

FOR OFFICE USE ONLY

Number WR1150505  
 CERTIFICATE OF RECEIPT  
 2018 NOV 9 9:51 AM  
 Waterloo  
 No. 58  
 Kitchener  
 Land Registrar

(1) Registry  Land Titles  (2) Page 1 of 39 pages

(3) Property Identifier(s) Block 22364 - Property 0298 Additional: See Schedule

(4) Nature of Document  
DECLARATION REGISTERED UNDER SECTION 2 OF THE CONDOMINIUM ACT, 1998

(5) Consideration  
TWO----- Dollars \$ 2.00

(6) Description  
LOTS 14, 15, 16 PLAN 954 & LOTS 73 & 74 PLAN 856, BEING PART 1 ON 58R-20212; SUBJECT TO AN EASEMENT OVER PART 1 58R20212 AS IN WR1128395; CITY OF WATERLOO

New Property Identifiers Additional: See Schedule


Executions Additional: See Schedule

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch  (b) Schedule for: Description  Additional Parties  Other

(8) This Document provides as follows:  
DECLARATION REGISTERED UNDER SECTION 2 OF THE CONDOMINIUM ACT, 1998  
WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

Continued on Schedule

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y M D
IN8 (SAGE 9) DEVELOPMENTS INC. (APPLICANT) BY ITS SOLICITOR DVIR DAVID HADARY		2018 10 17

(11) Address for Service: 201-315 Eglinton Avenue West, Toronto, Ontario M5N 1A1

(12) Party(ies) (Set out Status or Interest) Name(s)	Signature(s)	Date of Signature Y M D

(13) Address for Service

(14) Municipal Address of Property  
308 Lester Street, Waterloo, Ontario, N2L 3W7

(15) Document Prepared by:  
Dvir David Hadary  
Levy Zavet PC, Lawyers  
201-315 Eglinton Avenue West  
Toronto, ON  
M5N 1A1

Fees and Tax	
Registration Fee	75.15
214 units x \$ 5.00	1070.00
<b>Total</b>	<b>1145.15</b>

## DECLARATION

THIS **DECLARATION** (hereinafter called the "Declaration") is made and executed pursuant to the provisions of the *Condominium Act*, 1998, R.S.O. 1998, C.19, and the Regulations thereunder, as amended from time to time (collectively referred to as the "Act") by:

### SAGE 9

#### **In8 (Sage 9) Developments Inc.**

(hereinafter called the "Declarant")

#### WHEREAS:

- A. The Declarant is the Owner in fee simple of certain lands and premises called SAGE 9 situate at 308 Lester Street, in the City of Waterloo, in the Province of Ontario and being more particularly described in Schedule "A" annexed hereto and in the description submitted herewith by the Declarant (hereinafter called the "Description") for registration in accordance with the Act and which lands are sometimes referred to as the "Lands" or the "Property";
- B. The Declarant has constructed a multi-unit building containing one mid-rise buildings upon the said lands containing 161 Residential Units, 6 Non-Residential Units, and 47 Parking Units as more particularly described in this Declaration; and
- C. The Declarant intends that the Property together with the building constructed thereon shall be governed by the Act and that the registration of this Declaration and the Description will create a standard condominium corporation.

NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:

#### ARTICLE I INTRODUCTORY

##### 1.1 Definitions

The terms used in the Declaration shall have the meanings ascribed to them in the Act unless this Declaration specifies otherwise or unless the context otherwise requires and in particular:

- (a) "Board" means the Corporation's Board of Directors governed by the Act;
- (b) "By-laws" means the by-laws of the Corporation enacted from time to time;
- (c) "Common Elements" means all the Property, except the Units;
- (d) "Corporation" or "Condominium" or "SAGE 9" means the freehold condominium that is a standard condominium corporation created by the registration of this Declaration and Description;
- (e) "Easements" means two (2) easements and facility easements to the utilities in favour of Waterloo North Hydro Inc., in instrument WRI 137117, to Rogers Communications Inc. in instrument WR1128395;
- (f) "Mechanical/Electrical Room Unit(s)" means separate units of the common elements registered in the description for the mechanical rooms;
- (g) "Mid-rise Building" means the Property and building located at 308 Lester Street containing 161 Residential Units and 6 Non-Residential Units;
- (h) "Municipality" means the City of Waterloo and/or the Regional Municipality of Waterloo;
- (i) "Non-Residential Unit(s)" or "Commercial Unit(s)" means 3 commercial units, located on Level 1 in the Mid-rise Building, all of which are stated in paragraph 4.3 (a) hereof;
- (j) "Owner" means the owner or owners of the freehold estate(s) in a Residential Unit and Non-Residential Unit, but does not include a mortgagee unless in possession;
- (k) "Parking Units" means 47 parking units on Level 1 owned by Owners of Residential Units and Non-Residential Units in the condominium;
- (l) "Project" or "Building" means the comprehensive development known as "SAGE 9" at 308 Lester Street, Waterloo, Ontario;
- (m) "Property" means the lands and premises on PIN: 22364-0298 (LT), legal description: Lots 14, 15, 16 Plan 954 & Lots 73 & 74 Plan 856, being Part 1 on 58R20212; Subject to an Easement over Part 1 58R20212 as in WR1 128395; City of Waterloo on which the condominium is situate shall be municipally known as 308 Lester Street, Waterloo, Ontario;
- (n) "Residential Unit(s)" means 6 residential units located on Level 1, and 31 residential units located on Levels 2 through 3 each, and 31 residential units located on Levels 4 through 5 each, all of which are stated in paragraph 4.2 (a) hereof;
- (o) "Rules" means the rules passed by the Board in accordance with the provisions of the Act;
- (p) "Service Areas" means the common elements being the Stairwells, Elevator Shafts, Service Rooms, Mechanical/Electrical Rooms, Mechanical Equipment Rooftop Room, Elevator Rooftop Machine Room, Refuse Garbage Room or Loading/Holding Room, all of which shall ultimately be shared and used by or on behalf of the

owners of the condominium for the maintenance and operation of all mechanical, electrical, utility, site servicing and/or ancillary systems.

- (q) "Unit(s)" means part or parts of the Property included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within the space in accordance with the declaration and the description. For greater certainty, the definition of "Unit" relating to the duties to repair and maintain under Sections 89, 90, and 91 of the Act and pursuant to this Declaration shall extend to all improvements therein made by the Declarant in accordance with its architectural and structural plan, notwithstanding that some of such improvements may be made after registration of the Declaration.
- (r) "Commercial Parking Operation" means a long-term or short-term parking operation in which the owner or tenant controlling a Parking Unit charges a fee for the use of the said unit from non-owners or non-tenants or their occupants of the Building.
- (s) "Handicapped Parking Spaces" means barrier free parking spaces.
- (t) "Hardscape Common Elements" means all private sidewalks, stairs, ramps, driveways, access routes, and their fixtures on the Property.

#### 1.2 Act Governs the Lands

The Lands described in Schedule "A" annexed hereto and in the Description together with all interests appurtenant to the Lands are governed by the Act.

#### 1.3 Standard Condominium

The registration of this Declaration and the Description will create a freehold condominium corporation that constitutes a standard condominium corporation.

#### 1.4 Consent of Encumbrances

The consent of every person or corporation having a registered mortgage against the Property or interests appurtenant thereto is contained in Schedule "B" attached hereto.

#### 1.5 Boundaries of Units and Monuments

The monuments controlling the extent of the Units are the physical surfaces mentioned in the boundaries of Units in Description.

Notwithstanding the boundaries set out in Schedule "C" annexed hereto, the following shall apply:

##### (a) Residential Units and Non-Residential Units

- (i) Each Residential Unit and Non-Residential Unit shall include all pipes, wires, cables, conduits, ducts and mechanical and similar apparatus, including, but not limited to, the heating, air conditioning and ventilation equipment and appurtenant fixtures attached thereto, and including, but not limited to, any noise mitigation units and any gas fireplace and appurtenant fixtures attached thereto, all of which provide a service or utility to that particular Unit only.
- (ii) Each Residential Unit and Non-Residential Unit shall exclude all concrete, concrete block or masonry portions of load bearing walls, columns, floor slabs, exterior doors, door frames, windows and window frames, and any pipe, wire, cable, conduit, duct, shaft and mechanical or similar apparatus which is situated within the Unit boundaries described in Schedule "C" and which provide a service or utility to another Unit or the Common Elements.

##### (b) Parking Units

Each Parking Unit shall exclude all equipment or apparatus, including any fans, pipes, wires, cables, conduits, ducts, flues, shafts, fire hoses, sprinklers, lighting fixtures, air-conditioning or heating equipment appurtenant thereto which provide any service to the Common Elements or Units including all wall structures and support columns and beams as well as additional floor surfacing (membranes and coatings included) which may be located within any Parking Unit.

##### (c) Service Rooms

The Service Rooms shall include all pipes, wires, cables, conduits, ducts, shafts and any mechanical or electrical installation or equipment which provide a service or utility to the Condominium.

#### 1.6 Common Interest and Common Expenses

Each Owner shall have an undivided interest in the Common Elements as a tenant common with all other Owners in the proportions set forth opposite each unit number in Schedule "D" attached hereto and shall contribute to the common expenses in the proportion set forth opposite each unit number in Schedules "D" attached hereto. The total of the proportions of the common interests and proportionate contribution to common expenses shall each be one hundred (100%) percent.

#### 1.7 Address for Service, Municipal Address and Mailing Address of the Corporation

The Corporation's municipal address and address for service is 308 Lester Street, Waterloo, Ontario, N2L 0H9, or such other address as the Corporation may by resolution determine.

#### 1.8 Approval Authority Requirements

At the current time, there are no conditions imposed by the approval authority to be included in this Declaration which have not been dealt with.

1.9 Architect/Engineer Certificates

The certificate(s) of the Declarant's Architect and/or Engineer confirming that all buildings on the Property have been constructed in accordance with the Regulations made under the Act, is contained in Schedule "G" attached hereto.

1.10 Noise Warning Clauses

The Owner acknowledges that noise warning clauses must be included in all offers and agreements of purchase and sale, and/or lease/rental agreements for all residential Units at any time as follows:

- (a) *"This is a mixed-use building that contains residential and commercial units. The commercial units may, from time to time, generate odour and/or stationary noise that may occasionally cause concern to some individuals."*
- (b) *"The commercial units are to contain sufficiently sized mechanical and silencing equipment so as not to exceed the Ministry of the Environment and Climate Change's sound level limits at the closest noise-sensitive receptor, in accordance with NPC-300 guideline or its successor."*

1.11 Purchasers and/or renters are advised that the uses permitted in the Non-Residential Units include the uses listed in section 4.3.

ARTICLE II  
COMMON EXPENSES

2.1 Specification of Common Expenses

The common expenses shall comprise the expenses of the performance of the objects and duties of the Corporation and such other expenses, costs and sums of money incurred by or on behalf of the Corporation that are specifically designated as (or collectable as) common expenses pursuant to the provisions of the Act and/or this Declaration, and without limiting the generality of the foregoing, shall include the specific expenses set out in Schedule "E" attached hereto.

2.2 Payment of Common Expenses

- (a) Each Owner shall pay to the Corporation his or her proportionate share of the common expenses and the assessment and collection of contributions toward common expenses may be regulated by the Board pursuant to the By-laws. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of a breach of any provision of this Declaration, or in any By-laws or Rules in force from time to time by any Owner, or by members of his or her family and/or their respective tenants, invitees or licensees shall be borne and paid for by such Owner and may be recovered by the Corporation against such Owner in the same manner as common expenses.
- (b) The provision and consumption of Hydro Electricity to each Residential Unit and Non-Residential Unit shall be separately metered and not included as part of the common expenses for all Units.
- (c) The provision and consumption of Water to each Residential Unit and Non-Residential Unit shall be separately metered and not included as part of the common expenses for all Units. The Units shall be responsible for the rental water heater if any is installed and shall enter into the supplier's standard water heater rental agreement.
- (d) All Units shall be responsible for their own provision and consumption of cable television, telephone, internet and all other related communication, entertainment and information services and therefore shall not be included in the common expenses save and except for Units that are engaged in the bulk internet or other related communication provision agreement, which may be registered as a By-law of the Corporation.
- (e) The provision and consumption of Gas supply shall be separately metered for each Non-Residential Unit located in the Condominium.

2.3 Garbage Collection and Disposal

The Condominium Corporation shall be responsible for the collection, storage and disposal of garbage, recycling and composting materials. Therefore, owners are advised that in addition to their contribution to the condominium's cost of garbage sorting and handling as set out in the budget, owners may become responsible to the Municipality for further fees for the Municipality's collection of garbage under the aforesaid program and in the event that the Municipality bills the condominium corporation for these fees, then the owners shall be responsible to the condominium corporation for their respective proportion for these fees. However, such services may possibly be provided in the future by the Municipality.

2.4 Reserve Fund

- (a) The Corporation shall establish and maintain one or more Reserve Funds and shall collect from the Owners as part of their contribution towards the common expenses, all amounts that are reasonably expected to provide sufficient funds for major repair and replacement of Common Elements and assets of the Corporation all in accordance with provisions of the Act; and
- (b) No part of any Reserve Fund shall be used except for the purpose for which the fund was established. The Reserve Fund(s) shall constitute an asset of the Corporation and shall not be distributed to any Owner(s) except on termination of the Corporation in accordance with the provisions of the Act.

## 2.5 Status Certificate

The Corporation shall provide a status certificate to any requesting party who has paid (in advance) the applicable fees charged by the Corporation for providing same, in accordance with the provisions of the Act, together with all accompanying documentation and information prescribed by the Act. The Corporation shall forthwith provide the Declarant (and/or any purchaser, transferee or mortgagee of a Unit from the Declarant) with a status certificate and all such accompanying documentation and information, as may be requested from time to time by or on behalf of the Declarant (or by any such purchaser, transferee or mortgagee) in connection with the Declarant's sale, transfer or mortgage of any Unit(s), all at no charge or fee to the Declarant or the person requesting same on behalf of the Declarant.

## ARTICLE III COMMON ELEMENTS

### 3.1 Use of Common Elements

Subject to the provisions of the Act, this Declaration, the By-laws and any Rules, each Owner has the full use, occupancy and enjoyment of the whole or any parts of the Common Elements, except as herein otherwise provided.

However, save and except as expressly provided or contemplated in this Declaration to the contrary, no condition shall be permitted to exist, and no activity shall be carried on, within any unit or upon any portion of the Common Elements that:

- (a) will result in a contravention of any term or provision set out in the Act, this Declaration, the By-laws and Rules of the Corporation;
- (b) is likely to damage the property of the Condominium, injure any person, or impair the structural integrity of any Unit or Common Element area;
- (c) will unreasonably interfere with the use and enjoyment by other Owners or the Common Elements; or
- (d) may result in the cancellation (or threatened cancellation) of any policy of insurance obtained or maintained by the Corporation, or that may significantly increase any applicable insurance premium(s) with respect thereto, or any deductible portion in respect of such policy.

No one shall, by any conduct or activity undertaken in or upon any part of the Common Elements, impede, hinder or obstruct any right, privilege, easement or benefit given to any party, person or other entity pursuant to this Declaration, any By-law and/or the Rules.

### 3.2 Exclusive Use Common Elements

Subject to the provisions of and compliance with the Act, this Declaration, the By-laws and Rules, the Owner of each Residential Unit and Non-Residential Unit listed in Schedule "F" attached hereto shall have the exclusive use of those parts of the Common Elements more particularly described in Schedule "F" which are respectively allocated to the Unit(s), it being understood that the exclusive use being enjoyed by such Unit owners entitled to same may be regulated or affected by any by-laws or Rules of the Corporation.

### 3.3 Restricted Access

- (a) Without the consent in writing of the Board, no Owner shall have the right of access to the Service Rooms and Service Areas, save and except the stairwells for going between the levels only, and to those parts of the Common Elements used from time to time for the care, maintenance or operation of the Property or any part thereof as designated by the Board, from time to time;
- (b) No one shall be entitled to place or affix any matter or thing directly on top of any rooftop structure which encloses or houses the mechanical and chiller room, the rooftop mechanical areas, the elevator shafts, the stairwells, the cooling tower, the boiler room and/or the fresh air ducts.
- (c) This paragraph 3.3 shall not apply to any mortgagee holding mortgages on at least thirty percent (30%) of the Units who shall have a right of access for inspection upon forty-eight (48) hours notice to the Corporation or its property manager.

### 3.4 Modifications of Common Elements, Assets and Services

#### (a) General Prohibition

No owner shall make any change or alteration to the Common Elements whatsoever, including any installation(s) thereon, nor alter, decorate, renovate, maintain or repair any part of the Common Elements (except for maintaining those parts of the Common Elements which he or she has a duty to maintain in accordance with the provisions of this Declaration) without obtaining the prior written approval of the Board and having entered into an agreement with the Corporation in accordance with section 98 of the Act.

#### (b) Non-Substantial Additions, Alterations and Improvements by the Corporation

The Corporation may make a non-substantial addition, alteration, or improvement to the Common Elements, a non-substantial change in the assets of the Corporation or a non-substantial change in a service that the Corporation provides to the Owners in accordance with subsections 97(2) and (3) of the Act.

#### (c) Substantial Additions, Alterations and Improvements by the Corporation

The Corporation may, by a vote of owners who own at least sixty-six and two thirds (66 2/3%) percent of the Units, make a substantial addition, alteration or improvement to the Common Elements, a substantial change in

the assets of the Corporation or a substantial change in a service the Corporation provides to the Owner in accordance with sections 97 (4), (5) and (6) of the Act.

### 3.5 Declarant Rights

Notwithstanding anything provided in this declaration to the contrary, and notwithstanding any Rules or By-laws of the Corporation hereafter passed or enacted to the contrary, it is expressly stipulated and declared that:

- (a) the Declarant and its authorized agents, representatives and/or invitees shall have free and uninterrupted access to and egress from the Common Elements, for the purposes of implementing, operating and/or administering the Declarant's marketing, sale, construction and/or customer-service program(s) with respect to any unsold units in this Condominium, from time to time;
- (b) the Declarant and its authorized agents or representatives shall be entitled to erect and maintain signs and displays for marketing/sale purposes, as well as model suites and one or more offices for marketing, sales, construction and/or customer-service purposes, upon any portion of the Common Elements, within or outside any unsold Units, at such locations and having such dimensions as the Declarant may determine in its sole and unfettered discretion, all without any charge to the Declarant for the use of the space(s) so occupied, nor for any utility services (or any other usual or customary services) supplied thereto or consumed thereby, nor shall the Corporation (or anyone else acting on behalf of the Corporation) prevent or interfere with the provision of utility services (or any other usual or customary services) to the Declarants marketing/sales/construction/customer service office(s) and said model suites; and
- (c) the Corporation shall ensure that no actions or steps are taken by anyone which would prohibit, limit or restrict the access and egress of the Declarant and its authorized agents, representative and/or invitees over the common element areas of this Condominium;

until such time as all of the Units in this Condominium have been transferred by the Declarant.

### 3.6 Pets

No animal, livestock or fowl, other than those household domestic pets are permitted to be on or about the Common Elements, including the exclusive use units, balcony, terrace and/or patio, or the common elements, except for ingress to and egress from a Unit and no breeding of animals for sale shall be carried on, in or around any unit. All dogs and cats must be kept under personal supervision and control and held by leash or in a carrier at all times during ingress and egress from a Unit and while on the Common Elements. Any pet deemed by the Board of Directors to be a nuisance or dangerous to anyone, may be ordered to be removed from the Condominium and Condominium unit by whatever legal means are available, the cost of which shall be added to the owner's common expenses and collected by the condominium as provided in this Declaration or by the By-laws or pursuant to the Act. Notwithstanding the generality of the foregoing, no pet or pets deemed by the Board, in their sole and absolute discretion, to be an attack animal or otherwise danger or nuisance to the residents of the Corporation, is permitted to be on or about the Common Elements. The decision of the Board is final and binding on the Owners.

### 3.7 Exclusive use and benefit of Common Elements

The following Common Elements shall remain permanent Common Element feature for the exclusive use and benefit of the Unit owners and tenants of the Condominium and the Condominium Corporation and the use of the Common Element features shall be restricted to the Condominium Corporation, Unit owners and tenants only and not for the general public use.

- (a) Ground Level 1: bicycle storage rooms, mechanical room, electrical room, amenity meeting room, gymnasium amenity area, garbage room, lobby, elevator lobby, mail room, storage room, janitor's closet, vestibules, washroom, outdoor amenity area with shade trellis, loading area;
- (b) Level 2 and 3: electrical closet, elevator lobby;
- (c) Levels 4, 5 and 6: electrical closet, elevator lobby;
- (d) Level 7 (rooftop): Rooftop amenity area, elevator lobby, elevator control room, mechanical room (chiller), mechanical room (boilers., water softeners and hot water tanks), vestibules.

These common element features shall not be used as commercial space or operations, and shall not be available for use by the general public. There shall be no charge to the condominium corporation, unit owners and tenants for the use of the said spaces, except for specified event reservations pre-arranged by unit owners and/or occupants for which the Condominium Corporation may collect a damage/security deposit and recover any reasonable costs incurred by the Condominium Corporation such as clean up charges, security and/or staffing charged (including any overtime) and repair charges.

## ARTICLE IV UNITS

### 4.1 General Use

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

- (a) No Unit shall be occupied or used by an Owner or anyone else, in such a manner as is likely to damage or injure any person or property including any other Units or any portion of the Common Elements or in a manner that will impair the structural integrity, either patently or latently, of the Units and/or Common Elements, or in a manner that will unreasonably interfere with the use or enjoyment by other owners of the Common Elements or their respective Units, or that may result in the cancellation or threat of cancellation of any insurance policy referred to in this Declaration, or that may increase any insurance premiums with respect thereto, or in such a manner as to lead to a breach by an Owner or by the Corporation of any provisions of this Declaration, the by-laws, and/or any agreement authorized by by-law. If the use made by an Owner of a Unit, other than the Declarant, except as is contemplated in this Declaration or in the by-laws, or in any agreement authorized by by-law causes injury to any person or causes latent or patent damage to any Unit or to any part of the Common Elements, or results in the

premiums of any insurance policy obtained or maintained by the Corporation being increased, or results in such policy being canceled, then such Owner shall be personally liable to pay and/or fully reimburse the Corporation for all costs incurred in the rectification of the aforesaid damages, and for such increased portion of the insurance premiums so payable by the Corporation (as a result of such Owner's use) and such Owner shall also be liable to pay and/or fully reimburse the Corporation for all other costs, expenses and liabilities suffered or incurred by the Corporation as a result of such owner's breach of the foregoing provisions of this subparagraph and such Owner shall pay with his or her next monthly contribution towards the Common Expenses after receipt of a notice from the Corporation, all increases in premiums in respect of such policy or policies of insurance. All payments pursuant to this clause are deemed to be additional contributions towards Common Expenses and recoverable as such;

- (b) The Owner shall comply, and shall require all members of his or her family, occupants, tenants, invitees, agents, contractors and licensees to comply with the Act, the Declaration, the by-laws, and all agreements authorized by by-law and the rules;
- (c) No change shall be made in the colour of any exterior glass, window, door or screen of any Unit except with the prior written consent of the Board. Each Owner shall ensure that nothing is affixed, attached to, hung, displayed or placed on the exterior walls, including awnings and/or storm shutters, doors or windows of the building, nor shall an Owner grow any type of plant, shrubbery, flower, vine or grass outside his or her Unit, except with the prior written consent of the Board, and further, when approved, subject to the rules. All shades or other window coverings shall be white when visible from the exterior in order to present a uniform appearance to the exterior of the building. No clothesline or similar device shall be allowed on any portion of the Property nor shall clothes or other laundry be hung anywhere on the Property; and
- (d) No exterior aerial, antenna or satellite dish shall be placed on the Property, including Units and Common Elements, unless the Board consents in writing to the said antenna, aerial or satellite dish which consent may be arbitrarily withheld.

