

SCHEDULE "A"

**FORM OF AMENDED AND RESTATED  
CONDOMINIUM DECLARATION OF**

**WINNIPEG CONDOMINIUM  
CORPORATION NO. 547**



Southlands  
VILLAGE

WINNIPEG CONDOMINIUM CORPORATION NO. 547

DECLARATION

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## DECLARATION OF SOUTHLANDS VILLAGE

THIS DECLARATION of covenants, conditions and restrictions (hereinafter referred to as the "**Declaration**") is made and executed pursuant to *The Condominium Act*, 1987, Re-enacted Statutes of Manitoba, Chapter C170, and amendments thereto (hereinafter referred to as the "Act"), at the City of Winnipeg, in the Province of Manitoba, the 17th day of July, 2007 by **PRITCHARD FARM SOUTHLANDS LTD.**, a corporation having its head office in the City of Winnipeg, in the Province of Manitoba, (hereinafter referred to as the "**Declarant**").

### RECITALS:

A. The Declarant is the registered owner of the land hereinafter described:

LOT 2 BLOCK 3 PLAN 45595 WLTO  
IN RL LOTS 110 TO 113 PARISH OF ST PAUL

(hereinafter referred to as the "**Land**");

B. The Declarant intends that the Land, and the interests appurtenant thereto described in the Plan, or subsequently added to the Common Elements, and all buildings and improvements constructed thereon (hereinafter referred to as the "**Property**") shall be governed by the Act;

C. The Declarant desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Property, certain easements and rights in, over and upon the Property, and certain mutually beneficial restrictions and obligations with respect to the Property and the use, conduct and maintenance thereof in order to provide for the health and safety of Owners and occupants; to provide for the peace, comfort and convenience of Owners and occupants; to preserve property values; and to develop a homogenous community;

D. The Declarant desires and intends that the several Owners, mortgagees, occupants and other persons hereinafter acquiring any interest in the Property shall at all times enjoy the benefits of and shall hold their interest together with and subject to the rights, easements, privileges and restrictions hereinafter set forth, and as provided by the Act, By-laws and the Common Element Rules hereinafter referred to, all of which are declared to be in furtherance of a plan to promote and protect the co-operative aspects of the Property and are established for the purpose of enhancing and protecting the value, desirability and attractiveness thereof;

E. The consents of all persons described in Sub-section 5(1)(f) of the Act are hereto annexed as Schedule "A";

F. The property to which this Declaration relates does not contain residential premises that are occupied by tenants on the date the Declaration is submitted to the Registrar for registration.

NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:

**PART I – INTRODUCTORY**

**1.1 Definitions**

The following terms used herein, have the meanings set out below, unless the context otherwise requires:

- 1.1.1 "Act" means The Condominium Act, 1987, Re-enacted Statutes of Manitoba, Chapter C170, and amendments thereto and all regulations made thereunder;
- 1.1.2 "Board" means the board of directors elected pursuant to this Declaration and the By-Laws of the Corporation;
- 1.1.3 "Builder" means Pritchard Farm Southlands Ltd. or Streetside Development Corporation, or such other builder that contracts with the Declarant to construct Dwelling Houses within the Project;
- 1.1.4 "Buildings" means collectively all of the Dwelling Houses shown within the Plan and any other structure constructed on the Common Elements;
- 1.1.5 "By-Laws" means the by-laws of the Corporation enacted from time to time;
- 1.1.6 "Capital Replacement Reserve Fund Plan" means the plan adopted by the Board to establish a Reserve Fund to provide sufficient funds which can realistically be expected to cover the cost of major repairs, maintenance, or replacement of the Common Elements and the Managed Property or any of the components thereof, or any real and personal property required to be maintained by the Corporation;
- 1.1.7 "Capital Replacement Reserve Fund Study" means the study to be undertaken by the Board which shall serve as a basis for a report determining the life expectancy or reasonable working life in respect of all aspects of the Common Elements or the components thereof, or any real and personal property required to be maintained by the Corporation;
- 1.1.8 "Common Element Rules" means rules and regulations with respect to the use of the Common Elements as are enacted by the Corporation from time to time;
- 1.1.9 "Corporation" means the Corporation constituted under the Act by the registration of this Declaration and the Plan;
- 1.1.10 "Declarant" means **Pritchard Farm Southlands Ltd.** and any successor-in-title who acquires all of the Property before the conveyance or transfer of any one or more (but less than all) of the Units;
- 1.1.11 "Derelict Personal Property" means any personal property located on the Common Elements (excepting those parts of the Common Elements over which an Owner has exclusive use) which are left unattended for more than 72 hours without the permission of the Corporation;

- 1.1.12 "**Land**" shall have the meaning ascribed to it in Recital A of the preamble hereto;
- 1.1.13 "**Managed Property**" means all those parts of the Units or Dwelling Houses, owned by the Owners but which, pursuant to the Declaration or by contract, the Corporation, is required to administer, control, manage, maintain, repair and replace in such manner as though it were Common Elements, or otherwise as agreed, for the common benefit of and at the common expense of all Owners;
- 1.1.14 "**Municipality**" means the municipality within which the Land is located, which municipality is The Rural Municipality of East St. Paul at the time of registration of this Declaration;
- 1.1.15 "**Owner**" means the registered Owner or Owners, and each of them, of a Unit;
- 1.1.16 "**Plan**" means the condominium plan which has been prepared in accordance with the Act, and is to be registered with this Declaration by the Declarant in the Winnipeg Land Titles Office, and any amendments thereto;
- 1.1.17 "**Project**" means all of the real and personal property and fixtures of the Property;
- 1.1.18 "**Property**" shall have the meaning ascribed to it in Recital B of the preamble hereto;
- 1.1.19 "**Reserve Fund**" means the reserve funds established under Part XII of the Declaration;
- 1.1.20 "**Dwelling House**" means any dwelling or residence constructed on any Unit and includes any garage, attached to the dwelling;
- 1.1.21 "**Unimproved Unit**" means a Unit upon which a Dwelling House has not yet been completed and occupied;
- 1.1.22 "**Unit**" means a condominium Unit as shown on the Plan and includes any building or part of a building situated within such area;
- 1.1.23 Other terms used herein shall have ascribed to them the definitions contained in the Act, as amended from time to time.

## 1.2 Statement of Intention

The recitals herein are true, and the Declarant intends that the Land, and interests appurtenant to the Land described in the Plan, shall be governed by the Act; and hereby submits the same to the provisions of the Act. By virtue of the Act the terms of this Declaration, the Plan, the By-laws and the Common Element Rules are imposed upon the Property for the benefit of all of the Units and all persons interested therein from time to time.

- 1.2.1 This Project initially consists of 83 bare land Units upon which will be constructed 83 Dwelling Houses.



1.2.2 *The Project is designed for residents 55 years or older, in conformity with the development agreement with the Municipality, as may be amended from time to time.*

*(Amended April, 2009)*

1.2.3 *The standards for use and conduct, maintenance and architecture within the Project are what give the community its identity. This Declaration and associated by-laws and rules establish procedures for development of Units and their continued use, sufficient to allow community standards to evolve as the resident community changes and grows to meet technological and demographic needs*

*(Amended April, 2009)*

### 1.3 **Particulars of Units**

The Units shall be as shown in the Plan which has been prepared in accordance with the provisions of the Act and is submitted for registration contemporaneously herewith. The proportions expressed in percentages allocated to each Unit in which the Owners are to have voting rights in the Corporation, to share in the common interests, and to contribute to the common expenses, shall be as follows:

1.3.1 the percentage allocated to each Unit for contribution to common expenses and for the proportion of common interests; and

1.3.2 the percentage allocated to each Unit for voting rights in the Corporation is the same percentage allocated to such Unit for contribution to common expenses and for the proportion of common interests,

shall be as described in Schedule "B" attached.

### 1.4 **Name of Project**

The name of the Project shall be **SOUTHLANDS VILLAGE**.

### 1.5 **Property Made Subject to this Declaration**

All of the Property shall be held, conveyed, mortgaged, encumbered, leased, occupied and improved subject to and together with the following covenants, conditions, restrictive uses, limitations and obligations as provided by the Act, the By-laws and the Common Element Rules, all of which are declared to be in furtherance of a plan for the improvement of the Property, and all parts thereof, the subdivision thereof, and the promotion and protection of the co-operative aspects of the Property, and for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. The said covenants, conditions, restrictive uses, limitations and obligations shall enure to the benefit of and be binding upon the Declarant, its successors and assigns, and any persons acquiring or owning an interest in the Property, their grantees, successors, heirs, executors, administrators and assigns.

## 1.6 Resolutions before First Conveyance

- 1.6.1 The first meeting of Owners shall be held before any conveyance or transfer of a Unit or Units owned by the Declarant is registered for the purpose of electing a Board of directors, which Board of directors shall consist of not fewer than three (3) and not more than nine (9) persons. The Board of directors so elected, may, without notice, hold its first meeting, providing a quorum of directors are present.
- 1.6.2 So long as the Declarant is the registered Owner of one hundred (100%) percent of the Units, the written approval of the Declarant may be substituted for actions otherwise requiring the approval of a duly constituted meeting of Owners, subject to the right of a mortgagee to exercise the Declarant's right to vote, consent or approve of matters requiring a vote, consent or approval.

## 1.7 First Annual General Meeting of Owners

The Declarant must hold the first annual general meeting of Owners within six months after the date on which 50% plus one of the Units have been conveyed to purchasers.

## 1.8 Mandatory Replacement of the Board of Directors

As required by the Act, a new Board for the Corporation shall be elected within six months after the Declarant ceases to be the Owner of a majority of the Units, provided however that any person who was a member of the Board prior to such election and any person being or being in any way connected with or related to or engaged by the Declarant shall not, by reason of such prior membership or by reason of such connection with, relation to or engagement by the Declarant, be disqualified to be nominated for and to be elected at such election as a director.

