

BY-LAW NO. 1
Condominium Act, 1998

CERTIFICATE IN RESPECT OF A BY-LAW
(under subsection 56(9) of the *Condominium Act, 1998*)

Niagara South Standard Condominium Corporation No. _____ (known as the
“**Corporation**”) certifies that:

- 1. The copy of By-law No. 1, attached as Schedule “A”, is a true copy of the By-law.
- 2. The By-law was made in accordance with the *Condominium Act, 1998*, as amended.
- 3. The owners of a majority of a parcels of tied land of the Corporation have voted in favour of confirming the By-law.

Dated this ____ day of _____, Year _____.

NIAGARA SOUTH STANDARD CONDOMINIUM
CORPORATION NO. _____

Per: _____
Name:
Title: President

Per: _____
Name:
Title: Secretary

Per: _____
Name:
Title: Treasurer

We have authority to bind the Corporation.

SCHEDULE "A"

NIAGARA SOUTH STANDARD CONDOMINIUM CORPORATION NO. _____

BY-LAW NO. 1

BE IT ENACTED as By-law No. 1 of **NIAGARA SOUTH STANDARD CONDOMINIUM CORPORATION NO. _____** (hereinafter referred to as the "Corporation" or the **Condominium**) as follows:

ARTICLE I - Definitions

1.1 All words, terms or phrases specifically defined in this by-law and, in particular, the capitalized terms used herein, shall have ascribed to them the definitions contained in the *Condominium Act, 1998*, S.O. 1998 c.19, as amended, and the Regulations made thereunder (all of which are hereinafter referred to as the "Act") shall have ascribed to them the meanings set out in the Act or the declaration of the Corporation ("**Declaration**"), unless the context requires otherwise.

ARTICLE II - Seal

2.1 The corporate seal of the Corporation shall be in the form impressed hereon. Notwithstanding that the Corporation has a seal, any document that would otherwise require a seal need not be executed under seal, provided the statement "I/We have the authority to bind the Corporation" is noted below the signature(s) of the person(s) duly authorized to sign the document and such a document has the same effect for all purposes as if executed under seal.

ARTICLE III - Records

3.1 The Corporation shall keep and maintain the records noted hereinafter as required by section 55 of the Act (collectively, the "**Records**") which shall note the name and address for service of the owner of a common interest in the Corporation (an "**Owner**") and mortgagee (the "**Mortgagee**") of a common interest appurtenant to an owner's parcel of land (the "**POTL**"), who has notified the Corporation of its entitlement to vote. The following are the required Records:

- (a) the financial records of the Corporation for at least six (6) years from the end of the last fiscal period to which they relate;
- (b) a minute book containing the minutes of Owners' meetings and the minutes of meetings of the Board;
- (c) a copy of the registered Declaration, registered by-laws and current rules and any amendments thereto;
- (d) the returns and notices that the Corporation has filed with the Registrar under Part II.1 of the Act;
- (e) All lists, items, records and other documents mentioned in subsections 43 (4) and (5) of the Act;
- (f) All instruments appointing a proxy or ballots for a meeting of Owners that are submitted at the meeting under the seal of the Corporation;
- (g) copies of all agreements entered into by the Corporation or by the Declarant or the Declarant's representatives on behalf of the Corporation, including but not limited to all management contracts, deeds, leases, licences, easements and any agreements entered into pursuant to the Act;
- (h) copies of all policies of insurance and the related certificates or memoranda of insurance and all insurance trust agreements;
- (i) bills of sale or transfers for all items that are assets of the Corporation, but not part of the property;
- (j) the names and addresses for service of each Owner and Mortgagee that the Corporation receives, in writing, from the Owners and Mortgagees in accordance with subsection 47(2) of the Act;
- (k) all written notices received by the Corporation from Owners of a common interest in the Corporation have been leased together with the lessee's name, the Owner's address, a copy of the lease or renewal or a summary of same, pursuant to subsections 83 (1) and 83(3) of the Act;

- (l) all written notices received by the Corporation from Owners that a lease of the Owner's common interest in the Corporation has been terminated and has not been renewed pursuant to subsection 83(2) of the Act;
- (m) all records that the Corporation has related to employees of the Corporation;
- (n) all existing warranties and guarantees for all the equipment, fixtures and chattels included in the sale of any POTL common elements that are not protected by warranties and guarantees given directly to a purchaser,
- (o) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
- (p) the as-built specifications indicating all substantive changes, if any, from the original specifications;
- (q) all existing plans for underground site services, site grading, drainage and landscaping and television, radio and other communication services;
- (r) all other existing plans and information that are relevant to the repair or maintenance of the property;
- (s) if the property of the Corporation is subject to the *Ontario New Home Warranties Plan Act*,
 - a. proof, in the form, if any, prescribed by the Minister, that the common elements have been enrolled in the plan within the meaning of that Act in accordance with the regulations made under that Act, and
 - b. a copy of all final reports on inspections that the Corporation within the meaning of the Act requires be carried out on the common elements;
- (t) a table setting out the responsibilities for repair after damage and maintenance, and indicating whether the Corporation or the Owners is responsible;
- (u) all financial records of the Corporation and of the Declarant relating to the operation of the Corporation from the date of registration of the Declaration and the description;
- (v) if the meeting is held after nine (9) months following the registration of the Declaration and description, the reserve fund study that is required within the year following the registration of the Declaration and description;
- (w) all reserve fund studies that have been completed or are required to have been completed at the time the meeting is held, other than the reserve fund study that is required within the year following the registration of the Declaration and description;
- (x) a copy of the most recent disclosure statement delivered to a purchaser under section 72 of the Act before the meeting;
- (y) a copy of all agreements entered into by or on behalf of the Corporation;
- (z) all reserve fund studies and all plans to increase the reserve fund under subsection 94(8) of the Act;
- (aa) a copy of the most current disclosure statement delivered by the Declarant to a purchaser prior to the turnover meeting;
- (bb) a copy of the written performance audit report received by the Corporation under subsection 44(8) of the Act;
- (cc) a copy of any order appointing an inspector or administrator, if applicable, pursuant to section 130 of the Act, together with any report that the Corporation receives from an inspector in accordance with subsection 130(5) of the Act;
- (dd) a copy of all status certificates issued within the previous ten (10) years;
- (ee) a copy of all notices of meetings sent by or on behalf of the Corporation within the previous ten (10) years;
- (ff) all proxies, for not more than ninety (90) days from the date of the meeting at which the proxies were utilized;

- (gg) a copy of all notices of lien issued by the Corporation to delinquent Owners pursuant to subsection 85(4) of the Act, in respect of which the corresponding certificates of lien have not been discharged or vacated by court order;
- (hh) all records relating to actual or pending litigation (or insurance investigations) involving the Corporation (as contemplated in clause 55(4)(b) of the Act), together with copies of all outstanding judgments against the Corporation (as contemplated in clause 76(1)(h) of the Act);
- (ii) a copy of the budget of the Corporation for the current fiscal year, together with the last annual audited financial statements and auditor's report on such statements;
- (jj) a copy of all minutes of settlement and/or written decisions made by any mediator or arbitrator appointed pursuant to section 132 of the Act, regarding any issues in dispute involving the Corporation (or to which the Corporation is a party), together with copies of all court orders issued in those circumstances where the Corporation was a party to the proceeding or otherwise directly affected thereby; and,
- (kk) all other records as may be prescribed or specified in any other by-laws of the Corporation, together with copies of all other materials received by the Corporation that the regulations to the Act may hereafter require the Declarant to deliver on or shortly after the turnover meeting (contemplated in clause 43(5)(m) of the Act).

ARTICLE IV - Corporation

4.1 Duties of the Corporation

The duties of the Corporation shall include, but shall not be limited to, the following:

- (a) operating, controlling, managing, administrating, maintaining and repairing the common elements (collectively, “**Common Elements**”) and assets of the Corporation;
- (b) collection from Owners of common expense (hereinafter referred to as “**Common Expenses**”) contributions;
- (c) arranging for the supply of utility services to the Common Elements except where prevented from carrying out such duty by reason of any event beyond the reasonable control of the Corporation. If any apparatus or equipment used in effecting the supply of heat, electricity and water at any time becomes incapable of fulfilling its function or is damaged or destroyed, the Corporation shall have a reasonable time within which to repair or replace such apparatus and shall not be liable for indirect or consequential damages or for damages for personal discomfort or illness by reason of the failure to perform such duty;
- (d) obtaining and maintaining insurance for the property as may be required by the Act, the Declaration and/or by-laws;
- (e) repairing after damage and restoring the Common Elements in accordance with the provisions of the Act, the Declaration and the by-laws;
- (f) obtaining and maintaining fidelity bonds where obtainable, in such amounts as the Board may deem reasonable, for such officers and directors or employees as are authorized to receive or disburse any funds on behalf of the Corporation;
- (g) causing audits to be made after every year-end and making auditors' reports and financial statements available to the Owners and Mortgagees in accordance with the Act and the by-laws;
- (h) preparation of an estimated budget, annually;
- (i) preparation and delivery of status certificates in the prescribed form and prescribed timeline required by the Act;
- (j) retaining a person who holds a certificate of authorization within the meaning of the *Professional Engineers Act* or a certificate of practice within the meaning of the *Architects Act* to conduct a performance audit of the Common Elements described in the description on behalf of the Corporation in accordance with the Act;
- (k) establishing and maintaining one (1) or more reserve funds for the purpose of major repair and replacement of the Common Elements and assets of the Corporation and conducting periodic

studies to determine whether the amount of money in the reserve fund and the amount of contributions collected by the Corporation are adequate to provide for the expected costs of major repair and replacement of the Common Elements and assets of the Corporation, in accordance with the Act;