#### 4.2 Residential Units

- (a) The condominium contains One Hundred and Sixty-one (161) residential apartment type units. There are 6 residential apartment type units on Level 1, and 31 residential apartment type units on Levels 2 through 6 each.
- (b) Each Residential Unit shall be occupied and used in accordance with the applicable zoning by-laws pertaining to the Property and for no other purpose whatsoever. The number of individuals who may occupy a Residential Unit shall be the same as the number permitted by the local municipal by-laws from time to time. The foregoing shall not prevent the Declarant from completing the building and all improvements to the Property, maintaining Units as models for display and sale purposes, and otherwise maintaining construction offices, displays and signs for marketing/sales/leasing purposes upon the Common Elements, and within or outside any unsold Unit, until all Units in the Project have been conveyed by the Declarant, or its related companies.
- (c) No sign, advertisement or notice of any type shall be inscribed, painted, affixed or displayed on any part of the inside or outside of any Unit, except for signs marketing the Property or the Corporation or Units contained therein by the Declarant and/or its related companies;
- (d) In the event the Board determines, in its sole discretion, acting reasonably, that any noise, odour or offensive action is being transmitted to another Unit and that such noise, odour or offensive action is an annoyance and/or a nuisance and/or disruptive (regardless of whether that Unit is adjacent to or wherever situated in relation to the offending Unit), then the Owner of such Unit shall at his or her own expense take such steps as shall be necessary to abate such noise, odour or offensive action to the satisfaction of the Board. In the event the Owner of such Unit fails to abate the noise, odour or offensive action, the Board shall take such steps as shall be necessary to abate the noise, odour or offensive action and the Owner shall be liable to the Corporation for all expenses incurred by the Corporation in abating the noise, odour or offensive action, which expenses are to include reasonable solicitor's fees on a solicitor and his or her own client basis;
- (e) No Owner of a Unit shall make any change, addition, modification or alteration, except for any change, addition, modification or alteration which is solely decorative in nature, in or to his or her Unit without the prior written consent of the Board, which consent shall be in the sole and unfettered discretion of the Board and may be subject to such conditions as may be determined by the Board;
- (f) For the purpose of this subparagraph, "Vertical/Horizontal Party Wall" means a vertical or horizontal wall constructed along the boundary between two (2) Residential Units shown in the Description as a vertical plane. Where and to the extent that concrete, concrete block or masonry portions of walls/floors/ceilings or columns located within the Residential Unit are not load-bearing walls or columns, and contain no service conduits that service any other Unit or the Common Elements, an Owner may, with prior written consent of the Board which may attach any reasonable condition to its consent, including obtaining the approval of the insurer of the Property and the Owner's written agreement to indemnify and save the Corporation harmless from and against any and all costs, expenses, damages, claims, and/or liabilities which the Corporation may suffer or incur as a result of or in connection with such work:
  - (i) erect, remove or alter any internal walls or partitions within his or her Residential Unit;
  - (ii) where he/she is the Owner of two (2) or more adjoining Residential Units, erect, remove or alter along all or part of those portions of the vertical or horizontal boundaries of each of such adjoining Units shown in the Description as a line or plane, any Vertical/Horizontal Party Wall between his or her Unit and such adjoining Residential Unit, or any soundproofing or insulating material on his or her Residential Unit side of such Vertical/Horizontal Party Wall;
- (g) prior to performing any work which an Owner is entitled to perform pursuant to subparagraph (f) above, the Owner shall lodge with the Board the drawings and specifications detailing the location, materials and method of construction and installation of such work, together with a certificate addressed to the Corporation from a duly qualified architect and/or structural engineer certifying that if the work is carried out in accordance with the drawings and data so lodged with the Board, the structural integrity of the Common Elements will not be impaired

and such work will not interfere with or impair any structure where there is functioning or operating machinery and equipment which is part of the Common Elements.

- (h) All work performed under subparagraph (f) above will be carried out in accordance with:
- (i) the provisions of all relevant municipal and other governmental bylaws, rules, regulations or ordinances;
  - (ii) the provisions of the By-Laws of the Corporation and the conditions, if any, of approval by the Board; and
  - (iii) the drawings, specifications and data lodged with the Board.
- (i) Forthwith following the completion of any work which an Owner is entitled to perform pursuant to subparagraph (f) above, the Owner shall deliver a further certificate from the said architect and/or engineer, or such other architect and/or engineer as may be acceptable to the Board, certifying that the work has in fact been completed in accordance with the drawings and data previously lodged with the Board, the structural integrity of the Common Elements has not been impaired, and that such work has not interfered with or impaired any structure or the functioning or operation of any machinery and equipment which is part of the Common Elements; or failing such certifications, specifying in reasonable detail the reasons why such certification cannot be made.
- (j) Notwithstanding the removal of the whole or any portion of any demising or partition wall or floor/ceiling as aforesaid, the adjoining Residential Units thereto shall still constitute two separate Residential Units, as illustrated in the Description and all obligations of the Owner(s) of the said two adjoining Residential Units, whether arising under the Act, the Declaration, the By-Laws or the rules of the Condominium, shall remain unchanged.
- (k) Owners of Residential Units acknowledge that odour, emissions and noise from the Non-Residential Units may be expected by the Owners, their tenants and visitors to the Condominium. The Residential Unit Owners acknowledge and agree that no claim of any kind shall be made against (i) the Declarant or the Non-Residential Unit Owners; (ii) any company related or affiliated to the foregoing; and (iii) any officer, director, shareholder, employee of such entities arising from the use of the Non-residential Units provided such use is in compliance with the applicable by-laws relating thereto.

#### 4.3 Non-Residential Units

- (a) The Condominium contains Six (6) non-residential units (the "Non-Residential Units") being Units 7 through 12 each on Level 1 of the Condominium.
- (b) Each Non-Residential Unit shall be occupied and used in accordance with the applicable zoning by-laws pertaining to the Property and for no other purpose whatsoever. The foregoing shall not prevent the Declarant from completing the building and all improvements to the Property, maintaining Units as models for display and sale purposes, and otherwise maintaining construction offices, displays and signs for marketing/sales/leasing purposes upon the Common Elements, and within or outside any unsold Non-Residential Units, until all Units in the Project have been conveyed by the Declarant, or its related companies.
- (c) Signs, advertisements or notices of any type may be inscribed, painted, affixed or displayed on any part of the inside or outside of any Non-Residential Unit only with the expressed consent from the Declarant and or the Board, including for signs marketing the Property or the Corporation or Units contained therein by the Declarant and/or its related companies. The Declarant and/or the Board may make rules with respect to the aforesaid from time to time in its absolute discretion and such must also comply with all applicable municipal rules and standards.
- (d) In the event the Board determines, in its sole discretion, acting reasonably, that any noise, odour or offensive action is being transmitted to another Unit and that such noise, odour or offensive action is an annoyance and/or a nuisance and/or disruptive (regardless of whether that Unit is adjacent to or wherever situated in relation to the offending Unit), then the Owner of such Unit shall at his or her own expense take such steps as shall be necessary to abate such noise, odour or offensive action to the satisfaction of the Board. In the event the Owner of such Unit fails to abate the noise, odour or offensive action, the Board shall take such steps as shall be necessary to abate the noise, odour or offensive action and the Owner shall be liable to the Corporation for all expenses incurred by the Corporation in abating the noise, odour or offensive action, which expenses are to include reasonable solicitor's fees on a solicitor and his or her own client basis;
- (e) No Owner of a Non-Residential Unit shall make any change, addition, modification or alteration, except for any change, addition, modification or alteration which is solely decorative in nature, in or to his or her Unit without the prior written consent of the Board, which consent shall be in the sole and unfettered discretion of the Board and may be subject to such conditions as may be determined by the Board;
- (f) For the purpose of this subparagraph, "Vertical/Horizontal Party Wall" means a vertical or horizontal wall constructed along the boundary between two (2) Non-Residential Units shown in the Description as a vertical plane. Where and to the extent that concrete, concrete block or masonry portions of walls/floors/ceilings or columns located within the Non-Residential Unit are not load-bearing walls or columns, and contain no service conduits that service any other Unit or the Common Elements, an Owner may, with prior written consent of the Board which may attach any reasonable condition to its consent, including obtaining the approval of the insurer of the Property and the Owner's written agreement to indemnify and save the Corporation harmless from and against any and all costs, expenses, damages, claims, and/or liabilities which the Corporation may suffer or incur as a result of or in connection with such work:
- (i) erect, remove or alter any internal walls or partitions within his or her Non-Residential Unit;
  - (ii) where he/she is the Owner of two (2) or more adjoining Non-Residential Units, erect, remove or alter along all or part of those portions of the vertical or horizontal boundaries of each of such adjoining Non-Residential Units shown in the Description as a line or plane, any Vertical/Horizontal Party Wall between his or her Non-Residential Unit and such adjoining Non-Residential Unit, or any soundproofing or insulating material on his or her Non-Residential Unit side of such Vertical/Horizontal Party Wall;



- (g) prior to performing any work which an Owner is entitled to perform pursuant to subparagraph (f) above, the Owner shall lodge with the Board the drawings and specifications detailing the location, materials and method of construction and installation of such work, together with a certificate addressed to the Corporation from a duly qualified architect and/or structural engineer certifying that if the work is carried out in accordance with the drawings and data so lodged with the Board, the structural integrity of the Common Elements will not be impaired and such work will not interfere with or impair any structure where there is functioning or operating machinery and equipment which is part of the Common Elements.
- (h) All work performed under subparagraph (f) above will be carried out in accordance with:
- (i) the provisions of all relevant municipal and other governmental bylaws, rules, regulations or ordinances;
  - (ii) the provisions of the By-Laws of the Corporation and the conditions, if any, of approval by the Board; and
  - (iii) the drawings, specifications and data lodged with the Board.
- (i) Forthwith following the completion of any work which an Owner is entitled to perform pursuant to subparagraph (f) above, the Owner shall deliver a further certificate from the said architect and/or engineer, or such other architect and/or engineer as may be acceptable to the Board, certifying that the work has in fact been completed in accordance with the drawings and data previously lodged with the Board, the structural integrity of the Common Elements has not been impaired, and that such work has not interfered with or impaired any structure or the functioning or operation of any machinery and equipment which is part of the Common Elements; or failing such certifications, specifying in reasonable detail the reasons why such certification cannot be made.
- (j) Notwithstanding the removal of the whole or any portion of any demising or partition wall or floor/ceiling as aforesaid, the adjoining Non-Residential Units thereto shall still constitute two separate Non-Residential Units, as illustrated in the Description and all obligations of the Owner(s) of the said two adjoining Non-Residential Units, whether arising under the Act, the Declaration, the By-Laws or the rules of the Condominium, shall remain unchanged.
- (k) All Non-Residential Units shall be used and occupied in conformity with all applicable zoning and building by-laws and regulations of the City of Waterloo, the Regional Municipality of Waterloo and any other governmental authority having jurisdiction (the foregoing collectively referred to herein as the "Applicable Zoning By-Laws"). Notwithstanding the foregoing no Non-Residential Unit shall be used for the following purposes:
- (i) an adult entertainment facility, or and adult bookstore, video store or other establishment selling, renting or displaying of any adult paraphernalia or pornographic books, literature, video/audio tapes, compact discs, records or any other form or means of electronic or other communication and any other material or display of such material (materials shall be considered "adult" or "pornographic" for such purpose if the same is not available for sale or rental to or viewing by persons under the age of 18);
  - (ii) a massage parlour, tattooing establishment, pawn shop or similar type of business;
  - (iii) any use which would produce noise and/or such odours that would unduly interfere with the use and enjoyment of any other Non-Residential Unit in the Condominium or any unit in the Residential Condominiums or any common areas; and
  - (iv) such other purposes enumerated in the Declaration when registered.
- (l) No Owner or his or her tenant, occupant or licensee shall use or occupy their Non-Residential Unit(s) for, nor operate or engage from within or from such Non-Residential Unit(s), in any of the following business operations, which shall constitute exclusive business uses available for the Non-Residential Unit(s) from time to time (the "Exclusive Business Uses") (unless two or more contiguous Non-Residential Units are owned by the same Owner and are operated as one of the following business operations), if such Exclusive Business Use is already being carried on in another Non-Residential Unit as of the date that such owner, tenant, occupant or licensee seeks to engage in such existing Exclusive Business Use:
- (i) a dental office whose primary business includes general dentistry and dental hygiene, but which shall not engage, as a primary use, in the sale or provision of any service exclusively allocated herein to other units;
  - (ii) a business carrying on a travel agency, but which shall not engage, as a primary use, in the sale or provision of a service exclusively allocated herein to other units;
  - (iii) a business whose primary business is to operate a spa and beauty salon, which shall include, without limitation, the following additional services: hairstyling, services customarily provided by a barber shop, laser hair removal, nail salon services, tanning, spa and henna application, massage therapy (but not chiropractic), esthetics, and ancillary to such uses, the sale at retail of hair grooming products and accessories, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
  - (iv) a business whose primary business is to operate a tanning salon, which shall only include tanning beds for use and the sale at retail of tanning lotions and accessories, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
  - (v) a business whose primary business is to operate a gym and fitness centre, which shall only include a facility with gym equipment and change rooms for use and the sale at retail of products and accessories used for training and health and body building supplements, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
  - (vi) a business whose primary business is to operate a licensed daycare facility, which shall only include a facility licensed by the appropriate governing authorities for providing daycare services to children, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;

- (vii) a business carrying on as a pharmacy in conjunction with a medical clinic only, where prescription drugs, pharmaceuticals, health products and other similar products administered to the individual and personal needs of persons and sold to the public, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units. A business carrying on as a pharmacy only is not permitted in the Condominium;
- (viii) a business carrying on as a take-out and delivery pizza restaurant, with limited seating facilities, as well as the incidental sale of chicken wings, salads, garlic breads and beverages ordinarily sold in conjunction with pizza, primarily for consumption off premises, and provided that such store shall not sell anything exclusively allocated herein to other units as a primary use;
- (ix) a business carrying on the sale and rental, at retail, of movie and music videos, tapes and discs, electronic games and related accessories, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
- (x) a business carrying on as a traditional convenience store, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units, provided that nothing herein shall prevent the incidental sale of products sold in a convenience store from being sold from any other unit in conjunction or incidental to the sale of other items in any other such units;
- (xi) a business carrying on as an optician's clinic selling glasses, sunglasses and contact lenses, and the sale of ophthalmic products and related supplies, as well as offering eye examinations, but which shall not engage, as a primary use, in the sale and services of anything exclusively allocated herein to other units, provided that nothing shall prevent the incidental sale of ophthalmic products and related items from being sold in the pharmacy (if any) in conjunction or incidental to the sale of other pharmaceutical and health products;
- (xii) a business carrying on as a Florist/flower shop, but which shall not engage, as a primary use, in the sale or provision of a service exclusively allocated herein to other units;
- (xiii) a business carrying on as a "dollar and discount" store, selling items ordinarily sold in a "dollar and discount" store, including, but not limited to, the sale of pre-packaged candy, chocolate bars, potato chips, juice, pop and related confectionary or other snack items or beverages but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
- (xiv) a business carrying on, as a principal use, the sale or rental of cellular telephones and related accessories;
- (xv) a business carrying on as a jewellery store for sale/purchase, at retail or wholesale, of jewellery, including costume jewellery, but which shall not engage, as a primary use, in the sale of anything exclusively allocated herein to other units;
- (xvi) a lawyer's office, accredited pursuant to the Law Society of Upper Canada, or its successor, and/or a paralegal office;
- (xvii) a medical clinic practicing family medicine on a walk-in basis and/or on a primary care basis, accredited pursuant to the College of Physicians and Surgeons for Ontario, or its successor;
- (xviii) a medical clinic practicing family medicine not on a walk-in basis, accredited pursuant to the College of Physicians and Surgeons for Ontario, or its successor;
- (xix) a multidisciplinary or multi-specialty medical clinic practicing any other medical practice areas, specialties and disciplines, except for family medicine and as accredited pursuant to the College of Physicians and Surgeons for Ontario, or its successor;
- (xx) an injury rehabilitation clinic to include the services of a physiotherapist accredited by the College of Physicians and Surgeons for Ontario, or its successor;
- (xxi) a chiropractic clinic to include the services of a chiropractor, accredited by the College of Chiropractors of Ontario, or its successor;
- (xxii) an accountant's office, professionally accredited pursuant to the laws of the Province of Ontario;
- (xxiii) an insurance brokerage accredited pursuant to the Financial Services Commission of Ontario, or its successor;
- (xxiv) a mortgage brokerage accredited pursuant to the Financial Services Commission of Ontario, or its successor;
- (xxv) a real estate brokerage accredited pursuant to the Real Estate Council of Ontario, or its successor;
- (xxvi) a Chinese food restaurant with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxvii) a Japanese food sushi restaurant with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided

that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;

- (xxviii) a Vietnamese food pho restaurant with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxix) a Korean food BBQ restaurant with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxx) a Middle Eastern food shawarma restaurant with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxxi) a Chicken Wings and Pub style food restaurant, providing primarily chicken wings, with full sit down dining and service, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxxii) a Diner style food restaurant with full sit down dining and service, providing a variety of different types of traditional American foods whereby the majority of any type is not Chinese, Japanese sushi, Vietnamese, Korean or Middle Eastern foods, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxxiii) a Buffet style restaurant with full sit down dining and service, providing a variety of different types of foods whereby the majority of any type is not Chinese, Japanese sushi, Vietnamese, Korean or Middle Eastern foods, with ancillary take-out and/or delivery service, provided that nothing shall prevent a juice and smoothie bar or a café/tea or coffee shop from opening in any of the Units notwithstanding the said restaurant operations and further provided that nothing shall prevent a fast-food take-out and delivery business from operating in any of the Units notwithstanding the said restaurant operations;
- (xxxiv) a Juice and Smoothie bar, as well as the incidental sale of coffee, tea, or pastry snacks ordinarily sold in conjunction with smoothies and juices provided that nothing shall prevent a primarily café/tea or coffee shop, a restaurant with full sit down dining and service (with or without ancillary take-out and/or delivery service) and a fast-food take-out and delivery business from operating in any of the Units;
- (xxxv) a café/tea or coffee shop provided that nothing shall prevent a primarily juice and smoothie bar, a restaurant with full sit down dining and service (with or without ancillary take-out and/or delivery service) and a fast-food take-out and delivery business from operating in any of the Units;
- (xxxvi) a fast-food take-out and delivery business (other than pizza take-out delivery), provided that nothing shall prevent a restaurant with full sit down dining and service (with or without ancillary take-out and/or delivery) and a juice and smoothie bar or a café/tea or coffee shop from operating in any of the Units; and
- (xxxvii) a business carrying on, as a principal use, the sale of tobacco, cigarettes, tobacco smoking equipment, paraphernalia, incense and related accessories such as water pipes, pipes, rolling papers and vaporizer devices, provided that nothing shall prevent a traditional convenience store from opening in any of the Units notwithstanding the said business operations.

Not more than one (1) Exclusive Business Use can be operated out of one (1) Non-Residential Unit (Unless two or more contiguous Non-Residential Units are owner by the same Owner and are operated as one of such Exclusive Business Uses).

In order to retain and/or to utilize the aforementioned Exclusive Business Uses provided for herein, each Owner or tenant with such Exclusive Business Use or proposed Exclusive Business Use shall notify the Corporation, in writing, of such use and shall, from such date, have a period of twelve (12) months thereafter to commence operations therefrom. In the event that such Owner or tenant does not commence operating such Exclusive Business Use within the aforementioned twelve (12) month period, such Owner or tenant shall forfeit its exclusivity with respect to such use, without any notice, unless such owner or tenant obtains from the Board of Directors an extension of commencement of such business operations from such Non-Residential Unit which may, in the sole discretion of the Board, acting reasonably, be granted on one occasion for a maximum of six (6) months. Notwithstanding the foregoing, the Corporation shall be entitled to request and receive evidence from the Owner or tenant that diligent steps are/have been taken to commence operations and if the Corporation determines, in its sole discretion, that the said Owner or tenant is not diligently proceeding to commence operations of the Exclusive Business Use, then the Corporation may notify the said Owner or tenant that its exclusivity of the said use has been forfeited effective immediately or as otherwise stated by the Corporation.

The Corporation shall maintain a record of the Owners or tenants and its stated Exclusive Business Use.

Any Owner, proposed purchaser or proposed tenant of a Non-Residential Unit in the Corporation shall be permitted to request in writing, from the Corporation, or its property manager from time to time, prior to purchasing or leasing a Non-Residential Unit in this Corporation, or changing the proposed use of a Non-Residential Unit, confirmation that the intended Exclusive Business Use is available for use by the Owner, proposed purchaser or proposed tenant for the twelve (12) month period contemplated herein. The Corporation shall be permitted to charge a reasonable fee for providing such confirmation in writing as it reasonably determines from time to time. The Corporation shall give written confirmation to the Owner, proposed purchase or proposed tenant within ten (10) days after receiving a request for same and payment of the fee charged by the Corporation for same, as to the availability of such Exclusive Business Use, after reviewing its record of those Owners/tenants that have notified the Corporation in writing of such Exclusive Business Use. The Corporation's decision as to whether an Exclusive Business Use is available to the Owner, proposed purchaser or tenant is final and binding.

4.4 Parking Units (hereafter "Parking Units")

- (a) The Condominium contains Forty-seven (47) parking units on above-ground parking area (the "Parking Units"), owned by the Owners of Residential Units and Non-Residential Units in the Condominium, which are located on ground Level 1 of the Condominium.
- (b) Each Parking Unit shall be used and occupied only for the parking of the owner's motor vehicle as may be from time to time defined in the Rules of the Corporation. It shall be the responsibility of the Unit Owners to ensure that their vehicles can be properly operated and/or parked in their Parking Unit.
- (c) The maintenance and repair of the Parking Units is paid by the Condominium and shared by the Owners of the Parking Units through their proportionate share of the common expenses.
- (d) The Owners of Parking Units shall not park more than one motor vehicle within the boundaries of the Parking Unit. Each Owner shall maintain his or her parking unit in a clean condition, notwithstanding that the Corporation may make provision in its annual budget for cleaning of Parking Units.
- (e) Owners may park only within their own Parking Units and no Owner may park a motor vehicle on any part of the common elements.
- (f) No Parking Unit will be owned by a non-owner of a Residential Unit and Non-Residential Unit.
  - (i) any instrument or other document purporting to effect a sale, transfer, assignment, charge or other conveyance of any parking unit, in contravention of any of the foregoing provisions of this section, shall be null and void and of no force or effect whatsoever.
  - (ii) Each owner of Parking Unit(s) shall pay to the Corporation his or her proportionate share of the common expenses and the assessment and collection of contributions toward common expenses and the reserve fund may be regulated by the Board pursuant to the By-laws and this Declaration. In addition to the foregoing, any losses, costs or damages incurred by the Corporation by reason of a breach of any provision of this Declaration, or in any By-laws or Rules in force from time to time by any owners of Parking Unit(s) or by members of his or her family and/or their respective tenants, invitees or licensees shall be borne and paid for by that owner, and may be recovered by the Corporation against such owner in the same manner as common expenses.
  - (iii) 47 Parking Units being Parking Units 13 through 59 on ground Level 1 shall only be owned by owners of Residential Units and Non-Residential Units within the Condominium and used by occupants or owners of Residential Units and Non-Residential Units within the Condominium.
  - (iv) No Parking stall will be owned or leased by a non-owner of a Residential Unit and Non-Residential Unit, save and except for the Condominium Corporation that may lease or own such Parking stall at no cost to the Condominium Corporation.
- (g) A minimum of Three (3) common elements handicapped parking stalls shall be provided on Level 1 of the Lands for the life of the Condominium and the following shall apply to such handicapped parking spaces:
  - (i) At any time that a handicapped or disabled driver, as defined pursuant to the provisions of the Highway Traffic Act R.S.O. 1990 c. H. 8, purchases or leases a Parking Unit which is not designated as handicapped, and provides notice to the Corporation in writing requesting the use of a handicapped parking unit, the user or any person occupying a handicapped parking unit, provided that user is not handicapped, shall upon notice from the Corporation exchange with the handicapped person the right to occupy the handicapped parking unit with the parking unit that the handicapped person had the right to occupy.
  - (ii) Such exchange of right to use shall continue until the earlier of (i) the handicapped person ceases to be handicapped; or (ii) the handicapped person ceases to have the right to occupy a Parking Unit.
  - (iii) No rent, fees, charges or costs whatsoever shall be charged by the owner, occupant, or the Corporation in connection with the above noted procedure related to the exchange of such Parking Units.
  - (iv) The Corporation shall be responsible for insuring maintenance and signage of all the handicapped parking spaces enumerated in Section 4.4(g).
  - (v) A minimum of three (3) common elements handicapped parking spaces shall be provided on the Lands for the life of the Condominium, being the minimum number of handicapped parking spaces required under the Zoning By-law or shown on the approved Site Plan, unless otherwise agreed to in writing by the City of Waterloo.

