions in a Unit), and all structural elements in the Units wheresoever situate;
- (e) all supports in the Buildings and all parts of the foundation, wheresoever situate;
- (f) the Buildings' structure, including exterior doors and windows and garage doors, (but excluding doorbells, locks and other hardware on such doors and windows) leading from a Unit;
- (g) all stairs leading to and from a Unit, including landings and deck railings;
- (h) all original patio and balcony areas;
- (i) all pipes, wires, cables, conduits, ducts, flues, shafts and utility lines used or to be used for the distribution of power, water, cable television, closed circuit television, internet, intercom services, gas, air conditioning, heating, sewerage, drainage and other services within the Building, wheresoever situate, provided that the Common Elements shall not include the fixtures, outlets and other facilities with respect to such service facilities which service one Unit only;
- (j) all exterior lighting fixtures on the Units, excluding light bulbs used in such fixtures;

- (k) retaining walls and all lawns, landscaped areas, plantings at the main entrance and at the gazebo and fences belonging to the Corporation, but excluding any landscaping and plantings placed by individual Unit owners at their option;
- (l) any gazebo on the Property;
- (m) the entrance signage to the condominium marked "Twin Brooks Condominium";
- (n) generally, all areas and spaces on the Land not specifically designated as Units in this Amended Declaration, the Bylaws and the Schedules and Plan attached to the original Declaration and referred to in the Preamble to this Amendment.

4.02 Percentage of the Common Interests

Each Owner of a Unit shall have an undivided interest in the Common Elements as a tenant in common with the Owners of the other Units. For the purposes of Sections 9(1)(d) and Section 9(1)(e) of the Act, the percentage of the Common Interest which is to relate to each Unit, and the percentage which each Owner is to contribute to the Common Expenses, shall be one decimal two three five six percent (1.23456 %) or a 1/81 share thereof.

4.03 Use of Common Elements

Subject to the provisions of the Act, this Amended Declaration and the By-laws, each Owner has the right to reasonable use, occupancy and enjoyment of the whole or any part of the Common Elements, except as herein otherwise provided. Specific provisions with respect to restrictions, obligations or conditions of such use, occupancy and enjoyment are set out in the By-Laws of the Corporation or in any rules made by the Corporation as provided for by the By-Laws.

4.04 Exclusive Use Common Elements

- (a) Subject to the provisions of the Act, this Amended Declaration and the By-laws, the Owner of each Unit shall have the exclusive use of the following Common Elements:
 - (i) the parking space(s) assigned to an Owner's Unit; and
 - (ii) any steps, balcony or patio area contiguous to an Owner's Unit;
- (b) Any and all parking spaces which may have been shown on the Schedules and Plan originally filed and referred to in the Preamble to this Amendment and not designated as being for the exclusive use of the Owner of a Unit may be assigned by the Board for use by any building superintendent, the public, any third party, or the owner of a Unit as the Board in its discretion may determine, and the Board may, in its discretion, determine the fees, if any, which shall be charged for such use.

4.05 Restrictive Access Areas

Without the consent in writing of the Board, no Owner or tenant shall have any right of access to those parts of the Common Elements identified from time to time as a Restrictive Access Area.

4.06 Power to Sell Common Elements

- (a) The Corporation may sell the Property or a part of the Common Elements in accordance with the process outlined in section 61 of the Act if authorized to do so by the consent of:
 - (i) 80% of the owners of the Common Elements; and
 - (ii) the persons having registered claims against the Property or part of the Common Elements created after the acceptance for registration of the Declaration and Description.
- (b) Where a sale is authorized under Article 4.06 (a) herein a conveyance shall be executed by all the owners and a release or discharge shall be given by all the persons having registered claims against the Property or the part of the Common Elements created after the acceptance for registration of the Declaration and Description, and shall be submitted for registration together with a statutory declaration from a practicing member of the Law Society showing that the persons signing are all the owners and persons having registered claims. A conveyance referred to herein shall be registered in the Registry of Deeds and a copy shall be filed in the Registry of Condominiums.
- (c) Upon the acceptance for registration of the instruments mentioned in Article 4.06 (b),
 - (i) the Property or the part of the Common Elements sold are no longer governed by this Act;
 - (ii) claims against the land and interests appurtenant to the land created before the acceptance for registration of the Declaration and Description are as effective as if the declaration and description had not been accepted for registration; and
 - (iii) claims against the property or the part of the Common Elements created after the acceptance for registration of the Declaration and Description are extinguished.
- (d) The owners of the Common Elements share the proceeds of the sale in the same proportions as their Common Interests. However, the portion of the proceeds of the sale that is attributable to a portion of the Common Elements that is for the exclusive use of the owners of certain designated Units, and not all the owners, shall be divided among the owners of the designated Units in the proportions in which their interests are affected.
- (e) The Corporation that has made a sale under this Article and every owner in the Corporation shall be considered to have made an agreement that an owner who has dissented on the vote authorizing the sale may, within 15 days of the vote, submit to mediation or arbitration a dispute over the fair market value of the property or the part of the common elements that has

been sold, determined as of the time of the sale. Such a dispute shall be heard and resolved in the manner set out in the Act.