- (l) complying with the rights, easements and agreements affecting the property;
- (m) effecting compliance by the Owners with the Act, the Declaration, the by-laws and the rules from time to time;
- (n) retaining legal counsel to prepare, register and discharge certificates of lien for arrears of Common Expenses following sufficient payment by Owners;
- (o) supervising all public or private service companies which enter upon the Common Elements to supply, install, replace and/or service the Common Elements or the Condominium;
- (p) purchase and maintenance of insurance for the benefit of all directors and officers in respect of anything done or permitted to be done by them in respect of the execution of the duties of their offices except insurance against a liability, cost, charge or expense of such directors or office incurred as a result of a contravention of any of the duties imposed upon them pursuant to the Act; and,
- (q) calling and holding of meetings and the delivery of notices, as required under the Act; and.

4.2 **Powers of the Corporation:**

The powers of the Corporation shall include, but shall not be limited to, the following:

- (a) employment and dismissal of personnel necessary for the maintenance and operation of the Common Elements;
- (b) adoption and amendment of rules concerning the operation and use of the property;
- (c) entering into such agreements from time to time upon such terms as are acceptable to the Board in its discretion, which are necessary, desirable or incidental to the performance by the Corporation of its powers and duties including without limitation the following:
 - (i) a management agreement with an individual or corporation to manage the affairs and assets of the Corporation at such compensation and upon such terms as the Board may determine in its sole discretion;
 - (ii) an insurance trust agreement, if required, with an insurance trustee as permitted by the Act at such compensation and upon such terms as the Board may determine in its sole discretion;
 - (iii) an agreement required by the supplier of any goods, utility or service to the Corporation upon such terms as the Board may determine in its sole discretion; and
 - (iv) any other agreements which may be permitted by the Act and the Declaration and which are deemed advisable, desirable or necessary by the Board.
- (d) obtaining and maintaining fidelity bonds for any manager where deemed necessary by the Board and in such a manner as the Board may deem reasonable;
- (e) investing reserve funds in accordance with the Act;
- (f) to settle, adjust, compromise or refer to mediation and/or arbitration or the courts any claim or claims which may be made upon or which may be asserted on behalf of the Corporation;
- (g) to retain and hold any securities or other property, whether real or personal, which shall be received by the Corporation in the form received, whether or not the same is authorized by any law, present or future, for the investment of trust funds;
- (h) to lease or to grant or transfer an easement or license through, over, upon or under any part or parts of the Common Elements by way of a special by-law, except those parts of the Common Elements over which any Owner has the exclusive use ("Exclusive Use Area"), if any, and/or releasing and abandoning any appurtenant easement(s) or right(s) of way heretofore or hereafter granted to (or created in favour of) the Corporation, in respect of any servient tenement burdened or encumbered

thereby on the express understanding that to the extent that subsection 21 of the Act requires a by-law to authorize such a release, licence, easement or right-of-way, or such a release and abandonment of easement, then this by-law providing the Board with the requisite authority to enter into any such lease, licence, easement or right of way, or any such release and abandonment of easement, and any such lease, license, easement, right-of-way or release of easement may be executed or behalf of the Corporation by the authorized signing officer(s) of the Corporation, with or without the seal of the Corporation affixed thereto, and same shall be valid and binding on the Corporation without requiring the consent or concurrence of (or the written authorization or signature of) any Owner(s) common interest in the Corporation thereto;

- (i) subject to the provisions of the Declaration to the contrary, to sell, convey, exchange, assign or otherwise deal with any real or personal property at any time owned by the Corporation, at such price, on such terms and in such manner as the Corporation, in its sole discretion, deems advisable and to do all things and execute all documents required to give effect to the foregoing; and,
- (j) authority to object to assessments under the Assessment Act on behalf of Owners if it gives notice of the objections to the Owners and to authorize the defraying of costs of objections out of the Common Expenses.

ARTICLE V - Meetings of Owners

5.1 **Annual General Meetings:** The annual general meeting of the Owners shall be held locally at such time and on such day in each year as the Board may from time to time, determine, for the purpose of hearing and receiving the reports and statements required by the Act and the by-laws of the Corporation to be laid before the Owners at an annual general meeting, and for the purposes of electing directors, confirming By-laws passed by directors, appointing an auditor and fixing or authorizing the Board to fix its remuneration, and for the transaction of such other business as may be properly brought before the meeting. The Board shall lay before each annual general meeting of Owners a financial statement made in accordance with generally accepted accounting principles, as well as the report of the auditor to the Owners, and such further information respecting the financial position of the Corporation as the by-laws may require. The Board shall hold an annual general meeting within six (6) months of the end of each fiscal year of the Corporation.

5.2. **The First Annual General Meeting:** The first annual general meeting shall be held not more than three (3) months after the registration of the Declaration and description in accordance with subsection 45(2) of the Act. The Owners shall, at such first meeting, appoint one (1) or more auditors to hold office until the close of the next annual general meeting, and if the Owners fail to do so, the Board shall forthwith make such appointment. The remuneration of an auditor so appointed shall be fixed by the Owners, or by the Board of authorized to do so by the Owners, but the remuneration of an auditor appointed by the Board shall be fixed by the Board. The Corporation shall then give notice in writing to an auditor of its appointment forthwith after such appointment is made.

5.3. **Interim Meeting of the First Board:** The first Board as appointed by the Declarant shall call and hold a meeting of Owners by the later of thirty (30) days after the day on which the Declarant has transferred twenty percent (20%) of the common interests in the Corporation and ninety (90) days after the day in which the Declarant transfers the first common interest in the Corporation. At such interim meeting, the Owners, other than the Declarant may elect two (2) directors to the first Board to hold office in addition of the directors appointed by the Declarant even if the addition of an elected director results in more directors on the Board than the Declaration allows. The quorum for such interim meeting shall be constituted when twenty-five percent (25%) of the Owners of a common interest in the Corporation not owned by the Declarant are present at the meeting or represented by proxy. Such a meeting is not required to be called if by the day set for the meeting, the Declarant no longer owns a majority of common interest in the Corporation and advises the Board in writing of the fact.

5.4 **Turnover Meeting:** The Board, elected or appointed at a time when the Declarant owns a majority of the common interest in the Corporation, shall, not more than twenty-one (21) days after the Declarant ceases to be the registered Owner of a majority of common interest in the Corporation, call a meeting of the Owners to elect a new Board, and such meeting shall be held within twenty-one (21) days after the calling of the meeting (the “**turnover meeting**”). If the turnover meeting is not called within such time, any Owner or any Mortgagee entitled to vote may call the meeting. At this meeting, the Declarant or its agents shall give to the new Board elected at that meeting the seal of the Corporation and all the books, documents, agreements, plans, warranties, financial records, and all other information required to be transferred pursuant to Section 43 of the Act. Furthermore, within sixty (60) days after the

turnover meeting, the Declarant shall give the Board an audited financial statement prepared as at the date of such meeting.

5.5 **Special Meetings:** The Board may at any time call a meeting of the Owners of a common interest in the Corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting. The Board shall, upon receipt of a requisition in writing made by Owners who together own at least fifteen percent (15%) of a common interest in the Corporation, are listed in the record maintained by the Corporation under the Act and are entitled to vote, call and hold a meeting of the Owners within thirty-five (35) days of receiving the requisition or add the business to be transacted to the agenda of the next annual general meeting if the requisitionists request or consent. If such meeting is not called and held, any of the requisitionists may call the meeting; and in such case, the meeting shall be held within forty-five (45) days of the day on which the meeting is called, and the Corporation shall, upon request by the requisitionist who called the meeting, reimburse such requisitionist for the reasonable costs incurred in calling the meeting. If the nature of business to be presented at the meeting includes the removal of one (1) or more of the directors, the requisition shall state for each director proposed to be removed, the name of the director, the reasons for removal and whether the director occupies a position on the Board that under subsection 51(6) of the Act is reserved for voting by Owners of owner-occupied dwellings on a POTL.