- (h) No Parking stall in the Condominium shall be used for a long-term or short-term Commercial Parking Operation.
- (i) Not all owners of Residential Units and Non-Residential Units in the Condominium may be able to purchase a Parking Unit. Owners and their tenants may only park in the parking unit purchased by the owner.
- (j) The Declarant, at its option, shall have the right to use and allow its sales staff, authorized personnel or any prospective purchaser or tenant to use any unsold Parking Units which right shall continue until such time as all these Units have been conveyed.
- (k) A minimum of Thirteen (13) Parking stalls shall be provided to the Non-Residential Units on the Lands for the life of the Condominium.
- (l) A minimum of Thirty-four (34) Parking stalls shall be provided to the Residential Units on the Lands for the life of the Condominium.
- (m) In accordance with the applicable Zoning By-law and approved Site Plan, this Condominium contains 56 motor vehicle parking stalls. Provisions in this Declaration relating to the number of the motor vehicle parking stalls and their use as motor vehicle parking stalls shall not be amended without the consent of the City of Waterloo.

#### 4.5 Visitor Parking

- (a) In accordance with the applicable Zoning By-law and approved Site Plan, this Condominium contains Nine (9) Common Elements Visitor Parking stalls provided on Level 1 of the Lands for the life of the Condominium. Provisions in this Declaration relating to the number of visitor parking spaces and their use as visitor parking spaces shall not be amended without the consent of the City of Waterloo. The Condominium shall maintain ownership of the Visitor Parking spaces and be responsible for maintenance and signage for such spaces.

#### 4.6 Bicycle storage

The Condominium has Two (2) Bicycle storage room on ground Level 1. Bicycle storage stalls located within the foregoing areas shall not be owned by Owners of the Condominium but shall be part of the Condominium's common elements and shall be for the use and enjoyment of Owners and their tenants under the following terms and conditions:

- (a) Each Bicycle storage stall shall only be used for the storage of bicycles and other non-hazardous materials that shall not constitute a danger or nuisance to the residents.
- (b) The Declarant, at its option, shall have the right to use and allow its sales staff, authorized personnel or any prospective purchaser or tenant to use any Bicycle storage rooms which right shall continue until such time as all the Residential Units have been conveyed.
- (c) In accordance with the applicable Zoning By-law and the approved Site Plan, the Condominium contains eighty - nine (89) common elements bicycle parking stalls (81 indoor stalls and 8 outdoor stalls). Provisions in this Declaration relating to the number of common elements bicycle parking stalls and their use as bicycle parking spaces shall not be amended without the consent of the City of Waterloo.

#### 4.8 Amenity Recreational Space

The Condominium contains Two (2) unsupervised bicycle storage rooms on ground Level 1, one (1) residential lobby space on ground Level 1, one (1) unsupervised amenity room on ground Level 1, one (1) gym amenity room on ground Level 1, One (1) unsupervised rooftop terrace amenity area on the rooftop being Level 7, (collectively and individually the "Amenity Units") which are for use by Owners and residents of the Condominium only and for the benefit of the Owners and occupants of the Condominium only and for no other purpose including commercial use of any nature and there shall be no charge to the Owners and occupants for the use of the said spaces except by way of common expenses. The Declarant is not obligated to furnish the aforesaid Amenity Units, but same shall be provided by the Corporation.

#### 4.9 Service Areas

The Service Areas shall be used only for the purpose of housing the respective servicing installations, utility systems, storm or sanitary systems, telephone systems, television systems, computer monitoring equipment and systems, municipal and/or private hydro meters, transformers, generators, municipal and/or private water meters and gas meters, sump pumps, fire protection and sprinklers systems and enunciator panel and various other mechanical, electrical, electronic and/or computer systems and equipment contained therein, including without limitation, heating and air conditioning equipment and cooling towers, together with any ancillary equipment or supplies appurtenant thereto servicing and benefiting the Condominium for the purpose of operating, maintaining and repairing such installations systems and equipment. The purposes of the various Service Areas are as follows:

- (a) The mechanical room, electrical room, janitor closet, garbage room are located on ground Level 1, and/or on the rooftops of the Condominium and shall contain mechanical equipment, incoming electrical services and high voltage switch gear which will be used to provide and monitor electricity for the Building together with mechanical systems. The janitor closet shall be used for general maintenance.
- (b) The Passenger Elevator Shaft consist of Two (2) elevator banks that will provide access from ground Level 1 to and from rooftop Level 7 located in the Mid-rise Building.

#### 4.10 Barbecues

Only barbecues fueled by a natural gas system of the Building will be permitted on any balcony or terrace or patio of the Building, otherwise no barbecues or other cooking devices shall be permitted on any balcony, terrace or patio.

4.11 Leasing of Residential Units and Notification of Lease:

- (a) Where an Owner leases his or her Unit, the Owner shall within five (5) days of entering into a lease or any tenancy agreement:
  - i) notify the Corporation that the Unit is rented or leased;
  - ii) provide the Corporation with the lessee's name, the Owner's address, a copy of the lease or renewal or a summary of it in accordance with Form 5 as prescribed by Section 40 of Regulation 49/01, a completed Schedule "1", and a completed Schedule "2";
  - iii) provide the lessee with a copy of the Declaration, By-laws and rules of the Corporation;
- (b) If a lease of the Unit is terminated and not renewed, the Owner shall notify the Corporation in writing.
- (c) 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 deduct, from the rent payable to the Owner, the Owner's share of the common expenses and shall pay the same to the Corporation.
- (d) An Owner leasing his or her Unit shall not be relieved thereby from any of his or her obligations with respect to the Unit, which shall be joint and several with his or her tenant.

4.12 Window Coverings and Blinds

It shall be a provision and Owner's covenant of this Declaration that each owner in the condominium shall install only white roller shades on the windows of their Respective Residential Units and Non-Residential Units to maintain uniformity from the outside of the Condominium building. In the event that an Owner does not follow the within covenant, the Corporation, at its sole option, may enter the unit without such entry being trespass and remove the blinds and/or may fine the Owner the sum of fifty dollars (\$50.00) per day after notice of this infraction is given to the owner for each day that the Owner leaves the improper blinds on the window to the Unit, all costs being borne and paid by the Owner as part of the Owner's common expense fees. The decision of the Condominium shall be final and may not be appealed.

ARTICLE V  
MAINTENANCE AND REPAIRS

5.1 Repairs and Maintenance by Owner

- (a) Each Owner shall maintain his or her Residential Unit or Non-Residential Unit, and subject to the provisions of this Declaration, each Owner shall repair his or her Unit after damage, all at his or her own expense. Without limiting the generality of the foregoing, each Owner shall maintain:
  - (i) the interior surface of doors which provide the means of ingress and egress from his or her Unit and repair damage to those doors caused by the negligence of the Owner, residents, family members, guests, visitors, tenants, licensees or invitees to his or her Unit;
  - (ii) the interior surface of all windows in Residential Units and Non-Residential Units and interior and exterior surfaces of all windows and window sills contiguous to his or her Unit and which are accessible by the balcony, terrace and/or patio together with the balcony, terrace and/or patio which has been designated as an exclusive use area in respect of such Unit; and shall be responsible for the costs incurred by the Corporation to repair damage to those windows caused by the negligence of the Owner, residents, family members, guests, visitors, tenants, licensees or invitees to the Unit;
  - (iii) all pipes, wires, cables, conduits, ducts and mechanical or similar apparatus, that supply any service to his or her Unit only;
  - (iv) all exhaust fans and fan motors located in the kitchen and bathroom areas of the Unit or adjacent common elements and services the Unit;
  - (v) his or her Parking Unit in a clean and neat condition, notwithstanding that the Corporation may make provision in its annual budget for the cleaning of said Units. The foregoing is notwithstanding that the Corporation may make provision in its annual budget for the cleaning of said Units;
  - (vi) his or her Locker/Storage Unit in a clean and neat condition;
  - (vii) the exclusive use terrace, balcony or patio to which his or her Unit has exclusive use in a clean and neat condition; and
  - (viii) and repair gas fireplaces, if any, within the Unit, provided that only persons certified to repair gas appliances shall be allowed to perform such services.
- (b) Each Owner shall repair and replace the heating, air conditioning and ventilation equipment, including thermostatic controls contained within and servicing his or her Unit only (to and including the shut-off valve whether same is installed or located within or beyond the boundaries of the Unit). Each Owner shall be liable for any damage to the unit and/or common elements due to the malfunction of such equipment caused by the act or omission of an Owner, his or her servants, agents, tenants, family or guests. No Owner shall make any change, alteration or addition in or to such equipment without the prior written consent of the Board.
- (c) The Corporation shall make any repairs that an Owner is obliged to make pursuant to paragraph 5.1 and does not make within a reasonable time, and in such an event, an Owner shall be deemed to have consented to having said

repairs done by the Corporation, and an Owner shall reimburse the Corporation in full for the cost of such repairs, including any legal or collection costs incurred by the Corporation to collect the costs of such repairs, and all such sums of money shall bear interest at the rate of eighteen (18%) per cent per annum. The Corporation may collect all such sums of money in such installments as the Board may decide upon. The installments shall form part of the monthly contributions towards the common expenses of such Owner, after the Corporation has given written notice thereof. All such payments are deemed to be additional contributions towards the common expenses and recoverable as such.

- (d) Each Owner shall be responsible for and shall effect the cleaning and sweeping of any entryway, staircase, landing, deck, balcony, patio, or terrace area designated for the exclusive use of such Owner. Each Owner shall be responsible for and shall effect the clearing of snow and ice from the exclusive use areas appurtenant to its respective Unit which may provide vehicular and pedestrian access from the Condominium's roadways to the entrances of its respective Unit. In no event shall any Owner discharge, dump, or pile snow onto the roadways to the entrances of its respective Unit. All expenses incurred within this subsection shall be in addition to and not form part of the common expenses. In no event shall any Owner discharge, dump or pile snow onto the roadways of the Condominium.

## 5.2 Responsibility of Owner for Damage

Each Owner shall be responsible for all damage to any and all other Units and to the Common Elements which is caused by the failure of the Owner, his or her residents, family members, guests, visitors, tenants, licensees or invitees to his or her Unit, to so maintain and repair his or her Unit and such parts of the Common Elements for which he/she is responsible, or caused by the negligence or willful misconduct of the Owner, his or her residents, tenants, licensees, or invitees, save and except for any such damage for which the cost of repairing same may be recovered under any policy of insurance held by the Corporation.

## 5.3 Repair and Maintenance by Corporation

- (a) Save as otherwise specifically provided in this Declaration to the contrary, the Corporation shall maintain and repair after damage, the Common Elements and any common element areas set aside for the exclusive use of any owner. In order to maintain a uniformity of appearance throughout the Condominium, the Corporation's duty to maintain and repair shall extend to all exterior surfaces of doors which provide access to the units, exterior door frames, exterior window frames and all exterior window surfaces, and any exterior perimeter fences erected by the Declarant along the boundaries of the Property.
- (b) The Corporation shall maintain and repair those portions of the Parking Units, and Bicycle storage Units and the Common Elements at its expense and shall be responsible for the maintenance and repair of exclusive use Common Elements and Parking Units, however the Corporation shall apportion the cost of such maintenance and repair to each unit owner as to its/his/her proportionate liability, and shall not be responsible for the maintenance and repair those parts of the aforesaid Units and Common Elements which are required to be maintained and repaired by the Owners pursuant to paragraph 5.1 which each owner agrees to pay for his/her proportionate share.
- (c) Notwithstanding anything provided in paragraph 5.3(a) hereof to the contrary, it is understood and agreed that each owner shall be responsible for the maintenance of all interior door and window surfaces with respect to his or her Residential Unit and each owner of an exclusive use parking unit shall be obliged to maintain such parking unit. If an owner of an exclusive use parking unit does not maintain the parking unit so that the Corporation is obliged to complete the repairs and replacements therein, the corporation may do so at the cost to the said owner as to his/her proportionate share.
- (d) Every owner shall forthwith reimburse the Corporation for repairs to windows and doors serving his or her unit, following damage to same caused by such owner's negligence, or the negligence of his or her residents, tenants, invitees or licensees.
- (e) The Corporation shall further maintain the heating, air conditioning and ventilation equipment, including thermostatic controls contained within and servicing a Unit such maintenance to include regularly scheduled inspections of all such equipment. Such periodic maintenance shall also include the cleaning and replacement of air filters.
- (f) The Corporation shall arrange and pay for maintenance of the Hardscape Common Elements as well as landscaping, watering, cutting fertilization and seeding from time to time of all landscaped and/or sodded areas on the Property pursuant to the municipal by-laws and registered Site Plan Control Agreement registered as instrument number WR1007827 for the life of the development in accordance with the approved Site Plans, and in compliance with the City's Property Standards By-law (By-law 2011-122) and any successor by-law, and all expenses incurred therefrom shall form part of the common expenses. Provided however that each Unit Owner shall reimburse the Corporation for any sod and/or landscape replacement required as a result of his negligence or intentional misconduct or that of the residents, tenants, invitees or licensees of his Unit, or members of his family.
- (g) The Corporation shall be responsible for the maintenance of all public sidewalks adjacent to the Lands, as well as private sidewalks, pathways, stairs, ramps, driveways, access routes, public spaces and parking areas on and adjacent to the Condominium in a lit, clear, safe and snow/ice free condition at all times, in accordance with all requirements of the City's Property Standards By-law (By-law 2011-122) and snow and ice removal By-law (By-law 09-156) and any successor by-law;
- (h) The City of Waterloo will not be responsible for the burial of hydro and the installation of the switchgear. All costs associated with the burial, maintenance, and replacement of hydro infrastructure on the Condominium lands, including the switchgear shall be borne by Waterloo North Hydro Inc. or the Corporation.

ARTICLE VI  
INDEMNIFICATION

- 6.1 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 an act or omission of such Owner, his family, guests, visitors or tenants to or with respect to the Common Elements and/or all other Units, except for any loss, costs, damages, injury or liability caused by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation. All payments to be made by an Owner pursuant to this Article shall be deemed to be additional contributions toward common expenses payable by such Owner and shall be recoverable as such.

ARTICLE VII  
INSURANCE

7.1 By the Corporation

The Corporation shall obtain and maintain to the extent obtainable, at reasonable cost, the following insurance, in one or more policies;

- (a) "All Risk" Insurance: Insurance against "all risks" (including fire and major perils as defined in the Act) as is generally available from commercial insurers in a standard "all risks" insurance policy and insurance against such other perils or events as the Board may from time to time deem advisable, insuring:

- (i) the Property and building, but excluding improvements made or acquired by an Owner; and
- (ii) all assets of the Corporation, but not including furnishings, furniture, or other personal property supplied or installed by the Owners;

in an amount equal to the full replacement cost of such real and personal property, and of the units and common elements, without deduction for depreciation. This insurance may be subject to a loss deductible clause as determined by the board from time to time, and which deductible shall be the responsibility of the Corporation in the event of a claim with respect to the units and/or the common elements (or any portion thereof), provided however that if an owner, tenant or other person residing in the unit with the knowledge or permission of the owner, through an act or omission causes damage to such owner's unit, or to any other unit(s), or to any portion of the common elements, in those circumstances where such damage was not caused or contributed by any act or omission of the Corporation (or any of its directors, officers, agents or employees), then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's unit.

(b) Policy Provisions

Every policy of insurance shall insure the interests of the Corporation and the Owners from time to time, as their respective interests may appear (with all mortgagee endorsements subject to the provisions of the Act, this Declaration and the Insurance Trust Agreement) and shall contain the following provisions:

- (i) waivers of subrogation against the Corporation, its directors, officers, manager, agents, employees and servants and against the Owners, and the Owners' respective residents, tenants, invitees or licensees, except for damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused by any one of the above;
  - (ii) such policy or policies of insurance shall not be terminated or substantially modified without at least sixty (60) days prior written notice to the Corporation and to the Insurance Trustee;
  - (iii) waivers of the insurer's obligation to repair, rebuild or replace the damaged property in the event that after damage the government of the Property is terminated pursuant to the Act;
  - (iv) waivers of any defence based on co-insurance (other than a stated amount coinsurance clause); and
  - (v) waivers of any defence based on any invalidity arising from the conduct or act or omission of or breach of a statutory condition by any insured person.
- (c) Public Liability Insurance: Public liability and property damage insurance, and insurance against the Corporation's liability resulting from breach of duty as occupier of the Common Elements insuring the liability of the Corporation and the Owners from time to time, with limits to be determined by the Board, but not less than TWO MILLION (\$2,000,000.00) DOLLARS per occurrence and without right of subrogation as against the Corporation, its directors, officers, manager, agents, employees and servants, and as against the Owners and any member of the household or guests of any Owner or occupant of a Unit,
- (d) Boiler, Machinery and Pressure Vessel Insurance  
Insurance against the Corporation's liability arising from the ownership, use or occupation, by or on its behalf of boilers, machinery, pressure vessels and motor vehicles to the extent required as the Board may from time to time deem advisable.

7.2 General Provisions

- (a) The Corporation, its Board and its officers shall have the exclusive right, on behalf of itself and as agents for the Owners, 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 adjustment. Provided, however, that the Board may in writing, authorize any Owner, in writing, to adjust any loss to his or her Unit;



- (b) 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 an obligation to repair. This subparagraph 7.2(b) 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;
- (c) A certificate or memorandum of all insurance policies, and endorsements thereto, shall be issued as soon as possible to each Owner, and a duplicate original or certified copy of the policy to each mortgagee who has notified the Corporation of its interest in any Unit. Renewal certificates or certificates of new insurance policies shall be furnished to each Owner and to each mortgagee noted on the Record of the Corporation who have requested same. The master policy for any insurance coverage shall be kept by the Corporation in its offices, available for inspection by any Owner or mortgagee on reasonable notice to the Corporation;
- (d) No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation. No insured shall be entitled to direct that the loss shall be payable in any manner other than as provided in the Declaration and the Act;
- (e) Where insurance proceeds are received by the Corporation or any other person rather than the Insurance Trustee, they shall be held in trust and applied for the same purposes as are specified otherwise in Articles VII and VIII; and
- (f) Prior to obtaining any new policy or policies of insurance and at such other time as the Board may deem advisable and also upon the request of a mortgagee or mortgagees holding mortgages on fifty (50%) per cent or more of the Units and in any event, at least every three (3) years, the Board shall obtain an appraisal from an independent qualified appraiser of the full replacement cost of the assets for the purpose of determining the amount of insurance to be effected and the cost of such appraisal shall be a common expense.

### 7.3 By the Owner

- (a) It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that the following insurance, must be obtained and maintained by each Owner at such Owner's own expense:
  - (i) Insurance on any improvements to a Unit to the extent same are not covered as part of the standard unit for the class of unit to which the Owner's Unit belongs by the insurance obtained and maintained by the Corporation and for furnishings, fixtures, equipment, decorating and personal property and chattels of the Owner contained within the Unit and the personal property and chattels stored elsewhere on the Property, including automobiles, and for loss of use and occupancy of the Unit in the event of damage. Every such policy of insurance shall contain waiver(s) of subrogation against the Corporation, its directors, officers, manager, agents, employees and servants, and against the other Owners and any members of their household or guests except for any damage arising from arson, fraud, vehicle impact, vandalism or malicious mischief caused or contributed by any of the aforementioned parties;
  - (ii) Public liability insurance covering any liability of any Owner or any resident, tenant, invitee or licensee of such Owner, to the extent not covered by any public liability and property damage insurance obtained and maintained by the Corporation;
  - (iii) Insurance covering the deductible on the Corporation's master insurance policy for which an owner may be responsible.
- (b) Owners are recommended to obtain, although it is not mandatory, insurance covering:
  - (i) additional living expenses incurred by an Owner if forced to leave his or her residential Unit by one of the hazards protected against under the Corporation's policy;
  - (ii) special assessments levied by the Corporation and contingent insurance coverage in the event the Corporation's insurance is inadequate.

### 7.4 Indemnity Insurance for Directors and Officers of the Corporation

The Corporation shall obtain and maintain insurance for the benefit of all of the directors and officers of the Corporation, if such insurance is reasonably available, in order to indemnify them against the matters described in the Act, including any liability, cost, charge or expense incurred by them in the execution of their respective duties (hereinafter collectively referred to as the "Liabilities"), provided however that such insurance shall not indemnify any of the directors or officers against any of the Liabilities respectively incurred by them as a result of a breach of their duty to act honestly and in good faith, or in contravention of the provisions of the Act.