V - COMMON EXPENSES

5.01 Common Expenses Fund

The Corporation shall create and maintain an operating fund for the payment of the Common Expenses of the Corporation which shall be known as the "Common Expenses Fund".

5.02 Contributions to Common Expenses Fund

- (a) The Corporation shall assess and collect from each Unit Owner and each Unit Owner shall pay to the Corporation their share of contributions to the Common Expenses in the proportion assigned to their Unit in Article 4.02 herein. The term "Unit Owner" in this Article shall be deemed to include the Declarant.
- (b) Each Unit Owner shall pay his share of contributions to the Common Expenses in equal monthly installments which are due on the first day of each month, and if required by the Board, shall be made by way of pre-authorized automatic debit from a Unit Owner's bank account.
- (c) The Corporation has the right to recover from an Owner by an action for debt
 - (i) the unpaid amount of an assessment,
 - (ii) a sum of money expended by it for repairs to, or work done by it or at its direction in complying with a notice or order by a competent public or local authority in respect of that portion of the building comprising the unit of that owner, and
 - (iii) the legal fees and costs incurred in the collection of the debt.
- (d) The obligation of an owner to contribute towards the Common Expenses Fund shall not be avoided by waiver of the right to use the Common Elements or by abandonment.

5.03 Specification of Common Expenses

The Common Expenses shall be deemed to include, but not be limited to:

- (a) all expenses of the Corporation incurred by it in the performance of its objects and duties whether such objects and duties are imposed under the provisions of the Act or of the within Amended Declaration or performed pursuant to any By-Law of the Corporation, including, without limiting the generality of the foregoing, the cost of borrowing money to carry out the objects and duties of the Corporation and the repayment including principal and interest of debts incurred for the objects and duties of the Corporation, provided, that the borrowing of

of such money shall have been duly authorized under the terms of the By-Laws of the Corporation and the provisions of the Act;

- (b) all sums of money paid or payable by the Corporation on account of utilities and services for the benefit of the Corporation, including, without limiting the generality of the foregoing, monies payable on account of:
 - snow removal and landscaping
 - insurance and necessary appraisals
 - property maintenance and supervisory staff
 - maintenance materials, tools and supplies for the Common Elements;
- (c) all sums of money required by the Corporation for the acquisition or retention of real property for the use and enjoyment of the Property or for the acquisition, repair, maintenance or replacement of personal property for the use and enjoyment in or about the Common Elements;
- (d) all sums of money paid or payable by the Corporation to any and all persons, firms or companies engaged or retained by the Corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the duties of the Corporation, including specifically property management;
- (e) all sums of money paid or payable by the Corporation for legal, engineering, accounting, auditing, appraising, advising, maintenance, managerial and secretarial advice and services required by the Corporation in the performance by the Corporation of its objects and duties;
- (f) maintenance, repair, renewal and operation of the Common Elements;
- (g) the remuneration payable by the Corporation to any employees engaged by the Corporation for the operation and maintenance of the Property, including the payment of any remuneration payable pursuant to any management agreement which the Corporation may enter into;
- (h) the cost of furnishings and equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
- (i) the cost of all the Corporation's insurance and the cost of premiums for the Corporation's insurance obligations, appraisals for insurance purposes, the fees and disbursements of any insurance trustee, fidelity bonds and the cost of any other objects and duties imposed by the Act, this Amended Declaration and the By-Laws of the Corporation;
- (j) the cost of borrowing money to carry out the objects and duties of the Corporation and the repayment including principal and interest of debts incurred for the objects and duties of the

Corporation, provided, that each borrowing of such money shall have been duly authorized by the Owners pursuant to section 18(3) of the Act;

- (k) all sums of money assessed by the Corporation for collection from the Owners to be set aside in such separate fund or funds as may be provided for by the Act, this Declaration or the By-laws of the Corporation and to be applied, from time to time, in whole or in part in the absolute discretion of the Corporation towards paying:
 - (i) deficits incurred by the Corporation;
 - (ii) the cost of major maintenance items which occur less frequently than annually;
 - (iii) the cost of repair or replacement made necessary by damage or destruction;
- (l) all contributions to be made to the Corporation's Reserve Fund, as determined by the Act;
- (m) the cost of errors and omissions insurance covering the personal liability of each member of the Board arising out of the performance by any member of the Board of his duties as a member of the Board, provided, however, that the individual coverage may not exceed \$2,000,000.00 without the prior approval of a majority of all Owners signified by a ballot cast at a meeting duly called for the purpose of approving such coverage;
- (n) any remuneration paid to members of the Board for their services as directors of the Corporation provided, however, that any remuneration paid to members of the Board of the Corporation must first be approved pursuant to the By-Laws of the Corporation;
- (o) such other expenses reasonably associated with carrying out the duties and obligations of the Corporation as may from time to time be specified by the Board of Directors of the Corporation as being Common Expenses.

5.04 Contingency Fund

The Corporation may establish and maintain a Contingency Fund to be used for the purpose provided in the By-Laws.