## 1.9 Phased Construction

The Project will be constructed and completed at different times during which portions of the Project will be sold and occupied. During such periods the provisions of this Section shall apply notwithstanding anything to the contrary expressed or implied in this Declaration, as follows:

- 1.9.1 the Declarant shall have continuous unrestricted access to all unfinished and incomplete parts of the Project, at times convenient to the Declarant and the Declarant's trades and suppliers, to complete development and construction of the Project and any and all deficiencies and adjustments thereto;
- 1.9.2 the Declarant shall be responsible for all costs of maintenance, upkeep and security of Unimproved Units in lieu of any condominium fees assessable to the Declarant in respect to such Unimproved Units;
- 1.9.3 the Declarant shall be at liberty to show Units to the public at times and in the manner that the Declarant in its discretion determines appropriate for the purpose of rental or sale with the right to place and maintain all signage and paraphernalia on the Project (at the Declarant's cost) for such

purposes;

- 1.9.4 the Corporation and the Owners may be required to consent to certain easements, encroachments, declaration amendments, and other matters affecting the Property and the titles to the Units and each Owner agrees to execute and deliver to the Corporation and the Declarant all such consents as may be required to effect such amendments and registrations necessary to complete the unfinished and incomplete parts of the Project; and
- 1.9.5 the Declarant and the Corporation may enter into further agreements for the purposes of clarifying and expanding upon the provisions of this section 1.9.

**1.10 Extended Meaning of Declarant**

For the purposes of Section 1.9 Declarant means the Declarant and Streetside Development Corporation ("Streetside") and their employees, agents, contractors, sales personnel and designations of Declarant and Streetside authorized to enter the Project for the purposes described in Section 1.9.

**1.11 Municipal Compliance and Access**

The Corporation and every Owner shall comply with the Municipality's by-laws, regulations and services terms and standards.

The Corporation, in respect of the Common Elements and the Units owned by the Corporation, and each Owner, in respect of any Units owned by the Owner, must not do anything or permit anything to be done that is contrary to the Municipality's by-laws, regulations and service terms and standards.

The Corporation and every Owner shall give the Municipality access to the Common Elements and each of their respective units for the purpose of administering and enforcing the Municipality's by-laws, regulations and service terms and standards.

**PART II - UNITS**

**2.1 Meaning of a "Unit"**

Wherever in any agreement respecting a Unit, or in this Declaration, the By-laws, the Common Element Rules, or any mortgage or conveyance of a Unit, the term "Unit" is used, it shall include for all purposes the interest in the Common Elements appurtenant to such Unit unless a contrary intention is specifically stated.

**2.2 Boundary of Unit**

The boundaries of the Units are shown on the Plan.

**2.3 Occupation and Use Restrictions**

The occupation and the use of the Units shall be in accordance with the following restrictions and stipulations:

2.3.1 Each Unit shall be occupied and used only as a private single family residence and for no other purpose, provided however that the foregoing shall not prevent the Declarant or *a Builder* from constructing and maintaining show homes as models for display and sales office and using Unimproved Units for construction staging and other Project construction purposes and otherwise maintaining displays, signs and temporary sales facilities on any part of the Property until all Units have been sold by the Declarant;

*(Amended April, 2009)*

2.3.2 No Unit shall be occupied or be used by anyone in such a manner as to interfere with the reasonable use, occupation and quiet enjoyment of any other Unit or of the Common Elements;

2.3.3 No Unit shall be occupied or be used by anyone in such a manner as to result in an increase in the risk of fire on the Property, or the risk or threat of cancellation of any policy of insurance referred to in this Declaration, or as to result in the actual cancellation of any such policy;

2.3.4 The Owner of each Unit shall comply, and shall require all residents of and visitors to his Unit to comply, with the Act, this Declaration, the By-laws, and the Common Element Rules;

2.3.5 No Owner shall erect a television antenna, aerial, tower, or similar structure to a Dwelling House. Satellite dishes not exceeding 24 inches in diameter may be installed, subject to written approval of the Board;

2.3.6 No Owner shall alter the appearance of the exterior of the Dwelling House or any other exterior improvements on his Unit or any other Unit, or do or permit to be done anything which would alter the appearance of his Unit or Dwelling House or any other Unit or Dwelling House, without the consent, in writing, of the Board;

2.3.7 No Owner shall allow recreation vehicles, trailers, campers, boats, snowmobiles, trail bikes, all terrain vehicles and equipment to be parked or stored other than inside the garage of the Dwelling House;

2.3.8 No Owner shall keep any animals, birds or reptiles in his Unit other than pets authorized by this Declaration;

2.3.9 No Owner shall erect or plant or cause to be erected or planted any fence, screen, barrier, awning, shade, partition, tree, shrub or flower on or near the border of his Unit without the prior written consent of the Board, or as may be prescribed in the By-laws;

2.3.10 No Owner shall make or permit any disturbing smells on the Unit, or make or permit any noise upon the Unit that breaches any noise bylaw of the Municipality (or, if the Municipality does not have a noise bylaw, then the Owner shall not make or permit any noise upon the Unit that would breach the City of Winnipeg noise bylaw, which bylaw would be deemed to apply to the Unit), or do or permit anything to be done therein which will interfere with the rights, comfort or convenience of other occupants of the Property; no Owner shall play or permit to be played loudly any musical instrument, phonograph, stereo, radio or television, nor shall any Owner practice or allow either vocal or instrumental music at any time in such a manner as to disturb or annoy other

Owners or occupants of the Property;

- 2.3.11 No Owner shall use (nor allow to be used) his Unit or deal with his Unit in a manner which is inconsistent with the terms of any restrictive covenant registered against title to the Unit;
- 2.3.12 No Owner of a Dwelling House shall permit his garage door to remain in an open position, other than for the purpose of immediate access or for an event sanctioned by the Board;
- 2.3.13 Each Owner shall promptly notify the Corporation upon any change in possession, or of ownership or of any mortgage or other dealing with his Unit;
- 2.3.14 No above ground or in ground swimming pools shall be allowed on any Unit;
- 2.3.15 *Each Owner shall maintain his or her Unimproved Unit by providing for adequate weed control, and elimination of all fire hazards on the property.*  
*(Amended April, 2009)*
- 2.3.16 No private wells shall be permitted on any Unit unless approved by the Municipality.

## 2.4 Signs

No sign of any kind shall be displayed to the public view on any Unit except:

- One for sale sign not more than two (2) square feet;
- one political sign, not more than six (6) square feet, that endorses candidates for public office. Political signs shall not be erected more than 45 days prior to an election and shall be removed within seven (7) days following the election.

Notwithstanding the foregoing, signs by the Declarant or its affiliates may be installed during the development and construction of the Project. All such signs shall be professionally lettered and mounted.

## 2.5 Unimproved Units

The following rules shall apply to the phased development of the Project:

- 2.5.1 The Declarant, and not the Corporation shall be responsible for keeping any Unimproved Unit free of debris, weeds and any other unsightly matter;
- 2.5.2 Once a Dwelling House has been constructed, the Declarant shall be responsible for installing landscaping, which is of the same nature and quality as that which exists in the developed portion of the Property.

## 2.6 Requirements for Leasing

- 2.6.1 Subject to the proviso hereinafter contained, no Owner shall lease his Unit unless he causes the tenant to deliver to the Corporation an agreement signed by the tenant to the following effect:

"I, \_\_\_\_\_, covenant and agree that I, members of my household and my guests from time to time, will, in using the Unit rented by me and the Common Elements, comply with The Condominium Act, the Declaration and the By-laws and all rules and regulations of the Condominium Corporation during the term of my tenancy."

- 2.6.2** No tenant shall be liable for the payment of common expenses unless notified by the Corporation that the Owner is in default of payment of common expenses in which case the tenant shall, subject to any lawful requirements to the contrary arising under or by virtue of The Residential Tenancies Act, deduct from the rent payable to the Owner, the Owner's share of the common expenses, and shall pay the same to the Corporation.
- 2.6.3** Any Owner leasing his Unit shall not be relieved hereby from any of his obligations with respect to the Unit, which shall be joint and several with his tenant.
- 2.6.4** Any Owner leasing his Unit shall, prior to the time of possession by the tenant or tenants thereof (the "Tenant"), be obliged to pay to the Corporation an amount of money (the "Leasing Levy") in such amount, to be held and used by the Corporation for such purposes, and, to be so held and used subject to the conditions and terms provided for hereinbelow, namely:
- 2.6.4.1** the amount of the Leasing Levy shall be such amount as is from time to time stipulated in the Corporation's By-laws;
- 2.6.4.2** the purposes for which the Leasing Levy is to be used shall be:
- 2.6.4.2.1** for the purpose of financing the costs and expenses which are incurred by the Corporation in repairing any damage or destruction to the Property caused by the Tenant, Tenant's family members or any invitee or invitees of the Tenant; and
- 2.6.4.2.2** for the purpose of financing the costs and expenses which are incurred by the Corporation in enforcing compliance by the Tenant, the Tenant's family members or any invitee or invitees of the Tenant, and for the purpose of financing the costs and expenses which are incurred by the Corporation in enforcing compliance by the Owner of the Unit of his obligations to enforce or ensure compliance by the persons aforesaid, with the Act, this Declaration, the Corporation's By-laws and any rules and regulations of the Corporation;
- 2.6.4.3** upon termination of the lease or tenancy, the Corporation shall refund the Leasing Levy to the Owner, less any portion thereof used by the Corporation or allocated by the Corporation to be used for the purpose or purposes aforementioned;
- 2.6.4.4** the Corporation shall keep all amounts comprising Leasing Levies in a separate account and shall allocate the respective portions thereof to each Owner with respect to the Leasing Levy or Leasing Levies paid by them for and with respect to

their respective Unit, and, the Corporation shall be entitled in its sole discretion to invest such monies in and with such financial institutions as provide federal government insurance for and with respect to the investment of such monies with such institutions, and, the interest earned thereon shall also be allocated to each Owner's respective Leasing Levy account proportionately to the account from time to time amount standing to the credit of each Owner's account, and, all such allocated interest shall for the purposes of this subparagraph (d) be and be deemed to form part of the Owner's Leasing Levy;

2.6.4.5 the Board of Directors of the Corporation shall have sole discretion to determine when to take or retain monies from out of an Owner's Leasing Levy for the purposes aforementioned;

2.6.4.6 when an Owner owes the Corporation a Leasing Levy or some portion thereof in accordance with the foregoing, but such Owner fails to pay the same to the Corporation when it is due, the amount so due shall be and be deemed to be an assessment or additional assessment of common expenses by the Corporation to the Owner with respect to his Unit concerned, and, the same shall be recoverable from such Owner by the Corporation and shall be enforceable against him and by way of lien against such Owner's Unit concerned in the same manner as for and with respect to due but unpaid assessments for other common expenses;

2.6.4.7 the payment of a Leasing Levy by an Owner to the Corporation shall not relieve the Owner from any of his obligations with respect to the Unit, including, without limitation, the Owner's responsibility to reimburse the Corporation for all costs and expenses incurred by the Corporation in repairing or rebuilding any portion of the Property damaged or destroyed by the Owner's Tenant (or others for whom the Tenant is responsible), provided however that the Owner's monetary obligations to the Corporation for such costs and expenses shall be reduced by the amount of the Owner's Leasing Levy which is applied by the Corporation on account of such costs and expenses.