## ARTICLE VIII DUTIES OF THE CORPORATION

- 8.1 In addition to any other duties or obligations of the Corporation set out elsewhere in this Declaration and/or specified in the by-laws of the Corporation, the Corporation shall have the following duties, namely:
  - (a) to take all actions reasonably necessary as may be required to fulfill any of the Corporation's duties and obligations pursuant to this Declaration;
  - (b) to not interfere with the supply of heat, hydro, water, gas and all other requisite utility services to be provided to the condominium or units so that same are fully functional and operable during normal or customary hours of use;
  - (c) to operate, maintain and keep in good repair (or cause to be operated, maintained and/or repaired) as would a prudent owner of similar premises at all times, those parts of the Common Elements of this Condominium;

- (d) to ensure that no actions or steps are taken by or on behalf of the Corporation or by any Owner which would in any way prohibit, restrict, limit, hinder or interfere with the Declarant's access and egress over any portion of the Property so as to enable the Declarant to construct and complete the Project;
- (e) to ensure that no actions or steps are taken by or on behalf of the Corporation, or by any Owner or their respective tenants or invitees which would prohibit, restrict, limit, hinder or interfere with the Declarant's ability to utilize portions of the Common Elements of the Condominium for its marketing/sale/construction programs in connection with any of the Condominium, as more particularly set out in the foregoing provisions of this Declaration;
- (f) to ensure that no actions or steps are taken by or on behalf of the Corporation, or by an Owner, or their respective tenants or invitees which would prohibit, limit or restrict the access to, egress from and/or use of any easement or Service Areas or Service Rooms enjoyed by the Condominium;
- (g) to execute forthwith upon the request of the Declarant following the transfer of title, if any, to any Units, such documents, releases and assurances as the Declarant may reasonably require in order to evidence and confirm the formal cessation of all the Declarant's liabilities and obligations as same relate to the Condominium and for which the Declarant was responsible for prior to the registration of the Condominium;
- (h) to enter into, abide by and comply with, the terms and provisions of any outstanding subdivision, condominium, site plan, development or similar agreements (as well enter into a formal assumption agreement with the Municipality or other Governmental Authorities relating thereto, if so required by Municipality or other Governmental Authorities) and to enter into any cost-sharing agreements if so required by the Declarant, Corporation and/or the Condominium;
- (i) when the Corporation formally retains an independent consultant (who holds a certificate of authorization within the meaning of *The Professional Engineers Act R.S.O. 1990*, as amended, or alternatively a certificate of practice within the meaning of *The Architects Act R.S.O. 1990*, as amended) to conduct a performance audit of the Common Elements on behalf of the Corporation, in accordance with the provisions of section 44 of the Act and section 12 of O.Reg.48/01 (hereinafter referred to as the "Performance Audit") at any time between the 6<sup>th</sup> month and the 10<sup>th</sup> month following the registration of this Declaration, then the Corporation shall have a duty to:
  - i) permit the Declarant and its authorized employees, agents and representatives to accompany (and confer with) the consultant(s) retained to carry out the Performance Audit for the Corporation (hereinafter referred to as the "Performance Auditor") while same is being conducted, and to provide the Declarant with at least fifteen (15) days written notice prior to the commencement of the Performance Audit; and
  - ii) permit the Declarant and its authorized employees, agents and representatives to carry out any repair or remedial work identified or recommended by the Performance Auditor in connection with the Performance Audit (if the Declarant chooses to do so);

for the purposes of facilitating and expediting the rectification and audit process (and bringing all matters requiring rectification to the mediate attention of the Declarant, so that same may be promptly dealt with), and affording the Declarant the opportunity to verify, clarify and/or explain any potential matters of dispute to the Performance Auditor, prior to the end of the 11<sup>th</sup> month following the registration of this Declaration and the corresponding completion of the Performance Audit and the concomitant submission of the Performance Auditor's report to the Board and the Ontario New Home Warranty Program pursuant to section 44(9) of the Act;

- (j) to take all reasonable steps to collect from each unit owner his or her proportionate share of the common expense and to maintain and enforce the Corporation's lien arising pursuant to the Act, against each Unit in respect of which the Owner has defaulted in the payment of common expenses;
- (k) to grant, immediately after registration of this Declaration, if required, an easement in perpetuity in favour of utility suppliers or telephone or television operators or telecommunication providers, over, under, upon, across and through the Common Elements, for the purposes of facilitating the construction, installation, operation, maintenance and/or repair of utility or telephone or television lines or internet ethernet lines or equipment (and all necessary appurtenances thereto) in order to facilitate the supply of utilities and telephone and television service and internet to each of the units in the Condominium, and if available, a co-generation energy system, and if so requested by the grantees of such easements, to enter into (and abide by the terms and provisions of) an agreement with the utility and/or telephone and television suppliers pertaining to the provision of their services to the Condominium and for such purposes shall enact such by-laws or resolutions as may be required to sanction the foregoing;
- (l) to fully cooperate with the Declarant in order for the Declarant to fulfill its obligations pursuant to the Ontario New Home Warranties Plan Act, the regulations made pursuant thereto and all related directives and requirements, including without limitation, all Builder Bulletins (collectively the "ONHWP Act"). The Corporation shall comply with all of its obligations pursuant to the ONHWP Act and as required by the Tarion Warranty Corporation or its successor ("Tarion"), all without delay. The Corporation shall provide the Declarant and its contractors with reasonable access to the Property and the Buildings during regular business hours to complete any repairs mandated by the ONHWP Act and Corporation shall forthwith and with charge execute and deliver all documentation required pursuant to the ONHWP Act by Tarion and as required by the Declarant in order to commence, complete all documentation required by the Declarant in order to commence, complete and documents the processes and documentation required by Tarion and the ONHWP Act; and
- (m) to immediately assume the obligations of the Declarant under any agreements for the benefit or servicing of the Condominium that were entered into prior to registration of the Declaration or to enter into and abide by the terms and provisions of such agreements with the utility, telecommunication and/or cable television suppliers that pertain to access to the Buildings and/or pertain to the provision of their services to the Condominium and for such purposes shall enact such by-laws or resolutions as may be required to sanction the foregoing.
- (n) The Corporation agrees to preserve the function of and to maintain the acoustic barriers located upon the lands. The purpose of the barriers is to attenuate noise from the building's HVAC equipment. The Corporation agrees to repair or, if necessary, replace the acoustic barriers in accordance with the Ministry of the Environment and Climate Change's NPC-300 Guideline or its successor.

- (o) Only condensing laundry dryers, which do not require venting to the outside of the building, will be installed within the Condominium building to minimize impact on adjacent residents, unless otherwise agreed to by the City of Waterloo in writing. Any changes to the laundry dryer venting system within the building shall not be undertaken without written consent from the City of Waterloo.

ARTICLE IX  
GENERAL MATTERS AND ADMINISTRATION

9.1 Rights of Entry to the Unit

- (a) 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, to perform the objects and duties of the Corporation, and, without limiting the generality of the foregoing, for the purpose of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy and remedying any condition which might result in damage to the Property or any part thereof or carrying out any duty imposed upon the Corporation.
- (b) The Corporation, its agents or any other person authorized by the Board, shall be entitled at such reasonable times to enter any Unit or any part of the common elements over which the owners of such units have the exclusive use at such reasonable time(s) to facilitate window washing. Owners shall not obstruct nor impede access to window washing anchors located within exclusive use Common Elements.
- (c) In case of an emergency, an agent of the Corporation may enter a Unit at any time and this provision constitutes notice to enter the Unit in accordance with the Act for the purpose of repairing the Unit, Common Elements, including any 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 or loss to the Property. The Corporation or anyone authorized by it may determine whether an emergency exists;
- (d) 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;
- (e) The Corporation shall retain a master key to all locks controlling entry into each Unit. No owner shall change any lock, or place any additional locks on the door(s) leading directly into his or her Unit (nor on any doors within said Unit), nor with respect to any door(s) leading to any part of the exclusive use common element areas appurtenant to such Owner's Unit, without the prior written consent of the Board. Where such consent has been granted by the Board, said owner shall forthwith provide the Corporation with keys to all new locks (as well as keys to all additional locks) so installed, and all such new or additional locks shall be keyed to the Corporation's master key entry system.
- (f) 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 Bylaws.

9.2 Invalidity

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

9.3 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.

9.4 Interpretation of Declaration

This Declaration shall be read with all changes of number and gender required by the context.


9.5 Headings


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

IN WITNESS WHEREOF the Declarant has hereunto affixed its corporate seal under the hands of its proper officer duly authorized in that behalf.

DATED at Toronto, this 17 day of October, 2018.

IN8 (SAGE 9) DEVELOPMENTS INC.

Per:   
Title: Darryl Firsten, President

Per:   
Title: Jeffrey Kimel, Vice-President  
I have authority to bind the Corporation.

**SCHEDULE "A"**

**IN8 (Sage 9) Developments Inc.**

Legally described as PIN: 22364-0298 (LT), legal description: Lots 14, 15, 16 Plan 954 & Lots 73 & 74 Plan 856, being Part 1 on 58R20212, City of Waterloo

Subject to an Easement in favour of Waterloo North Hydro Inc. over Parts 1 & 2 on Plan 58R-20222 as described in WR1137117

Subject to an Easement in favour of Rogers Communications Inc. over the whole of the lands as described in WR1128395

In our opinion, based on the parcel register and the plans and documents recorded in them, the legal description is correct, the described easement will exist in law upon registration of the declaration and the description and the Declarant is the registered owner of the property and appurtenant.

Levy Zavet Professional Corporation  
Barristers and Solicitors and duly authorized agents for  
**IN8 (SAGE 9) DEVELOPMENTS INC.**



Per: \_\_\_\_\_  
Dvir David Hadary

October 17, 2018  
Dated

**SCHEDULE "B"**

**to the Declaration of In8 (Sage 9) Developments Inc.**

**CONSENT**

(under clause 7(2)(b) of the *Condominium Act, 1998*)

1. The Bank of Nova Scotia has a registered mortgage within the meaning of clause 7 (2) (b) of the Condominium Act, 1998 registered as Number WR1057297 in the Land Titles Division of the Waterloo Land Titles Office (No. 58).
2. We consent to the registration of this declaration, pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
3. We postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the Declaration.
4. We are entitled by law to grant this consent and postponement.

DATED this 14<sup>th</sup> day of August, 2018.

THE BANK OF NOVA SCOTIA

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**Alex Byrne**  
Assistant General Manager  
Real Estate Credit

ENS DOCUMENT  
NO. 485C/18  
APPROVED FOR  
EXECUTION

I/We have the authority to bind the Corporation.

**SCHEDULE "B"**

**to the Declaration of In8 (Sage 9) Developments Inc.**

**CONSENT**

(under clause 7(2)(b) of the *Condominium Act, 1998*)

1. Trisura Guarantee Insurance Company has a registered mortgage within the meaning of clause 7 (2) (b) of the Condominium Act, 1998 registered as Number WR992030 and amended in instrument number WR1014225 in the Land Titles Division of the Waterloo Land Titles Office (No. 58).
2. We consent to the registration of this declaration, pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
3. We postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the Declaration.
4. We are entitled by law to grant this consent and postponement.

DATED this 1<sup>st</sup> day of August, 2018.

TRISURA GUARANTEE INSURANCE COMPANY

Per:   
Name: **Alastair Cartwright**  
Title: **Senior Underwriter, Developer Surety**

Per:   
Name: **Shannon Buckley**  
Title: **Underwriter, Developer Surety**

I/We have the authority to bind the Corporation.

**SCHEDULE "B"**

**to the Declaration of In8 (Sage 9) Developments Inc.**

CONSENT

(under clause 7(2)(b) of the *Condominium Act, 1998*)

1. Westdale Construction Co. Limited has a registered mortgage within the meaning of clause 7 (2) (b) of the Condominium Act, 1998 registered as Number WR1005675 in the Land Titles Division of the Waterloo Land Titles Office (No. 58).
2. We consent to the registration of this declaration, pursuant to the Act, against the land or the interests appurtenant to the land, as the land and the interests are described in the description.
3. We postpone the mortgage and the interests under it to the declaration and the easements described in Schedule "A" to the Declaration.
4. We are entitled by law to grant this consent and postponement.

DATED this 29 day of August, 2018.

WESTDALE CONSTRUCTION CO. LIMITED

Per: 

Name:

Title:

Per: 

Name:

Title:

I/We have the authority to bind the Corporation.

**SCHEDULE "C"**  
**UNIT BOUNDARIES**

Each Unit shall comprise the area within the heavy lines shown on Part 1, Sheets 1 & 2 of the Description with respect to the numbers indicated thereon. The monuments controlling the extent of the units are the physical surfaces and planes referred to below, and are illustrated on Part 1, Sheets 1 & 2 of the Description and all dimensions shall have reference to them. Without limiting the generality of the foregoing, the boundaries of each unit are as follows:

**(1) BOUNDARIES OF THE RESIDENTIAL & COMMERCIAL UNITS (UNITS 1 TO 12 LEVEL 1; UNITS 1 TO 31 LEVELS 2,3,4,5 & 6,)**

- (a) Each Unit is bounded vertically by:
- (i) the upper surface and plane of the unfinished concrete floor slab or plywood sub-floor; and,
  - (ii) the Unit side lower surface of the unfinished concrete core slab on the ceiling.
- (b) Each Unit is bounded horizontally by:
- (i) denotes plane of backside face of drywall (being also the plane of any of : the unit side face of icf foam insulation, unit side face of concrete or concrete masonry wall, or unit side face of wood or steel stud or strapping or the inside face of glass);
  - (ii) the unit side surface of all exterior doors, door and window frames, the said doors and windows being in a closed position, and the unit side surface of all glass panels contained therein; and,
  - (iii) in the vicinity of ducts, pipe spaces and concrete columns, the unit boundaries are the backside surfaces of the drywall sheathing enclosing said ducts, pipe spaces and concrete columns.

**(2) BOUNDARIES OF THE PARKING UNITS (UNITS 46 TO 59 LEVEL 1),**

- (a) Each Unit is bounded vertically by:
- (i) the upper surface and plane of the unfinished concrete floor slab and or pavement and projections thereof; and,
  - (ii) the lower surface of the unfinished concrete ceiling (core slab) on ceiling.
- (b) Each Unit is bounded horizontally by:
- (i) the Dimensions outlined on the plan;
  - (ii) the vertical face and plane of the concrete/concrete block walls or concrete columns and projections thereof,
  - (iii) vertical face of concrete wall/concrete pillars & projections thereof

**PARKING UNITS (UNITS 13 TO 18 & UNITS 23 TO 45, LEVEL 1),**

- (a) Each Unit is bounded vertically by:
- (i) the upper surface and plane of the pavement and projections thereof; and,



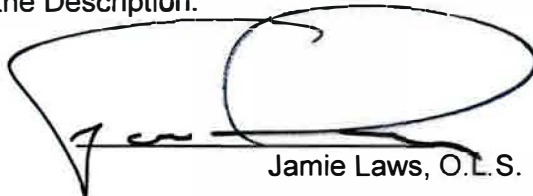
- (ii) a plane parallel to and 2.1m rom finished Asphalt
- (b) Each Unit is bounded horizontally by:
  - (i) the Dimensions outlined on the plan;
  - (ii) the vertical face and plane of the concrete/curb and projections thereof,

**PARKING UNITS (UNITS 19 TO 22, LEVEL 1),**

- (a) Each Unit is bounded vertically by:
  - (i) the upper surface and plane of the pavement and projections thereof;  
and,
  - (ii) a plane parallel to and 2.1m rom finished Asphalt
- (b) Each Unit is bounded horizontally by:
  - (i) the Dimensions outlined on the plan;

I hereby certify that the written description of the monuments and boundaries of the Units contained herein accurately corresponds with the diagrams of the Units shown on Part 1, Sheets 1 & 2 of the Description.

OCT 18 / 2012  
Dated

  
Jamie Laws, O.L.S.

Reference should be made to the provisions of the Declaration itself, in order to determine the maintenance and repair responsibilities of any Unit, and whether specific physical components (such as wires, pipes, cables, conduits, equipment, fixtures, structural components and/or any other appurtenances) are included or excluded from the Unit, regardless of whether same are located with or beyond the boundaries established for such Unit.

Notwithstanding anything hereinbefore provided to the contrary each Unit shall exclude all pipes, wires, cables, conduits, ducts, flues and mechanical or similar apparatus, all fire alarms, security systems, all concrete, concrete block or masonry partitions or load bearing walls or columns that lie within the boundaries of any particular Unit as hereinbefore set out but which supply service or support to another Unit(s) or the Common Elements.

## Schedule "D"

TO THE DECLARATION OF IN8 (SAGE 9) DEVELOPMENTS INC.  
PERCENTAGE INTEREST IN THE CORPORATION AND  
PERCENTAGE CONTRIBUTION TO COMMON EXPENSES

<u>Level</u>	<u>Unit</u>	<u>Percentage</u>
1	1	0.5392%
1	2	0.5234%
1	3	0.5233%
1	4	0.5458%
1	5	0.5437%
1	6	0.5143%
1	7	0.5214%
1	8	0.5182%
1	9	0.5182%
1	10	0.5182%
1	11	0.9756%
1	12	0.7915%
1	13	0.1878%
1	14	0.1878%
1	15	0.1878%
1	16	0.1878%
1	17	0.1878%
1	18	0.1878%
1	19	0.1878%
1	20	0.1878%
1	21	0.1878%
1	22	0.1878%
1	23	0.1878%
1	24	0.1878%
1	25	0.1878%
1	26	0.1878%
1	27	0.1878%
1	28	0.1878%
1	29	0.1878%
1	30	0.1878%
1	31	0.1878%
1	32	0.1878%
1	33	0.1878%
1	34	0.1878%
1	35	0.1878%
1	36	0.1878%
1	37	0.1878%
1	38	0.1878%
1	39	0.1878%
1	40	0.1878%

1	41	0.1878%
1	42	0.1878%
1	43	0.1878%
1	44	0.1878%
1	45	0.1878%
1	46	0.2047%
1	47	0.1879%
1	48	0.2047%
1	49	0.2047%
1	50	0.1879%
1	51	0.2047%
1	52	0.2047%
1	53	0.1879%
1	54	0.2047%
1	55	0.2046%
1	56	0.2180%
1	57	0.2017%
1	58	0.1881%
1	59	0.2014%
2	1	0.5678%
2	2	0.5536%
2	3	0.5176%
2	4	0.5184%
2	5	0.5184%
2	6	0.5184%
2	7	0.5107%
2	8	0.5081%
2	9	0.6180%
2	10	0.5242%
2	11	0.5242%
2	12	0.5242%
2	13	0.5243%
2	14	0.5241%
2	15	0.9744%
2	16	0.5296%
2	17	0.5183%
2	18	0.5184%
2	19	0.5184%
2	20	0.5183%
2	21	0.5186%
2	22	0.5114%
2	23	0.6111%
2	24	0.5086%
2	25	0.5248%
2	26	0.5233%
2	27	0.5252%
2	28	0.5243%

2	29	0.5243%
2	30	0.5242%
2	31	0.4674%
3	1	0.5678%
3	2	0.5536%
3	3	0.5176%
3	4	0.5184%
3	5	0.5184%
3	6	0.5184%
3	7	0.5107%
3	8	0.5081%
3	9	0.6180%
3	10	0.5242%
3	11	0.5242%
3	12	0.5242%
3	13	0.5243%
3	14	0.5241%
3	15	0.9744%
3	16	0.5296%
3	17	0.5183%
3	18	0.5184%
3	19	0.5184%
3	20	0.5183%
3	21	0.5186%
3	22	0.5114%
3	23	0.6111%
3	24	0.5086%
3	25	0.5248%
3	26	0.5233%
3	27	0.5252%
3	28	0.5243%
3	29	0.5243%
3	30	0.5242%
3	31	0.4674%
4	1	0.5678%
4	2	0.5536%
4	3	0.5176%
4	4	0.5184%
4	5	0.5184%
4	6	0.5184%
4	7	0.5107%
4	8	0.5081%
4	9	0.6180%
4	10	0.5242%
4	11	0.5242%
4	12	0.5242%
4	13	0.5243%

4	14	0.5241%
4	15	0.9744%
4	16	0.5296%
4	17	0.5183%
4	18	0.5184%
4	19	0.5184%
4	20	0.5183%
4	21	0.5186%
4	22	0.5114%
4	23	0.6111%
4	24	0.5086%
4	25	0.5248%
4	26	0.5233%
4	27	0.5252%
4	28	0.5243%
4	29	0.5243%
4	30	0.5242%
4	31	0.4674%
5	1	0.5678%
5	2	0.5536%
5	3	0.5176%
5	4	0.5184%
5	5	0.5184%
5	6	0.5184%
5	7	0.5107%
5	8	0.5081%
5	9	0.6180%
5	10	0.5242%
5	11	0.5242%
5	12	0.5242%
5	13	0.5243%
5	14	0.5241%
5	15	0.9744%
5	16	0.5296%
5	17	0.5183%
5	18	0.5184%
5	19	0.5184%
5	20	0.5183%
5	21	0.5186%
5	22	0.5114%
5	23	0.6111%
5	24	0.5086%
5	25	0.5248%
5	26	0.5233%
5	27	0.5252%
5	28	0.5243%
5	29	0.5243%

5	30	0.5242%
5	31	0.4674%
6	1	0.5678%
6	2	0.5536%
6	3	0.5176%
6	4	0.5184%
6	5	0.5184%
6	6	0.5184%
6	7	0.5107%
6	8	0.5081%
6	9	0.6180%
6	10	0.5242%
6	11	0.5242%
6	12	0.5242%
6	13	0.5243%
6	14	0.5241%
6	15	0.9744%
6	16	0.5296%
6	17	0.5183%
6	18	0.5184%
6	19	0.5184%
6	20	0.5183%
6	21	0.5186%
6	22	0.5114%
6	23	0.6111%
6	24	0.5086%
6	25	0.5248%
6	26	0.5233%
6	27	0.5252%
6	28	0.5243%
6	29	0.5243%
6	30	0.5242%
6	31	0.4685%

100.0000%

## SCHEDULE "E"

### SPECIFICATION OF COMMON EXPENSES

Common Expenses, without limiting the definition ascribed thereto, shall include the following:

- (a) all sums of money paid or payable by the Corporation in connection with the performance of any of its objects, duties and powers whether such objects, duties and powers are imposed by the Act or this Declaration and By-laws of the Corporation or other law or by agreement;
- (b) all sums of money properly paid by the Corporation on account of any and all public and private suppliers to the Corporation of insurance coverage, utilities and services including, without limiting the generality of the foregoing, levies or charges payable on account of:
  - i) insurance premiums;
  - ii) water and sewage and electricity respecting Common Elements;
  - iii) waste disposal and garbage collection;
  - iv) maintenance materials, tools and supplies;
  - v) snow removal for Common Elements and landscaping;
  - vi) fuel, including gas, oil and hydro electricity unless metered separately for a Unit;
  - vii) the recreational facilities; and
  - viii) the Shared Unit costs.
- (c) all sums of money paid or payable by the Corporation pursuant to any management contract which may be entered into between the Corporation and a manager;
- (d) all sums of money required by the Corporation for the acquisition or retention of real property for the use and enjoyment of the property or for the acquisition, repair, maintenance or replacement of personal property for the use and enjoyment in or about the Common Elements;
- (e) all sums of money paid or payable by the Corporation to any and all persons, firms, or companies engaged or retained by the Corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the objects, duties and powers of the Corporation including, without limitation, legal, engineering, accounting, auditing, expert appraising, advising, maintenance, managerial, secretarial or other professional advice and service required by the Corporation;
- (f) the cost of furnishings and equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
- (g) the cost of borrowing money for the carrying out of the objects, duties and powers of the Corporation;
- (h) the fees and disbursements of the Insurance Trustee, if any, and of obtaining insurance appraisals;
- (i) the cost of maintaining fidelity bonds as provided by By-law;
- (j) all sums required to be paid to the reserve or contingency fund as required by the Declaration or in accordance with the agreed upon annual budget of the Corporation;

## SCHEDULE "F"

### Exclusive Use Parts of Common Elements

Subject to the provisions of the Act, this Declaration, the By-laws and the Rules, the owner of each unit shall have the exclusive use of those parts of the common elements set out hereunder, subject, however, to the right of entry thereon by the Corporation or its agents for the purposes of maintaining, repairing or replacing services located thereon or thereunder which are for the benefit of any other part of the Property or which are the obligation of the Corporation pursuant to the Act, Declaration or By-laws.