VI - MAINTENANCE AND REPAIRS

6.01 Maintenance of the Common Elements and the Units

- (a) The Corporation shall maintain the Common Elements. The obligation to maintain the Common Elements includes the obligation to repair after normal wear and tear.
- (b) The Unit Owner shall maintain the Unit Owner's Unit. The obligation to maintain the Unit includes the obligation to repair after normal wear and tear, but does not include the

obligation to repair after damage, unless the components requiring repair after damage are improvements made to the Unit. To determine what constitutes an "improvement" for the purposes of this Article 6.01 (b), reference shall be made to the standard unit definition as set out in Article XIII (2) of the By-Laws of the Corporation.

6.02 Repair of the Common Elements and the Units after Damage

- (a) The Corporation shall repair the Units and the Common Elements after damage, other than substantial damage, as defined and set forth in the Act and in this Amended Declaration.
- (b) The Corporation's obligation to repair after damage includes the obligation to repair and replace after damage but does not include the obligation to repair improvements made to a unit, or wilful damage caused to a Unit by the Unit Owner. To determine what constitutes an "improvement" for the purposes of this Article 6.02 (b), reference shall be made to the standard unit definition as set out in Article XIII (2) of the By-Laws of the Corporation.
- (c) A Unit Owner shall be responsible to the Corporation for all willful damage caused by that Unit Owner to any and all other Units and the Common Elements.
- (d) The Corporation shall undertake any maintenance or renewal of and make any repairs to a Unit that an Owner is obliged to make and which are not made within a reasonable time and in such an event an Owner shall be deemed to have consented to having such maintenance or repairs made by the Corporation; and such Owner shall reimburse the Corporation in full for the cost of such maintenance or repairs, including any legal or collection costs incurred by the Corporation in order to collect the costs of such maintenance or repairs, and all sums of money shall bear interest at such rate (not exceeding 2% above the prime rate charged by the Corporation's bankers from time to time) as the Board of Directors of the Corporation may decide upon. The Corporation may collect all such sums of money in such instalments as the Board of Directors may decide upon, which instalments shall be added to the monthly contributions towards the Common Expenses of such Owner, after receipt of a notice from the Corporation thereof. All such payments are deemed to be additional contributions towards the Common Expenses and recoverable as such from such Unit Owner.

VII – RESERVE FUND AND RESERVE FUND STUDY

7.01 Reserve Fund

- (a) The Corporation shall establish and maintain a Reserve Fund for major repair and replacement of the Common Elements and assets of the Corporation including, where applicable, roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry, recreational and parking facilities.
- (b) All contributions collected for a Reserve Fund shall be paid into the Reserve Fund and used only for those purposes referred to in Article 7.01(a) herein and the Reserve Fund shall be deposited and maintained in a chartered bank or a credit union in the Province or invested in securities in which trustees are permitted by law to invest trust funds.

- (c) Each Unit Owner shall contribute to the Reserve Fund in the amounts equal to the percentage of the Common Interests set out in Article 4.02 of this Declaration which relate to the Unit Owner's Unit or Units.
- (d) A fund set up for a purpose mentioned in Article 7.01(a) is and is considered to be a Reserve Fund notwithstanding that it may not be so designated and shall only be used for the purpose for which the fund was established.
- (e) The Reserve Fund constitutes an asset of the Corporation and shall not be distributed to an Owner except upon withdrawal of the Property from the Act.
- (f) The obligation of an Owner to contribute towards the Reserve Fund shall not be avoided by waiver of the right to use the Common Elements or by abandonment.
- (g) Any surplus in the operating budget of the Corporation at the end of the fiscal year of the Corporation shall be applied either against future Common Expenses or be paid into the Reserve Fund, but shall not, other than on withdrawal of the property from this Act, be distributed to the Owners.

7.02 Reserve Fund Study

- (a) A Reserve Fund Study shall be completed in accordance with the Regulations to the Act, contain the information, opinions and recommendations and be prepared by the person or a member of the class of persons as prescribed by the Regulations.
- (b) The Corporation shall, within each 10-year period after the filing of a previous Reserve Fund Study, complete a Reserve Fund Study in accordance with Article 7.02 herein and provide it to the registrar upon request.
- (c) Where a Reserve Fund Study is completed and the amount of the Reserve Fund of the Corporation is less than the minimum amount that the Reserve Fund Study recommends that the fund ought to be, the Corporation shall assess and collect contributions from the Owners in an amount that shall result in the Reserve Fund amount recommended by the study being achieved within the period of time recommended in the study and continuing to be at least the minimum amount recommended in the Reserve Fund Study.
- (d) The cost of conducting a Reserve Fund Study shall be a Common Expense that the Board may charge to the Common Expenses Fund.

VIII – LIENS

8.01 Liens and Enforcement

- (a) Where the Owner of a Unit fails to pay the share imposed on him or her by this Amended Declaration or the By-Laws in respect of the maintenance, repair and renewal of a Common Element or a sum that he or she is required to pay under the Declaration or By-Laws or is considered by the Act as a debt due by him or her, the amount unpaid together with all interest

interest owing and all reasonable legal costs and reasonable costs incurred by the Corporation in connection with the collection or attempted collection of the unpaid amount, shall constitute a lien on the interest of the Owner, and the lien may be registered by the Corporation as an encumbrance over the Unit of the Owner by the registration in the Registry of Deeds of an instrument in the required form and in the manner required by the registrar.