5.6 **Meetings by Telephonic or Electronic Means:** Subject to the provisions of the Act, the Corporation may permit for an Owners meeting and/or a Board meeting to be held or convened by way of telephonic or other form of electronic communication system that allows participants to participate concurrently and to communicate with each other simultaneously. In the case of an Owners meeting, the following shall apply:

- (a) the notice of meeting shall contain all necessary information and instructions that are required for an Owner to participate in the meeting by way of telephonic or other form of electronic communication system, as the case may be;
- (b) the Corporation shall provide for a voting mechanism that complies with the requirements contained in this bylaw, save and except that an Owner participating by telephonic means may, if provided for in the Board resolution that approves such meeting, be permitted to vote on matters other than the election or removal of directors by roll call (a voice vote) with such Owner voting yea, nay or abstaining on the matter being voted upon;
- (c) the Board may, in the resolution authorizing such meeting, establish reasonable rules to assist with conducting business at such meeting, including, without limitation, reasonable rules relating to the verification of the identity of an Owner participating in a meeting by way of telephonic or other form of electronic communication system, as the case may be; and
- (d) an Owner so participating in any such meeting held or convened by such means shall be deemed (for the purposes of the Act and this bylaw) to be present at such meeting.

5.7 **Notices:** Notice of the time, place, and date of the turnover meeting, and each annual general or special meeting shall be served on an Owner not less than fifteen (15) days before the day on which the meeting is to be held, to each Owner who has notified the Corporation in writing of the Owner's name and address for service and whose name appeared on the record at least twenty (20) days before the date of such meeting, and served on each Mortgagee of a common interest appurtenant to an Owner's POTL who under the terms of the mortgage has the right to vote at a meeting of the Owners in place of the Owner with a common interest in the Corporation and has notified the Corporation in writing of the right and the Mortgagee's name and address. Each notice of meeting, as hereinbefore required shall be in writing and have the content required by subsection 47(9) of the Act and shall be served in accordance with subsections 47(7) and (8) of the Act, as the case may be.

5.8 **Report and Financial Statements:** The Corporation shall attach to the notice of the annual general meeting a copy of the financial statements and auditor's report. A copy of the minutes of the meeting of Owners and of the Board shall, within ten (10) days of such meeting, be furnished to each Mortgagee who has, in writing, requested same.

5.9 **Persons Entitled to be Present:** The only persons entitled to attend a meeting are Owners and Mortgagees entered on the register, the auditor of the Corporation, the directors and officers of the Corporation, others who, although not entitled to vote, are entitled or required under the provisions of the

Act or the by-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the Chairman of the meeting or with the consent of a majority of those present at the meeting.

5.10 **Quorum:** At any meeting of Owners other than the interim meeting referred to in paragraph 5.3 above, a quorum shall be consulted when persons entitled to vote and owning not less than twenty-five percent (25%) of the common interest in the Corporation are present in person or represented by proxy at such meeting. If thirty (30) minutes after the time appointed for the holding of Owners has elapsed and a quorum is not present, the meeting shall be dissolved and shall stand adjourned. Notice of the time, day, and place of the reconvening of such adjourned meeting shall be given not less than ten (10) days prior to the reconvening of such meeting. For the interim meeting referred to in paragraph 5.3 above, the quorum shall be consulted when twenty-five percent (25%) of Owners with a common interest in the Corporation are present at the meeting or represented by proxy.

5.11 **Right to Vote:** At each meeting of Owners, and subject to the restrictions in Section 5.14, every Owner of a common interest in the Corporation shall be entitled to vote, if it is entitled to receive notice of the meeting and is otherwise entitled to vote at the meeting. A Mortgagee entitled to receive notice of a meeting of Owners has the right to vote at a meeting in the place of the Owner with a common interest in the Corporation or exercises the right, if any, of the Owner to consent in writing if the Mortgagee gives notice to the Corporation at least four (4) days before the date of the meeting of the Mortgagee's intention to exercise such right. If there is more than one (1) Mortgagee entitled to vote in respect of its common interest appurtenant to an Owner's POTL, the Mortgagee who has priority shall be entitled to vote, and if that Mortgagee fails to exercise the right then the Mortgagee who is next in priority may exercise the right, if none of the Mortgagees who have the right to vote exercised the right, then the Owner of common interest in the Corporation has the right to vote at a meeting of the Owners subject to subsection 51 (1) of the Act or to consent in writing. Any dispute over the right to vote shall be resolved by the Chairman of the meeting upon such evidence as he may deem sufficient. The vote of each such Owner or Mortgage shall be on the basis of one (1) vote per common interest in the Corporation or common interest appurtenant to an Owner's POTL.

5.12 **Conduct of Meetings and Method of Voting:**

- (a) At any annual general, special or turnover meeting, the President of the Corporation (or to whomever the President may delegate the responsibility) or in the alternative, the Vice-President or some other appointed or elected person, shall act as Chairperson of the meeting and the Secretary of the Corporation shall act as secretary, or in the alternative, the Chairperson shall appoint a Secretary. Any question shall be decided by a show of hands or on a recorded vote, which may be requested by a person entitled to attend such meeting as aforesaid either before or promptly after the vote. Provided that where a meeting is held partially or wholly by virtual electronic voting procedures will be followed in accordance with section 5.17 of this bylaw. Unless a recorded vote is so requested, a declaration by the Chairman that such question has by the show of hands been carried is *prima facie* proof of the fact, without proof of the number of votes recorded in favour of, or against, any such question. A demand for a recorded vote, once given, may be withdrawn. Notwithstanding the above, the voting for the election of directors shall be by recorded vote only.
- (b) Unless otherwise provided in the Act, and subject to the provisions of section 5.17 of this bylaw, all questions proposed for consideration of the Owners at a meeting of Owners shall be determined by a majority of the votes cast by Owners at the meeting and a vote may be cast by a show of hands, personally or by proxy, or a recorded vote that is marked on a ballot cast personally or by a proxy, marked on an instrument appointing a proxy or indicated by telephonic or electronic means.
- (c) A vote for the election of directors shall only be by ballot, proxy or indicated by telephonic or electronic means, pursuant to section 5.17 of this bylaw.
- (d) In the event election of the position on the Board reserved for voting by non-leased voting units (or owner-occupied units, as applicable) is required, only those Owners of non-leased voting units (or owner-occupied units, as applicable) shall be entitled to nominate and elect a person to fill such position.
- (e) Anyone, who has a right to vote, may demand a vote by ballot and upon such demand the vote shall be a ballot vote unless the demand is withdrawn before the ballots are distributed.

- (f) All voting by Owners shall be on the basis of and in accordance with the Act.
- (g) All ballots including the ballot portion of a proxy shall be confidential.
- (h) When all ballots, proxies and votes cast electronically, have been deposited, the scrutineers shall then tabulate the votes for and against the matter being voted upon.

5.13 **Representatives:** An executor, administrator, committee of a mentally incompetent person, guardian or trustee (and where a corporation acts in such capacity any person duly appointed as proxy for such corporation) upon filing with the Secretary of the meeting sufficient proof of its appointment, shall represent the Owner or Mortgagee at all meetings of the Owners of the Corporation and may exercise the Owner's vote in the same manner and to the same extent as such Owner. Should there be more than one (1) executor, administrator, committee, guardian or trustee, the provisions of Section 5.13 of this Article shall apply.

5.14 **Proxies:** Every Owner or Mortgagee entitled to vote at meetings of Owners, may, by instrument in writing, appoint a proxy for a particular meeting of Owners, who need not be an Owner or Mortgagee, to attend and act at the meeting in the same manner, to the same extent, and with the same powers as if the Owner or Mortgagee were present itself. The instrument appointing a proxy shall be in writing signed by the appointer or its attorney authorized in writing. The instrument appointing a proxy shall be deposited with the Secretary of the meeting before any vote is cast under its authority. An instrument appointing a proxy for the election or removal of a director at a meeting of Owners shall state the name of the directors for and against whom the proxy is to vote.

5.15 **Co-Owners:** If a common interest in the Corporation or a mortgage on a common interest appurtenant land is owned by two (2) or more persons, anyone of them present or represented by proxy may in the absence of the other or others vote, but if more than one (1) of them are present or represented by proxy, the majority of the Owners of the common interest in the Corporation shall decide how the vote is exercised.

5.16 **Votes to Govern:** At all meetings of Owners, every question shall, unless otherwise requires under the Act, the Declaration or the by-laws, be decided by the majority of the votes cast on the question, as set out in Section 10 of the Article.