1. The owners of each residential unit shall have the exclusive use of the patio/balcony/Terrace to which the unit has sole access, being illustrated on Part 2, Sheet 1 of the description and indicated by numbers as follows:

UNIT	LEVEL	PATIO/BALCONY TERRACE.	LOCATION
1	1	1A	Level 1
2	1	2A	Level 1
3	1	3A	Level 1
4	1	4A	Level 1
5	1	5A	Level 1
6	1	6A	Level 1
7	1	7A	Level 1
8	1	8A	Level 1
9	1	9A	Level 1
10	1	10A	Level 1
11	1	11A	Level 1



**CERTIFICATE OF ARCHITECT OR ENGINEER**  
**(SCHEDULE G TO DECLARATION FOR A STANDARD OR LEASEHOLD**  
**CONDOMINIUM CORPORATION)**  
**(UNDER CLAUSES 5 (8) (A) OR (B) OF ONTARIO REGULATION 48/01 OR**  
**CLAUSE 8 (1) (E) OR (H) OF THE *CONDOMINIUM ACT, 1998*)**

*Condominium Act, 1998*

I certify that:

*[Strike out whichever is not applicable:]*

Each building on the property

**Sage 9 – 308 Lester Street, Waterloo, ON**  
**Building Permit Number: 16 020004 000 00 MX**

OR

*(In the case of an amendment to the declaration creating a phase:*

*Each building on the land included in the phase)]*

has been constructed in accordance with the regulations made under the *Condominium Act, 1998*, with respect to the following matters:

*(Check whichever boxes are applicable)*

1.  The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.
2.  Except as otherwise specified in the regulations, floor assemblies are constructed to the sub-floor.
3.  Except as otherwise specified in the regulations, walls and ceilings of the common elements, excluding interior structural walls and columns in a unit, are completed to the drywall (including taping and sanding), plaster or other final covering.
4.  ~~All underground garages have walls and floor assemblies in place.~~

OR

- There are no underground garages.
5.  All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a licence, except for elevating devices contained wholly in a unit and designed for use only within the unit.

OR

- ~~There are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.~~
- 6.  ~~All installations with respect to the provision of water and sewage services are in place.~~
- 7.  ~~All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.~~
- 8.  ~~All installations with respect to the provision of air conditioning are in place.~~

OR

- ~~There are no installations with respect to the provision of air conditioning.~~
- 9.  ~~All installations with respect to the provision of electricity are in place.~~
- 10.  ~~All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.~~

OR

- There are no indoor and outdoor swimming pools.
- 11.  Except as otherwise specified in the regulations, the boundaries of the units are completed to the drywall (not including taping and sanding), plaster or other final covering, and perimeter doors are in place.

Dated this 27th day of September, 2018.

  
.....  
(signature)

Joe Somfay, Senior Architect  
IBI GROUP

(print name)

*(Strike out whichever is not applicable:*

Architect

~~Professional Engineer)~~

**CERTIFICATE OF ARCHITECT OR ENGINEER  
(SCHEDULE G TO DECLARATION FOR A STANDARD OR LEASEHOLD  
CONDOMINIUM CORPORATION)  
(UNDER CLAUSES 5 (8) (A) OR (B) OF ONTARIO REGULATION 48/01 OR  
CLAUSE 8 (1) (E) OR (H) OF THE *CONDOMINIUM ACT, 1998*)**

*Condominium Act, 1998*

I certify that: Sage 9 - 308 Lester Street, Waterloo

*[Strike out whichever is not applicable:*

Each building on the property

OR

*(In the case of an amendment to the declaration creating a phase:*

Each building on the land included in the phase)]

has been constructed in accordance with the regulations made under the *Condominium Act, 1998*, with respect to the following matters:

*(Check whichever boxes are applicable)*

1.  ~~The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.~~
2.  ~~Except as otherwise specified in the regulations, floor assemblies are constructed to the sub-floor.~~
3.  ~~Except as otherwise specified in the regulations, walls and ceilings of the common elements, excluding interior structural walls and columns in a unit, are completed to the dry wall (including taping and sanding), plaster or other final covering.~~
4.  ~~All underground garages have walls and floor assemblies in place.~~

OR

- ~~There are no underground garages.~~
5.  ~~All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a licence, except for elevating devices contained wholly in a unit and designed for use only within the unit.~~

OR

- ~~There are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.~~
- 6.  All installations with respect to the provision of water and sewage services are in place.
- 7.  All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.
- 8.  All installations with respect to the provision of air conditioning are in place.

OR

- ~~There are no installations with respect to the provision of air conditioning.~~
- 9.  All installations with respect to the provision of electricity are in place.
- 10.  ~~All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.~~

OR

- There are no indoor and outdoor swimming pools.
- 11.  ~~Except as otherwise specified in the regulations, the boundaries of the units are completed to the dry wall (not including taping and sanding), plaster or other final covering, and perimeter doors are in place.~~

Dated this ....27th.. day of ...September....., ....2018....



.....  
 (signature)  
 David W. Myles, P.Eng.  
 (print name)

(Strike out whichever is not applicable:

~~Architect~~  
 Professional Engineer)

**SCHEDULE N**

**SAGE 9**

With the exception of the bedrooms referenced herein, no floor area in the residential Unit shall be used as a bedroom or converted to a bedroom without the written consent of the City of Waterloo

<b>Level</b>	<b>Residential Unit</b>	<b>Maximum number of bedrooms permitted within the Unit</b>
1	1	1
1	2	1
1	3	1
1	4	1
1	5	1
1	6	1
2	1	1
2	2	1
2	3	1
2	4	1
2	5	1
2	6	1
2	7	1
2	8	1
2	9	1
2	10	1
2	11	1
2	12	1
2	13	1
2	14	1
2	15	2
2	16	1
2	17	1
2	18	1
2	19	1
2	20	1
2	21	1
2	22	1
2	23	1
2	24	1
2	25	1
2	26	1
2	27	1
2	28	1
2	29	1
2	30	1
2	31	1
3	1	1
3	2	1
3	3	1
3	4	1
3	5	1
3	6	1
3	7	1
3	8	1
3	9	1
3	10	1
3	11	1
3	12	1
3	13	1
3	14	1
3	15	2
3	16	1
3	17	1
3	18	1
3	19	1
3	20	1
3	21	1
3	22	1
3	23	1
3	24	1





CERTIFICATE IN RESPECT OF A BY-LAW

(UNDER SUBSECTION 38 (1) OF ONTARIO REGULATION 49/01  
AND SUBSECTION 56 (9) OF THE CONDOMINIUM ACT, 1998)

*Condominium Act, 1998*

Waterloo Standard Condominium Corporation No. 663 (known as the "Corporation") certifies that:

1. The copy of By-law Number 1, attached as Schedule A, is a true copy of the By-law.
2. The By-law was made in accordance with the Condominium Act, 1998.
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION  
NO. 663

Per:   
Name: Darryl Firsten  
Title: President

I have the authority to bind the Corporation



WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

BY-LAW NO. 1

**BE IT ENACTED** as a by-law of Waterloo Standard Condominium Corporation No. 663 (hereinafter referred to as the "Corporation") as follows:

ARTICLE I – DEFINITIONS

1.1 In addition to those words, terms and/or phrases specifically defined in this by-law, the words terms and/or phrases used herein which are defined in the *Condominium Act, 1998 S.O. 1998, C.19* as amended and the regulations made thereunder (hereinafter referred to as the "Act") and in the declaration of the Corporation (hereinafter referred to as the "Declaration") shall have ascribed to them the meanings set out in Act or the Declaration, unless the context requires otherwise.

ARTICLE II – SEAL

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

ARTICLE III – RECORDS

3.1 The Corporation shall keep and maintain all records required by section 55 of the Act, including the following records (hereinafter called the "Records"):

- (a) the financial records of the Corporation for at least six (6) years from the end of the last fiscal period to which they relate;
- (b) a minute book containing the minutes of owners' meetings and the minutes of board meetings;
- (c) a copy of the registered Declaration, registered by-laws and current rules;
- (d) a copy of all applications made under section 109 of the Act to amend the Declaration, if applicable;
- (e) the seal of the Corporation;
- (f) copies of all agreements entered into by the Corporation or by the Declarant or the Declarant's representatives on behalf of the Corporation, including all management contracts, deeds, leases, licences, easements and any agreements entered into pursuant to Section 98 of the Act;
- (g) copies of all policies of insurance and the related certificates or memoranda of insurance and all insurance trust agreements;
- (h) bills of sale or transfers for all items that are assets of the Corporation but not part of the property;
- (i) the names and addresses for service of each owner and mortgagee that the Corporation receives, in writing, from owners and mortgagees in accordance with subsection 83(2) of the Act;
- (j) all written notices received by the Corporation from owners and their respective units have been leased together with the lessee's name, the owner's address, a copy of the lease or renewal or a summary of same, pursuant to subsection 83(1) of the Act;
- (k) all written notices received by the Corporation from owners that a lease of the owner's unit has terminated and has not been renewed pursuant to subsection 83(2) of the Act;
- (l) all records that the Corporation has related to the units or to employees of the Corporation;
- (m) all existing warranties and guarantees for all equipment, fixtures and chattels included in the sale of either the units or common elements that are not protected by warranties and guarantees given directly to a unit purchaser;
- (n) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
- (o) the as-built specifications indicating all substantive changes, if any, from the original specifications;
- (p) all existing plans for underground site services, site grading, drainage and landscaping, and television, radio other communication services;
- (q) all other existing plans and information that are relevant to the repair or maintenance of the property;
- (r) if the property of the Corporation is subject to the *Ontario New Home Warranties Plan Act* an executed copy of Form 3 prescribed by section 37 of Ontario Regulation 49/01 and a copy of all final reports on inspections that the Ontario New Home Warranty Program requires to be carried out on the common elements;
- (s) a table that the Declarant has delivered pursuant to clause 43(5)(g) of the Act, setting out the responsibilities for repair after damage and maintenance, and indicating whether the Corporation or the owners are responsible;

- (f) a copy of the schedule of the Declarant has delivered pursuant to clause 43(5)(h) of the Act, setting out what constitutes a standard unit for each class of unit that the Declarant specifies, for the purpose of determining the responsibility for repairing improvements after damage and insuring them;
- (u) all reserve funds studies and all plans to increase the reserve fund;
- (v) a copy of the most current disclosure statement delivered by the Declarant to a purchaser prior the turnover;
- (w) a copy of the written performance audit report received by the Corporation;
- (x) a copy of any order appointing an inspector or administrator, if applicable, pursuant to section 130 and 131 of the Act, together with any report that the Corporation receives from an inspector in accordance with subsection 130(4) of the Act;
- (y) a copy of all status certificates issued within the previous ten (10) years;
- (z) a copy of all notices of meetings sent by or on behalf of the Corporation within the previous ten (10) years;
- (za) all proxies, for not more than ninety (90) days from the date of the meeting at which the proxies were utilized;
- (zb) a copy of all notices of lien issued by the Corporation to delinquent owners pursuant to subsection 85(4) of the Act, in respect of which the corresponding certificates of lien have not been discharged or vacated by court order;
- (zc) all records relating to actual or pending litigation (or insurance investigations) involving the Corporation [as contemplated in clause 55(4)(b) of the Act], together with copies of all outstanding judgements against the Corporation [as contemplated in clause 76(1)(n) of the Act];
- (zd) a copy of the budget of the Corporation for the current fiscal year, together with the last annual audited financial statements and auditor's report on such statements;
- (ce) a copy of all minutes of settlements and/or written decisions made by any mediator or arbitrator appointed pursuant to section 132 of the Act, regarding any issued(s) in dispute involving the Corporation (or to which the Corporation is a party), together with copies of all court orders issued in those circumstances where the Corporation was a party to the proceeding or otherwise directly affected thereby; and
- (ff) all other records as may be prescribed or specified in any other by-laws of the Corporation, together with copies of all other materials received by the Corporation that the regulations to the Act may hereafter require the Declarant to deliver on or shortly after the turnover meeting [contemplated in clause 43(5)(m) of the Act];
- (gg) a list of names and unit numbers in which owners of parking units own or have exclusive use to a parking unit.

#### **ARTICLE IV – THE CORPORATION**

##### 4.1 Duties of the Corporation

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

- (a) the operation, care, upkeep, maintenance and repair of the common elements and repair of units when an owner fails to repair as provided for in the Act and in the Declaration;
- (b) the collection of contributions towards common expenses from the owners;
- (c) the arranging for the supply of all requisite utility services to the common elements and units (unless separately metered) except where prevented from carrying out such duty by reason of any event beyond the reasonable control of the Corporation. The Corporation shall not be liable for indirect or consequential damage or for damages for personal discomfort or illness by reason of the breach of such duty;
- (d) obtaining and maintaining insurance for the property as may be required by the Act, the Declaration, or the By-laws;
- (e) the retention of legal counsel to prepare, register and discharge, following payment, certificates of lien for arrears of common expenses;
- (f) the preparation and delivery of status certificates as required by the Act;
- (g) the preparation of a yearly budget;
- (h) the supervision of all public or private service companies which enter upon the common elements for the purpose of supplying, installing, replacing and servicing their systems;
- (i) the obtaining and maintaining of fidelity bonds for any person dealing with the Corporation monies and in such amounts as the board may deem reasonable;
- (j) the purchase and maintenance of insurance for the benefit of all directors and officers in respect of anything done or permitted to be done by them in respect of the execution of the duties of their offices except insurance against a liability, cost, charge or expense of such directors or officers incurred as a result of a contravention of any of the duties imposed upon them pursuant to the Act;
- (k) the preparation and maintenance of the records to be kept by the Corporation in accordance with Article III hereof;

- (l) the calling and holding of meetings and the delivery of notices, as required;
- (m) the consistent and timely enforcement of the provisions of the Act, the Declaration, the by-laws and the rules of the Corporation; and
- (n) establishing and maintaining adequate reserve funds for the major repair or replacement of the common elements and of the assets of the Corporation in accordance with the Act;

#### 4.2 Powers of the Corporation

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

- (a) the employment and dismissal of personnel necessary for the maintenance and operation of the common elements;
- (b) the investment of reserve monies held by the Corporation in accordance with the Act;
- (c) the settling, adjusting or referring to mediation and/or arbitration of any claim or claims which may be made upon or which may be asserted on behalf of the Corporation;
- (d) entering into the following agreements as required from time to time:
  - (i) a management agreement with an individual or corporation to manage the affairs and assets of the corporation at such compensation and upon such terms as the board may determine in its sole discretion;
  - (ii) an insurance trust agreement with an insurance trustee as permitted by the Act at such compensation and upon such terms as the board may determine in its sole discretion;
  - (iii) an agreement required by a supplier of any utility or service to the Corporation upon such terms as the board may determine in its sole discretion; and
  - (iv) any other agreements which may be permitted by the Act and the Declaration and which are deemed advisable, desirable or necessary by the board;
- (e) the authority to object to assessments under the *Assessment Act* on behalf of owners if it gives notice of the objections to the owners and to authorize the defraying of costs objections out of the common expenses;
- (f) the borrowing of such amounts in any fiscal year as the board determines are necessary or desirable in order to protect, maintain, preserve, or ensure the due and continued operation of the property in accordance with the Act, Declaration and by-laws of the Corporation and the securing of any loan of any amount by mortgage, pledge or charge of any asset (other than the reserve fund) of the Corporation, subject in each case to approval of each such borrowing, loan or security by a majority vote of the owners at a meeting duly called for that purpose or as required by the Act, provided however, the board may maintain overdraft protection, in its general account, in an amount not exceeding one-twelfth (1/12) of the Corporations current budget without requiring approval of the Owners;
- (g) leasing any part of the non-exclusive use common elements, or granting or transferring any easement, right-of-way or license over, upon, under or through (or otherwise attaching) any part or parts of common elements, and/or releasing and abandoning any appurtenant easement(s) or right(s)-of-way heretofore or hereafter granted to (or created in favour of) the Corporation, in respect of any servient tenement burdened or encumbered thereby, on the express understanding that to the extent that subsection 21(1) of the Act requires a by-law to authorize such a lease, licence, easement or right of way, or such a release and abandonment of easement, then this by-law shall accordingly be deemed and construed for all such purposes to be (and constitute) the by-law providing the board with the requisite authority to enter into any such lease, licence, easement, right of way, or any such release and abandonment of easement and any such lease, licence, easement, right of way or release of easement may be executed on behalf of the Corporation by the authorized signing office of the Corporation, with or without the seal of the corporation affixed thereto, and same shall be valid and binding on the Corporation without requiring the consent or concurrence of (or the written authorization or signature of) any unit owner thereto;

#### ARTICLE V. MEETINGS OF OWNERS

##### 5.1 Annual Meeting:

The annual meeting of owners shall be held within six (6) months following the Corporation's fiscal year end at such place and on such day and time in each year as the board may from time to time determine for the purpose of receiving reports and statements required by the Act, the Declaration and By-laws of the Corporation, electing directors, appointing the auditor and fixing or authorizing the board to fix the auditor's remuneration, and for the transaction of such other business as may be set out in the notice of meeting.

##### 5.2 The First Annual General Meeting:

Pursuant to subsection 45(2) of the Act, the board shall hold the first annual general meeting of owners not more than three (3) months after the registration of the Declaration, an subsequently within six (6) months of the end of each fiscal year of the Corporation. The owners shall, at such first meeting, appoint one or more auditors to hold office until the close of the next annual meeting, and if owners fail to do so, the board shall forthwith make such appointment. The remuneration of an auditor shall be fixed by the owners (if the auditor is appointed by the owners), or fixed by the board (if authorized to so do by the owners, of if

the auditor is appointed directly by the board). The Corporation shall then give notice in writing to an auditor of his or her appointment forthwith after such appointment is made.

5.3 Special Meeting:

The board shall, upon receipt of a requisition in writing made by owners who together own not less than fifteen (15%) per cent of the units, call and hold a meeting of the owners within thirty-five (35) days of the receipt of the requisition or if the requisitions so request in the requisition or consent in writing, add the business to be presented at the requisitioned meeting to the agenda for the next annual general meeting. If the meeting is not called and held within thirty-five (35) days of the receipt of the requisition, any of the requisitioners may call the meeting, which meeting shall be held within forty-five (45) days of the day on which the meeting is called. The board may at any time call a special meeting of the owners for the transaction of any business, the nature of which shall be specified in the notice calling the meeting.

5.4 Notices:

At least fifteen (15) days written notice of every meeting specifying the place, the date, the hour and the nature of the business to be presented shall be given to the auditor of the Corporation and to each owner and the mortgagee entitled to vote and entered on the record twenty (20) days before the date of the meeting in accordance with subsection 47(5) and 70(2) of the act. The Corporation shall not be obligated to give notice to any Owner who has not notified the Corporation that he/she has become an Owner nor give notice to any mortgagee who has not notified the Corporation of his/her entitlement to vote and address for service.

5.5 Reports:

A copy of the financial statement and a copy of the auditor's report shall be furnished to every owner and mortgagee entered on the record at least twenty (20) days before the date of any annual general meeting of Owners. A copy of the minutes of meeting of owners and of the board shall be furnished to any owner or mortgagee who has requested same, within thirty (30) days of such request upon payment to the Corporation of a reasonable charge for labour and photocopying.

5.6 Persons Entitled to Be Present:

The only persons entitled to attend a meeting of owners shall be the owners and mortgagees entered on the Record, and any others entitled to vote thereat, the auditor of the Corporation, the directors and officers of the Corporation, a representative of the property manager, and others who, although not entitled to vote, are entitled or required under the provisions of the Act or the Declaration and By-laws of the Corporation to be present at the meeting. Another person may be admitted only on the invitation of the chairperson of the meeting or with the consent of the meeting.

5.7 Quorum

At any meeting of owners, a quorum shall be constituted when persons entitled to vote and owning not less than twenty-five (25%) percent of the units are present in person or represented by proxy. If thirty minutes after the time appointed for the holding of any meeting of owners, a quorum is not present, the meeting shall stand adjourned and if the meeting was an annual general meeting, the board shall call a further meeting of the owners in accordance with the Act.

5.8 Right to Vote

Subject to the restrictions in paragraphs 5.11 and 5.13 of this Article V, every owner of a unit that has a right to vote in accordance with the Act shall be entitled to vote who is entered on the Record as an owner or has given notice to the Corporation, in a form satisfactory to the Chairperson of the meeting that he/she is an owner. If a unit has been mortgaged, and the person who mortgaged such unit (or his/her proxy) has expressly authorized or empowered the mortgagee to vote and exercise the right of the owner to vote in respect of such unit and such mortgagee has, at least four (4) days before the date specified in the notice of meeting, notified the owner and the Corporation of his/her intention to exercise the right to vote shall be resolved by the chairperson of the meeting upon such evidence as the chairperson may deem sufficient. Each owner or mortgagee shall be entitled to only one (1) vote per unit.

5.9 Conduct of Meetings and Method of Voting:

At any meeting of owners, the president of the Corporation (or to whomsoever the president may delegate the responsibility) or failing him/her, the vice-president, or failing him/her, some other person appointed by the board or failing such appointment, such other person elected at the meeting shall act as chairperson of the meeting and the secretary of the Corporation shall act as secretary of the meeting or, failing him/her, the chairperson shall appoint a secretary. Any question shall be decided by a show of hands unless a poll is required by the chairperson or is demanded by an owner or mortgagee present in person or by proxy and entitled to vote, and unless a poll is so required or demanded, a declaration by the chairperson that the vote upon the question has been carried, or carried by a particular majority, or not carried, is prima facie proof of the fact without proof of the number of votes recorded in favour or against such question; provided however, that voting for the election of directors shall be by ballot only, other than in the case of acclamation. A demand for a poll may be withdrawn. If a poll is so required or demanded and the demand is not withdrawn, a poll upon the questions shall be taken in such manner as the chairperson shall direct.

5.10 Representatives:

An estate trustee, committee of a mentally incompetent person, or the guardian or trustee of an owner or mortgagee (and where a corporation acts in such capacity any person duly appointed a proxy for such corporation) upon filing with the Secretary sufficient proof of his/her appointment, shall represent the owner or mortgagee at all meetings of the owners, and may vote in the same manner and to the same extent as such owner or mortgagee. If there be more than one estate trustee, committee, guardian or trustee, the provisions of paragraph 5.11 of this Article V shall apply.

5.11 Co-Owners:

If a unit or a mortgage on a unit is owned by two or more persons, any one of them present or represented by proxy may in absence of the other or others vote but if more than one of them are present or represented by proxy, the majority of the owners of the unit shall decide how the vote is exercised.

5.12 Votes to Govern:

At all meetings of owners every question shall, unless otherwise required by the Act, the Declaration or by-laws be decided by a majority of the votes duly cast on the question.

5.13 Entitlement to Vote:

Save and expect in those instances where the Act provides or stipulates that the unanimous vote of all owners is required on any matter, issue, resolution or motion, an owner or mortgagee is not entitled to vote at any meeting if any common expenses or other monetary contributions that are payable in respect of the owner's or mortgagee's unit are in arrears for more than thirty (30) days prior to the meeting, provided however that such an owner or mortgagee may nevertheless vote if the Corporation received payment, by way of certified cheque, of all the arrears (and all other costs and expenses owing to the Corporation) before the meeting is held.

5.14 Proxies

Every owner or mortgagee entitled to vote at any meeting of the owners may, by instrument in writing, appoint a proxy, who need not be an owner or mortgagee, to attend and act at the meeting, in the same manner, to the same extent and with the same power, as if the owner or mortgagee were present at the meeting. The instrument appointing a proxy shall be in writing signed by the appointor or his/her attorney authorized in writing, and shall be effective for a particular meeting only. The instrument appointing a proxy shall be deposited with the secretary prior to the start of the meeting.

5.15 Minutes

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

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

**ARTICLE VI – BOARD OF DIRECTORS**

6.1 The Corporation:

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

6.2 Number of Directors and Quorum:

The number of directors shall be three (3) of whom two (2) shall constitute a quorum for the transaction of business at any meeting of the board. Notwithstanding vacancies, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

6.3 Qualifications:

Each director shall be 18 or more years of age and need not be an owner of a unit in the Corporation. No undischarged, bankrupt or mentally incompetent person shall be a director and if a director becomes a bankrupt or mentally incompetent person, he thereupon ceases to be a director. A director immediately ceases to be a director if a certificate of lien has been registered against a unit owner by the director and the director does not obtain a discharge of the lien within ninety (90) days of the registration of the lien.