## 2.7 Corporation Maintenance

Responsibility for the maintenance of the Property and restrictions upon the alterations and improvements thereof, shall be as follows:

The Corporation shall maintain the Common Elements (except those parts required to be maintained by the Owner), and the parts of the Units as follows:

*(Amended April, 2009)*

2.7.1 *all landscaping located outside any designated building envelope of a Dwelling House and establish and enforce architectural guidelines and landscaping guidelines to preserve the character of the Project and the integrity of design and appearance of the improvements to the Unit;*

*(Amended April, 2009)*

- 2.7.2** the complete plumbing system within the *Common Elements* (including plumbing systems for or related to the provisions of sanitary sewers, storm sewers and the provision of water), but excluding the irrigation system benefitting each Unit.;

*(Amended April, 2009)*

- 2.7.3** the complete electrical system within the Property, but excluding separate meters serving individual Units, and electrical panels, fixtures and wiring located within and serving individual Units unless the same serve more than one (1) Unit and/or the common elements;

*(Amended April, 2009)*

- 2.7.4** the high speed communications cables and/or facilities therefore within the Property, but excluding internal wiring and components located within and serving individual Units unless the same serve more than one (1) Unit, and/or the common elements; provided that notwithstanding anything to the contrary, the Corporation shall not be liable for the operation of such cables and/or facilities, including without limitation any loss, cost or damage arising from any malfunction or disrepair thereof;

- 2.7.5** all piping, equipment and other installations of and for the transmission of natural gas within the Property, but excluding portions thereof located within and serving individual Units, unless the same serve more than one (1) Unit and/or the common elements;

- 2.7.6** all maintenance of landscaping, lawn, trees and horticultural elements existing at the date of registration of this Declaration or installed by the Corporation or the Declarant or its designates;

- 2.7.7** removal of snow from driveways, front walkways and front steps of Units.

**2.8** **Unit Owner Maintenance**

Each Owner shall:

- 2.8.1** maintain and keep in good repair the parts of the Dwelling House and all other improvements upon his Unit not required to be maintained by the Corporation pursuant to *section 2.7*.

*(Amended April, 2009)*

- 2.8.2** permit the Corporation and its agents, at all reasonable times on notice (except in case of emergency when no notice is required) to enter in or on his Unit (but not the Dwelling House thereon) for the purpose of:

**2.8.2.1** inspecting the Unit and the exterior of any Dwelling House thereon;

**2.8.2.2** maintaining, repairing or replacing pipes, wires, cables and ducts, conduits, plumbing, heating, and other facilities for the furnishing of utilities or services in, or under the Unit or for the benefit of the Dwelling House thereon or capable of being used in connection with the enjoyment of any other Unit or Dwelling House;



2.8.2.3 maintaining, repairing or replacing Common Elements; or

2.8.2.4 ensuring that the Declaration and By-laws are being observed;

2.8.3 forthwith carry out all work that may be required pursuant to this Declaration or ordered by any public authority in respect of his Unit;

2.8.4 be responsible for the removal of ice and snow from the back steps of his Dwelling House and any deck or patio adjacent thereto;

2.8.5 *be responsible for: seasonal connection and disconnection of sump pump water exhaust systems to his Dwelling House; and seasonal connection, disconnection and flushing of irrigation system to his Dwelling House;*

*(Amended April, 2009)*

2.8.6 obtain the permission in writing of the Board for any installation or planting of any trees, plants, bushes, flowers, lawns or other horticultural elements within his Unit;

2.8.7 obtain the permission in writing of the Board for the installation of any air conditioning condensing Unit serving the Dwelling House;

2.8.8 repair, maintain and replace bulbs in light fixtures attached to the exterior of his/her Dwelling House;

2.8.9 *repair and maintain his or her Dwelling House and any and all improvements to or attached to the Dwelling House situated in the Unit including the irrigation system benefiting the Unit and adjacent Common Elements.*

*(Amended April, 2009)*

2.8.10 *In the event of damage to or destruction of a Dwelling House or associated structure on a Unit, the Owner shall proceed promptly to repair, replace or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved by the Corporation;*

*(Amended April, 2009)*

2.8.11 *Permit the Declarant, or in lieu of the Declarant, the Corporation to install Unit landscaping and irrigation system and to maintain the landscaping to such quality and design which will be consistent with the standards of the quality and design of the Declarant's landscaping plan for the Lands and shall also comply with all and any rules and regulations made by the Corporation in regard to landscaping. The Owner shall be responsible for the maintenance, repair and replacement of the irrigation system benefiting his Unit.*

*(Amended April, 2009)*

## 2.9 General Owner Obligations

In connection with his maintenance, repair and replacement obligations, the Owner shall also have the responsibility to obtain the prior written approval of the Corporation, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the condominium property; excavation; access to building roofs; relocation of plumbing or electrical lines or fixtures; installation of air conditioning Units; the use of heavy or noisy equipment; such other actions as may cause concern for the peace and safety of the Project and its residents or the aesthetics of the condominium Property. The Corporation may condition such approval on criteria as the Board deems reasonable, including but not limited to:

- Use of licensed and insured contractors.
- Oversight by the Corporation or its agent.
- The Owner submitting plans as to the scope of the contemplated repair.
- Restrictions as to hours of work.
- Imposition of time limits in which jobs must be completed and prohibitions against major renovations during certain times of year.
- Restrictions regarding equipment that may be parked or stored on or near the condominium Property during construction.
- Restrictions regarding the transport and storage of materials and supplies necessary for the construction to be performed.

Nothing shall preclude the Corporation from acting as the Owner's agent and obtaining the services of contractors to perform Owner maintenance responsibilities, provided that the Corporation and the Owner so agree and provided that the Owner is deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting common expenses under these condominium documents.

## **2.10 Alterations by Owners**

No Owner may make or permit the making of any modifications or alterations to the exterior of his Unit, the Common Elements, or the exclusive Common Elements, or in any manner change the exterior appearance of any portion of the Project, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Project in part or whole. The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Manitoba as a condition of reviewing any requested modifications, alteration or addition to the condominium Property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in the Project, the quality of the proposed alteration, objections of neighbouring residents, and such other criteria as the Board may reasonably adopt in reaching its decision.

## **2.11 Enforcement of Maintenance**

If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the condominium Property as required in this Part II, the Corporation shall have, without waiver of other remedies, the right to enter the Owner's Unit and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit owner shall be charged for the

costs of such activities (including legal fees incurred by the Corporation) by the Corporation which shall be secured by a lien for charges.

## **2.12 Negligence – Damage Caused by Condition of Unit**

Each Owner shall be liable to the Corporation and/or other Owners for the expenses of any maintenance, repair or replacement of the condominium Property, made necessary by his act or negligence, or by that of any member of his family or his or their guests, employees, agents, or tenants. If any condition, defect or malfunction existing within a Unit, if caused by the Owner's negligence, shall cause damage to the common elements or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible). If one or more of the Units involved is not occupied at the time the damage is discovered, the Corporation may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit owner's expense. The Corporation may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Corporation, with the cost being secured by a lien for charges.

## **2.13 Pets**

- 2.13.1** No animal, bird or reptile (all of the foregoing, including domestic dogs and cats, are hereinafter referred to as a "pet") of any kind shall be kept in any Unit unless approved by the Board, and the Board may, if such approval has been given, withdraw such approval on 15 days notice in the event of a breach of the Act or the Declaration by the Owner or his pet; **provided that** the keeping of one orderly domestic dog or domestic cat, not exceeding 15 kilograms within any Unit is permitted. An Owner shall not keep in any Unit more than one pet (excluding fish). All pets must be registered with the Board.
- 2.13.2** Notwithstanding the generality of the foregoing, if the Board, in its sole discretion, deems any pet whatsoever to be or be causing an unreasonable disturbance to occupiers of other Units or to be a hazard or a threat to, or harmful or dangerous to other Owners or occupiers of other Units, then the Owner of the Unit or the occupier of the Unit in which such pet is kept shall forthwith, on notice from the Board, remove or cause to be removed such pet from his Unit and such pet shall thereafter not be kept in that Unit at any time.
- 2.13.3** Any municipal bylaws in effect in the Municipality shall have effect within the Common Elements and any Unit registered in the name of the Corporation. Municipal enforcement officers are hereby authorized to enforce the Municipality's bylaws in the Common Elements and any Unit registered in the name of the Corporation.
- 2.13.4** Any and all permitted pets which may bear a leash will be required to bear one when on the Common Elements and any Unit registered in the name of the Corporation. No pet shall be kept on or allowed to run at large over any part of the Common Elements or any Unit registered in the name of the Corporation. The Owner shall promptly pick up from the Common Elements and all Units, and dispose of in a garbage receptacle, all excrement of his or her pet.