5.17 **Electronic Voting by Unit Owners:** Section 52(1)(b)(iii) of the Act, which authorizes voting at meetings of Owners by a recorded vote that is indicated by telephonic or electronic means if the bylaws of a condominium corporation so permit, and whereas the Act defines "telephonic or electronic means" as any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, fax, e-mail, automated touch-tone telephone system, computer or computer networks, and further to Section 56(1)(c.1) of the Act which provides that the Board may authorize, by bylaw, the methods permitted for holding a recorded vote, the Board and the Corporation hereby enact the following provisions to govern electronic voting by Owners pursuant to the aforementioned provisions of the Act:

- (a) notwithstanding any provision in the Corporation's bylaws with respect to the methods permitted for holding a vote or a recorded vote, votes for all questions proposed for consideration of the Owners at a meeting of Owners may be cast by a show of hands, personally or by proxy, or a recorded vote that is: (i) marked on a ballot cast personally or by a proxy; (ii) marked on an instrument appointing a proxy; or (iii) indicated by telephonic or electronic means if the Corporation makes available to Owners a medium by which Owners are able to cast a recorded vote by telephonic or electronic means (the "**e-voting system**");
- (b) votes cast by electronic voting shall be deemed a ballot (the "**e-ballot**") for the purpose of any vote conducted at the meeting at which the e-ballot was cast;
- (c) the e-voting system shall set forth each question proposed for consideration that will be the subject of a vote at a meeting of Owners, including the opportunity to vote in favour or against each question and/or in favour of each candidate for election to the Board;
- (d) the e-ballot is valid only for one (1) meeting of the Owners and expires automatically after the completion of the meeting of Owners;
- (e) only an Owner of a unit may cast an e-ballot and the e-voting system does not authorize another person to cast votes on behalf of an Owner;

- (f) the e-voting system shall authenticate the Owner's identity;
- (g) the e-voting system shall authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;
- (h) the e-voting system shall separate any authentication or identifying information of the Owner from the e-ballot, rendering it impossible to trace an e-ballot to a specific Owner;
- (i) the e-voting system shall produce an electronic receipt for each Owner who casts an e-ballot, which shall include the specific vote cast, and the date and time of submission (the "**Receipt**"). The e-voting system will retain an electronic record of the time and date an Owner casts the e-ballot;
- (j) an electronic report automatically generated by the e-voting system which tabulates votes may be relied upon and counted by the scrutineers and/or chairperson at a meeting of Owners for the purpose of tabulating votes for all questions proposed for consideration of the Owners at the meeting of Owners (the "**Electronic Voting Record**");
- (k) each Electronic Voting Record shall be deemed to be a ballot for the purpose of the Corporation's obligation to maintain records in accordance with the Act; and
- (l) an e-ballot shall be counted towards quorum as if an Owner were present at the meeting.

5.18 **Entitlement to Vote:** Except where, under the Act or the by-laws of the Corporation, the unanimous vote of all Owners is required, an Owner of a common interest in the Corporation is not entitled to vote at any meeting if any Common Expense or other monetary contribution payable in respect of its common interest in the Corporation are in arrears for thirty (30) days or more prior to the meeting. However, any such Owner not entitled to vote as aforesaid, may vote if the Corporation receives payment of the arrears with respect of the Owner's common interest in the Corporation, if applicable, before the meeting is held.

5.19 **Adjournment of Meeting:** The Chairman may adjourn the meeting from time to time and from place to place.

5.20 **Minutes:** While the Corporation may produce, circulate and/or maintain minutes of any meeting that contain a more detailed narrative description of the proceedings at a meeting of Owners, the Corporation shall prepare, circulate and maintain a minute record of each meeting which records the following, and only the following, information:

- (a) the date, time and place of the meeting;
- (b) those present in person and by proxy at the meeting;
- (c) the identity and method of appointment of the Chair and the Secretary of the meeting;
- (d) confirmation of the due calling of the meeting;
- (e) confirmation of a quorum;
- (f) the disposition of each agenda item, including a record of the mover, seconder (where necessary) and disposition of every motion made and vote held pursuant to the agenda;
- (g) a record of the mover, seconder (where necessary) and disposition of every other motion made at the meeting;
- (h) a record (by brief description only) of any matter raised or discussed in addition to agenda items;
- (i) adjournment of the meeting; and
- (j) certification of the Secretary and Chair of the meeting.

ARTICLE VI - Board of Directors

6.1 The Corporation:

The affairs of the Corporation shall be managed by a Board.

6.2 Qualifications:

Each director shall be eighteen (18) or more years of age and need not be an Owner of a common interest in the Corporation. No undischarged, bankrupt or mentally incompetent person shall be a director and if a director becomes a bankrupt or incapable of managing property under the *Substitute Decisions Act, 1992* or the *Mental Health Act*, or incapable as found by any court in Canada or elsewhere, or if a director has not complied with the prescribed disclosure obligations within the prescribed time, or has not completed the prescribed training within the prescribed time, or if a certificate of lien has been registered under subsection 85 (2) against a common interest POTL owned by such director and he does not obtain a discharge of the lien within ninety (90) days of the registration of the certificate of lien, he thereupon ceases to be a director.

6.3 Consent:

No election or appointment of a person as a director shall be effective unless:

- (a) he/she consents in writing to act as a director before his/her election or appointment or within ten (10) days thereafter; or
- (b) he/she was present at the meeting when he/she was elected or appointed and did not refuse at that meeting to act as a director.

6.4 Number of Directors and Quorum:

Until amended by by-law, the number of directors shall be three (3), and a majority of the directors constitute a quorum for the transaction of business at any meeting of the Board. Notwithstanding vacancies, the remaining directors may exercise all the powers of the Board so long as a quorum of the Board remains in office.

6.5 Election and Term:

- (a) The directors of the Corporation shall be elected in rotation and, upon the expiration of their respective term of office, shall retire but shall be eligible for re-election. At the first meeting of the Owners held to elect directors, one (1) director shall be elected to hold office for a term of one (1) year from the date of his election, one (1) director shall be elected to hold office for a term of two (2) years from the date of his election and one (1) director shall be elected to hold office for a term of three (3) years from the date of his election. Such directors may, however, continue to act until their successors are elected. If more than one (1) of such directors whose terms are not of equal duration shall resign from the Board prior to the expiration of their respective terms and shall be replaced at a meeting of members for that purpose, the director or directors receiving the greater votes shall complete the longest remaining terms of the resigning directors. At each annual meeting thereafter, a number of directors equal to the number of directors retiring in such year shall be elected for a term of three (3) years.
- (b) If at least fifteen percent (15%) of the common interest in the Corporation are owner occupied, as defined in subsection 51(5) of the Act, no persons other than the Owners of owner-occupied common interest in the Corporation may elect a person to one (1) of the positions on the Board. If fifteen percent (15%) of the common interest in the Corporation are owner-occupied at the turnover meeting, the position on the Board to be elected by Owners of owner-occupied common interest in the Corporation shall be the director elected for the one (1) year term and thereafter when that position becomes vacant, the direction for the position shall be voted upon only by the Owners of owner-occupied common interest in the Corporation. If at least fifteen percent (15%) of the common interest in the Corporation are not owner-occupied at the turnover meeting, but in any subsequent year more than fifteen percent (15%) of the common interest in the Corporation become owner-occupied, the position of a director whose terms expires in that year shall be designated the director to be elected by Owners of owner-occupied common interest in the Corporation and thereafter when that position becomes vacant, the director for that position shall be voted upon only be the Owner of owner-occupied common interest in the Corporation.

6.6 **Calling of Meetings:**

Meetings of the Board shall be held from time to time at such place and at such time and on such day as the President and Vice-President (who is a director) or any two (2) directors, may determine and the Secretary shall call meetings when directly authorized by the President and Vice-President (who is a director) or any two (2) directors. In addition to any other provision in the by-laws, a quorum of directors may at any time, call a meeting of the directors for the transaction of any business. Unless otherwise provided in the by-laws, notice of any meeting so called shall be given personally, by ordinary mail or facsimile transmission, to each director addressed to him at his latest address or facsimile telephone number entered on the record of the Corporation not less than forty-eight (48) hours (excluding any part of a Sunday or of a holiday as defined by the *Interpretation Act* of Canada for the time being in force) before the time when the meeting is to be held, save that no notice of a meeting shall be necessary if all the directors are present and consent to the holding of such meeting or if those absent have waived notice of or otherwise signified in writing their consent to the holding of such meeting.

6.7 **Regular Meetings:**

The Board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the Board fixing a place and time of regular meetings of the Board shall be given personally by ordinary mail or facsimile transmission to each director forthwith after being passed but no other notice shall be required for any such regular meeting.

6.8 **First Meeting of New Board:**

The Board may, without notice, hold its first meeting for the purpose of organization and the election and appointment of officers immediately following the meeting of members at which the directors of such Board were elected, provided a quorum of directors are present.

6.9 **Protection of Directors and Officers:**

No director or officer of the Corporation shall be liable for the acts, neglect or default of any other director or officer or for any loss or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, securities or effects of the Corporation shall be deposited or for any loss occasioned by any error of judgment or oversight on his part or for any other loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his/her office in relation thereto unless the same shall happen through his/her dishonest or fraudulent act or acts.