- (b) In accordance with the Act, the lien referred to in this Part VIII shall be payable in priority to all other liens, charges or mortgages in respect of the Unit and the Common Interest, other than a lien for taxes .
- (c) The lien referred to in this Part VIII is not a charge against the Unit and the Common Interest of a unit registered under the *Registration of Deeds Act, 2009* until a certificate evidencing the lien has been recorded in the Registry of Deeds.
- (d) Every mortgagee, judgment creditor or other person having a lien, charge or encumbrance upon or against a Unit and the Common Interest subject to the lien mentioned in this Part VIII may, after the lien arises, pay to the Corporation the amount of the lien, together with all interest and expenses and add the amount so paid to that person's mortgage, judgment or other security, and shall have in that respect the same rights, remedies and privileges against the Unit and the Common Interest as the mortgagee, judgment creditor or other person has by virtue of or under the security held by the mortgagee, judgment creditor or other person and the mortgagee, judgment creditor or other person may also sue for and recover in an action for debt the amount so paid, together with interest, and expenses incurred in the collection of the debt, against the person primarily liable to pay the amount.
- (e) The lien referred to in this Part VIII may be enforced in the same manner as a mortgage and those provisions of the *Conveyancing Act* respecting power of sale shall apply with the necessary changes.
- (f) Upon payment of the unpaid amount, the Corporation shall give the owner a discharge in the required form.

IX – FINANCIAL STATEMENTS AND AUDITS

9.01 Annual Financial Statements

- (a) The Corporation shall prepare annual financial statements showing its assets and liabilities and its income and expenses and containing other information that may be prescribed.
- (b) The financial statements shall be in the form that may be required by the Act or the Regulations and shall, upon request, be made available to the Registrar of Condominiums.

9.02 Auditor

- (a) In accordance with the Act, at each annual meeting of the Corporation the Owners shall set the fiscal year of the Corporation and appoint an auditor of the Corporation to hold office until the close of the next annual meeting. Where the owners do not set the fiscal year or

appoint an auditor, the board may do so. Where an auditor is not appointed at an annual meeting, the auditor in office continues in office until a successor is appointed. Where an auditor is not appointed, the Supreme Court may, on the application of an Owner, appoint an auditor to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the Corporation for the services of that auditor.

- (b) The appointment of an auditor shall be done in accordance with the direction, qualifications and restrictions for such appointment as set out in the Act.
- (c) Notwithstanding anything contained in this section, the Owners may remove an auditor in accordance with a contract of employment made between the Corporation and the auditor or a provision of law respecting the employment.

9.03 Duties and Powers of Auditors

- (a) The auditor shall make those examinations that enable a report to the Owners as required by this Article 9.03.
- (b) The auditor shall make a report to the Owners on the comparative financial statements, including a balance sheet, statement of retained earnings, income statement, statement of changes in financial position and additional statements or information that may be required, to be laid before the Corporation at each annual meeting during the term of office of the auditor, and shall state in the report whether, in the opinion of that auditor, the financial statements referred to present fairly the financial position of the Corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if there was a preceding period.
- (c) Where a report prepared under this Article 9.03 does not contain the unqualified opinion required, the auditor shall state in the report the reasons there is no unqualified opinion provided.
- (d) In performance of his or her duties the auditor shall have those powers and responsibilities stated in the Act.
- (e) The financial statement shall be approved by the Board and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors authorized to sign, and the auditor's report shall be attached to or accompany the financial statement. The Corporation shall, 10 days or more before the annual meeting of Owners, send by prepaid mail or deliver to each Owner at that owner's latest address as shown on the records of the Corporation a copy of the financial statement and a copy of the auditor's report.
- (f) In accordance with the Act, the Board shall provide at each annual meeting of Owners
 - (i) a financial statement made in accordance with generally accepted accounting principles;

- (ii) the report of the auditor to the Owners; and
- (iii) further information respecting the financial position of the Corporation that the by-laws of the corporation may require.

X – SUBSTANTIAL DAMAGE

10.01 Procedure where damage greater than 25% of value occurs

- (a) Where damage to the Corporation's buildings occurs, the Board shall determine within 30 days of the occurrence whether there has been substantial damage to the extent that the cost of repair would be 25% of the value of the buildings immediately before the occurrence.
- (b) Where there has been a determination that there has been substantial damage as provided in Article 10.01(a) herein and Owners who own 80% of the Common Elements vote for repair within 60 days of the determination, the Corporation shall repair.
- (c) Where on a vote the Owners do not vote for repair, the Corporation shall, within 10 days of the vote, submit for registration a notice of withdrawal in the required form and the registrar shall accept the notice for registration.
- (d) Where there has not been a vote within 60 days of the determination that there has been substantial damage under Article 10.01(a) herein, the Corporation shall, within 10 days after the expiry of the 60 day period, submit for registration a notice of withdrawal in the required form and the registrar shall accept the notice for registration.
- (e) Upon the acceptance for registration of a notice of withdrawal under this Article, section 59 of the Act shall apply.
- (f) The obligation to repair after damage does not include the obligation to repair improvements made to a standard unit as defined in the By-Laws. To determine what constitutes an "improvement" for the purposes of this Article 10.01 herein, reference shall be made to the standard unit definition as set out in Article XIII (2) of the By-Laws of the Corporation.