## 2.14 Architectural Guidelines and Landscaping

- 2.14.1 *No Dwelling House or structure shall be placed, erected or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading or other site work, exterior alteration of existing improvements) shall take place except in compliance with this section and the design guidelines enacted pursuant to Subsection 2.15.*
- 2.14.2 *Any Owner may remodel, paint or redecorate the interior of the Dwelling House on his Unit without approval. However, modification to patios and decks of a Unit shall be subject to approval. No approval shall be required to repaint the exterior of a Dwelling House or structure in accordance with the originally approved colour scheme or to rebuild in accordance with the originally approved plans and specifications.*
- 2.14.3 *This section shall not apply to the activities of the Declarant or to improvements to Common Elements by or on behalf of the Corporation.*
- 2.14.4 *This section may not be amended without the Declarant's written consent so long as the Declarant owns any Units.*
- 2.14.5 *The Declarant shall provide the initial Design Guidelines which may contain general provisions applicable to all of the Units as well as specific provisions which may vary from neighbourhood to neighbourhood within the Project. The Design Guidelines will be approved as a by-law of the Corporation. Design Guidelines are intended to provide guidance to Owners and builders regarding matters of particular concern to the Review Authority.*
- 2.14.6 *The Declarant shall have the sole and full authority to amend the Design Guidelines so long as it owns any Unit, notwithstanding the reviewing authority of any architectural review committee of the Board, unless the Declarant delegates the power to amend to any architectural review committee. Upon termination or delegation of the Declarant's right to amend, the Board shall have the authority to amend the Design Guidelines. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction modification has commenced.*
- 2.14.7 *For the purposes of this Part II, the entity having jurisdiction from time to time shall be referred to as the **Review Authority**. The Declarant and any subsequent Review Authority may employ architects, designers or other persons as deemed necessary to perform the review.*  
*(Amended April, 2009)*

## 2.15 Procedures

- 2.15.1 *Prior to commencing any work within the scope of this section (the "**Work**") an Owner shall submit to the Review Authority an application for approval of the proposed Work in such form as the Design Guidelines or the Review Authority may specify. Such application shall include plans and specifications (the "**Plans**") showing site layout, grading, structural design, exterior excavations, exterior materials and colours, exterior lighting, and other features of the proposed construction that is applicable. The Design Guidelines and the Review Authority may require the submission of such additional information as may be reasonably necessary to consider any*

application.

- 2.15.2** *Regardless of the type of improvement being constructed on a Unit, once construction has commenced, it must be completed within 18 months from the date construction commenced unless otherwise specified in a notice of approval or unless the Review Authority grants an extension in writing.*
- 2.15.3** *The Declarant has a significant economic interest in the development of the Project and has a vested interest in ensuring the orderly and expeditious development of the Units.*
- 2.15.4** *The standards and procedures established by this section are intended as a mechanism for maintaining and enhancing the overall presentation of Dwelling Houses within the Project. The Declarant and any Review Authority shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other government requirements, nor for ensuring that all Dwelling Houses are of comparable quality, value, or size or of similar design. Neither the Declarant, the Corporation, the Board or any committee nor member of any of the foregoing shall be held liable for any defects in plans revised or approved hereunder or for any injury, damages or loss arising over the manner or quality of approved construction on or modification to any Unit.*
- 2.15.5** *Any Dwelling House or improvement to a Unit made in violation of this section or the Design Guidelines shall be deemed to be non-conforming. Upon written request from the Declarant, the architectural review committee, or the Board, Owners shall at their own cost and expense remove such improvement and restore the Unit to substantially the same condition as existed prior to the nonconforming work.*
- 2.15.6** *Any contractor or subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms or provisions of this section and the Design Guidelines may be excluded from the Project. In such event neither the Declarant, the Corporation its officers or directors shall be held liable to any person for exercising the rights granted by this subsection.*

*(Amended April, 2009)*

**2.16** **No Waiver of Future Approvals**

*Each Owner acknowledges that the persons reviewing applications under this Part will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Review Authority may refuse to approve similar proposals in the future. Approval of applications or Plans for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.*

*(Amended April, 2009)*

### **2.17 Limitation of Liability**

*The standards and procedures established by this Part are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Project but shall not create any duty to any person. Review and approval of any application pursuant to this Part is made on the basis of aesthetic considerations only, and the Declarant or Review Authority shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design. Neither the Declarant, the Corporation, the Board, any committee, nor member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, or for any defects in plans revised or approved hereunder, or for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the Review Authority and all persons comprising the Review Authority shall be defended and indemnified by the Corporation.*

*(Amended April, 2009)*

### **2.18 Standards**

*All improvements to the Property made by the Declarant have been or will be constructed or installed in accordance with all applicable municipal requirements.*

*(Amended April, 2009)*

## **PART III - COMMON ELEMENTS**

### **3.1 Use of Common Elements**

- 3.1.1** Subject to the provisions of the Act, this Declaration, the By-laws and the Common Element Rules, each Owner shall have the right to the use and enjoyment of the Common Elements in common with all other Owners, except as hereinafter stated, and such rights shall extend to each Owner and the members of his immediate family and the guests and other authorized occupants and visitors of the Owner. Each Owner shall have exclusive use of one mail box. Mail Boxes of Owners shall be provided by Canada Post, as they designate.
- 3.1.2** Each Owner shall adhere to, comply with, and strictly observe this Declaration and each and every part thereof and all By-laws, Rules and Regulations, and Resolutions, in respect of the use of the Common Elements, and in so doing, each Owner shall:
- 3.1.2.1** use and enjoy the Common Elements in such a manner as to not unreasonably interfere with the use and enjoyment thereof of others entitled and authorized to do so, including without limitation, the good, safe, orderly and prudent use of the Common elements and any machinery or equipment therein in accordance with any Rules and Regulations enacted by the Board in such regard from time to time;
- 3.1.2.2** not erect, place, allow, keep or display signs (including without limitation “for sale” signs and signs indicating “open house” for display), billboards, advertising matter or other

notices or displays of any kind on the Common Elements without both the prior approval of the Corporation and the approval, if required, of the Municipality in respect thereto;

- 3.1.2.3 not permit laundry to be hung anywhere on or in the Project;
- 3.1.2.4 not store any combustible, inflammable, or offensive goods, provisions, or materials (including without limitation, propane) in, either his Unit or anywhere on the Common Elements unless such goods, provisions, or materials are stored in such areas and in such manner that the safety of the Unit, and all Units, and Common Elements is ensured and provided that such storage will not, either void any insurance policies held by the Corporation or cause increase in the premiums payable for such insurance, and the Owner notifies the Corporation (with particulars of such storage, including description of what is being stored) of such storage in writing;
- 3.1.2.5 not do anything or permit anything to be done in his Unit, or on the Common Elements that is contrary to any statute, ordinance, by-law or regulation of the Municipality;
- 3.1.2.6 not deposit refuse and garbage in or outside his Unit other than as designated by the Board;
- 3.1.2.7 not repair automobiles, motor vehicles, trucks, trailers or other machinery in any Common Elements, unless in facilities provided for such purposes in the Project or otherwise without first obtaining the written approval of the Board;
- 3.1.2.8 not allow trailers, campers, boats, snowmobiles, trail bikes, all terrain vehicles or any other equipment to be stored anywhere on or in the Project except as approved and provided for by the Corporation;
- 3.1.2.9 not keep on the Common Elements any private passenger automobile or machinery whatsoever which is not in operating condition;
- 3.1.2.10 not obstruct or permit any entry, walkways, passage, driveway or parking areas to be obstructed by any Occupant, invitee, guest or visitor.

### 3.2 Exclusive Common Elements

Subject to the provisions of the Act, this Declaration, the By-laws and the Common Element Rules, the Owner of each Unit shall have the exclusive use of the driveway and approach as constructed by a *Builder* (and as subsequently repaired or replaced) from the roadway to his Dwelling House.

*(Amended April, 2009)*

### 3.3 Restrictive Access

- 3.3.1 Any Owner in whose Unit there is situate any utility meter in respect to the supply of water, gas, electricity or other service to any one or more of his Unit, any other Unit or Units or the common elements, or, in whose Unit there is situated any valve(s), device(s), wires etc. controlling the

provision or transmission of any such service, shall allow access to such meter, or, such valve(s) or wires or device(s) at all reasonable times to any employee or agent of the Corporation, the utility or other company supplying the service concerned, or any mortgagee holding a mortgage or mortgages on at least 10% of the Units.

- 3.3.2 Without the consent in writing of the Board of Directors, no Owner shall have any right of access to those parts of the Common Elements used from time to time as utility areas and building maintenance storage.

### 3.4 Maintenance and Repair of Common Elements

Subject to the provisions of the Act, this Declaration and the by-laws of the Corporation, the Corporation shall maintain and repair the Common Elements.

### 3.5 Substantial Changes or Additions

- 3.5.1 The Corporation may, by a vote of at least eighty (80%) percent of the Owners of the Common Elements at a meeting of such Owners called for that purpose, make any substantial addition, alteration or improvement to the Common Elements, or make any substantial change in the assets of the Corporation. At any meeting called pursuant to this Article, votes against the proposed expenditure shall be called for, counted and recorded before calling for votes in favour of the expenditure.

- 3.5.2 The Corporation may make any other addition, alteration or improvement of the Common Elements, or make any other change in the assets of the Corporation that is not substantial, in accordance with the provisions and procedures set forth in the Act.

- 3.5.3 For the purposes of this section 3.5, but subject to the Act, the Board of Directors shall decide whether any addition, alteration, or improvement to the Common Elements, or any change in the assets of the Corporation, is substantial.

### 3.6 Changes Required by Municipality or Government

Where a substantial change in the Common Elements or a substantial addition to the assets of the Corporation is required by the Municipality or any other governmental authority to be done within 15 days or less, the Corporation shall comply without a meeting or a vote. When the Municipality or any other governmental authority requires a substantial change in the Common Elements or a substantial addition to the assets of the Corporation within any greater period of time, the Board of Directors of the Corporation may make such changes in the Corporation's procedures as may be reasonably necessary to comply with the specified period of time, and the proceedings shall in all respects be as binding as if all necessary formalities had been complied with. If, in the board's opinion, any such requirement is unreasonable and if an appeal procedure is available, the Board shall commence such appeal, subject to a meeting of the Unit Owners.

### 3.7 Lease of Common Elements

- 3.7.1 The Corporation may, by By-law:



3.7.1.1 lease any part of the Common Elements, except any part that is an exclusive use Common Element; and

3.7.1.2 grant or transfer an easement or licence through the Common Elements.

3.7.2 A lease, or grant or transfer of an easement or licence referred to above, signed by the authorized officers of the Corporation under its seal, affects the interest of every Owner in the Common Elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a By-law of the Corporation.

### **3.8 Removal of Derelict Personal Property**

3.8.1 The Corporation, its agent or any persons authorized by the Board shall be entitled to remove from the Common Elements, excepting those parts of the Common Elements which the Corporation has leased or over which any Owner has the exclusive use, any Derelict Personal Property.

3.8.2 The Corporation shall give notice to the Owner of the Derelict Personal Property to remove the articles within two (2) days of the effective date of the Notice, failing which the Corporation shall remove and store the Derelict Personal Property. The Corporation shall be entitled to charge a storage fee of \$15.00 per day and to hold the Derelict Personal Property until the fee is paid. For the purposes of this section 3.8 the Board may amend the fee to be paid herein, as it deems desirable from time to time (the "Derelict Property Levy").