6.10 **Indemnity of Directors and Officers:**

Subject to the provisions of Subsection 38(1) of the Act, every director or officer of the Corporation and his heirs, executors, administrators and other legal personal representatives shall, from time to time, be indemnified and saved harmless by the Corporation from and against:

- (a) any liability and all damages, costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed, brought, commenced or prosecuted against him for or in respect of anything done or permitted or omitted to be done by him in respect of the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the Corporation;
- (c) excluding however all costs, charges and expenses incurred directly or indirectly as a result of such director's or officer's own dishonest or fraudulent act or acts, or through or by such director's or officer's gross negligence, recklessness, wilful blindness or intentional misconduct (with all of the liabilities and costs for which each director and officer shall be indemnified being hereinafter collectively referred to as the "**Liabilities**"), unless the Act or the by-laws of the Corporation provide otherwise, on the express understanding that:
- (d) no director or officer shall be indemnified by the Corporation in respect of any liabilities, costs, charges and/or expenses that he or she sustains or incurs arising from any action, suit or other

proceeding in which such director or officer is adjudged to be in breach of his or her duty to act honestly and in good faith;

- (e) the Corporation is advised of any such action, suit or other proceeding (and of all liabilities costs, charges and/or expenses in connection therewith) forthwith after the director or officer receives notice thereof or otherwise becomes aware of same; and
- (f) the Corporation is given the right to join in the defense of any such action, suit or proceeding.
- (g) Unless the Act or the by-laws of the Corporation otherwise provide, the Corporation shall, not later than one (1) week after the turnover meeting, use its best efforts to purchase and maintain insurance for the benefit every director or officer in order to indemnify them against the Liabilities, provided that such insurance shall not indemnify any officer or director against the Liabilities if same were incurred by such officer or director as a result of a contravention of Section 37(1) of the Act.

6.11 **Insurance:**

Subject to the limitations contained in the Act, the Corporation shall purchase and maintain such insurance for the benefit of the directors and officers as the Board may from time to time determine.

6.12 **Removal of Directors:**

A director may be removed before the expiration of his term by a vote of Owners who together own a majority of common interest in the Corporation, and the Owners may elect at any annual general or special meeting any qualified person in the place of any director who has been so removed, or who has died or resigned, for the remainder of his term.

6.13 **Filling of Vacancies:**

If a vacancy in the membership of the Board occurs, other than by way of removal by a vote of Owners or as a result of the number of directors being increased, the majority of the remaining members of the Board may appoint any qualified person to be a member of the Board to fill such vacancy until the next annual general meeting, at which time the vacancy shall be filled by election by the Owners. However, if a vacancy arises and there is not a quorum of directors in office, the directors then in office shall forthwith call a meeting of Owners to fill all the vacancies, and in default thereof, or if there are no directors in office, the meeting may be called by any Owner.

6.14 **Meeting by Teleconference:**

A meeting of the directors may be held by teleconference or another form of communication system that allows the directors to participate concurrently if all of the directors consent to the means used.

6.15 **Standard of Care:**

Every director and officer shall exercise the powers and discharge the duties of his or her office honestly and in good faith, and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

6.16 **Consent of Director at Meeting:**

A director who is present at a meeting of directors, or committee of directors, is deemed to have consented to any resolution passed at such meeting or to any action taken thereat, unless such director:

- (a) requests that his or her dissent is entered in the minutes of the meeting; or
- (b) delivers a written dissent to the Secretary of the meeting before the meeting is terminated.

A director who votes for (or consents to) a resolution is not entitled to dissent under or pursuant to the foregoing provisions hereof.

6.17 **Deemed Consent of a Director:**

A director who was not present at a meeting at which a resolution was passed or any action taken is deemed to have consented thereto unless within seven (7) days after becoming aware of the resolution, the director:

- (a) causes his or her dissent to be entered into (or annexed to) the minutes of the meeting; or
- (b) delivers a written dissent to the Corporation, personally or by registered mail.

6.18 **Minutes:**

- (a) While the Corporation may produce, circulate and/or maintain minutes of any meeting that contain a more detailed narrative description of the proceedings at any meeting of directors, the Corporation shall prepare, circulate and maintain a minute record of each meeting which records the following, and only the following, information:
- (i) the date, time and place of the meeting;
 - (ii) those present in person and by proxy at the meeting;
 - (iii) the identity and method of appointment of the Chair and the Secretary of the meeting;
 - (iv) confirmation of the due calling of the meeting;
 - (v) confirmation of a quorum;
 - (vi) the disposition of each agenda item including confirmation of the moving, seconding (where necessary) and disposition of every motion made and vote held pursuant to the agenda;
 - (vii) confirmation of the moving, seconding (where necessary) and disposition of every other motion made at the meeting;
 - (viii) adjournment of the meeting; and
 - (ix) certification of the Secretary and Chair of the meeting.

ARTICLE VII - Officers

7.1 **Elected Officers:**

At the first meeting of the Board and after each election of directors, the Board shall elect from among its members a President, a Vice-President, a Secretary and a Treasurer. In default of such election, the then incumbent, if a member of the Board, shall hold office until his successor is elected. A vacancy occurring from time to time in such office may be filled by the Board from among its members.

7.2. **Other Elections and Appointed Officers:**

From time to time, the Board may appoint one (1) or more Vice-Presidents, a General Manager, a Treasurer and such other officers as the Board may determine, including one (1) or more assistants to any of the officers so appointed. The officer so appointed may, but need not be, a member of the Board. One (1) person may hold more than one (1) office and if the same person holds both the office of Secretary and the office of Treasurer may be known as Secretary-Treasurer.

7.3. **Term of Office:**

Subject to the provisions of any written agreement to the contrary, the Board may, by resolution, remove at its pleasure any officer of the Corporation.

7.4 **President:**

The President shall, when present, preside at all meetings of the Owners and of the Board and shall be charged with the general supervision of the business and affairs of the Corporation. Except when the Board has appointed a general manager or managing director, the President shall also have the powers and be charged with the duties of that office.

7.5. **Vice-President:**

During the absence of the President, his duties may be performed and his powers may be exercised by the Vice-President or, if there are more than one (1), by the Vice-Presidents in order of seniority, as determined by the Board. If a Vice-President exercises any such duty or power, the absence of the President shall be presumed with reference thereto. A Vice-President shall also perform such duties and exercise such powers as the Board may prescribe from time to time.

7.6. **General Manager:**

The General Manager, if one (1) be appointed, shall have the general management and direction, subject to the authority of the Board and the supervision of the President, of the Corporation's business and affairs and the power to appoint and remove any and all employees and agents of the Corporation not elected or appointed directly by the Board and to settle the terms of their employment and remuneration. The terms of employment and remuneration of the general manager appointed by the Board shall be settled from time to time by the Board.

7.7 **Secretary:**

The Secretary shall give or cause to be given all notices required to be given to the Owners, directors, auditors, mortgagees and all others entitled thereto; he shall attend all meetings of the directors and of the Owners and shall enter or cause to be entered in records kept for that purpose minutes of all proceedings at such meetings; he shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation and he shall perform such other duties as may from time to time be prescribed by the Board.

7.8. **Treasurer:**

The Treasurer shall keep or cause to be kept full and accurate books of account in which shall be recorded all receipts and disbursements of the Corporation and, under the direction of the Board, shall control the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation; he shall render to the Board at the meeting thereof or, whenever required of him, an account of all his transactions as treasurer and of the financial position of the Corporation; and he shall perform such other duties as may from time to time be prescribed by the Board. The offices of Secretary and Treasurer may be combined.

7.9. **Other Officers:**

The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the Board requires of them. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant unless the Board otherwise directs.

7.10. **Agents and Attorneys:**

The Board shall have power from time to time to appoint agents or attorneys for the Corporation with such powers of management or otherwise, including the power to sub-delegate as may be thought fit.

7.11. **Disclosure by Officers of Interest in Contracts:**

Every officer of the Corporation who is not a director has, directly or indirectly, any material interest in any material contract or transaction, to which the Corporation is or will be a party, shall disclose in writing to the Corporation the nature and extent of the interest in such contract or transaction. The disclosure shall be made at the first meeting of the Board, and entered in the minutes of the meeting, at which the contract or transaction is first considered, or if the officer becomes interested after the contract or transaction is entered into at the next meeting of directors. A general notice to the Board by a director declaring that he is a director or officer of, or has a material interest in, any company or other entity that is a party to a contract or proposed contract with the Corporation, is a sufficient declaration of his interest in relation to any contract so made. If an officer has made a declaration or disclosure of his interest, then such officer, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not, by reason only of his holding the office of officer, accountable to the Corporation or to its Owners for any profit or gain realized from the contract or transaction, and such contract or transaction is not voidable by reason only of the officer's interest therein. In respect of any contract or transaction involving the purchase or sale of real or personal property by the Corporation that the seller acquired within five (5) years before the date of the contract or transaction or the proposed contract or transaction, the officer shall disclose the cost of the property to the seller, to the extent which such information is within the officer's knowledge or control.

7.12 **Committees:**

In order to assist the Board in managing the affairs of the Corporation, the Board may from time to time establish or constitute such advisor committees to advise and make recommendations to the Board in connection with any activities undertaken (or under consideration) by the Board, including those related to management, budgets, rules and/or any other matters related to the Common Elements or any facilities,

services or amenities (or any portion thereof). The members of such committees shall be appointed by the Board to hold office, and may be removed at any time by resolution of the Board.