XI - INSURANCE

11.01 Corporation's Insurance

- (a) The Corporation shall obtain and maintain insurance, on its own behalf and on behalf of the Owners, for damage to the Units and Common Elements that is caused by "major perils". For purposes of this Article "major perils" are defined by the Act and mean the perils of fire, lightening, smoke, windstorm, hail, explosion, water escape, strikes, riots or civil disturbance, impact by aircraft or vehicles, vandalism or malicious acts.

- (b) The Corporation's obligation to insure as set out in Article 11.01(a) herein does not include insurance for damage to improvements made to a Unit. To determine what constitutes an "improvement" for the purposes of this Article 11.01(b), reference shall be made to the standard unit definition as set out in out in Article XIII (2) of the By-Laws of the Corporation.
- (c) Subject to a reasonable deductible, the insurance required under this Article 11.01 shall cover the replacement cost of the property damaged by the perils to which the insurance applies.

11.02 Contents of Policies

The insured under all policies of insurance required by Article 11.01 shall be the Corporation, and shall, to the extent obtainable, contain:

- (a) a waiver of the insurer's option to repair, rebuild or replace in the event that after damage the Property is not repaired in accordance with Part X of this Declaration;
- (b) a waiver of any defence or denial of coverage by the insurer based on co-insurance, breach of a statutory condition or invalidity arising from the conduct of, or any act or omission by any Unit Owner. A stated amount co-insurance clause is sufficient compliance with the requirement for waiver of a co-insurance provision;
- (c) a waiver of subrogation against the Corporation, its manager, agents, employees, and servants, the Owners and any member of the household of an Owner;
- (d) an exclusive right to the Board to amend the policy and to adjust and settle claims. The Board may, however, authorize an Owner to adjust the loss in regard to a claim arising out of damage to their own Unit;
- (e) a provision that the policy shall be primary insurance in respect of any other insurance purchased individually by Owners;
- (f) a provision that loss is payable to an insurance trustee for any claim over \$5,000.00 if an insurance trustee is so designated by the Board; and
- (g) a provision that the insurance shall not be cancelled or substantially modified without at least sixty (60) days' notice to the Corporation.

11.03 Certificates

Upon request, a copy of a certificate of the policy maintained in accordance with Article 11.02 may be provided to the Owner and mortgagees of each Unit and a copy of a certificate of renewal or of a new insurance policy may be provided to the Owner and mortgagees of each Unit.

11.04 Application of Insurance Proceeds in the Event of Loss

- (a) The Corporation is irrevocably appointed as agent for each Owner to negotiate all claims arising under the insurance referred to in Article 11.01 hereof, to receive the insurance proceeds, and to execute and deliver releases upon payment of claims.
- (b) The insurance referred to in Article 11.01 hereof shall provide that the proceeds, in the event of loss, shall be paid to the Corporation and shall be applied and disbursed as follows:
 - (i) if it has been determined by the Board of Directors of the Corporation pursuant to Article 10.01 hereof that substantial damage to the extent of 25% or more of the value of the Buildings, including the Units, has occurred, and 80% of the Owners and mortgagees of the Units having the right to vote, do not vote for withdrawal of the Condominium, the proceeds shall be applied to repair the Buildings, including the Units, or all parts thereof, damaged or destroyed by the perils insured against, in accordance with the provisions of the Declaration and By-laws;
 - (ii) if each of the Owners and each of the mortgagees vote for withdrawal of the Condominium and duly execute an instrument of withdrawal and otherwise comply with the Act to effect withdrawal of the Condominium from the provisions of the Act, the proceeds shall be paid to the Owners and their respective mortgagees, if any, as their interests may appear;
 - (iii) if it has been determined by the Board that substantial damage to the extent of 25% of the value of the Buildings, including the Units has not occurred or if the Board makes no determination, the proceeds shall be applied to repair of the Buildings, including the Units or all parts thereof destroyed by the perils insured against, in accordance with the provisions of the Act, this Amended Declaration and By-laws.
- (c) All decisions with regard to reconstruction, repair, adjustment or losses, letting of reconstruction or repair contracts, except the decision whether or not to reconstruct or repair (which decision shall be made as provided in this Amended Declaration), shall be made by the Board. The authority of the Corporation in this regard shall include the type of materials to be used, and the timing and method of reconstruction. However, the decoration and interior finishing of each Unit shall be in the discretion of the Owner of that Unit; provided that any decoration or finishing which is not included in the definition of a "standard unit" shall be considered to be an "improvement" to the Unit and shall be the responsibility of the Unit Owner.

11.05 Mortgage Provisions

- (a) **Waiver by Mortgagee** - No mortgage may be placed against any Unit unless the mortgage provides or the mortgagee otherwise agrees that all insurance proceeds of policies carried on or paid by the Corporation may be used to repair or rebuild the Property, and waives the mortgagee's rights, whether statutory or otherwise, to have those proceeds applied on

account of his mortgage or otherwise applied so as to prevent the application of the proceeds towards the repair or rebuilding of the Property pursuant to this Declaration.