3.8.3 Any Derelict Personal Property, unclaimed for more than 30 days shall be considered to be abandoned and the Corporation may dispose of it as it seems fit.

3.8.4 Any Owner who deposits personal property on the Common Elements (excepting those parts of the Common Elements over which an Owner has the exclusive use) and plans to leave his Unit for more than 72 hours shall notify the Corporation.

3.8.5 When an Owner owes the Corporation a Derelict Property Levy or some portion thereof in accordance with the foregoing, but such Owner fails to pay the same to the Corporation when it is due, the amount so due shall be and be deemed to be an assessment or additional assessment of common expenses by the Corporation to the Owner with respect to his Unit concerned, and, the same shall be recoverable from such Owner by the Corporation and shall be enforceable against him and by way of lien against such Owner's Unit concerned in the same manner as for and with respect to due but unpaid assessments for other common expenses.

## **PART IV - COMMON EXPENSES**

### **4.1 Specification of Common Expenses**

The Common Expenses shall be as defined in the Act and shall include:

4.1.1 all sums of money levied against or charged to the Corporation on account of any and all utilities and services including without limiting the generality of the foregoing, levies or charges for:

- waste and refuse disposal;
- maintenance materials, tools and supplies;
- snow and ice removal and landscaping, except that for which Unit Owners are responsible;
- water supply to the Units and Common Elements, except water supply separately metered and charged to the Owner of each Unit;
- hydro supply to the Units and Common Elements, except hydro supply separately metered and charged to the Owner of each Unit;
- cable television outlets, except as may be separately metered and charged to the Owner of each Unit;
- natural gas service to or for the benefit of the Units and the Common Elements except natural gas service separately metered and charged to the Owner of a Unit;
- fire/sprinkler;
- telephone;
- alarm;
- mechanical.

- 4.1.2 all amounts incurred by the Corporation in maintaining the Common Elements, except where a Unit Owner is responsible for same;
- 4.1.3 the payment of realty taxes (including local improvements charges) levied against the Property, until such time as taxes are levied against each Unit;
- 4.1.4 the costs of appraisals made pursuant to this Declaration;
- 4.1.5 the cost of maintaining fidelity bonds as provided in the By-laws;
- 4.1.6 the cost of borrowing money for the purpose of carrying out the objects and duties of the Corporation, provided that each borrowing is approved by the Owners in accordance with the provisions of the Declaration and the By-laws;
- 4.1.7 the cost of all legal, accounting, auditing and engineering services provided to the Corporation;
- 4.1.8 insurance premiums for insurance coverage maintained by the Corporation;
- 4.1.9 all costs and expenses associated with any Units owned from time to time by the Corporation;
- 4.1.10 any unpaid Leasing Levy (Unit specific);
- 4.1.11 payment of any remuneration payable pursuant to any management contract which may be entered into between the Corporation and a property manager;
- 4.1.12 any unpaid Derelict Property Levy (Unit specific);
- 4.1.13 all newsletters, memberships, subscriptions, office equipment, supplies, printing and postage costs;
- 4.1.14 all further items of expense which may from time to time be determined by the Directors of the

Corporation to form part of the Common Expenses, such determination of the Directors to be final and binding upon all Owners.

#### **4.2 Unit Taxes Not Included in Common Expenses**

Subject to the provisions of clause 4.1.3 hereof, taxes on each Unit and common interest appurtenant thereto which constitute a parcel pursuant to Section 8(11) of the Act do not form part of the common expenses and are the responsibility of each individual Owner.

#### **4.3 Payment of Common Expenses**

Subject to Section 1.8, each Owner shall contribute to the Common Expenses in the percentage set forth in clause 1.3.1 hereof. Each Owner's share of Common Expenses shall be paid without deduction or set-off to the Corporation or to the mortgagees of his Unit if so requested, or as the mortgagees or the Corporation may otherwise direct, in such manner and at such times as shall be specified in the By-laws of the Corporation.

#### **4.4 Priority**

Should the Corporation file a lien for unpaid common expenses, it shall be entitled to maintain and shall maintain a priority over all other claims and the lien may be enforced as contemplated under Section 14 of the Act (or any substituted section) provided that a lender of a prior registered mortgage of which the Corporation has received notice, shall not be bound by any arrears which exceed three (3) months of arrears from the date the lender first received written notice from the Corporation of the arrears giving rise to the lien.

### **PART V - DAMAGE**

#### **5.1 Owners to repair Dwelling House after Damage**

*Subject to the provisions of the Act and this Declaration, each Owner shall repair his or her Dwelling House and associated structures on his or her Unit.*

*(Amended April, 2009)*

#### **5.2 Corporation to Repair Common Elements after Damage**

Subject to the provisions of the Act and this Declaration, the Corporation shall repair the Common Elements.

#### **5.3 Procedure When Damage Occurs**

*5.3.1 Board to Determine Extent of Damage – Where damage to the Common Elements occurs, the Board shall determine within 30 days of the occurrence whether there has been damage to the extent that the cost of repair would be at least twenty-five (25%) percent of the value of the Common Elements immediately prior to the occurrence (such damage being hereinafter in this Part referred to as "substantial damage").*

*(Amended April, 2009)*

5.3.2 Damage Less than Twenty-five Percent - Where the Board determines under subsection 5.3.1 that there has not been substantial damage, then the Corporation shall repair the Common Elements;  
(Amended April, 2009)

5.3.3 Damage More than Twenty-five Percent

5.3.3.1 Where the Board determines that there has been substantial damage, notice of such determination shall be given by registered mail to the Unit owners and all first mortgagees accompanied by notice of a meeting of owners to be held for the purpose of deciding whether to repair. If at such meeting, or any adjournment thereof, owners owning eighty percent (80%) of the Units and Common Elements vote for repairs within 60 days of the determination referred to in subsection 5.3.1 hereof, the Corporation shall repair the Common Elements;  
(Amended April, 2009)

5.3.3.2 Where the Board determines that there has been substantial damage, and if the cost of repairing the damage is covered by insurance to the extent for ninety-five percent (95%) or more, all of the owners shall and do hereby agree to vote in favour of repair when voting for repair after damage.  
(Amended April, 2009)

5.3.4 Owners Voting Against Repairs - Subject to the provisions of subsection 5.3.3.2 hereof, where the Board determines that there has been substantial damage and where on the vote within the said sixty (60) day period, owners owning eighty (80%) percent of the Units and Common Elements do not vote for repair, the Corporation shall, within 10 days of the vote, register a Notice of Termination.  
(Amended April, 2009)

5.3.5 Owners not Voting - Where there is no vote within the said 60 day period, the Corporation shall, within 10 days after the expiry of the said 60 day period, register a Notice of Termination.  
(Amended April, 2009)

5.4 Decisions Regarding Reconstruction of Common Elements

All decisions with regard to reconstruction of Common Elements, adjustment of losses, letting of reconstruction contracts shall be made by the Corporation (except the decision whether or not to reconstruct, which shall be made as provided in section 5.3 hereof) shall be made by the Corporation. The authority of the Corporation in this regard shall include the type of materials to be used, and the timing and method of reconstruction.

(Amended April, 2009)

5.5 Contribution to Common Expenses to Abate During Reconstruction

5.5.1 Subject to Subsection 5.5.2 hereof, if a Unit is rendered uninhabitable as a result of damage, the

contribution of the Owner towards common expenses shall abate until the Unit is restored.

5.5.2 Capital Expenditures Note to Abate – Subsection 5.5.1 shall not apply to expenses that benefit the Property permanently, nor to the cost of rebuilding.

## 5.6 Copy of Plans and Specifications

A set of the “as built” construction drawings and specifications of the Common Elements shall be deposited and maintained in the office of the Corporation at all times for the use of the Owners and the Board, to assist them in rebuilding or repairing any damage to the Common Elements and for the use of any Owner and mortgagee.

## PART VI - INSURANCE

### 6.1 By the Corporation

The Corporation shall be required to obtain and maintain, to the extent obtainable the following insurance, in one or more policies:

6.1.1 Insurance against damage by fire with extended coverage and such other perils as the Board may from time to time deem advisable, insuring:

6.1.1.1 all insurable Common Elements; and

6.1.1.2 personal property owned by the Corporation

in an amount equal to the full replacement value of the insurable Common Elements and such personal property, without deduction for depreciation.

6.1.2 *Deliberately left blank.*

*(Amended April, 2009)*

6.1.3 Public liability and property damage insurance insuring the liability of the Corporation, the Board, the manager appointed by the Board, and the Owners from time to time, in amounts to be determined by the Board of Directors but with a minimum amount of \$2,000,000.00 of coverage per occurrence. The coverage afforded by such insurance shall apply to any action brought against any of the insured by any other insured in the same manner as though separate policies were issued to each; and

6.1.4 Directors and Officers errors and omissions insurance to the extent deemed advisable by the Board from time to time.

### 6.2 General Provisions

6.2.1 The Corporation, its Board, and its Officers, shall have the exclusive right, on behalf of itself and as agents for the Owners, to amend the policy and to adjust any loss and settle any claims with respect

to all insurance placed by the Corporation, and to give such releases as are required, and any claimant, including the owner of a damaged Unit shall be bound by such adjustments.

- 6.2.2 A certificate of insurance evidencing all policies arranged by the Corporation shall be issued as soon as possible to each Owner. The master policy for any insurance coverage shall be kept by the Corporation in its offices, available for inspection by Owners or mortgagees on reasonable notice to the Corporation.
- 6.2.3 No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation, or to direct that loss shall be payable in any manner other than as provided in this Declaration.
- 6.2.4 The Owners shall not do anything or allow anything to be done in the Units or Common Elements that will invalidate in whole or in part the insurance carried on the Property, or increase the premium rates in connection therewith.
- 6.2.5 When considered appropriate or prudent the Corporation shall obtain an appraisal from a qualified appraiser for the full replacement value of all property to be insured pursuant to Section 6.1.
- 6.2.6 Every mortgagee shall be deemed to have agreed to waive any right to have proceeds of any insurance applied on account of the mortgage where such application would prevent application of the insurance proceeds in satisfaction of any obligations to repair. This subsection shall be read without prejudice to the right of any mortgagee to exercise the right of an owner to vote or to consent if the mortgage itself contains a provision giving the mortgagee that right, and also the right of any mortgagee to receive the proceeds of any insurance policy, if the Property is not repaired;
- 6.2.7 In the event that any Owner incurs or suffers damage or loss to any exterior finishing or improvement of his Dwelling House and/or any yard area of his/her Unit that is covered or insured under any insurance policy of the Corporation, and such Owner elects to pursue recovery of such loss or damage under any insurance policy of the Corporation, such Owner shall be responsible for and pay the full amount of any deductible on such claim if, in the sole opinion of the Board, such damage or loss was caused by or arose out of any act or omission by such Owner, his servants, agents, licensees, invitees or tenants.