6.4 Consent:

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

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

6.5 Election and Term:

(a) The directors of the Corporation shall be elected in rotation and shall be eligible for re-election, at the turnover meeting held pursuant to Section 43 of the Act, one (1) director shall be elected to hold office for a term of one (1) year; one (1) director shall be elected to hold office for a term of two (2) years; and one (1) director shall be elected to hold office for a term of three (3) years. Such directors may, however, continue to act until their successors are elected. If more than one (1) of such directors whose terms are not of equal duration shall resign from the board prior to expiration of their respective terms, and shall be replaced at a meeting of owners called for that purpose, the director or directors receiving the greater number of votes shall complete the longest remaining terms of the resigning directors. At each annual meeting thereafter a number of directors equal to the number of directors retiring in such year shall be elected for a term of three (3) years.

(b) If at least fifteen (15%) per cent of the units are owner occupied (as defined in subsection 51(2) of the Act), no persons other than the owners of owner-occupied units may elect a person to one of the positions on the board. If fifteen (15%) per cent of the units are owner occupied at the turnover meeting, the position on the board to be elected by owners of owner-occupied units shall be the director elected for the one (1) year term and thereafter when that position becomes vacant (either because of resignation or the term has expired) the director for that position shall be voted upon only by the owners of owner occupied units. If at least fifteen (15%) per cent of the units become owner occupied at the turnover meeting but any subsequent year more than fifteen (15%) per cent of the units become owner occupied, the position of a director whose terms expires in that year shall be designated the director to be elected by owners of owner occupied units and thereafter when that position becomes vacant (either because of resignation or the term has expired), the director for that position shall be voted upon only by the owner of owner occupied units.

6.6 Filling of Vacancies and Removal of Directors:

(a) If a vacancy in the membership of the board occurs, other than by way of removal by the owners or as a result of the number of directors being increased, subject to subparagraph (c) of this paragraph 6, the majority of the remaining members of the board may appoint any person qualified to be a member of the board to fill the vacancy until the next annual meeting at which time the vacancy shall be filled by election of the owners.

(b) Where the number of directors is increased, the vacancies resulting from such increase shall be filled only by election at such meeting of the owners and the director(s) so elected shall not act until the by-law increasing the number of directors is registered.

(c) When there is not a quorum of directors in office, the director(s) then in office shall forthwith call a meeting of owners to fill the vacancies and, in default or if there are no directors then in office, the meeting may be called by an owner.

(d) Any director may be removed before the expiration of his term by a vote of owners, who together own a majority of the units and the owners may elect, in accordance with the by-laws dealing with the election of directors, any person qualified to be a member of the board for the remained of the term of the director removed provided the director elected by owners of owner occupied units may be removed by a vote of the owners of owner occupied units in accordance with the Act.

6.7 Calling of Meetings:

Meetings of the board shall be held from time to time at such place and at such time and on such day as the President or any two directors may determine, and the Secretary shall call meetings when authorized by them. Notice of any meeting so called shall be delivered personally, by prepaid mail, courier delivery or electronic communication to each director addressed to him at his latest address, entered on the Record of the Corporation not less than forty-eight (48) hours (excluding any part of a Sunday or of a holiday as defined by the Interpretation Act of Canada for the time being in force) before the time when the meeting is to be held save that no notice of a meeting shall be necessary if all the directors are present and consent to the holding of such meeting, or if those absent have waived notice of or otherwise signified in writing their consent to the holding of such meeting.

6.8 Regular Meetings:

The board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of any resolutions of the board fixing a place and time of regular meetings of the board shall be given to each director forthwith after being passed, but no other notice shall be required for any such regular meeting.

6.9 Teleconference

A meeting of the board may be held or convened by way of teleconference, or any other form of communication system that allows all of the directors to participate concurrently and to communicate with each other simultaneously and instantaneously, provided that all of the directors participating in a meeting held or convened by such means have consented thereto, and a

director so participating in any such meeting held or convened by such means shall be deemed [for the purposes of subsection 35(5) of the Act and this by-law] to be present at such meeting. The board may, by resolution signed by all directors, provide their consent, in advance, to have meetings of the board conducted in the manner contemplated herein, without the necessity of requiring new consents prior to each and every meeting, provided that such resolution (and the standing consent referred to therein) shall be automatically rendered ineffective from and after (but not prior to) the delivery to the board by any director of a written notice revoking his or her consent to such resolution.

6.10 First Meeting of New Board:

The board may without notice hold its first meeting for the purpose of organization and the election and appointment of officers immediately following the appointment of the directors of the first board provided a quorum of directors be present.

6.11 Conflict of Interest

A director shall not be disqualified by reason of his office from contracting with the Corporation. Subject to the provisions of the Act, a director shall not by reason only of his office be accountable to the Corporation or to its owners for any profit or gain realized from a contractor transaction in which he has an interest, and such contract or transaction shall not be voidable by reason only of such interest, provided that the provisions in the Act relating to a declaration of interest have been followed.

6.12 Protection of Directors and Officers:

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

6.13 Indemnity of Directors and Officers

Every director and officer of the Corporation and their respective heirs, estate trustees, successors, and other legal personal representatives shall at all times be indemnified and saved harmless by the Corporation from and against

- (a) any liability and all costs, charges and expenses that the director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or her for or in respect of anything done, permitted to be done, or omitted to be done, by him or her, in respect of the execution of the duties of his or her office; and
- (b) all other costs, charges and expenses that such director or officer sustains or incurs in respect of the affairs of the Corporation, excluding however all costs, charges and expenses incurred directly or indirectly as a result of such director's or officer's own dishonest or fraudulent act or acts, or through or by such director's or officers gross negligence, recklessness, wilful blindness or intentional misconduct (with all liabilities and costs for which each director and officer shall be indemnified being hereinafter collectively referred to as the Liabilities), unless the Act or the by-laws of the Corporation provide otherwise, on the express understanding that:

- (a) No director or officer shall be indemnified by the Corporation in respect of any liabilities, costs, charges and/or expenses that he or she sustains or incurs arising from any action, suit or other proceeding in which such director or officer is adjudged to be in breach of his or her duty to act honestly and in good faith;
- (b) the Corporation is advised of any such action, suit or other proceeding (and of all liabilities, costs, charges and expenses in connection therewith) forthwith after the director or officer receives notice thereof or otherwise becomes aware of same; and
- (c) the Corporation is given the right to join in the defense of any such action, suit or proceeding.

6.14 Insurance:

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

6.15 Standard of Care:

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

6.16 Consent of Director at Meeting:

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

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

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

6.17 Deemed Consent of a Director:

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

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

6.18 Minutes:

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

- (a) the date, time and place of the meeting;
- (b) those present in person and by proxy at the meeting;
- (c) the identity and method of appointment of the Chair and the Secretary of the meeting;
- (d) confirmation of the due calling of the meeting;
- (e) confirmation of a quorum;
- (f) the disposition of each agenda item including confirmation of the moving, seconding (where necessary) and disposition of every motion made and vote held pursuant to the agenda;
- (g) confirmation of the moving, seconding (where necessary) and disposition of every other motion made and vote held pursuant to the agenda;
- (h) adjournment of the meeting; and
- (i) certification of the Secretary and Chair of the meeting.

ARTICLE VII – OFFICERS

7.1 Elected President:

At the first meeting of the board, after each election of directors and whenever a vacancy in the office occurs, the board shall elect from among its members a President. Until such elections, the then incumbent (if a member of the board) shall hold office.

7.2 Other Elections and Appointments:

The board shall appoint or elect a secretary, a treasurer and such other officers as the board may determine, including one or more assistants to any such officers. The officers so elected may, but need not be, members of the board. One person may hold more than one office.

7.3 Term of Office:

The board may by resolution remove at its pleasure any officer of the Corporation.

7.4 President:

The President, shall, when present unless he/she has delegated the responsibility, preside at all meetings of the owners and of the board, and shall be charged with the general supervision of the business and affairs of the Corporation, except when the board has appointed a General Manager or Managing Director, the President shall also have the powers and be charged with the duties of that office.

7.5 Vice-President:

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

7.6 General Manager:

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



7.7 Secretary:

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

7.8 Treasurer:

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

7.9 Other Officers:

The duties of all other officers of the Corporation shall be as set out in the terms of their employment or as the board further declares. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant unless the board otherwise directs.

7.10 Agents and Attorneys:

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

7.11 Committees:

In order to assist the board in managing the affairs of the Corporation, the board may from time to time establish or constitute such advisor committees to advise and make recommendations to the board in connection with any activities undertaken (or under consideration) by the board, including those related to management, budgets, rules and/or any other matters related to the common elements or any facilities, services or amenities (or any position thereof). The members of such committees shall be appointed by the board to hold office, and may be removed at any time by resolution of the board.

**ARTICLE VIII – BANKING ARRANGEMENTS AND CONTRACTS**

8.1 Banking Arrangements:

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

8.2 Execution of Instruments:

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

8.3 No Seal:

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

8.4 Execution of Status Certificate:

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

ARTICLE IX – FINANCIAL YEAR END

9.1 Financial Year End:

The financial year end of the Corporation shall end on the last day of the preceding month in which the declaration and description creating the Corporation were registered, in each year, or on such other day as the board by resolution may determine.

ARTICLE X – NOTICE

10.01 Method of Giving Notices

Except as otherwise specifically provided in the Act, the Declaration, this by-law, or any other by-law(s) of the Corporation hereafter enacted any notice(s), communication(s) or other document(s), including budgets and notices of assessment required to be given, served or delivered shall be sufficiently given or served if given in accordance with the following provisions:

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

10.02 Receipt of Notice:

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

10.03 Omissions and Errors:

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

ARTICLE XI – ASSESSMENT AND COLLECTION OF COMMON EXPENSES

11.1 Duties of the Board:

All expenses, charges and costs of maintenance of the common elements and any other expenses, charges or costs which the board may incur or expend pursuant hereto shall be assessed by the board and levied against the owners in the proportions in which they are required to contribute to the common expenses as set forth in the Declaration. The board shall from time to time, and at least annually, prepare a budget for the property and determine by estimate, the amount of common expenses for the next ensuing fiscal year, or remainder of the current fiscal year, as the case may be, which shall include provision for a reserve fund as

required by the Act. The board shall advise all owners promptly in writing the amount of common expenses payable by each of them respectively determined as foresaid, and shall deliver copies of each budget on which common expenses are based to all owners and mortgagees entered in the Record.

**11.2 Owner's Obligations:**

Each owner shall pay to the Corporation the amount of such assessment in equal monthly payments on the first day of each and every month next following notice of such assessment by way of twelve (12) postdated cheques or execution of pre-authorized payment plan, until such time as a new assessment has been provided to such owner.

**11.3 Extraordinary Expenditures:**

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

**11.4 Default in Payment of Assessment:**

- (a) Arrears of payments required to be made under the provisions of this article shall bear interest at a rate determined by the board from time to time and in default of such determination shall bear interest at the rate of eighteen (18%) per cent per annum and shall be compounded monthly until paid.
- (b) In addition to any remedies or lien provided by the Act, if any owner is in default in payment of an assessment levied against him/her for a period of fifteen (15) days, the board may retain a solicitor on behalf of the Corporation to enforce collection and there shall be added to any amount due all costs of such solicitor as between a solicitor and his/her own client and such costs may be collectible against the defaulting owner in the same manner as common expenses.
- (c) The board when giving notice of default in payment of common expenses or any other default to the owner of the unit shall concurrently send a copy of such notice to each mortgagee of such unit who has requested that such notice be sent to him/her.

**ARTICLE XII – LIABILITY FOR COSTS**

**12.1 Abatement and Restraint of Violations by Unit Owners and Liability for Costs:**

The owner of a unit is responsible for any cost incurred to repair:

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

In those cases where it has been determined that the responsibility for the payment of the cost to repair is that of the unit owner, or where an owner requests to repair a common element himself, the board of directors shall approve the selection of the contractor and/or the method of repair. This decision, at the discretion of the board shall be based on a minimum of two (2) bids, if necessary, the method of repair, the meeting of standards of uniformity and consideration of the convenience of the owner(s) involved.

**12.2 Additional Rights of Corporation:**

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

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

**12.3 Insurance Deductible:**

Pursuant to subsections 105(2) and (3) of the Act, where any insurance policy obtained or maintained by the Corporation contains a deductible clause that limits the amount payable by the insurer, then the portion of any loss that is excluded from coverage shall be deemed a common expense, provided however that if an owner, tenant or any other person residing in the owners unit with the permission or knowledge of the owner by or through any act or omission causes damage to such owner's unit, or to any other unit(s), or to any portion of the common elements, in those circumstances where such damage was not caused or contributed by any act or omission of the Corporation (or any of its directors, officers, agents, or employees), then the amount which is equivalent to the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be added to the common expenses payable in respect of such owner's unit, together with all costs and expenses incurred by the Corporation (either directly or indirectly) in resolving such claim and/or having such damage fully rectified (including the

increase in insurance premiums, if any, charged or levied against the Corporation by its insurer as a result of such claim and/or having such damage fully rectified (including the increase in insurance premium, if any, charged or levied against the Corporation by its insurer as a result of such claim or damage, together with all legal costs incurred by the Corporation on a solicitor and client basis), and shall be recoverable from such owner in the same manner (and upon the same terms) as unpaid common expenses.

ARTICLE XIII – PROCEDURES FOR MEDIATING DISPUTES

13.1 Mediation Procedures:

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

ARTICLE XIV – MISCELLANEOUS

14.1 Invalidity:

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

14.2 Gender:

The use of the masculine gender in this by-law shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires, and vice versa.

14.3 Waiver:

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

14.4 Headings:

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

14.5 Alterations:

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

14.6 Conflicts:

In the case of a conflict between the provisions of the Act and any provision in the Declaration, By-laws or Rules, the Act shall prevail. In the case of a conflict between the provisions in the Declaration and any provision in the By-laws or Rules, the Declaration shall prevail. In the event the provisions of the Act or in the Declaration are silent the provisions of the By-laws shall prevail.

DATED at Waterloo, this 19<sup>th</sup> day of November, 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

Per:   
Name: Darryl Firsten  
Title: President

I have the authority to bind the Corporation

**APPENDIX "A" TO BY-LAW 1**

**ARTICLE 1 - PRE-MEDIATION PROCEEDINGS**

Prior to submitting a dispute on any question or matter to a mediator appointed by the parties in accordance with Section 132 of the *Condominium Act, 1998 S.O. 1998, C.19* as set forth below, and within fourteen (14) days of the dispute first arising, the unit owner (or unit owners) and the board of directors shall meet on at least one occasion, and shall use their best efforts to resolve the question or matter in dispute through good faith negotiations conducted at such meeting and, if the parties are able to agree upon the selection of a neutral person who may be and include the Corporation's property manager and/or a highly regarded member of the community, the meeting shall include such neutral person(s), all acting with a view to securing a resolution of the question or matter in dispute without further proceedings, including the conduct of mediation with the assistance of an outside mediator.

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

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

**ARTICLE 2 - MEDIATION**

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

Selection and Role of the Mediator:

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

The mediator selected by the parties or, failing their agreement, appointed by the CDRC, shall not have had any current or past relationship of any kind with any of the parties that might otherwise give rise to justifiable doubts as to his or her impartiality or independence in assuming a neutral role as a mediator to assist the parties in the resolution of their dispute.

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

Party Confidentiality:

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

Pre-mediation information:

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

Authority to Settle:

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

Mediator Confidentiality:

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

Legal Representation:

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

**Right to Withdraw:**

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

**Costs of the Mediation:**

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

**Notice and Report:**

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

**Settlement:**

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

CERTIFICATE IN RESPECT OF A BY-LAW

(UNDER SUBSECTION 38 (1) OF ONTARIO REGULATION 49/01  
AND SUBSECTION 56 (9) OF THE CONDOMINIUM ACT, 1998)

*Condominium Act, 1998*

Waterloo Standard Condominium Corporation No. 663 (known as the "Corporation") certifies that:

1. The copy of By-law Number 2, attached as Schedule A, is a true copy of the By-law.
2. The By-law was made in accordance with the Condominium Act, 1998.
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION  
NO. 663

Per:   
Name: Darryl Firsten  
Title: President

I have the authority to bind the Corporation

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

BY-LAW NO. 2

BE IT ENACTED as a By-Law of Waterloo Standard Condominium Corporation No. 663 (hereinafter referred to as the "Corporation") as follows:

1. That the directors of the Corporation may from time to time:
  - (a) borrow money on the credit of the Corporation;
  - (b) charge, mortgage, hypothecate or plead all or any of the real and personal property of the Corporation, including book debts and unpaid calls, rights, powers franchises and undertakings, to secure any such securities or other monies borrowed, or other debts or any other obligation or liability of the Corporation;
  - (c) delegate to such one or more officers and directors of the Corporation as may be designated by the directors all or any of the powers conferred by the foregoing clauses of this By-Law to such extent and in such manner as the directors shall determine at the time of such delegation; and
  - (d) give indemnities to any directors or other persons who has undertaken, or is about to undertake, any liabilities on behalf of the Corporation or any corporation controlled by it, and secure any such director or other person against loss by giving him by way of security a mortgage or charge upon the whole or any part of the real and personal property, undertaking and rights of the Corporation;
  - (e) provide that any borrowing of money in excess of the sum of Twenty-five thousand dollars (\$25,000.00) for any one occurrence shall require the approval of the Owners owing a majority of the units, at a duly called meeting.

THE foregoing By-Law is hereby enacted and passed as By-Law No.2 of Waterloo Standard Condominium Corporation No. 663 By Iu8 (Sage 9) Developments Inc, the Declarant and owner of all units and the only member of the Corporation.

DATED at Waterloo, this 19<sup>th</sup> day of November 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

Per: 

Name: Darryl Firsten

Title: President

I have authority to bind the Corporation



CERTIFICATE IN RESPECT OF A BY-LAW

(UNDER SUBSECTION 38 (1) OF ONTARIO REGULATION 49/01  
AND SUBSECTION 56 (9) OF THE CONDOMINIUM ACT, 1998)

*Condominium Act, 1998*

Waterloo Standard Condominium Corporation No. 663 (known as the "Corporation") certifies that:

1. The copy of By-law Number 3, attached as Schedule A, is a true copy of the By-law.
2. The By-law was made in accordance with the Condominium Act, 1998.
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION  
NO. 663

Per:   
Name: Darryl Firsten  
Title: President

I have the authority to bind the Corporation.

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

BY-LAW NO. 3

Be it enacted as a by-law of Waterloo Standard Condominium Corporation No. 663 (herein referred to as the "Corporation" or the "Condominium") as follows:

1. That the Corporation enter into a management agreement with **Wilson, Blanchard Management Inc.** for the management of the property of the Corporation, such agreement to be in the form or substantially in the form annexed hereto, and the President and Secretary be and they are hereby authorized to execute the agreement on behalf of the Corporation and apply the seal of the Corporation thereto.

THE foregoing By-law is hereby enacted and passed as By-law No. 3 of Waterloo Standard Condominium Corporation No. 663 by In8 (Sage 9) Developments Inc., the Declarant and owner of all units and the only member of the Corporation.

DATED at Waterloo, this 19<sup>th</sup> day of November 2018.

**WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663**

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

Name: Darryl Firsten

Title: President

I have authority to bind the Corporation

CERTIFICATE IN RESPECT OF A BY-LAW

(UNDER SUBSECTION 38 (1) OF ONTARIO REGULATION 4901  
AND SUBSECTION 56 (9) OF THE CONDOMINIUM ACT, 1998)

*Condominium Act, 1998*

Waterloo Standard Condominium Corporation No. 663 (known as the "Corporation") certifies that:

1. The copy of By-law Number 4, attached as Schedule A, is a true copy of the By-law;
2. The By-law was made in accordance with the Condominium Act, 1998;
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.

WATERLOO STANDARD CONDOMINIUM CORPORATION  
NO. 663

Per:   
Name: Darryl Hirsten  
Title: President

I have the authority to bind the Corporation

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

BY-LAW NO. 4

BE IT ENACTED as a by-law of Waterloo Standard Condominium Corporation No. 663 (hereinafter referred to as the "Corporation") as follows:

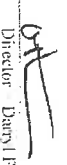
The directors of the Corporation shall cause the Corporation to enter into an agreement with In8 (Sage 91) Developments Inc. (the "Declarant") in the form attached hereto as Schedule "A" (the "Agreement") that shall provide that effective as of November 9, 2018 being the registration date of the Corporation:

1. the Corporation shall have no rights against the Declarant beyond those that are specifically granted to the Corporation under the Condominium Act, the Ontario New Home Warranties Plan Act and by Tarrion Warranty Corporation, formerly the Ontario New Home Warranty Program;
2. the Corporation's only recourse against the Declarant for a final and binding resolution of any outstanding incomplete or deficient construction items and any other related matters relating to the Property, the Corporation and the Building shall be through the process established for and administered by Tarrion Warranty Corporation;
3. the Corporation, together with the Declarant, shall appoint and constitute Tarrion Warranty Corporation as the sole and final arbiter of all such matters;
4. the Corporation shall indemnify and save the Declarant harmless from all actions, causes of actions, claims and demands for damages or loss which are brought by the Corporation in contravention of the said Agreement;
5. the Agreement shall neither be terminated nor terminable by the Corporation following the Turnover Meetings and
6. the Agreement shall come to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

The foregoing By-Law is hereby enacted and passed as By-Law No. 4 of Waterloo Standard Condominium Corporation No. 663 by the directors of the Corporation, who have duly approved and confirmed without variation the provisions herein, as evidenced by all of the respective signatures hereto of all the directors.

**DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.**

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

  
Director: Darryl Frisken

  
Director: Anwel Ryzjelski


  
Director: Anwel Ryzjelski

The foregoing By-Law No. 4 is hereby approved and confirmed by the sole (owner of the Units as evidenced by the signature of its duly authorized officer in that behalf

**DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.**

IN8 (SAGE 91) DEVELOPMENTS INC.

Per:   
Name: Darryl Frisken  
Title: President

Per:   
Name: Leifia Kinnel  
Title: Vice-President

We have the authority to bind the Corporation

SCHEDULE A

THIS AGREEMENT is made this 19<sup>th</sup> day of November 2018.

BETWEEN:

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

(the "Corporation")

OF THE FIRST PART

AND:

IN8 (SAGE 9) DEVELOPMENTS INC.

(the "Declarant")

OF THE SECOND PART

WHEREAS the Declarant has created a Corporation pursuant to the Condominium Act, R.S.O. 1990 (the "Condominium Act") by the registration of a Declaration and a Description in the Land Registry Office for the Land Titles Division of Waterloo relating to the land and any interest appurtenant to the land described in the Description located at 308 Lester Street, City of Waterloo (the "Property");

AND WHEREAS the Corporation has agreed to enter into an Agreement with the Declarant made effective as of November 9, 2018, being the registration date of the Corporation, with respect to any outstanding, incomplete or deficient construction items and any other related matters relating to the Property, the Corporation and the Building, in accordance with the terms and conditions of this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the premises and the mutual covenants and agreements herein contained and other valuable consideration, the Corporation and the Declarant hereby agree that, effective as of November 9, 2018, being the registration date of the Corporation:

1. The Corporation shall have no rights against the Declarant beyond those that are specifically granted to the Corporation under the Condominium Act, the Ontario New Home Warranties Plan Act and by the Torton Warranty Corporation (the "TWP"), formerly the Ontario New Home Warranty Program.
2. The Corporation's only recourse against the Declarant for a final and binding resolution of any outstanding, incomplete or deficient construction items and any other related matters relating to the Property, the Corporation and the Building shall be through the process established and administered under the TWP.
3. The Corporation and the Declarant, hereby appoint and constitute the TWP as the sole and final arbiter of all such matters set out in Paragraph 2 above.
4. The Corporation agrees to indemnify and save the Declarant harmless from all actions, causes of actions, claims and demands for damages or loss which are brought by the Corporation in contravention of this Agreement.
5. This Agreement shall neither be terminated nor terminable by the Corporation following the Turnover Meeting; and
6. This Agreement shall survive to the benefit of and be binding upon the respective successors and assigns of the parties herein.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement this 19<sup>th</sup> day of November 2018

WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663

Per:   
Name: Darryl Finston  
Title: President

Per:   
Name: Evan Rydzanski  
Title: Vice-President

We have the authority to bind the Corporation

IN8 (SAGE 9) DEVELOPMENTS INC.