- (b) **Exception Where Special Insurance Available** - Notwithstanding Article 11.05(a), a mortgage may be placed on a Unit which entitles the mortgagee to have insurance proceeds applied on account of his mortgage if the Corporation is satisfied that the mortgagee's rights are with regard to an additional policy and that the additional policy will not be brought into contribution with the master policy and the mortgagee will have no rights with regard to the proceeds of the master policy. In such event, the Corporation must be satisfied that the reconstruction of the project after damage will not be interfered with by such arrangement, and may, notwithstanding anything herein contained, arbitrarily withhold its consent to the Owner or mortgagee placing such additional insurance. Upon so consenting, the Corporation shall deliver a certificate of such consent to the mortgagee.
- (c) No mortgage of any Unit or Units shall contain a provision requiring that any insurance policy placed by the Corporation shall be assigned, transferred and delivered unto the mortgagee but may contain a provision requiring that receipts or other evidence indicating that insurance has been placed by the Corporation on the Buildings, including the Units, in accordance with the provisions of the Act, the Declaration and the By-laws, be delivered to the mortgagee.

11.06 Liability Insurance

The Corporation shall obtain and maintain liability insurance insuring the liability of the Corporation in such amounts as may be deemed advisable by the Board and, if deemed advisable by the Board, commercial general liability insurance, director's and officer's liability, errors and omission insurance, environmental liability insurance and such special insurance as may be required by the nature of any mechanical systems upon the Property.

11.07 Deductible

- (a) Where an insurance policy obtained by the Corporation in accordance with the Act and Article 11.01 of this Amended Declaration contains a deductible clause that limits the amount payable by the insurer, the portion of a loss that is excluded from coverage shall be a Common Expense.
- (b) Notwithstanding Article 11.07(a) herein, where an Owner, a lessee of an Owner or a person residing in the Owner's Unit with the permission or knowledge of the Owner through an act or omission causes damage to the Owner's Unit, any other Unit or the Common Elements, the amount that is the lesser of the cost of repairing the damage and the deductible limit of the insurance policy obtained by the Corporation shall be added to the Common Expenses payable for the Owner's Unit.
- (c) The amount payable by an Owner under Article 11.07(b) or as a result of a By-Law passed pursuant to the Act constitutes an insurable interest of the Owner.

11.08 Unit Owners' Insurance Coverage

- (a) Each Unit Owner shall, unless such requirement is waived in writing by the Board, obtain and maintain a Unit Owner's insurance policy which insures:
- (i) improvements made to the Unit. To determine what constitutes an "improvement" for the purposes of this Article 11.08(a)(i), reference shall be made to the standard unit definition as out in Article XIII (2) of the By-Laws of the Corporation;
 - (ii) furniture, equipment and personal belongings of the Owner contained in the Unit;
 - (iii) loss of use and occupancy in the event of damage;
 - (iv) personal liability insurance in the amount of at least \$1,000,000.00; and
 - (v) the lesser of the cost of repair or the deductible under the Corporation's insurance policy where an Owner, a lessee of an Owner or a person residing in the Owner's unit with the permission or knowledge of the Owner through an act or omission causes damage to the Owner's Unit, any other Unit or the Common Elements.
- (b) A Unit Owner shall not, without the consent of the Board, carry any additional insurance, and the consent of the Board in this regard may be arbitrarily withheld.

XII – INDEMNIFICATION OF CONDOMINIUM CORPORATION

12.01 Indemnity

- (a) Each Owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by any act or omission of such Owner, his family or any member thereof, any other occupants of his Unit or any guests, invitees or licensees of such Owner or occupant to or with respect to the Common Elements and/or all other Units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation.
- (b) Any sums of money to be paid by an Owner to the Corporation pursuant to this Article 12.01 shall include any legal or collection costs incurred by the Corporation in order to collect such sums of money, and all such sums of money shall bear interest at such rate of interest (not exceeding 2% above the prime rate charged by the Corporation's bankers from time to time) as the Board of the Corporation may decide upon. The Corporation may collect such sums of money in such instalments as the Board of Directors may decide upon, which instalments shall be added to the monthly contribution towards the Common Expenses of such Owner, after receipt of notice from the Corporation thereof. All payments pursuant to this Article 12.01 are deemed to be additional contributions towards the Common Expenses and recoverable as such.

XIII - EXPROPRIATION

13.01 Expropriation Process

- (a) Subject to the provisions of the Act, where the Property or a part of the Common Elements is expropriated under the *Expropriations Act*, the process to be implemented shall be as set out in this Part XIII.
- (b) Upon expropriation of the Property or a part of the Common Elements under the *Expropriations Act*, the Act ceases to govern the property or the part of the Common Elements expropriated.

13.02 Expropriation of Whole of the Property

- (a) In the event of the expropriation of the whole of the Property, the compensation to be paid for the whole of the Property shall be negotiated and settled by the Board, whether or not proceedings are necessary. The compensation received from the expropriating authority, less expenses involved, if any, in obtaining said compensation, shall be distributed among the Owners in proportion to their Common Interests.
- (b) Notwithstanding the provisions of Article 13.02(a) herein, each Owner may individually negotiate and settle his personal compensation for improvements made by the Owner to his Unit after the acceptance for registration of this Declaration, the cost of moving and other similar items personal to each Owner. To determine what constitutes an "improvement" for the purposes of this Article 13.02 (b), reference shall be made to the standard unit definition as set out in out in Article XIII (2) of the By-Laws of the Corporation.