### 6.3 By the Owner

It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation. Each Owner shall obtain and maintain insurance in respect of loss or damage to:

- 6.3.1 *his Unit and interest in the Common Elements against damage by fire with extended coverage in an amount equal to the full replacement cost of his or her Dwelling House. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Sections 2.14 to 2.17;*

*(Amended April, 2009)*

- 6.3.2 furnishings, appliances, decorating and personal property and chattels of the Owner contained within his Unit and his personal property and chattels stored elsewhere on the Property, including his automobile or automobiles or recreation vehicles and for loss of use and occupancy of his Unit in the event of damage. Every such policy of insurance shall contain waiver of subrogation against the Corporation, its manager, agent, employees and servants and against the other owners and any members of their household or guests, except for arson, fraud, vehicle impact, vandalism or malicious mischief;
- 6.3.3 public liability insurance and property damage insurance covering any liability of any Owner to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation.

#### **PART VII - INDEMNIFICATION**

7.1 Each Owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by any act or omission of such Owner, his family or any member thereof, any other resident of his Unit or any guests, invitees or licensees of such Owner or resident, 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.

All payments pursuant to this subsection 7.1 are deemed to be additional contributions towards the common expenses and recoverable as such.

#### **PART VIII - SALE**

##### **8.1 Vote Required**

- 8.1.1 Subject to the Act, the complete Property or any part of the Common Elements may be sold if authorized by a vote of Owners who own at least ninety (90%) percent of the Units, and, by the consent of the persons having registered claims against the Property or the parts of the Common Elements, as the case may be, created after the registration of the Declaration and the plan. In voting on a proposed sale, the Owners voting against the sale shall vote first and be recorded.
- 8.1.2 If any dissenting Owner intends to have the fair market value of the Property being sold after the date of casting his dissenting vote and if he does not so indicate, he shall not be entitled to the benefit of the provisions of Sections 21(7) or 21(8) of the Act.

##### **8.2 Proceeds of Sale of Part of Common Elements**

In the event of sale of part of the Common Elements, the proceeds shall be credited to the Reserve Fund of the Corporation, provided however that the proceeds of the sale of exclusive use Common Elements shall belong to the Owner or Owners who are entitled to the use or benefit thereof subject to the rights of such Owner's respective mortgagees.

#### **PART IX - EXPROPRIATION OF PART OF COMMON ELEMENTS**

**9.1** If no Units are affected by an expropriation and the expropriation includes part of the Common Elements, the compensation shall be negotiated and finalized by the Corporation whether or not proceedings are necessary, and the compensation, less such amounts as may be required to reconstruct or repair, shall be distributed among the Owners and mortgagees in proportion to their interests in the Common Elements except in the case of exclusive Common Elements. The compensation for exclusive Common Elements shall be negotiated and finalized by the Owner whose exclusive Common Elements are taken, and the compensation paid shall belong to such Owner subject to the interest of the mortgagee.

## **PART X - TERMINATION**

### **10.1 Vote Required**

Subject to the rights of mortgagees and encumbrancers under the Act, termination of the government of the Property by the Act may be authorized by a vote of Owners owning not less than ninety (90%) percent of the Common Elements.

### **10.2 Management After Termination**

If the government of the Property by the Act is terminated, the following rules shall apply:

**10.2.1 Board and Officers to Continue** - The Board and the officers thereof shall continue to have all powers, duties and obligations in connection with the Property that they had prior to termination.

**10.2.2 Sale to be Made** - The Board and the officers thereof shall endeavour to sell the Property at the earliest possible time for the best possible price and on the best obtainable terms.

**10.2.3 Occupancy of Residence** - Until sale, each Owner shall continue to occupy his Unit notwithstanding that as a result of termination he no longer owns the specific Unit. He shall pay as rent for the Unit occupied his share of the total expenses of the Property, whether he occupies the Dwelling House or not, so long as the Unit is fit for occupation.

**10.2.4 Responsibility for Mortgages** - Each Owner shall continue to be responsible for payment of all monies due from time to time under mortgages that were formerly charges against his Unit.

**10.2.5 Election of Officers and Government of Property** - If more than one hundred and eighty (180) days elapse before the completion of any sale, the election of Directors and Officers and all other provisions of the By-laws relating to the government of the Property shall continue in the same way as if the Property were still governed by the Act.

**10.2.6 Determination of Share of Expenses** - If some Units are unfit for occupancy the percentage share of common expenses of each fit Unit shall be calculated in accordance with the following method:

The percentage share of common expenses attributable to each fit Unit shall be divided by the aggregate percentage shares attributable to all fit Units, and then multiplied by 100, and this shall be the new percentage share of common expenses for the fit Unit.



### **10.3 Termination of Governing Act**

In the event that the government of the Property under the Act is terminated, the Unit Owners shall thereupon become tenants in common of the land described in the Plan and interests appurtenant thereto, in proportion to the value of each respective Unit Owner's Unit and appurtenant interest in the Common Elements. The value of the Property, and each part thereof which formerly formed each Unit and each Unit's respective appurtenant interest in the Common Elements shall be determined by an independent appraiser, whose fee shall be a common expense attributable to the Property. Such appraiser's decisions shall be rendered to all Unit Owners in writing and shall be final and binding upon all persons concerned.

## **PART XI - AMENDMENT OF CONDOMINIUM DECLARATION AND PLAN**

### **11.1 Amendment of Condominium Declaration**

Except with respect to those provisions in this Declaration which are merely declaratory of provisions in the Act and which therefore may not be amended by the consents of the persons hereinafter referred to, all matters contained in this Declaration (except for the address for service) may be amended only with the written consents of those persons holding at least 80% of the voting rights in the Corporation. Provided further that the Corporation shall deliver written notice to the Municipality of any proposal to amend subsection 2.3.15 of this Declaration

### **11.2 Amendment of the Condominium Plan**

The Condominium Plan may be amended only with the written consents of those persons holding at least 80% of the voting rights in the Corporation.

### **11.3 Vested Rights not to be Adversely Affected Without Consents**

Notwithstanding the foregoing provisions of this Part XI, no amendment to the Condominium Declaration and the Condominium Plan or either of them:

- 11.3.1** shall be binding upon a Unit Owner where the amendment would do or result in any one or more of the following, namely, the physical reduction of the subject matter or matters comprising the Unit Owner's Unit or any exclusive use common elements to which such Unit Owner is entitled to the benefit or use of, a decrease in the voting rights attaching to or referable to a Unit Owner's Unit or an increase in a Unit Owner's percentage responsibility or share of responsibility for the payment of common expenses referable to his Unit; and
- 11.3.2** shall be binding upon the holder of real property mortgage which mortgages or charges one or more Units where the amendment does or results in any one or more of the following, namely any of the changes referred to in subsection 11.3.1 with respect to any Unit or any of the Units mortgaged and charged by the mortgage or any amendment which reduces, derogates from or otherwise adversely affects any rights, entitlements, powers and privileges given to the mortgagee pursuant to the provisions of this Declaration, including without limitation, any amendment to paragraph 4.4 of this Declaration which results in a reduction or the lowering of the priority from time to time held by the mortgagee under his mortgage in relation to liens referred to in said paragraph 4.4;

without the Unit Owner, or as the case may be, mortgagee first providing his consent to such amendment.

## **PART XII - RESERVE FUNDS**

### **12.1 Establishment of Fund**

In addition to the collection of contributions to common expenses and the establishment of a fund therefore referred to in section 4.1 hereof and the Corporation's By-laws, the Board shall establish and maintain a Reserve Fund, the proceeds of which shall be used as determined by the Board to finance the costs and expenses of major repairs to or replacements of the common elements or the assets of the Corporation, or as otherwise required under the *Act*; and the proceeds of the Reserve Fund shall not be used for any other purposes except where a majority of the Owners of the Units otherwise agree. The Corporation may establish and maintain separate additional reserve funds for these purposes.

*(Amended April, 2009)*

### **12.2 Unit Accounts for the Fund**

12.2.1 The Corporation shall establish and maintain records which indicate separately for and with respect to each Unit, the from time to time portion of the monies standing to the credit of the Reserve Fund applicable to the Unit (the "Unit Account", and, collectively the "Unit Accounts"), each Unit Account to indicate interest from time to time credited thereto, additions from time to time made thereto and reductions or deductions from time to time made thereto or therefrom.

12.2.2 Contributions or payments made to the Reserve Fund for or applicable to a Unit shall be credited to that Unit's Unit Account, as shall interest paid for late payment of any such contribution or payment.

12.2.3 Where payments are made out of the Reserve Fund, each applicable Unit's Unit Account shall be reduced pro rata to the extent of the amount standing to the credit of the Unit Account immediately prior to the payment out as compared to the aggregate of the amounts standing to the credit of all applicable Units' Unit Accounts at that time.

### **12.3 Fund an Asset of the Corporation**

12.3.1 The monies or other values comprising the Reserve Fund are assets of the Corporation and no part thereof shall be refunded or distributed to any Owner of a Unit except where the Owners and the Property cease to be governed by the Act, and, in that event at or following the closing of the sale of the property referred to in Part X hereof, and subject to the payment out from the Reserve Fund of all amounts required to pay any claim for the payment of money owed by the Corporation, the amount standing to the credit of each Unit Account shall be paid to the (then, former respective Unit) Owner thereof subject however to the rights of each such Owner's respective mortgagees (with such mortgagees being entitled, in accordance with the priorities respectively held by their mortgages).

12.3.2 In the event of the sale and transfer or other change of ownership of a Unit the Unit Account and the Reserve Fund shall continue for and with respect to the Unit and for the benefit of the new

Owner or Owners of the Unit and those claiming under and through such new Owner or Owners, the same to occur automatically without necessity of any conveyance by the former Owner or Owners to the new Owner or Owners, provided however that the parties to the transaction involving the change of Ownership may make appropriate adjustments between them with respect to the Unit Account.