ARTICLE VIII - Banking Arrangements and Contracts

8.1 Banking Arrangements:

The banking business of the Corporation or any part thereof may be transacted with such bank or trust company as the Board may designate, appoint or otherwise, from time to time, by resolution and all such banking business or any part thereof shall be transacted on the Corporation's behalf by such one (1) or more officers or other persons as the Board may designate, direct or authorize, from time to time, by resolution and, to the extent therein provided, including, without restricting the generality of the foregoing, the operation of the Corporation's accounts, the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders relating to any property of the Corporation, the execution of any agreement relating to any such banking business and defining the rights and powers of the parties thereto and the authorizing of any officer of such bank to do any act or thing on the Corporation's behalf to facilitate such banking business.

8.2. Execution of Instruments:

Subject to the provisions of the Act, and subject to the provisions of any other by-laws of the Corporation specifically designating the person or persons authorized to execute any type of class of documents on behalf of the Corporation, all deed, transfers, assignments, contracts and obligations on behalf of the Corporation may be signed by any two (2) directors of the Corporation. Any contract or obligation within the scope of any management agreement entered into by the Corporation may be executed on behalf of the Corporation in accordance with the provisions of such management agreement. The manager of the Corporation, any two (2) members of the Board, or the Corporation's solicitor, may execute a certificate of lien or discharge thereof. Subject to the provisions of the Act and the Declaration, but notwithstanding any provisions to the contrary contained herein or in any other by-laws of the Corporation, the Board may at any time (and from time to time) by resolution direct the manner in which, and the person or persons by whom, any particular deed, transfer, assignment, contract, cheque or obligation, or any class of deeds, transfers, assignments, contracts, cheques, or obligations of the Corporation may or shall be signed. Any documents signed and delivered electronically (by pdf. or electronic transmission such as DocuSign) will be deemed an original document.

8.3 No Seal:

Despite anything contained in this by-law to the contrary, any document or instrument that would otherwise require a seal need not be executed under the seal of the Corporation, provided that same has been duly executed by the person or persons expressly authorized and empowered to execute same on behalf of the Corporation, nor shall any such document or instrument be duly witnessed, in order to be valid, effective and binding upon the Corporation, provided that the name of the signatory, his or her office in the Corporation, and the phrase "I/We have the authority to bind the Corporation" are clearly set out below the signature(s) of the person(s) expressly authorized and empowered to execute same on behalf of the Corporation, and any such duly executed document or instrument shall have the same validity and binding effect on the Corporation.

8.4 Execution of Status Certificates:

Status certificates may be signed by any officer or any director of the Corporation provided that the Board may by resolution direct the manner in which, and the person by whom, such certificates may or shall be signed from time to time.

ARTICLE IX - Financial and Records

9.1 Financial Year End:

The financial year of the Corporation shall end on the 31st day of December in each year or on such other day as the Board by resolution may determine.

ARTICLE X -Notice

10.1 Method of Giving Notice by the Corporation

Except as otherwise specifically provided in the Act, the Declaration, this by-law, or any other by-law of the Corporation hereinafter enacted, or any notice, communication or other document, including budgets

and notices of assessment required to be given or served shall be sufficiently given, if given in accordance with the following:

- (a) To an Owner: [who has notified the Corporation in writing of his or her ownership interest in any common interest in the Corporation, and of his or her name and address of service], by giving same to such Owner (or to any director or officer of such Owner, if the Owner is a corporation) either:
 - (i) personally, by courier, or by ordinary mail, postage prepaid, addressed to such owner at the address for service given by such Owner to the Corporation; or
 - (ii) by facsimile transmission, electronic mail, or by any other method of electronic communication (if the Owner agrees in writing that the party may do so in this manner); or
 - (iii) delivered at the Owner's dwelling or at the Owner's mailbox, unless:
 - (A) the party giving the notice has received a written request from the Owner that the notice not be given in this manner; or
 - (B) the address for service that appears in the Records is not the address of the dwelling of the Owner.
- (b) To a Mortgagee: [who has notified the Corporation in writing of his or her interest as Mortgagee of a common interest appurtenant to an Owner's POTL, and of his or her name and address for service, and of his or her right under the terms of the mortgage to vote at a meeting of Owners (or to consent in writing) in the place and stead of the mortgagor/dwelling Owner], by giving same to such Mortgagee (or to any director or officer of such Mortgagee, if the Mortgagee is a corporation) either:
 - (i) personally, by courier, or by ordinary mail, postage prepaid, addressed to such Mortgagee at the address for service given by such Mortgagee to the Corporation; or
 - (ii) by facsimile transmission, electronic mail, or by any other method of electronic communication (of the Mortgagee agrees in writing that the party given the notice may do so in this manner).
- (c) To the Corporation by giving same personally to any director or officer of the Corporation, or by courier or by registered mail, postage prepaid, address to the Corporation at its address for service as set out in the Declaration, or as changed in accordance with the requirements of the Act.

10.2. **Receipt of Notice**

If any notice is mailed as aforesaid, then such notice shall be deemed to have been received (and to be effective) on the second (2nd) day following the day on which same was mailed. If any notice is delivered personally, by courier, or by facsimile transmission or by electronic mail or by any other method of electronic communication, then such notice shall be deemed to have been received (and to be effective) on the next day following the day on which same was personally delivered, couriered, telefaxed, or sent by any other method of electronic communication as the case may be.

10.3. **Omissions and Errors:**

Except as provided in the Act, the accidental omission to give any notice to anyone entitled thereto or the non-receipt of such notice or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

ARTICLE XI - Assessment and Collection of Common Expenses

11.1 **Duties of the Board re Common Expenses:**

All expenses, charges and costs of maintenance of the Common Elements and any other expenses, charges or costs which the Board may incur or expend pursuant hereto and referred to from time to time as the Common Expenses, shall be assessed by the Board and levied against the Owners pursuant to the provisions of Schedule "D" of the Declaration. The Board shall, from time to time, and, at least annually, prepare a budget for the property and determine by estimate the amount of Common Expenses for the next ensuing fiscal year or remainder of the current fiscal year, as the case may be, which shall include provision for a reserve fund, as required by the Act. The Board shall allocate and assess such Common Expenses as set out in the budget for such period, among the Owners, according to the proportions in which they are required to contribute to same. All Common Expenses in arrears shall accrue interest at the rate of eighteen percent (18%) per annum, calculated monthly until payment in full. Common Expenses shall be payable on the first (1st) day of each and every month by post-dated cheques and/or pre-authorized funds transfers.

11.2. **Duties of the Board Re Reserve Fund:**

In addition to the foregoing, the Board shall, subject to the provisions of the Declaration which may qualify or limit such obligation, make provision for the reserve fund in the annual budget, for major repair and replacement of Common Elements and assets of the Corporation. The Corporation shall establish and maintain this reserve fund, and shall collect from the Owners as part of their contribution towards the Common Expenses, amounts that the Board determines sufficient for such major repair and replacement, calculated on the basis of expected repair and replacement costs and life expectancy of the Common Elements and assets of the Corporation. Moreover, the Corporation shall conduct periodic studies to determine whether the amount of money in the reserve fund and the amount of contributions collected by the Corporation are adequate to provide for the expected costs of major repair and replacement of the Common Elements and assets of the Corporation in accordance with section 94 of the Act.

11.3. **Notice of Common Expenses to Owners:**

The Board shall advise all Owners promptly in writing of the amount of Common Expenses payable by each of them respectively determined as aforesaid and shall deliver copies of each budget on which Common Expenses are based to all Owners and Mortgagees entered in the record kept pursuant to Section 47 of the Act.

11.4. **Owner's Obligations:**

Each Owner shall be obliged to pay to the Corporation, or as it may direct, the amount of Common Expenses assessed against each Owner, in equal monthly payments on the first (1st) day of each and every month for the 12-month period or other period of time to which such assessment is applicable, until such time as a new assessment is given to such Owner. If the Board so directs, each Owner shall forward to the Corporation forthwith a series of twelve (12) post-dated cheques covering the monthly Common Expense payments payable during the period to which such assessment relates. Alternately, the Corporation may require the Owner to establish a pre-authorized debit whereby the Corporation or the property manager shall debit from the Owner's account, the monthly common expense contribution. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of a breach of any rules and regulations of the Corporation in force from time to time by any Owner of a common interest in the Corporation, or by members of his family and/or their invitees or licensees, shall be borne and/or paid for by such Owner, and may be recovered by the Corporation against such Owner in the same manner as Common Expenses.

11.5. **Extraordinary Expenditures:**

In addition to the annual assessment, extraordinary expenditures, as determined by the Board in its absolute discretion, not contemplated in the foregoing budget and for which the Board shall not have sufficient funds may be assessed at any time during the year by the Board serving notice of such assessment on all Owners as an additional Common Expense. The notice shall include a written statement setting out the reasons for the assessment. The assessment shall be payable by each Owner within ten (10) days after the delivery thereof to him or within such further period of time or in such instalments as the Board may determine.