13.03 Expropriation of Part of Common Elements Only

If no Units are taken by the expropriation and the expropriation includes only part of the Common Elements, then compensation shall be negotiated and settled by the Board, whether or not proceedings are necessary. The Owners shall share in the proceeds in the same proportions as their Common Interests as set out in this Amended Declaration.

13.04 Partial Expropriation Including Units

- (a) In the event of a partial expropriation which includes some Units, each Owner whose Unit is expropriated shall deal with the expropriating authority with regard to compensation relating to his Unit and Common Interest. The compensation for any damage suffered by the remaining Owners whose Units are not expropriated shall be negotiated and settled by the Board, whether or not proceedings are necessary; and the compensation so received from the expropriating authority, less expenses involved, if any, in obtaining such compensation, shall be distributed proportionately among such remaining Owners, except as required in connection with the restoration of the balance of the Property.

- (b) The cost of restoring the balance of the Property so that it may be used shall be determined by the Corporation, and the Corporation shall negotiate with the expropriating authority with regard to compensation for this expenditure, and shall, unless the government of the Property by the Act is terminated within thirty (30) days of the receipt of such compensation, reconstruct using the funds received for such reconstruction.

13.05 Reconstitution of Scheme of Condominium after Expropriation

In the event of expropriation as provided in this Part XIII, all of the Owners and other persons having an interest in or encumbrances against any part of the Property agree to do everything necessary and sign such documents and so vote on all occasions as may be necessary to reconstitute the scheme of the Condominium Property as follows:

- (a) payment of shares of assets of the Corporation - any Owners whose Units have been wholly taken or rendered completely unusable shall have no further interest in the Common Elements or the Property itself but shall be entitled only to receive the value of their share of the assets of the Corporation as determined by their percentage interest in the Common Elements. Said assets are to be valued at book value, and in this respect any asset shall be deemed to have a book value of cost less the maximum allowable depreciation that would be allowed on such asset under the Income Tax Act (Canada) then in force;
- (b) determination of the value of the remaining portion of any Unit partially expropriated or rendered partially unusable by the expropriation and/or reconstruction, together with the interest in the Common Elements of such partial Unit, shall be determined, but if it cannot be determined, shall be arbitrated. The Owners of portions so taken shall receive the appropriate portion of the payment provided by paragraph (a) of this Article 13.05;
- (c) reduction of interest in Common Elements - the percentage contribution towards Common Expenses and the percentage interest in the Common Elements of all Units and portions of Units that are taken by the expropriation shall thereafter be dissolved and ended;
- (d) remaining interests expanded - the remaining interests in the Common Elements and the percentage obligations towards Common Expenses shall be determined by calculating this percentage as a percentage of the total percentages left in the Property after its reconstruction, and shall be increased accordingly.

XIV - GENERAL MATTERS AND ADMINISTRATION

14.01 Rights of Entry

- (a) In accordance with the Act, the Corporation, or any insurer of the Property or any part thereof, their respective agents, or any other person authorized by the Board, shall be entitled to enter any Unit or any part of the Common Elements over which any Owner has the

the exclusive use and possession thereof, at all reasonable times and upon giving reasonable notice, for the purpose of making repairs, correcting any condition which violates the provisions of any insurance policy or policies, remedying any condition which might result in damage to the Property or carrying out any objects and duties of the Corporation or to exercise the powers of the Corporation.

- (b) In accordance with the Act, in case of emergency, an agent of the Corporation may enter a Unit or part of the Common Elements over which any Owner has the exclusive use and possession thereof at any time and without notice, for the purpose of repairing the Unit, Common Elements, for the purpose of making repairs, correcting any condition which violates the provisions of any insurance policy or policies, remedying any condition which might result in damage to the Property or carrying out any objects and duties of the Corporation or to exercise the powers of the Corporation.
- (c) Upon entering a Unit or a part of the Common Elements including those of which the owner has exclusive use under Articles 14.01(a) or 14.01(b), the Corporation has the power to inspect and to carry out repairs or make the replacements to or within the Common Elements that are, in the opinion of the Corporation, necessary to keep the property or Common Elements in a good state of repair.
- (d) The rights and authority hereby reserved to the Corporation, its agents, or any insurer or its agents, do not impose any responsibility or liability whatever for the care or supervision of any Unit or any part of the Common Elements over which any Owner has the exclusive use and possession thereof except as specifically provided in this Declaration or the By-laws. Subject to the Act and to this Amended Declaration the Corporation shall clean up and repair the Unit and the Common Elements after performance of any work undertaken therein pursuant to this Article 14.01 to the condition in which the Unit or Common Elements was found at the time of entry.

14.02 Substantial Additions, Alterations, Improvements or Renovations

- (a) The Corporation, by a vote of members who own 80% of the Common Elements, may make a substantial addition, alteration or improvement to or renovation of the Common Elements or may make a substantial change in the assets of the Corporation.
- (b) The cost of an addition, alteration or improvement to or renovation of the Common Elements and the cost of a substantial change in the assets of the Corporation are Common Expenses.