#### 12.4 Fund Account

- 12.4.1 In accordance with the *Act*, the Board on behalf of the Corporation shall establish one or more special accounts for the Reserve Fund and all monies paid to the Corporation for the same shall be deposited into such accounts and the proceeds thereof shall be held in trust by the Corporation for the benefit of the Owners and those claiming under and through them to be expended only for the purposes referred to in section 12.1 hereof.
- 12.4.2 The monies paid or credited into the Reserve Fund shall be invested in and with such financial institution or institutions as provide federal government insurance for and with respect to the investment of such monies with such institutions, and, the interest earned thereon shall be allocated to each Unit Account proportionately to the from time to time amounts respectively standing to the credit of the Unit Accounts, and, all such allocated interest shall form part of the respective Unit Accounts to which it is allocated and part of the Reserve Fund.

#### 12.5 Contributions to and Assessments for the Fund

- 12.5.1 Continuing Contributions to the Fund. At least annually, the Owners, by a majority vote of the voting rights held by Owners as set out in the Declaration, who are in attendance or represented by proxy at a meeting of Owners convened for the purpose of considering such a matter shall determine:
- 12.5.1.1 the contributions to the Reserve Fund as specified in the current budget of the Corporation or an amendment to the budget; and
- 12.5.1.2 the maximum increase in Reserve Fund contributions which the Board may approve; or as otherwise prescribed in the *Act*.

The Board shall levy against the Units and their Owners the amount so determined after taking into account the amounts then standing to the credit of the Reserve Fund (including amounts obtained and likely to be obtained under or by virtue of subsection 12.5.1 hereinabove), such levy as respects each Unit to be in proportion to the percentages respectively allocated to the Units for the payment of common expenses as set forth in section 1.3.1 hereof **provided that** if and whenever the Board is of the opinion, acting reasonably, that assessment upon another basis is better reflective of an equitable allocation the Board may employ such alternative method of contribution. In such event the Board shall advise the Owners in writing of the change to and method of such alternate allocation. The amount to be paid with respect to each Unit during each year shall be paid in such manner and at such time or times as is required for the payment of common expenses as provided for in the Corporation's By-laws.

- 12.5.2 Notice of any meeting of Owners dealing with matters of the Reserve Fund shall be as prescribed

under the *Act*.

- 12.5.3** Interest shall be paid by the Unit Owners on all amounts required to be paid to the Reserve Fund for the Units but which are not paid when due, such interest to be at such rate and to be calculated and payable in the same manner as is provided for interest on due but unpaid contributions to common expenses in the Corporation's By-laws, and, the Corporation shall have the same rights and remedies for the collection of such amounts and such interest as the Corporation has for the collection of due but unpaid common expenses and interest thereon.

**12.6 Reports Pertaining to the Fund**

- 12.6.1** As and when required under the *Act*, the Corporation shall file with the government information pertaining to the Reserve Fund in such form and content and from time to time as required.
- 12.6.2** As required by the *Act*, the Corporation shall provide Unit Owners with certified copies of the information contained in the Corporation's records with respect to the respective Unit Accounts of the Owners.

**12.7 Conduct Capital Replacement Reserve Fund Study**

Within five (5) years (or such earlier date as may be prescribed by the Act) from the date of registration of the Plan, the Corporation shall authorize and conduct, on behalf of the Owners, a Capital Replacement Reserve Fund Study, and to repeat the same every five (5) years thereafter, in order to prepare a report in regards to the Common Elements and the Managed Property and any other property owned, controlled or managed by the Corporation (collectively for the purposes hereof the "Common Property"), in order to:

- 12.7.1** identify what Common Property may be needed to be repaired or replaced within the next twenty-five (25) years;
- 12.7.2** assess the present condition of the Common Property and estimate when the Common Property will need to be replaced or repaired;
- 12.7.3** estimate the cost of repair or replacement of the Common Property at no less than replacement cost;
- 12.7.4** identify the life expectancy of the components of the Common Property when the components are replaced or repaired;
- 12.7.5** identify the current levels of funds in the Reserve Fund (if any);
- 12.7.6** recommend the amount of money, if any, that should be included in or added to the Reserve Fund; and
- 12.7.7** describe the basis for making the recommendations.

**12.8 Establish Capital Replacement Reserve Fund Plan**

The Corporation shall from time to time as required prepare and adopt a Capital Replacement Reserve Fund

Plan based upon the recommendations contained in the Capital Replacement Reserve Fund Study and to present the Capital Replacement Reserve Fund Plan to the Owners.

### PART XIII - EASEMENTS

#### 13.1 Easements for Services

The Declarant hereby states and declares that there shall be easements:

**13.1.1** appurtenant to and in favour of each Unit, against and burdening each other Unit (as may from time to time be required as respects the from time to time location of the conduits, installations and facilities hereinafter in this paragraph referred to) and against so much of the common elements (as may from time to time be required as respects the from time to time location of the conduits, installations and facilities hereinafter in this paragraph referred to);

**13.1.2** appurtenant to and in favour of the common elements, against and binding each of the Units (as may from time to time be required, as respects the from time to time location of the conduits, installations and facilities hereinafter in this paragraph referred to);

for the provision of and all services to the Units, and to the common elements, respectively including, without limitation, condensing (air conditioning) units, sanitary and storm water sewage removal, the provision of electricity, water, *irrigation*, natural gas and telephone services through and with respect to all conduits, installations and facilities through which such services are from time to time provided, wherever in the property of such conduits, installations and facilities are situated.

*(Amended April, 2009)*

**13.1.3** and a right-of-way appurtenant to and in favour of the common elements, against and binding each of the Units for the purpose of permitting the proper agents of the Corporation the exclusive license to enter upon the Units, at all reasonable times for the purpose of viewing the state of repair of any Unit or Dwelling House, or for repairing and maintaining *and curing any landscaping deficiencies, including silt fences, crop covers, or other measures to ensure erosion control and to enforce compliance with Project Design Guidelines.*

*(Amended April, 2009)*

Notwithstanding the provisions of section 9(4)(c) of the Act, the aforementioned easements shall exist from time to time both with respect to conduits, installations and facilities in existence at the time of the registration of this Declaration and the Plan, and as may be constructed or installed subsequently, provided however that if a Court of competent jurisdiction holds that said easements may only apply with respect to those conduits, installations and facilities in existence at the time of such registration of this Declaration and Plan, then the provisions of this section 13.1 set forth prior shall be deemed to be adjusted so that such easements do apply only with respect to those conduits, installations and facilities in existence at the time of such registration of this Declaration and Plan, but the Corporation shall be entitled in this event, from time to time, to require the Owner or Owners of any Units in or through which any such conduits, installations or facilities are constructed or installed subsequent to such registration of this Declaration and Plan, to grant all such easement or easements in favour of any other Unit or Units, and as the circumstances require, the Corporation with respect to the common elements, as may be necessary in order to constitute or reconstitute, such easements for the purposes hereinbefore in this section 13.1 provided for as the Corporation deems necessary, in such form and content as the Corporation deems necessary.

Without limiting the generality of the foregoing, both before and after the registration of this Declaration and the Plan, and whether or not a Court makes a decision as mentioned hereinabove, whenever and from time to time when any one or more of the Municipality, The Manitoba Hydro-Electric Board, MTS Allstream Inc., and Centra Gas Company (and any of their respective successors, as the case may be), requires the creation of an easement with respect to the installation, maintenance and servicing of any conduits, installations and facilities to be installed, maintained or operated by any one or more of them with respect to the provision of utilities or other services through such conduits, installations and facilities to any one or more of the Units and the common elements, which easement or easements are to affect any one or more of the Units and the common elements, then all Unit Owners whose Units are or are to be so affected by such easement or easements, shall grant such easement or easements and shall enter into easement agreements accordingly, and in default of the Unit Owner or Owners so doing, the Corporation shall be entitled, on behalf of the Unit Owner or Owners, to grant such easement or easements and enter into easement agreements accordingly. With respect to any of the easements hereinbefore in this section 13.1 provided for or referred to, the Corporation shall be entitled for itself, for any Unit Owner or Owners and for and on behalf of any utility or other provider of any service through any of the conduits, installations and facilities for which the easements hereinbefore provided for or referred to are or have been created, to enforce such easement or easements and in connection therewith, to make all necessary entries and to conduct such activities as may be required, and in making any such entry and in taking any such action, the Corporation shall not be liable for damages to anyone with respect to any loss or injury, except to the extent that the Corporation, or those for whom it is responsible, act with negligence.

### **13.2 Encroachments**

If any Dwelling House, air conditioning condensing unit or other improvement to a Unit encroaches upon any of the Common Elements for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

## **PART XIV - INSURANCE TRUSTEE AND PROCEEDS OF INSURANCE**

### **14.1 Insurance Trustee**

The Corporation shall, when authorized by its Board of Directors, enter into an Agreement (hereinafter referred to as the "Insurance Trust Agreement") with an Insurance Trustee, which shall be a trust company or a Chartered Bank, which Insurance Trust Agreement shall, without limiting its generality provide the following:

- 14.1.1 the receipt by the insurance trustee of any proceeds of insurance payable to the Corporation;
- 14.1.2 the disbursement of such proceeds in accordance with the provisions of the Insurance Trust Agreement; and
- 14.1.3 notification by the Insurance Trustee to Unit mortgagees who have notified the Corporation of their interest in the Property of any insurance monies received by it.

In the event that the Corporation is unable to enter into an Insurance Trust Agreement with such trust Company, or such Chartered Bank, by reason of their refusal to act, the Corporation may enter into such Insurance Trust Agreement with such other corporation authorized to act as a Trustee, as the Owners may approve by By-Law. The Corporation shall pay the fees and disbursements of any Insurance Trustee and any such fees and disbursements shall constitute a common expense.

#### **14.2 Repair after Damage**

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*(Amended April, 2009)*

### **PART XV - ADDITIONAL PROVISIONS**

#### **15.1 Traffic Speed and Directional Control**

All Owners shall observe and abide by all rules and regulations established from time to time by the Board for the safe and orderly flow of traffic in or on the Property, including (without limiting the generality of the foregoing) speed limits, restricted parking, pedestrian access rights-of-way, emergency access routes and directional controls.