Per:   
Name: Darryl Finston  
Title: President

Per:   
Name: AJay Kaniel  
Title: Vice-President

We have the authority to bind the Corporation

CERTIFICATE IN RESPECT OF A BY-LAW

(UNDER SUBSECTION 38 (1) OF ONTARIO REGULATION 49/01  
AND SUBSECTION 56 (9) OF THE CONDOMINIUM ACT, 1998)

*Condominium Act, 1998*

Waterloo Standard Condominium Corporation No. 663 (known as the "Corporation") certifies that:

1. The copy of By-law Number 5, attached as Schedule A, is a true copy of the By-law.
2. The By-law was made in accordance with the Condominium Act, 1998.
3. The owners of a majority of the units of the Corporation have voted in favour of confirming the By-law.

DATED at the City of Waterloo, this 19<sup>th</sup> day of November 2018.

**WATERLOO STANDARD CONDOMINIUM CORPORATION**  
NO. 663

Per:   
Name: Danyil Firsien  
Title: President

I have the authority to bind the Corporation

**WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663**

**BY-LAW NO. 5**

(hereinafter referred to as the "Condominium" or the "Corporation")

**BY-LAW NUMBER 5**

WHEREAS IN8 (SAGE 9) DEVELOPMENTS INC. (hereinafter referred to as the "Declarant") has entered into a bulk internet service agreement (hereinafter referred to as the "**Bulk Internet Agreement**") with **Rogers Communications Inc.** (hereinafter referred to as "**Rogers**") pursuant to which:

AND WHEREAS it is intended that all amounts payable to Rogers for such bulk internet service, from and after the date of registration of this Condominium, shall comprise part of the common expenses of this Condominium, and shall correspondingly be reflected in the Condominium's annual budget(s), and that this Condominium shall assume (and be correspondingly bound by) all of the outstanding and/or ongoing obligations of the Declarant arising under (or pursuant to) the Bulk Internet Agreement.

Be it enacted as the by-law of the Corporation as follows:

1. That the Corporation enter into an assumption agreement with the Declarant, and with Rogers as a party (but not as a signatory) thereto, having substantially the same form and content as the draft assumption agreement annexed hereto as **Schedule "A"** (hereinafter referred to as the "**Assumption Agreement**"), for the purposes of evidencing the Corporation's obligation to abide by (and comply with) the terms and provisions of the Bulk Internet Agreement, and to formally assume all outstanding and/or ongoing obligations and liabilities of the Declarant arising thereunder or in connection therewith;
2. That all terms and provisions of the Assumption Agreement, as well as the Corporation's performance and fulfillment of all outstanding and/or ongoing obligations and liabilities arising thereunder or in connection therewith, are hereby expressly authorized, ratified, sanctioned, approved and confirmed; and
3. That any officer of the Corporation is hereby authorized to execute, on behalf of the Corporation, the Assumption Agreement, with or without the seal of the Corporation affixed thereto, together with all other documents and instruments ancillary thereto, including without limitation, all instruments, applications and/or affidavits which may be required in order to register this by-law on title to each of the units in this Condominium. The affixation of the corporate seal of the Corporation to all such documents and instruments is hereby expressly authorized, ratified, sanctioned, confirmed and approved.

The foregoing by-law is hereby enacted as By-law No. 5 of Waterloo Standard Condominium Corporation No. 663

DATED at the City of Waterloo, this 19<sup>th</sup> day of November, 2018.

**WATERLOO STANDARD CONDOMINIUM CORPORATION  
NO. 663**

Per:   
Name: Darryl Friston  
Title: President

I have the authority to bind the Corporation

SCHEDULE "A" TO BY-LAW NO. 5

ASSUMPTION AGREEMENT (including a copy of the signed Bulk Agreement)



ASSIGNMENT AND ASSUMPTION AGREEMENT

**TO:** IN8 (SAGE 9) DEVELOPMENTS INC. (the "Assignor")  
**FROM:** WATERLOO STANDARD CONDOMINIUM CORPORATION NO. 663 (the "Assuming Party")

**WHEREAS:**

- A. The Assignor entered into a bulk internet services agreement dated October 25, 2017 with Rogers Communications Inc. ("Rogers") providing for internet services to property located at 308 Lester Street, Waterloo Ontario, a copy of which is attached hereto ("Bulk Agreement"); and,
- B. The Assuming Party has agreed to take an assignment of the Access Agreement and assume the obligations of the Assignor thereunder;
- C. Rogers has consented to this assignment and assumption agreement;
- D. The Assuming Party has agreed to indemnify the Assignor against and save harmless the Assignor from any and all obligations owed to Rogers in respect to the Bulk Agreement;

**NOW THEREFORE** the parties hereto acknowledge and agree as follows:

- 1. The Assignor hereby assigns and the Assuming Party hereby assumes the rights, benefits and obligations of the Assignor under the Bulk Agreement as of the date set out below.
- 2. The parties acknowledge and agree that the Effective Date of the Term of the Bulk Agreement is October 25, 2017 and the expiry date is October 25, 2027.
- 3. The Assuming Party hereby indemnifies and saves harmless the Assignor against all actions, causes of action, suits, claims and demands whatsoever which may be made by Rogers Communications Inc. relating to and pursuant to the terms of the Bulk Agreement.

IN WITNESS WHEREOF the Assignor and Assuming Party have executed this Assignment and Assumption Agreement as of the 19<sup>th</sup> day of November 2018.

**IN8 (SAGE 9) DEVELOPMENTS INC.**

Per:   
Name: Darryl Firsiroti  
Title: President

Per:   
Name: Jeffrey Kitchel  
Title: Vice-President

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**WATERLOO STANDARD CONDOMINIUM  
CORPORATION NO. 663**

Per:   
Name: Darryl Firsiroti  
Title: President

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**MASTER SERVICES AGREEMENT**

Commercial Summary

Date: October 25, 2017

Contract No. \_\_\_\_\_

This Master Services Agreement, effective as of the Effective Date specified in Section 2 of the General Terms and Conditions, is between Rogers Communications Inc. ("Rogers") and IN8 (Sage 9) Developments Inc. (the "Customer").

1. **Location and Contact:** The Customer requests the Services be provided at the property set out below (the "Location")

Location	<b>Sage 9</b>	
Street Address:	308 Lester Street, Waterloo, Ontario	
On-Site Contact Information	Name: Paul Rygielski Title: Email: paul@saagecondos.ca	Telephone Number: (519) 829-5745 Fax Number:

2. **Services:** The Customer subscribes to the Services listed below and Rogers agrees to provide such Services to the Customer pursuant to the terms and conditions herein. All pricing is in Canadian currency is exclusive of taxes and inclusive of all applicable discounts.

SERVICE	Service Term (years)	Outlets	Fees
<b>X Network Services</b>			
<b>X Firewall Services - None</b>	10	161	
<b>Broadband Interconnection Services</b>			
Rogers Dedicated Internet (Fibre) – 1Gbps			
Year 1 - per outlet per month		161	\$0.00/month
Year 2 - per outlet per month		161	\$36.00/month
Year 3 - per outlet per month		161	\$36.00/month
Year 4 - per outlet per month		161	\$36.00/month
Year 5 - per outlet per month		161	\$36.00/month
Year 6 - per outlet per month		161	\$36.00/month
Year 7 - per outlet per month		161	\$36.00/month
Year 8 - per outlet per month		161	\$36.00/month
Year 9 - per outlet per month		161	\$36.00/month
Year 10 - per outlet per month		161	\$36.00/month
<b>X Technical Support - Level 2 - Customer Support</b>			
<b>X Installation &amp; Provisioning – as per quote</b>			Included
<b>X Maintenance and Repair</b>			Included
<b>X Monitoring and Reporting - Level 1 - System Monitoring</b>			Included
<b>X Design and Programming</b>			Included
			As per quote

3. Addresses for Notice:

<p>To Customer:</p> <p><b>IN8 (Sage 9) Developments Inc.</b>          c/o 44 Peter Street          St. Clements, Ontario          NOB 2M0          Facsimile:          Attn: Paul Rygielski</p>	<p>To Rogers:</p> <p><b>Rogers Communications Inc.</b>          855 York Mills Road          Toronto, ON          M3B 1Z1          Attention: Vice-President, Major Accounts          Facsimile: (416) 446-7416</p> <p>With a copy by facsimile to: Legal Department  <b>Rogers Communications Inc.</b>          333 Bloor Street East, 9<sup>th</sup> Floor          Toronto ON M4W 1G9          Attention: Legal Department          Facsimile: (416) 935-7627</p>
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4. Complete Agreement

The Customer acknowledges having received and being bound by each of the components of this Master Services Agreement:

Master Service Agreement Component	Initials
Commercial Summary	X <i>h</i>
General Terms and Conditions	X <i>h</i>
Description and Diagram of System and Service Area – Schedule A	X <i>h</i>
Services Description - Schedule B	X <i>h</i>
Location Standards – Schedule C	X <i>h</i>
Acceptable Use Policy – Schedule D	X <i>h</i>


The Parties to this Agreement have executed it by their duly authorized representatives.

**Rogers Communications Inc.**

**IN8 (Sage 9) Developments Inc.**

Per:   
 Name: Adam Newhook  
 Title: Director, Major Accounts (SWO)

Per:   
 Name: EWA RYGIELSKI  
 Title:

Per:   
 Name: Michael Instaj  
 Title: Vice-President, Major Accounts

Per: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

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We have authority to bind the Corporation


Appendix to Commercial Summary


The following special terms are incorporated into this Agreement:

1. The monthly per suite rate set out in the Commercial Summary is based on 161 active outlets in dwelling units throughout the Location.
2. The Customer may request activation of additional outlets throughout the Term, which shall be to charge additional charge to be quoted and agreed in advance.
3. Assignment and Assumption - As a condition of receiving the broadband connection service at zero cost to the Customer in Year One as described in Section 2, the Customer shall, within 30 days of the date the Location is registered as a plan of condominium, cause the condominium corporation to be formed to execute and deliver the form of Assignment and Assumption Agreement attached hereto as Schedule E and register a bylaw on title of all units substantially in form attached hereto as Schedule F which authorizes and approves such assignment and assumption and shall deliver a fully executed copy of the said agreement and bylaw to Rogers whereupon the Customer shall be released from any further obligations under this agreement. If the Customer fails to execute and deliver the bylaw and the Assignment and Assumption Agreement within 30 days as aforesaid, the Customer shall be liable for the service fees in Year One at the rates of \$44.00 per outlet per month and shall remain responsible for the remainder of the term.
4. Rogers and the Customer agree that Section 4 of the Transfer of Easement between the parties which provides that Rogers and any other service providers shall only be permitted to provide Communication Services on a direct resident pay basis shall not apply to the provision of the Services under and during the term of this Agreement and any extension(s) thereof.

**This Appendix is only valid if executed by both Parties.**

**Rogers Communications Inc.**

Per:   
Name: Adam Newhook  
Title Director, Major Accounts (SWO)

Per:   
Name: Michael K. Stajic  
Title: Vice-President, Major Accounts  
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**IN8 (Sage 9) Developments Inc.**

Per:   
Name: EWA RYGIELSKI  
Title:

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
/We have authority to bind the Corporation

These are the General Terms and Conditions of the Master Services Agreement between Rogers and the Customer named in the Commercial Summary, each referred to as a "Party" and collectively as the "Parties"

**1. Definitions and Interpretation**

(1) **Headings/Extended Meanings.** The headings of all articles or sections herein are inserted for convenience of reference only and shall not affect the construction or interpretation hereof. Except where the context otherwise indicates, words importing the singular number only include the plural, and vice versa, words importing any gender include all genders and the term "including" means "including, without limitation".

(2) **Definitions.** In addition to the terms defined elsewhere in the Agreement, the following terms have the following meanings throughout the Agreement:

- (a) **"Acceptable Use Policy"** means the policy of Rogers that sets out acceptable use of Rogers services and facilities published by Rogers from time to time, and attached hereto as Schedule D, which Acceptable Use Policy may be amended by Rogers from time to time by posting such policy at [www.rogers.com/business2up](http://www.rogers.com/business2up)
- (b) **"Affiliate"** means a company that controls, is controlled by or is under common control with a Party.
- (c) **"Agreement" or "Master Services Agreement"** means these General Terms and Conditions, the Commercial Summary, the Service Description(s), the Schedules, the Customer's Credit Application and all attachments and exhibits referred to herein.
- (d) **"Capital Costs"** means the cost of equipment and installation of the System, and the Rogers Equipment and other costs associated with provision of the Services at the Location, as set out in Schedule A.
- (e) **"Change of control"** shall have the meaning ascribed hereto in the Canada Business Corporations Act
- (f) **"Commercial Summary"** means the list of all Services, subscribed to by the Customer, along with relevant commercial terms, including the Fees and Service Term, which is attached hereto as part of this Master Services Agreement.
- (g) **"Confidential Information"** means all data and information whether in written, machine readable or other tangible form, or disclosed orally, that is of value to the disclosing Party, is not generally known to competitors of the disclosing Party, and which has been communicated to the other Party. Confidential information shall include Personal Information, information relative to how, formulas, processes, data, network configuration and rights-of-way, drawings, proprietary information, customer lists, and any other non-public information which concerns the business and operations of the disclosing Party. Confidential information does not include data or information:
  - (i) which is or becomes available to the public through no wrongful act of the receiving Party;
  - (ii) which is received from a third party without restriction of confidentiality and without breach of this Agreement; or
  - (iii) which is independently developed by the receiving Party without use of Confidential Information of the disclosing Party.
- (h) **"Contractor"** means any third party from which Rogers has acquired any service or facilities used in providing the Services, but does not include another telecommunications carrier whose facilities are used to establish connections to locations not served by Rogers.
- (i) **"Customer Party"** means any, or all, of Customer, its Affiliates and Franchisees using Services.
- (j) **"Dispute"** means any dispute, including an invoice dispute, between the Parties arising from questions of fact, procedures, practices or standards relevant to this Agreement, as well as any claim or controversy (whether in contract or tort, pursuant to statute or regulation, or otherwise, and whether pre-existing, present or future) arising out of or relating to: (a) this Agreement; (b) the services or equipment provided to the Customer by Rogers; (c) oral or written statements, or advertisements or promotions relating to this Agreement or to the services, or equipment; or (d) the relationships that result from this Agreement. Failure or inability to pay for services billed to the Customer for services under this Agreement does not constitute a dispute.
- (k) **"Fees"** means the charges for Services provided under this Agreement as more particularly described in the Commercial Summary.
- (l) **"Franchisee"** means any franchisee of Customer or Customer's Affiliates.

- (m) **"Improper Use"** means a use that (i) causes, or is reasonably likely to cause, damage to the relevant equipment, facilities, connections or network, or which has, or is reasonably likely to have, an adverse effect on the performance of Rogers's network; or (ii) is illegal or in breach of any applicable terms of service, Acceptable Use Policy or the terms of this Agreement.
- (n) **"Intellectual Property"** means all rights in trademarks, trade or brand names, service marks, copyrights, designs, inventions, patents, patent, formulas, processes, know-how, technology, software, computer rights and other intellectual property.
- (o) **"Interruption"** means the inability to complete or maintain network connections due to equipment malfunctions or human errors. Interruption does not include any such inability which arises from: (a) the failure of any service or facilities provided by: (i) the Customer or (ii) another telecommunications carrier or a party other than Rogers or its Contractors; (b) the negligence or willful act or omission of the Customer; (c) Improper Use; (d) any disruption in the Services which Rogers is unable to correct due to an inability to access the Location; or (e) the termination or suspension of the Services by Rogers pursuant to this Agreement.
- (p) **"Law"** means a municipal ordinance or provincial or federal law, governmental order, decision or regulation, or order of any court, tribunal or regulatory body that affects any aspect of this Agreement.
- (q) **"Location"** means the property and facilities listed on Commercial Summary where Services are delivered for the Customer pursuant to this Agreement.
- (r) **"Location Standards"** means the set of business and technology requirements that the Location is required to meet as set forth in Schedule C.
- (s) **"Personal Information"** means personal information as defined in the Personal Information Protection and Electronic Documents Act, as amended, which is collected, used, disclosed or retained under this Agreement including any information about a Party's employees or customers.
- (t) **"Rogers Equipment"** means the software and equipment as specifically set out in Section 2 of Schedule A.
- (u) **"Service Term"** means the period during which the Customer subscribes to a Service as set out in the Commercial Summary.
- (v) **"Service(s)"** means the services subscribed to by the Customer in the Commercial Summary and as more particularly described in Schedule B Services Description.
- (w) **"System"** means the software and equipment provided by Rogers as specifically set out in Section 1 of Schedule A for the purpose of enabling Users to have high-speed access to the Internet.
- (x) **"System Installation Date"** means the date on which the Parties have agreed that the System and the Rogers Equipment is installed and operational at the Location.
- (y) **"Terms of Service"** means these Terms and conditions.
- (z) **"Users"** means the Customer and residents, guests, customers, patients, employees or other authorized users of the Customer who are permitted to access the Services and agree to be bound by the Acceptable Use Policy and any other terms of the Customer or the Location
- 2. Term**
- (1) **Term.** The term of this Agreement begins on the date of the signing of this Agreement (the "Effective Date") and continues for a period of ten (10) years from System Installation Date.
- (2) **Service Term.** Each Service purchased by the Customer has a Service Term as described in the Commercial Summary. Unless otherwise stated, the Service Term for each Service commences on the date that the particular Service, or any part of it, is available for use by the Customer. Upon expiration or termination of a Service Term or subsequent renewal Service Term, as the case may be, the Service Term will automatically renew on a month to month basis until either Party gives thirty (30) days' notice of termination to the other.
- 3. Service Use and Limitations**
- The Customer shall, at all times, use the Services in compliance with all Laws, and all applicable Rogers policies, including the Terms of Service and Acceptable Use Policy, as amended from time to time, as well as the IP Address Policy and the Privacy Policy (each of which is available at [www.rogers.com/business](http://www.rogers.com/business)) and shall not use or permit usage of any Services for any Improper Use.

#### 4. System

- (1) **Location Access.** Customer shall provide Rogers or its designated Contractor(s) with access (at a mutually agreed time) to the Location in order for Rogers to perform a site survey to determine the area within the Location where Rogers deems that the Rogers Equipment and the System should be located. The placement of the System and the Rogers Equipment within the Location and the Rogers Area (as defined in Schedule "A") for access to the Services will be mutually agreed upon by the Parties based on the site survey. Rogers and its Contractors may, upon reasonable notice, make ongoing inspections, tests, installations, upgrades, disconnections and adjustments as it deems necessary for the operation of the System and connecting facilities. The Customer agrees to make available to Rogers, without charge, facilities, equipment and access to the Customer premises as are reasonably necessary in the circumstances.
- (2) **Ownership.** Customer has no proprietary right or interest in, or any right to the use of (aside from use in connection with the Services) the System; any particular service; Intellectual Property, Rogers Equipment, including equipment associated with the Services installed at the Location (other than equipment purchased and fully paid for or leased by the Customer). All right, title and interest to these items shall remain at all times solely with Rogers (or its licensors, suppliers or business partners, as applicable). IP address space is provided pursuant to Rogers's IP Address Policy, as amended from time to time. Upon the expiry or termination of this Agreement, Rogers shall be entitled, but not obligated, to remove the System and the Rogers Equipment, and any or all elements thereof, provided that Rogers shall not be responsible for any damage or loss to the Location resulting from such removal. The Customer shall provide access to the Location to Rogers or its designate to permit the removal of the System and the Rogers Equipment.
- (3) **Maintenance and Repair.** Rogers shall maintain the System and the Rogers Equipment in accordance with the terms set out in Schedule B and in the manner Rogers determines in its sole discretion, acting reasonably, provided also that Rogers reserves the right to change the Customer, and the Customer hereby agrees to be responsible for and to reimburse Rogers for costs associated with any loss, repair, damage or reconfiguration required or caused by vandalism or tampering, theft, fire, acts of god or acts of nature. The Customer will not and will not allow its employees, agents, contractors, subcontractors, representatives, customers or Users to tamper with, move, adjust or modify the System or the Rogers Equipment without Rogers' prior approval. The Customer shall inform Rogers immediately in the event that: (i) the Customer becomes aware of any loss or damage to the System or the Rogers Equipment or (ii) the Customer becomes aware of any problems or outages relating to the Services. The Customer shall inform Rogers at least thirty (30) days in advance prior to commencing any remodeling, construction, renovations or other changes to the Location which may affect the System, the Rogers Equipment, or the Services. In the event that the System or the Rogers Equipment must be moved as a result of any such remodeling, construction, renovations or other changes then the Customer shall be responsible for any costs relating thereto (on a cost recovery basis).
- (4) **Exclusivity.** The Customer hereby agrees that Rogers shall have the exclusive right to operate the System, as defined above, which provides services equivalent or similar to the Services at the Location during the Services Term. The Customer shall not cause or permit or assist others to interfere with, compete with or impair the quality of the Services being rendered by Rogers at the Location.
- (5) **Limited Software License.** To the extent that Rogers provides software in relation to the System or Rogers Equipment, Rogers grants to the Customer a temporary, non-exclusive and non-transferable license to such software for the sole purpose of enabling the Customer to use the System or the Rogers Equipment.
- (6) **Customer's Facilities.** The Customer shall provide an appropriate operating environment for the System and the Rogers Equipment, as more particularly set out in Schedule "C". To the extent that any Existing Facilities (as defined in Schedule "C"), such as existing telecommunications infrastructure elements, Ethernet cabling, routers and switches) are to be used by Rogers in the design and installation of the System and the Rogers Equipment and the provision of the Services, Customer hereby grants Rogers all rights to access, interconnect, maintain and modify such elements as may be required to support the ongoing delivery of the Services. Unless otherwise agreed, where the Customer is purchasing Services that require additional equipment, software and/or services, the Customer acknowledges and agrees that it shall be the Customer's sole responsibility to purchase, install, configure and maintain, at the Customer's cost, (i) all such required equipment, software and services, including interconnections and network configurations to enable the Customer to purchase and receive the Services; and (ii) any additional equipment, software and/or services, the Customer purchase and receive the Services; and (iii) any additional equipment, software, services, enhancements or upgrades that become available for use with the Services. Rogers shall have no responsibility hereunder to correct or fix any problems or errors relating to or caused by the installation, configuration or modification of the Existing Equipment or any components thereof. The Customer is solely responsible for the Existing Facilities provided by a third party and all related charges. Rogers has no authority and shall have no liability in connection with any such Existing Facilities, whether or not such Existing Facilities are necessary to the provision of the Services.
- (7) **Equipment Purchased From Rogers.**
  - (a) Any equipment purchased by the Customer from Rogers must be ordered with a purchase order from the Customer in a form acceptable to Rogers. Unless otherwise specifically agreed in writing, the terms of this Agreement will prevail over any inconsistent terms in any purchase order. The delivery of the equipment to the Customer constitutes final delivery and acceptance of the equipment by the Customer; however, title to the equipment does not pass to the Customer until the equipment had been paid for in full.
  - (b) The Customer further acknowledges that, unless otherwise agreed, Rogers's obligations with respect to equipment sales under this Agreement are limited to delivery of the equipment and transfer of title only. If the equipment does not perform as represented by the