14.03 Records of the Corporation

- (a) In accordance with the Act, the Corporation shall keep adequate records, and a member of the Corporation may, upon giving reasonable notice, inspect the records at any reasonable time.
- (b) Pursuant to the Act, "records" shall include the following:

- (i) financial records;
 - (ii) minutes of meetings of the members of the Corporation and its board;
 - (iii) the Declaration, By-Laws and Rules;
 - (iv) all items referred to in section 22 of the Act;
 - (v) all agreements entered into by the Corporation;
 - (vi) disclosures of conflicts of interest; and
 - (vi) all other records that are specified in the By-Laws of the Corporation.
- (c) The Corporation shall keep all financial records for at least 7 years from the end of the last fiscal period to which they relate.
- (d) The Corporation shall, within a reasonable time, provide, when requested, a copy of a record to a person upon the person paying a reasonable fee to compensate the Corporation for the labour and copying charges.

14.04 Units Subject to Declaration, By-laws, Rules and Regulations

- (a) All present and future Owners, tenants, and residents of Units, their families, guests, invitees or licensees, shall be subject to, and shall comply with, the provisions of this Amended Declaration and the By-Laws. The acceptance of a deed or transfer or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Amended Declaration and the By-Laws as they may be amended from time to time, (including any amendments thereafter made), are accepted and ratified by such Owner, tenant or resident, and all such provisions shall be deemed and taken to be covenants running with the Unit and shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated in full in each and every such deed, transfer, lease or occupation agreement.
- (b) It is hereby declared, and by the acceptance of a deed of transfer of a Unit the Owner of a Unit from time to time shall be taken as having acknowledged, that it is contemplated that the Common Elements may be extended to include other facilities not specified in the Declaration, the Amended Declaration and Plans and that the Common Expenses may thereby increase accordingly but nothing herein shall be taken as imposing any obligation upon the Board of the Corporation to so extend the Common Elements.

14.05 Costs of Enforcement of Obligations and Non-Compliance

Any costs, including legal fees, disbursements and HST, incurred by the Corporation as a result of the necessity to enforce against a Unit Owner any obligation or duty set out in the Act, the Declaration or the By-Laws or as a result of the non-compliance of any Unit Owner with any restriction or requirement set out in the Act, the Declaration or the By-Laws shall be added to the Common

Expenses payable for the Owner's Unit and may be enforced in the manner set out in Article IX of this Amended Declaration

14.06 Invalidity

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

14.07 Rule against Perpetuities

If any of the options, privileges, covenants or rights created in this Amended Declaration would otherwise violate the rule against perpetuities or any other statutory or common law rules imposing time limits within which the said options, privileges, covenants or rights must vest to be valid, then such options, privileges, covenants or rights shall continue only until twenty one years after the death of the survivor of the now living, lawful lineal descendants of His Late Majesty King George V of the United Kingdom.

14.08 Waiver

The failure to take action to enforce any provision contained in the Act, this Amended Declaration, or the By-Laws irrespective of the number of violations or breaches which may occur, shall not constitute a waiver of the right to do so thereafter, nor be deemed to abrogate or waive any such provision.

14.09 Resolution of Conflict Provisions

In the event of a conflict between the provisions of the Act, this Amended Declaration or the By-Laws, the provisions of the Act shall govern; subject to the Act, the provisions of this Amended Declaration shall govern; subject to the Act and this Amended Declaration, the provisions of the By-Laws shall govern.

14.10 Notice

Except as herein provided, any notice, direction or other instrument required or permitted to be given hereunder shall be in writing, and shall be sufficiently given if served personally by delivering the same to the party to be served or to any officer of the party to be served, or may be given by ordinary mail, postage prepaid, addressed to the Corporation, care of its recognized agent, to each Owner at his respective Unit or at such other address as is given by the Owner to the Corporation for the purpose of notice and to each mortgagee who has notified his interest to the Corporation at such address as is given by each mortgagee to the Corporation for the purpose of such notice and if mailed as aforesaid the same shall be deemed to have been received and to be effective on the first

business day following the day on which it was mailed. Any Owner or mortgagee may change his address for service by notice given to the Corporation in the manner aforesaid.

14.11 Address for Service

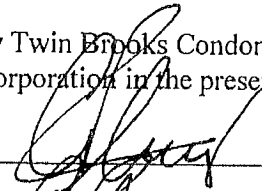
The registered office for service of all documents served or to be served on the Corporation is, until notice to the contrary is filed in the Registry of Condominiums in accordance with section 17(3) of the Act, as follows:


Twin Brooks Condominium Corporation
P/O Box 4017
Mount Pearl, NL
A1N 0A1

IN WITNESS WHEREOF the President and Vice President of the Corporation have hereunto their hands and seal subscribed.

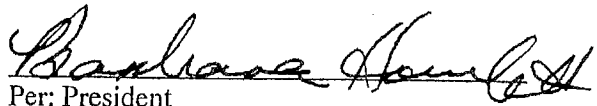
SIGNED, SEALED AND DELIVERED

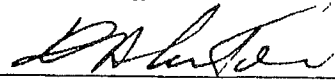
by Twin Brooks Condominium Corporation in the presence of:





TWIN BROOKS CONDOMINIUM CORPORATION


Per: President


Per: Vice President