11.6 **Default in Payment of Assessment:**

- (a) Arrears of payments required to be made under the provisions of this Article XI shall bear interest at the rate of eighteen percent (18%) per annum and shall be compounded monthly until paid and shall be deemed to constitute a reasonable charge incurred by the Corporation in collecting the unpaid amounts within the meaning of the Act;
- (b) In addition to any remedies or liens provided by the Act, if any Owner is in default in payment of a common expense assessment levied against him, for a period of fifteen (15) days, the Board may bring legal action for or on behalf of the Corporation to enforce collection thereof, and there shall be added to any amount found due, all costs of such action, including costs as between a solicitor and his own client; and
- (c) The Board when giving notice of default in payment of Common Expenses or any other default to the Owner of the common interest in the Corporation, shall concurrently send a copy of such notice to each Mortgagee who has requested that such notices be sent to him/her.

ARTICLE XII – Damage and Liability for Costs

12.1 Procedure Where Damage Occurs:

Where the Board, pursuant to the Act, has determined that there has been substantial damage to twenty-five percent (25%) of the replacement cost of all the buildings and structures on the property, a meeting of the Owners shall be called for the purpose of voting for termination of the government of the property as a condominium.

12.2 Abatement and Restraint of Violations by Owners and Liability for Costs:

The Owner of a common interest in the Corporation (parcel of tied land) is responsible for any cost incurred to repair:

- (a) damage to the Common Elements that may have been caused by either the Owner's use or his/her residents or their visitors use of same; and
- (b) damage to the Common Elements that has been caused by the deliberate or negligent conduct of any Owner, resident or their invited guests.

In those cases where it has been determined that the responsibility for payment of the cost to repair is that of the Owner of a common interest in the Corporation, or where an Owner requests to repair a Common Element him/herself, the Board shall approve the selection of the contractor and/or the method of repair. This decision, at the discretion of the Board, shall be based on a minimum of two (2) bids, the method of repair, the meeting of standards of uniformity and consideration of the convenience of the Owner(s) involved.

12.3 Additional Rights of Corporation:

The violation of any provisions of the Act, the Declaration, the by-laws, and/or the rules adopted by the Board, shall give the Board the right, in addition to any other rights set forth in these by-laws:

- (a) to enter the dwelling in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or
- (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach, including without limiting the generality of the foregoing an application for an order for compliance by implementing such proceedings as provided for in Part IX of the Act.

12.4 Insurance Deductible:

Pursuant to subsections 105(2) and (3) of the Act, where any insurance policy obtained or maintained by the Corporation contains a deductible clause that limits the amount payable by the insurer, then the portion of any loss that is excluded from coverage shall be deemed a Common Expense, provided however that if an Owner, tenant or any other person residing in and/or using the Owner's dwelling with the permission or knowledge of the Owner, by or through any act or omission causes damage to such Owner's dwelling, or to any other dwelling(s), or to any portion of the Common Elements, in those circumstances where such damage was not caused or contributed by any act or omission of the Corporation (or any of its directors, officers, agents or employees), then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such Owner's dwelling, together with all costs and expenses incurred by the Corporation (either directly or indirectly) in resolving such claim and/or having such damage fully rectified (including the increase in insurance premiums, if any, charged or levied against the Corporation by its insurer as a result of such claim or damage, together with all legal costs incurred by the Corporation on a solicitor and client basis), and shall be recoverable from such Owner in the same manner (and upon the same terms) as unpaid Common Expenses.

ARTICLE XIII - Indemnification

13.1 Indemnification:

Each Owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by an act

or omission of such Owner, his family or any member thereof, any other resident of his dwelling or any guests, invitees or licensees of such Owner or resident to or with respect to the Common Elements and/or all dwellings, 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.

13.2. **Contributions:**

All payments pursuant to this Section are deemed to be additional contributions toward the Common Expenses and are recoverable as such.

ARTICLE XIV - Default

14.1 **Notice of Unpaid Common Expenses:**

The Board whenever so requested in writing by an Owner or Mortgagee entered on the register, shall promptly report to such Owner or Mortgagee any unpaid Common Expenses due from, or any other default by, any Owner and any other moneys claimed by the Corporation against any Owner which are thirty (30) days past due.

14.2 **Notice of Default:**

The Board, when giving notice of default in payment of Common Expenses or any other default to the Owner of the common interest in the Corporation, shall concurrently send a copy of such notice to each registered Mortgagee who has requested that such notices be sent to him.

14.3 **Notice of Lien:**

Where a lien for arrears of Common Expenses arises in favour of the Corporation pursuant to subsection 85(1) of the Act, the Corporation shall, on or before the day a notice of lien is registered, give notice of the lien to every encumbrancer whose encumbrance is registered against the title of the dwelling, by personal service of the notice or by sending the notice by registered prepaid post addressed to the encumbrancer at his last known address.

ARTICLE XV – PROCEDURES FOR MEDIATING DISPUTES

15.1 **Mediation Procedures:**

For the purposes of complying with sections 125-132 of the Act (if and where applicable), the procedure with respect to the mediation and arbitration of disputes or disagreements between the Corporation and any Owner(s) shall be conducted in accordance with the rules of procedure for the conduct of mediation attached hereto as Appendix "B".

15.2 **Condominium Authority Tribunal (CAT)**

An Owner and/or the Corporation may apply to the Condominium Authority Tribunal (“CAT”) for the resolution of a dispute relating to Records under Section 55 of the Act or any other type of dispute covered by the CAT, from time to time.

ARTICLE XVI - Miscellaneous

16.1 **Invalidity:** The invalidity of any part of this by-law shall not impair or affect in any manner the validity and enforceability or effect of the balance thereof.

16.2. **Gender:** The use of the masculine gender in this by-law shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires.

16.3 **Waiver:** No restriction, condition, obligation or provision contained in this by-law shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

16.4. **Headings:** The headings in the body of this by-law form no part thereof but shall be deemed to be inserted for convenience of reference only.

16.5 **Alterations:** This by-law or any part thereof may be varied, altered or repealed by a by-law passed in accordance with the provisions of the Act and the Declaration.

16.6 **Conflicts:** In the case of a conflict between the provisions of the Act and any provision in the Declaration, by-laws or rules, the Act shall prevail. In the case of a conflict between the provisions in the Declaration and any provision in the by-laws or rules, the Declaration shall prevail. In the event the provisions of the Act or in the Declaration are silent the provisions of the By-laws shall prevail.

THE FOREGOING BY-LAW is hereby passed by the directors of the Corporation pursuant to the Act as evidenced by the signatures hereto of the directors.

DATED as of the _____ day of _____, yyyy_____.

**NIAGARA SOUTH STANDARD CONDOMINIUM
CORPORATION NO. _____**

Per: _____
Name:
Title: President

Per: _____
Name:
Title: Secretary

Per: _____
Name:
Title: Treasurer

We have authority to bind the Corporation.

This By-Law No. 1 is hereby confirmed without variation by the Declarant which owns one hundred percent (100%) of the POTLs and Common Elements pursuant to the provisions of the Act.

2717041 Ontario Inc

Per: _____
Name:
Title: President

I have authority to bind the Corporation.

APPENDIX "A" TO BY-LAW NO. 1

ARTICLE I - PRE-MEDIATION PROCEEDINGS

Prior to submitting a dispute on any question or matter to a mediator appointed by the parties in accordance with Section 132 of the *Condominium Act, 1998* as set forth below, and within fourteen (14) days of the dispute first arising, the Owner(s) of a common interest in the Corporation and the Board shall meet on at least one (1) occasion, and shall use their best efforts to resolve the question or matter in dispute through good faith negotiations conducted at such meeting and, if the parties are able to agree upon the selection of a neutral person who may be and include the Corporation's Property Manager and/or a highly regarded member of the community, the meeting shall include such neutral person(s), all acting with a view to coming to a resolution of the question or matter in dispute without further proceedings, including the conduct of mediation with the assistance of an outside mediator.

If one (1) of the parties to the question or matter in dispute is unable or unwilling to participate in the initial meeting described in the preceding paragraph, then either party to the dispute may within five (5) business days give written notice to the other that it is submitting the question or matter in dispute to the mediation and arbitration procedures set forth below.

If the parties, having met and used their best efforts to resolve the question or matter in dispute through good faith negotiation, have been unable to resolve the question or matter in dispute, then either party may, thereafter, give notice to the other that it is submitting the question or matter in dispute to mediation.

ARTICLE 2 – MEDIATION

Within thirty (30) days following the giving of notice by one (1) party to the other party or parties as set forth above, the question or matter in dispute shall be settled, initially, by mediation proceedings in accordance with Section 132 of the *Condominium Act, 1998*.

Selection and Role of the Mediator:

The party serving notice of mediation shall set forth in the notice to the other party the names, qualification and experience of two (2) or more mediators from whom the other party may select one (1), or alternatively, may furnish to the first party its own list of two (2) or more persons qualified to act as a mediator, and within seven (7) days thereafter, the parties shall communicate directly with one another to select a mediator. If the parties are unable to agree upon the selection of a mediator within seven (7) days, or within such longer period of time as may be agreeable to the parties, then the appointment of a mediator shall be conducted by any one (1) of the founding members or by the executive director of the Condominium Dispute Resolution Centre (the "CDRC") whose decision in the appointment of a qualified mediator for this purpose shall be final and binding upon the parties.