#### **15.2 Structures**

No trailer (either with or without living, sleeping or eating accommodation) and no tent, shed or portable building shall be placed, located, kept or maintained on the Units except with the prior written consent of the Board; which approval may be subsequently withdrawn, in which event the item shall be removed by the Owner within a reasonable period of time.

### **PART XVI - ADMINISTRATION AND GENERAL**

#### **16.1 Methods of Voting**

Whenever the provisions of the Act, this Declaration, the By-laws or the Common Element Rules require a vote of Owners, unless specifically otherwise provided, each Owner may vote in person at a meeting, or by proxy, or by affixing his signature to the resolution on which the vote is to be taken. He may vote in this way either for or against any resolution, and notwithstanding that the provision requiring the vote indicates that the vote is to be taken at a meeting.

#### **16.2 Rights of Entry**

**16.2.1** The Corporation, or any insurer of the Property or any part thereof, their respective agents, or any other person authorized by the Board, shall be entitled to enter any Unit or any part of the Common Elements over which any Owner has the exclusive use, at all reasonable times and upon giving reasonable notice for the purposes of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy or policies,

remedying any condition which might result in damage to the Property, or carrying out any duty imposed upon the Corporation.

- 16.2.2** In case of an emergency, an agent of the Corporation may enter a Unit at any time and without notice, for the purpose of repairing the Unit, the Common Elements, or part of the Common Elements over which any Owner has the exclusive use, or for the purpose of correcting any condition which might result in damage to the Property, or loss to the Property. The Corporation or any one authorized by it may determine whether an emergency exists.
- 16.2.3** If an Owner shall not be personally present to grant entry to his Unit, the Corporation, or its agents, may enter upon such Unit without rendering it, or them, liable to any claim or cause of action for damages by reason thereof; provided that they exercise reasonable care.
- 16.2.4** The rights and authority hereby reserved to the Corporation, its agents or any insurer or its agents, do not impose any responsibility or liability whatever for the care or supervision of any Unit except as specifically provided in this Declaration or the By-laws.

### **16.3 Passing or Amending By-laws**

By-laws of the Corporation shall be passed or amended and copies provided to each Owner, all in accordance with the requirements of the *Act*.

Any By-law may be passed by the Corporation without a meeting provided that consent to the By-law by Owners who own one hundred (100%) percent of the Units is endorsed therein, and that first mortgagees holding mortgages on ten (10%) percent or more of the Units have given their written consent; provided however that in the case of Owners whose Unit is subject to a mortgage which contains provision authorizing the mortgagee to exercise the right of the Owner to vote or consent, the consent of the mortgagee to the By-law shall be required in the place and stead of the consent of the Owner.

### **16.4 Resolution of Conflict of Provisions**

In the event of a conflict between the provisions of the Act and those of this Declaration, the By-laws or the Common Element Rules, the provisions of the Act shall govern; subject to the Act, the provisions of the Declaration shall govern; subject to the Act and the Declaration, the provisions of the By-laws shall govern. Provisions of the Common Element Rules shall only be valid so long as they are not in conflict with anything in the Act, the Declaration or the By-laws.

### **16.5 Binding Effect of Condominium Documents**

This Declaration, the By-laws, and the Common Element Rules, insofar as they are intended to be binding on Owners and other persons interested in the Property from time to time, shall remain binding after termination on all such persons to the same extent, as if all such persons had signed the original Declaration, By-laws and Common Element Rules.

### **16.6 Authority of Corporation**

The Corporation shall have the authority to perform and carry out all actions which it deems necessary to



manage the Property and any assets of the Corporation pursuant to section 10(4) of the Act and to carry out the duties of the Corporation pursuant to the Act, this Declaration and the By-law.

#### **16.7 Units, Subject to Declaration, By-laws and Common Element Rules**

All present and future Owners, tenants and residents of Units, their families, guests, invitees or licensees, shall be subject to and shall comply with the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation.

The acceptance of a deed or transfer, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation as they may be amended from time to time, are accepted and ratified by such Owner, tenant, resident, or the person aforesaid, and all of such provisions shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated in full in each and every such deed or transfer or lease or occupancy agreement.

#### **16.8 Severability of Provisions**

The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

#### **16.9 Waiver**

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

#### **16.10 Certificates**

An Owner or any person acquiring an interest in a Unit from an Owner may request the Corporation to give a certificate as required by the Act and in form prescribed by the regulations to the Act and the certificate shall bind the Corporation in favour of the person requesting the certificate in respect of the information disclosed in the certificate as of the day it is given.

#### **16.11 Construction of Declaration**

Where in this Declaration the singular, masculine or feminine is used, the same shall be construed as meaning and including the plural, feminine, masculine or neuter where the context so requires.

#### **16.12 Notice**

Except as herein otherwise set forth or in the *Act*, any notice, direction or other instrument required or permitted herein may be given, if served personally, by delivering same to the party to be served, or to any officer of the party to be served, or may be given by ordinary mail, postage prepaid, addressed to the

Corporation at its address for service herein, to each Owner at his respective Unit or at such other address as is given in writing by the Owner to the Corporation for the purpose of notice, and to each mortgagee who has notified the Corporation of its interest in the Property at such address as such mortgagee shall from time to time advise the Corporation of in writing; and if mailed as aforesaid, the same shall be deemed to have been received and to be effective on the second business day following the day on which it was mailed.

#### **16.13 Vote of Mortgagee - Notice of Meetings**

Where a mortgage of a Unit contains a provision that authorizes the mortgagee to exercise the right of the Unit Owner to vote or to consent at any meeting of Unit Owners, and where the mortgagee desires to exercise such right, the following provisions shall apply:

**16.13.1** written notice of the mortgage, and the address for service of notices upon the mortgagee, shall be delivered or sent by prepaid registered post by or on behalf of the mortgagee to the office of the Corporation. The notice may state limitations acceptable to the mortgagee on the right of the mortgagee to exercise the right of the Unit Owner to vote or consent as aforesaid;

**16.13.2** the Corporation shall be bound from the date of receipt of such notice until further notice to treat the mortgagee as the Unit Owner for the purpose of exercising the right of the Unit Owner to vote or consent in accordance with (and as limited by) the terms of the notice, and thereafter the mortgagee shall be given notice of all meetings of the Unit Owners in accordance with the provisions for meeting notices set out in the By-laws of the Corporation.

#### **16.14 Address for Service**

The address for service on the Corporation is:

30 Speers Road  
Winnipeg, Manitoba  
R2J 1L9

#### **16.15 Headings**

The headings in the body of this Declaration form no part of the Declaration but shall be deemed to be inserted for convenience of reference only.

#### **16.16 Effective Date**

This Declaration shall take effect upon registration.

**IN WITNESS WHEREOF** the Declarant has hereunto affixed its corporate seal, attested to by the hands of its proper officers duly authorized in that behalf, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PRITCHARD FARM SOUTHLANDS LTD.**

Per: \_\_\_\_\_

**SCHEDULE "B"**  
**(s. 1.3)**  
**Percentage Allocations**

<b>Unit Number</b>	<b>Civic Address</b>	<b>Percent Allocation</b>
1	1 Silverside Drive	1.204
2	3 Silverside Drive	1.204
3	5 Silverside Drive	1.204
4	7 Silverside Drive	1.204
5	9 Silverside Drive	1.204
6	11 Silverside Drive	1.204
7	13 Silverside Drive	1.204
8	15 Silverside Drive	1.204
9	17 Silverside Drive	1.204
10	19 Silverside Drive	1.204
11	21 Silverside Drive	1.204
12	23 Silverside Drive	1.204
13	25 Silverside Drive	1.204
14	27 Silverside Drive	1.204
15	29 Silverside Drive	1.204
16	31 Silverside Drive	1.205
17	33 Silverside Drive	1.205
18	35 Silverside Drive	1.205
19	37 Silverside Drive	1.205
20	39 Silverside Drive	1.205
21	2 Willow Landing	1.205
22	4 Willow Landing	1.205
23	6 Willow Landing	1.205
24	8 Willow Landing	1.205
25	10 Willow Landing	1.205
26	9 Willow Landing	1.205
27	7 Willow Landing	1.205
28	5 Willow Landing	1.205
29	3 Willow Landing	1.205
30	2 Baywind	1.205
31	4 Baywind	1.205
32	6 Baywind	1.205
33	8 Baywind	1.205
34	10 Baywind	1.205
35	9 Baywind	1.205

36	7 Baywind	1.205
37	5 Baywind	1.205
38	3 Baywind	1.205
39	71 Silverside Drive	1.205
40	73 Silverside Drive	1.205
41	75 Silverside Drive	1.205
42	2 Pilgrims Point	1.205
43	4 Pilgrims Point	1.205
44	6 Pilgrims Point	1.205
45	8 Pilgrims Point	1.205
46	9 Pilgrims Point	1.205
47	7 Pilgrims Point	1.205
48	5 Pilgrims Point	1.205
49	3 Pilgrims Point	1.205
50	84 Silverside Drive	1.205
51	82 Silverside Drive	1.205
52	80 Silverside Drive	1.205
53	78 Silverside Drive	1.205
54	76 Silverside Drive	1.205
55	74 Silverside Drive	1.205
56	72 Silverside Drive	1.205
57	70 Silverside Drive	1.205
58	68 Silverside Drive	1.205
59	66 Silverside Drive	1.205
60	64 Silverside Drive	1.205
61	62 Silverside Drive	1.205
62	60 Silverside Drive	1.205
63	58 Silverside Drive	1.205
64	56 Silverside Drive	1.205
65	54 Silverside Drive	1.205
66	3 Windrush Place	1.205
67	5 Windrush Place	1.205
68	6 Windrush Place	1.205
69	4 Windrush Place	1.205
70	2 Windrush Place	1.205
71	1 Hearthstone Grove	1.205
72	3 Hearthstone Grove	1.205
73	5 Hearthstone Grove	1.205
74	6 Hearthstone Grove	1.205
75	4 Hearthstone Grove	1.205
76	2 Hearthstone Grove	1.205

77	3 Shadow Court	1.205
78	5 Shadow Court	1.205
79	7 Shadow Court	1.205
80	8 Shadow Court	1.205
81	6 Shadow Court	1.205
82	4 Shadow Court	1.205
83	2 Shadow Court	1.205