The mediator selected by the parties or, failing their agreement, appointed by the CDRC, shall not have had any current or past relationship of any kind with any of the parties that might otherwise give rise to justifiable doubts as to his or her impartiality or independence in assuming a neutral role as a mediator to assist the parties in the resolution of their dispute. The mediator's role is to assist the parties to negotiate a resolution of their dispute. The mediator will not make decisions for the parties about how the matter should or must be resolved.

Party Confidentiality:

The parties to the question or matter in dispute acknowledge that the mediation is a confidential settlement process, and that they are participating in the process with the understanding that anything discussed in the mediation cannot be used in any other proceeding.

Pre-Mediation Information:

Each of the parties shall provide to the mediator a brief description of the dispute in writing in order to facilitate a more complete understanding of the controversy and the issues to be mediated not less than two (2) days prior to the first mediation session, which date the mediator shall have authority to establish at the earliest possible and convenient date to the parties.

Authority to Settle:

The parties or those representing them at the mediation shall have full, unqualified authority to settle the controversy.

Mediator Confidentiality:

The mediator shall not disclose to anyone who is not a party to the mediation anything said or any materials submitted to the mediator except when ordered to do so by judicial authority or where required to do so by law.

Legal Representation:

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

Right to Withdraw:

In accordance with Section 132 of the *Condominium Act, 1998*, it is mandatory that each party to the dispute attend the initial mediation session. Prior to such attendance, each party shall provide the mediator with a brief description of the dispute in writing. Subject to the foregoing requirements, each party shall be entitled to withdraw at and from the initial mediation session.

Costs of the Mediation:

In accordance with Section 132 of the *Condominium Act, 1998*, each party shall pay the share of the mediator's fees and expenses that the settlement specifies, if a settlement is obtained, or the mediator specifies in the notice stating that the mediation has failed, if the mediation fails.

Notice and Report:

In the event that the parties are unable, with the assistance of the mediator, to settle their dispute, the mediator shall deliver a notice to the parties stating that the mediation has failed, and the parties shall thereafter resolve their dispute by arbitration under the *Arbitration Act, 1991* and in the manner set forth below.

Settlement:

In accordance with Section 132 of the *Condominium Act, 1998*, upon obtaining a settlement between the parties with respect to the disagreement submitted to mediation, the mediator shall make a written report of the settlement which shall form part of the agreement or matter that was the subject of the mediator.

ARTICLE 3 – ARBITRATION

In the event the parties are unable to resolve the question or matter in dispute between (or among) them either because the mediation has failed or one (1) of the parties to the mediation and/or the mediator has withdrawn from the mediation, or one (1) of the parties has failed to attend and participate in the initial mediation session, then the question or matter in dispute shall, within ten (10) days of the happening of any of the foregoing occurrences which has resulted in the failure of mediation, be submitted to arbitration in accordance with the *Arbitration Act, 1991*, as amended from time to time, and as follows:

Selection of Arbitrator:

The parties, or any of them, shall follow the same procedure in selecting a sole arbitrator to hear their dispute as has been or is required to be followed in the selection of a mediator as set forth above, and the parties acknowledge and accept that the decision of the sole arbitrator, so selected, once rendered in the format of a final award on the merits of the dispute, shall be binding upon the parties, and shall not be subject to appeal under any circumstances (whether with respect to question of law, a question of fact, a question of mixed fact and law, or otherwise).

Any arbitrator appointed pursuant to the provisions of this by-law shall have the following minimum qualifications, namely:

- (a) be a member of the Arbitration and Mediation Institute of Ontario, or be someone who has successfully completed the Arbitration II Course at the University of Toronto or a comparable course at a comparable institution within the Province of Ontario; and
- (b) in acting as a sole arbitrator, being impartial and independent of the parties to the dispute, having confirmed to the parties that he or she has no current or past relationship of any kind with

any of the parties that might otherwise give rise to justifiable doubts as to his or her impartiality or independence in hearing the arbitration.

Pre-arbitration Information:

The party initiating arbitration proceedings shall do so by notice in writing to the other party within ten (10) days following the date of selection of the sole arbitrator setting forth a brief description of the issue(s) or matter(s) submitted for arbitration. The notice shall commence the arbitration proceedings. The responding party shall, within ten (10) days of the date of receipt of the notice from the initiating party, reply by setting forth a brief description of any additional or further issues or matters it wishes to submit for arbitration in the context of the overall controversy.

The arbitrator shall conduct a pre-arbitration hearing or conference call with the disputing parties or with their counsel, not later than ten (10) days from the date of selection of the arbitrator, in order to identify and narrow the issues in dispute, to ascertain the relevant evidence to be submitted and the number (and names) of the witnesses to be called (if any), including any expert witnesses needed or desired (and to limit the number of expert witnesses to be called), and to ultimately assess the approximate length of time that the arbitration proceedings will take.

Recording of Evidence:

To reduce the expenses of the arbitration process, no format transcribing or recording of evidence shall be undertaken unless all parties to the dispute agree thereto (and concomitantly agree to the payment of all costs and expenses associated therewith). Any of the disputing parties and/or the arbitrator may have a tape recorder present to assist in confirming what evidence has been submitted and to monitor the general conduct of the proceedings.

Exchange of Written Statements:

Each of the disputing parties will be required to submit brief written statements summarizing their respective claims or defences (as the case may be) within the time frame specified by the arbitrator, indicating the facts supporting their respective positions, identifying the point(s) in issue and the relief sought, and accompanied by any documents considered relevant.

Arbitration Hearing:

Within forty-five (45) days of the date of exchange of written statements, and the production of any documents required to be produced by the arbitrator for delivery to another party or parties, a hearing will be convened by the arbitrator for the presentation of evidence and the submission of oral arguments by or on behalf of the disputing parties, and the arbitrator shall determine any matters of procedure regarding the arbitration proceedings which are not specified herein, in accordance with the *Arbitration Act, 1991*, as amended from time to time. To ensure the timeliness of the proceedings, the arbitrator may impose financial penalties for the breach of any time limits imposed or established in connection with the submission of written statements, the provision of any documents, or the taking of any step or action by any of the parties in respect of the arbitration proceedings, not exceeding the sum of Five Hundred Dollars (\$500.00) per breach.

Authority of the Arbitrator:

The arbitrator shall have the power to make an order for the detention, preservation or inspection of property or documents that are the subject matter of the arbitration (or connected with any question that may arise during the arbitration proceedings), and the arbitrator shall have the power to order any party to provide security in connection with same, akin to the powers exercisable under Section 18(1) of the *Arbitration Act, 1991*. Any objection to the lack of jurisdiction of the arbitrator to arbitrate the matter(s) or issue(s) in dispute, or pertaining to the arbitrator exceeding his or her authority, shall be raised by the party alleging same as soon as reasonably possible after the arbitration has been commenced, and any such objection shall be ruled upon by the arbitrator as a preliminary question (rather than being dealt with in his or her ultimate award), and there shall be no appeal or review of such ruling under Section 17(8) of the *Arbitration Act, 1991*.

ARTICLE 4 - ARBITRAL AWARD

The arbitrator shall, after reviewing the statements submitted and hearing the evidence and arguments presented by or on behalf of the disputing parties, render a decision, together with written reasons therefore, as soon as reasonably possible, but in no event later than thirty (30) days following the date that the final submissions have been made: by or on behalf of the parties to the dispute and the hearings with respect thereto have been formally concluded, and the arbitrator shall deliver a copy thereof to each of the parties following the rendering of same.

Costs of the Arbitration:

Unless otherwise provided in the arbitral award to the contrary, each party shall bear (and be solely responsible for) the costs of its own legal counsel and witnesses, and each party shall bear (and be solely responsible for) its equal share of the costs of the sole arbitrator.

Notwithstanding the foregoing, the arbitrator shall, upon hearing brief oral submissions requested to be made with respect to an award of costs, have the power and discretion to award any scale of costs (i.e., party and party, solicitor and his/her own client etc.) or a fixed cost between or among the disputing parties in such amounts and in such proportions at the arbitrator may deem appropriate, provided however, that any party who exceeds any limit imposed by the arbitrator at the pre-arbitration hearing with respect to the number of witnesses to be called, and/or the number of expert witnesses to be heard, shall be disentitled to receive any award of costs which purports to compensate such party (in whole or in part) for the provision or attendance of such excess witnesses/experts.

Save as expressly modified by the foregoing provisions of Articles 3 and 4 hereof, the provisions contained in the Arbitration Act, 1991, and any successor statute, including the withdrawal or removal of an arbitrator, the application of the Courts of Justice Act to the awarding of costs, pre judgement interest, etc., shall continue to apply to an arbitration conducted by the Corporation in accordance with foregoing provisions hereof.

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