- manufacturer or totally fails to function or perform, the Customer will look to the manufacturer for any warranty, guarantee, or other obligation made by the manufacturer in respect of the equipment and to Rogers only for reasonable co-operation in the enforcement thereof. The failure or breach of any representation or warranty as to the equipment shall in no way affect any of the Customer's obligations to Rogers under this Agreement. Further, Rogers will not be liable for any security breaches suffered by the Customer's may arise from use of freewills leased or purchased by the Customer through Rogers.
- (c) The Customer agrees that until such time as Rogers has received full payment for any equipment sold to the Customer, Rogers shall have a first secured interest on the equipment. The Customer will co-operate with Rogers to cause proper registration of such security interest over the relevant equipment. Upon Rogers' receipt of full payment for the equipment, Rogers will discharge any outstanding security interest on the related equipment.
5. Responsibility for Charges. Rogers reserves the right to recognize the name(s) that appear on this Agreement or any list of contact names exchanged by the Parties as the only person(s) authorized to accept, modify or terminate the Services or this Agreement.
6. Multiple Locations. Where Rogers provides Services to multiple locations or divisions of the Customer and/or Affiliates and/or Franchisees of the Customer ("Associates"), one of the Customer accounts must be designated the "Main Account" in this Agreement and must accept financial responsibility for Associate accounts to which Services are provided. Unless otherwise agreed, if an Associate fails to pay Rogers, the Main Account shall be liable for all charges incurred pursuant to this Agreement as a result of the Associate's use of Services.
7. Credit Terms and Conditions.
- (1) The Customer hereby authorizes Rogers to obtain information about the credit history of the Customer at any time throughout the duration of this Agreement and acknowledges that Rogers may provide information to others about the Customer's credit experience with Rogers.
- (2) At the time of the Customer's application for Services, the Customer may be required to complete and sign an application to establish the financial creditworthiness (the "Credit Application"), and Rogers will assign a credit limit and payment terms. Rogers reserves the right to, from time to time, acting reasonably, to adjust the credit limit and terms at its sole discretion and will notify the Customer of any adjustments made. Adjustments may require prepayment, security or a guarantee.
- (3) Without Rogers' prior approval, any outstanding amounts (including unbilled charges) for Services shall not at any time exceed the Customer's credit limit. Notwithstanding any other provisions in these terms and conditions, any unpaid charges exceeding the credit limit shall become immediately due and payable by the Customer. Rogers will notify the Customer if the unpaid charges exceed the credit limit. If the Customer fails to immediately pay the unpaid charges which exceed the credit limit and if the invoices are not paid according to the payment terms, Rogers may upon one (1) days' notice, at its sole discretion and without incurring liability, block or discontinue the Service.
- (4) If Rogers is required to initiate legal proceedings, or incur third party costs, to collect any amounts due to Rogers, the Customer shall be liable for all reasonable costs incurred by Rogers in such proceedings and enforcement actions, including legal fees and expenses (on a solicitor and client basis), collection agency fees or payments and court costs in addition to all amounts due for Services.
8. Billing and Payment.
- (1) Invoicing. Unless otherwise stated in this Agreement, Rogers will invoice the Customer for Services on a monthly basis in advance of providing the Services and in accordance with one of Rogers set billing cycles. Invoiced amounts are due thirty (30) days after the invoice date (the "Due Date"). Customer shall pay Rogers all invoiced amounts by the Due Date.
- (2) Interest. Interest will be charged and the Customer hereby agrees to pay interest on any invoiced amounts not paid by the Due Date, or such other rate as Rogers may, with prior notice, reasonably set from time to time.
- (3) Invoice Inclusions. Rogers's invoice will include, and the Customer agrees to pay, in addition to the Fees, any applicable taxes, any other charges imposed by Law, interest on prior overdue invoices and charges for returned cheques. Rogers may bill the Customer up to one year from the date particular charges were incurred.
9. Returned Payments. Returned payments (NSF or stop payment) will be assessed a \$25 administrative fee or such higher amount as may be reasonably required to compensate Rogers for its costs associated with such returned payment. Returned cheques will require a certified replacement.
10. Permitted Service Suspension
- (a) Suspension for Maintenance. The Customer agrees that it may be necessary for Rogers to temporarily suspend Services for technical or maintenance reasons, the timing of which (other than emergency maintenance) will, to the extent possible, be agreed upon in advance. The Parties may agree to regularly scheduled maintenance windows for this purpose. Such a suspension of Services will not be an interruption.

(b) Suspension for Non-Permitted Use. Without incurring liability, Rogers may, acting reasonably, immediately and without notice: (i) suspend Services; (ii) cancel a request for Services; or (iii) temporarily block Service(s) to the Location or Individual Users, if it deems such action necessary to prevent Improper Use, violation of the Acceptable Use Policy, to protect against fraud or the commission of suspected illegal activities, or to otherwise protect its personnel, agents, facilities or services. Rogers will, if possible, attempt to contact the Customer in advance of any such suspension, cancellation or blocking of Services, and, if possible, work with the Customer to avert such action, but otherwise shall notify the Customer of a suspension under this section either on the day the suspension occurs or, where the suspension occurs after business hours or on a weekend, on the next business day.

#### 11. Resale and Sharing

Except to the extent contemplated by this Agreement and unless otherwise agreed upon, the Customer shall not resale, transfer or share any of the Services to any person other than Users. Where resale or sharing of the Services has been consented to by Rogers, the Customer shall ensure that each User, prior to accessing the Services for the first time, is presented with and accepts terms and conditions substantially similar to those contained in these General Terms and Conditions, including the Acceptable Use Policy. If the Customer or shares the Services without the consent of Rogers or without ensuring that its Users are bound by substantially similar terms and conditions, Rogers shall have the right to suspend Services and/or terminate this Agreement.

#### 12. Termination and Suspension of Services

##### (1) Termination by Rogers.

- (a) Without incurring liability, Rogers may at any time suspend, restrict or terminate any or all Services upon reasonable prior written notice, as set out in parentheses after each ground for termination, if the Customer:
- (a) fails to pay any sum, including a security deposit, when due (one (1) day for suspension of Services; ten (10) days for termination of the Services or this Agreement);
  - (b) violates any of the material provisions of this Agreement, including consistently failing to make payments when due (thirty (30) days);
  - (c) becomes bankrupt or insolvent (no notice required);
  - (d) experiences a change of control or if there is an assignment of this Agreement other than in accordance with Section 20(1) of this Agreement (no notice required);
  - (e) where any Law prohibits Rogers from furnishing such Services (the lesser of thirty (30) days or as long as compliance with any such Law allows); or
  - (f) if Rogers decides to cease offering the Services generally in the applicable geographic area (90 days' notice).
- (b) Notices of suspension or termination for non-payment will only be sent after a minimum of one reminder letter has been sent or one telephone call has been made to the Customer in order to resolve any payment issues. Where Rogers has given the Customer a notice pursuant to this section, and the Customer remedies the situation which gave rise to Rogers's right of termination, to the satisfaction of Rogers, including payment of the outstanding balance and any restoration charges, before the expiry of the notice period, the Agreement shall not be terminated, but shall continue in full force and effect (without prejudice to Rogers's right to terminate for any of the Customer's subsequent or other breach of this Agreement).
- (c) During temporary suspension of the Services, the monthly fees still apply. If Rogers suspends or terminates the Services pursuant to this Section, Rogers shall have the right to charge the Customer a fee for the reactivation or restoration of the Services.
- (2) Termination by Customer. Customer may terminate this Agreement immediately: (a) if Rogers breaches a material term of this Agreement and fails to cure such breach within thirty (30) days after receipt of notice of such breach; or(b) upon notice to Rogers, if Rogers becomes bankrupt or insolvent, makes any assignment for the benefit of creditors, files a petition or makes any proposal under applicable bankruptcy legislation, seeks relief under any bankruptcy or insolvency law, is adjudged a bankrupt, consents to or acquiesces in the appointment of a trustee, receiver or other person with similar powers over itself or all or substantially all of its assets.
- (3) Early Termination by Customer. The Customer may terminate this Agreement or a Service at any time by providing Rogers with ninety (90) days prior written notice, subject to payment of the early termination charges set out below in subsection 12(4).
- (4) Termination Liability. Unless otherwise provided, if the Customer terminates this Agreement or a Service for any reason other than as permitted in Section 12(2) above or if Rogers terminates this Agreement pursuant to Section 12(1)(a) (excluding subsections 12(1)(a)(v) and (vi) above), the Customer shall pay to Rogers, as liquidated damages and not as a penalty, an amount which is equal to the sum of:
- (i) seventy percent (70%) of the monthly charges for the terminated Services multiplied by the number of months remaining in the Service Term from the effective date of termination.

- (i) any costs which Rogers must continue to pay to third parties for the remainder of the Service Term;
  - (ii) any Capital Costs which Customer has not fully paid for as of the effective date of termination; and
  - (vi) a lump sum representing the aggregated total of any waived or discounted installation, one-time or monthly recurring charges associated with the terminated Services in consideration of the Customer's commitment to the Service Term.
- (5) **No Obligation for Continuing Service to Users.** Upon the termination or expiry of this Agreement, Rogers shall have no further obligation to provide the Services at the Location.
- (6) **Transition Assistance.** Provided the Agreement is not terminated by Rogers as a result of the Customer's material uncured breach or insolvency, Rogers shall provide commercially reasonable assistance in transitioning the Customer Services to another service provider if requested by the Customer.
- 13. Confidentiality and Privacy**
- (1) **Disclosure.** The Parties may disclose to each other certain Confidential Information, either directly, as by verbal or written communications, or indirectly, as by permitting employees of one Party to observe various operations or processes conducted by the other. These disclosures are made upon the basis of each Party's agreement that, unless the other Party gives express consent, it will, subject to subsection 2 below:
- (a) not disclose Confidential Information to anyone and use it solely for the purpose of carrying out its obligations under this Agreement;
  - (b) promptly return to the disclosing Party, upon its request, all tangible material considered Confidential Information, including all copies and notes, whether such material was made or compiled by the receiving Party or furnished by the disclosing Party; and
  - (c) take reasonable precautions to protect from disclosure Confidential Information disclosed to it by the other Party.
- (2) **Exception.** The obligations imposed herein shall not apply to Confidential Information which is disclosed pursuant to Law. Further, nothing in this section prohibits Rogers from disclosing any information to:
- (a) the Customer;
  - (b) a person who, in Rogers' reasonable judgment, is seeking the information as the Customer's agent;
  - (c) an agent retained by Rogers in the collection of the Customer's account or to perform other administrative functions for Rogers, provided the information is required for and used only for that purpose;
  - (d) an agent retained by Rogers to evaluate the Customer's creditworthiness, provided the information is required for and is to be used only for that purpose;
  - (e) another communications carrier, subcontractor or other person, including ISPs, or to a Rogers Affiliate, provided the information is to be used for the efficient and cost effective provision of Services to Customer and disclosure is made on a confidential basis with the information to be used solely for that purpose;
  - (f) satisfy any law, regulation or other governmental request or to assist in the pursuit of any legal (including criminal) action against any Customer; Party, provide the Services properly, ensure or enforce compliance with the Agreement or to protect Rogers, its Affiliates or customers;
  - (g) a public authority or agent of a public authority, if in Rogers' reasonable judgment, it appears that there is imminent danger to life or property which could be avoided or minimized by disclosure of the Confidential Information; or
  - (h) a law enforcement agency at the law enforcement agency's request or whenever Rogers has reasonable grounds to believe that a Customer Party has knowingly supplied Rogers with false or misleading information or a Customer Party or Users are otherwise involved in unlawful activities.
- (3) **Customer Consent.** Express consent may be taken to be given by the Customer where the Customer provides:
- (a) written consent;
  - (b) oral confirmation verified by an independent third party;
  - (c) electronic confirmation through the use of a toll-free number;
  - (d) electronic confirmation via the Internet;
  - (e) oral consent, where an audio recording of the consent is retained by Rogers; or
  - (f) consent through other methods, as long as an objective documented record of the Customer's consent is created by the Customer or by an independent third party.

- (4) **Use by Rogers Agents and Affiliates.** The Customer's account information may, from time to time, be disclosed to other members of the Rogers Communications organization and to Rogers agents in order to service the Customer's account, or to respond to the Customer's questions and to promote additional products and services offered by Rogers that may interest the Customer.
- (5) **Inspection.** Upon request, the Customer may inspect any of Rogers' records relating to Customer's Confidential Information.
- (6) **Injunction.** In the event of a breach, or threatened breach, of any of the foregoing provisions, the Parties agree that the harm suffered by the Injured Party would not be compensable by monetary damages alone and, accordingly, that the Injured Party shall, in addition to other available legal or equitable remedies, be entitled to seek an injunction against such breach or threatened breach.
- (7) **Information and Data.** Rogers is authorized to have access to and to make use of Personal Information for the duration of this Agreement as is appropriate for the performance by Rogers of its obligations hereunder. However, the Customer will be the controller of its Personal Information for purposes of all applicable laws relating to data privacy, transmitter data flow and data protection (collectively, the "Privacy Laws"), and nothing in this Agreement will restrict or limit in any way the Customer's rights or obligations as controller of Personal Information for such purposes. Without limiting the foregoing, the Customer acknowledges and agrees that, to the best of its knowledge and belief, it has obtained all necessary authorizations and consents required under Privacy Laws to permit Rogers to process Personal Information in providing the Services. Personal Information collected in connection with the provision of the Services may be stored and processed in or outside Canada and may be subject to the laws of other jurisdictions.
- (8) **Terms of Use and Privacy Notice.** Where requested by Customer, Rogers may enable the System to automatically serve each User with an Acceptable Use Policy, other terms and conditions developed by the Customer and a Privacy Notice, subject to Customer's prior written approval, that at a minimum explains the personally identifiable User information collected (e.g., name, address, email address, purchase history, credit card number, how it will be used, how it will be secured, and the use of cookies, pixel tags, web bugs, or other forms of electronic tracking codes or instruments), if applicable ("Privacy Notice"). Rogers disclaims, Acceptable Use Policy and Privacy Policy are intended to protect Rogers and the Rogers Services and may be insufficient to protect the Customer from claims by Users of the System and the Services. Customer shall be responsible for developing disclaimers and terms and conditions of use sufficient to protect its own interests.
- (9) **Privacy.** Rogers has responsibilities prescribed by applicable Privacy Laws as a processor of Personal Information, and has a privacy policy to protect all Personal Information, available at [www.rogers.com/business](http://www.rogers.com/business), which the Customer should review.

#### **14. Liability of Rogers**

Rogers' liability to the Customer under or in connection with this Agreement, if any, shall not exceed the total monthly Fees for the Service(s) connected to the incident(s) and the Locations that gave rise to the liability. Rogers liability to the Customer, if any, shall be limited to direct damages and in no event shall Rogers be liable for lost profits, loss of data, economic loss, down time costs, costs of substitute goods or services, lost goodwill, loss from work stoppage, cost of overhead, loss of anticipated benefits hereunder, or any indirect, incidental, consequential, special, exemplary or punitive damages of any kind (even if Rogers has been advised of the possibility of such damages), arising out of or in any way connected with this Agreement. These limitations apply to all causes of action, including those arising from breach of contract and tort (including negligence).

#### **15. Indemnification**

The Customer shall defend and indemnify Rogers, its parents, successors, affiliates and agents (collectively, the "Rogers Indemnitees") from any claims, damages, losses or expenses (including, without limitation, legal fees and costs) incurred by any Rogers Indemnitees directly or indirectly as a result of: (i) the infringement of patents or other proprietary rights arising from the Customer's use or combination of any software, hardware, application, system or services in connection with the Services not reasonably contemplated by this Agreement; (ii) libel, slander, defamation or infringement of copyright or other proprietary right in connection with material transmitted by the Customer or the Users over the System or the Rogers Equipment; or (iii) injury, death or property damage arising in connection with the Customer's use or misuse of the Services, provided that (a) Rogers promptly notifies the Customer in writing of the claim and of all material developments in connection with such claim and provides that assistance otherwise reasonably requested by the Customer, and (b) the Customer has the right to control, at its own cost, the defence and all related settlement negotiations (provided they only involve the payment of funds by the Customer).

#### **16. Force Majeure**

Non-performance by either Party of obligations other than payment obligations will be excused to the extent that performance is rendered impossible by events of *force majeure* including strike, lock-out, fire, flood, systemic failure of the Internet, fireable cuts, earthquake, governmental acts, orders or restrictions, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party provided that such Party makes commercially reasonable efforts to circumvent such events of *force majeure* and notifies the other Party in writing as soon as it becomes aware that its performance will be affected.

#### **17. Relationships**

Pursuant to this Agreement, Rogers is an independent contractor to the Customer. Neither Party shall: (i) be considered as the agent, employee or partner of the other Party; or (ii) have the right or authority to, in any manner, obligate the other Party to any other person or company except as

specifically authorized in writing by the other Party. Rogers may use Contractors to perform any of its obligations hereunder. No agents or employees of other carriers or suppliers shall be deemed to be agents or employees of Rogers.

#### 18. Dispute Resolution

(1) **Informal Resolution.** Prior to initiating formal proceedings, the Parties shall first attempt to resolve any Dispute informally and confidentially, in the following way:

- (a) upon the written request of a Party, each Party shall appoint a designated representative whose task it will be to meet for the purpose of attempting to resolve the Dispute;
- (b) the representatives shall meet as often as they feel necessary to discuss the issue and negotiate in good faith in an effort to resolve the Dispute without the necessity of any formal proceeding; and
- (c) the specific format of the discussions shall be left to the discretion of the designated representatives, but may include the preparation of agreed-upon statements of facts or written statements of position. In the case of a Dispute with respect to billing, the Customer may require an in-depth review of the disputed amount.

#### 19. Ownership of Marks

Trademarks, trade names, service marks, and logos, whether owned by or licensed to by either Party, and whether or not registered (Marks), shall be the sole and exclusive property of their owners or licensees, or their respective affiliates or licensors, as applicable, which shall own all right, title and interest therein. Neither Party may use, copy, or distribute the other's Marks without the prior written approval, in each instance, of the Marks' owner. Parties shall immediately cease any use of Marks which are not approved by the Marks' owner. Any approval granted for use of Marks is temporary, may be withdrawn by the Marks' owner on prior written notice, and shall, unless otherwise specifically agreed in writing, be construed to apply only to use of Marks in conjunction with providing the Services in the manner described in this Agreement. Each Party agrees not to claim any right, title or interest in the Marks of the other Party or to challenge the rights therein that are claimed by the Marks' owners. All use of the Marks and the goodwill generated thereby shall inure to the benefit of the owner of the Marks.

#### 20. Notices

Any notice, request, demand, consent or other communication provided or permitted under this Agreement shall be in writing and shall be deemed to be sufficiently given if hand delivered, sent by facsimile, or sent by registered mail postage prepaid, to the Party for which it is intended at its address set out below. Any notice so given shall be deemed to have been received on the date on which it was hand delivered, or sent by facsimile, or if sent by registered mail only (which method of service shall not be a valid form of providing notice during a postal strike), five (5) business days after the notice was sent.

#### 21. General

- (1) **Entire Agreement/Assignment.** This Agreement shall endure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. Neither this Agreement, nor any of its rights or obligations hereunder may be assigned by Customer without the prior written consent of Rogers.
- (2) **Entire Agreement.** This Agreement sets forth the entire agreement and constitutes the entire understanding between the Parties with respect to the subject matter of this Agreement and supersedes and replaces all previous discussions, negotiations and agreements.
- (3) **Further Assurances/Waiver/Severability.** The parties agree to do all such things and to execute such further documents as may reasonably be required to give full effect to this Agreement. No waiver of any term or provision or of any breach or default will be valid unless in writing and signed by the Party giving such waiver, and no such waiver will be deemed a waiver of any other term or provision or of any subsequent breach or default of the same or similar nature. If any term or provision of this Agreement shall to any extent be found to be invalid, void or unenforceable, the remaining terms and provisions shall nevertheless continue in full force and effect.
- (4) **Insurance.** The Customer shall maintain in full force and effect a comprehensive general liability insurance policy or policies with personal injury liability, blanket contractual liability and completed operations liability insurance endorsements protecting Customer and Rogers and their officers and employees against loss, liability or expense as a result of personal injury, death or property damage or loss, or otherwise arising out of or occurring in connection with the Location and the business of Customer.
- (5) **Right of First Refusal.** If, at any time during or after the expiration of the Service Term of this Agreement, Customer receives a bona fide offer from a third party to provide services that would either replace those being provided by Rogers under this Agreement after the end of the Term ("Offer"), that Customer wishes to accept, Customer shall first provide a copy of the Offer to Rogers and Rogers shall have ten (10) days after receipt to accept Customer's offer, by agreeing to provide substantially similar services of equivalent or greater value to the Location on the same material terms and conditions, failing which, subject to the payment of any applicable early termination charges, Customer shall be free to enter into a binding contract with the third party to obtain such services on the terms set out in the Offer, provided that Rogers' right to match shall be revived if Customer fails to enter into such contract within thirty (30) days.

(6) **No Implied Warranty.** Customer acknowledges and agrees that the Services, the System, the Rogers Equipment and any other equipment, are provided by Rogers "AS IS" and "AS AVAILABLE" and, to the extent permitted by law, without warranty by Rogers of any kind whatsoever, express or implied, including warranties of merchantable quality, fitness for a particular purpose, infringement, or those arising from a course of dealing or usage of trade. Without limiting the generality of the foregoing, Rogers shall have no liability whatsoever to Customer or Users for any interruptions, suspensions or disruptions of the Services, the Internet or any other damages suffered by Customer or Users which are caused directly or indirectly by any failures of the Rogers Equipment, other equipment, the Services, the System, the Existing Facilities, the Internet or the Services.

(7) **Amendment.** This Agreement may only be amended upon written agreement between the Parties, provided however that Rogers may at any time, upon written notice to Customer, amend this Agreement in any respect in order to comply with any applicable Law, order, guideline, directive, rule, standard, requirement, policy or judgment of any governmental body or person having jurisdiction over Rogers. Notwithstanding the foregoing sentence, Rogers reserves the right to amend the Acceptable Use Policy, the Privacy Policy and any other policy forming a part of this Agreement by posting a notice of such on its website. [WWW.ROGERS.COM/ON-SITE/USP](#) or any other website which Rogers has notified the Customer that it has designated for such purpose.

(8) **Governing Law.** This Agreement and the rights and obligations of the Parties hereunder shall be governed by, and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein.

(9) **Article 2125 and 2129 Quebec.** Notwithstanding any provision of any other agreement between them, the Parties specifically waive application of Articles 2125 and 2129, Civil Code of Quebec. The parties hereby expressly agree that termination of this Agreement between the Parties and any liability arising from such termination shall be determined in accordance with the intention expressed by the Parties.

(10) **Language of Agreement.** Rogers and the Customer confirm that they wish to have this Agreement written in English only. Les Parties s'entendent sur le fait que le présent contrat sera rédigé en langue anglaise seulement.

(11) **Survival of Obligations.** The provisions of Sections 1, 4, 8, 9, 11, 12, 13, 14, 15, 18, 19, 20 and 21 shall survive termination or expiration of this Agreement.

(12) **Conflicts.** To the extent of any inconsistency between terms set out in the various components of the Master Services Agreement, the inconsistency will be resolved by reference to the following descending order of priority: (i) the Commercial Summary; (ii) with respect to specific Services, the Service Description pertaining to those Services; (iii) the General Terms and Conditions; (iv) any site service agreement already in place covering services provided by Rogers to the Location; and (v) all other schedules in priority. To the extent that the Agreement conflicts with or is inconsistent with any provision contained in any purchase order, statement of work, correspondence or other document provided by Customer to Rogers, the provisions of this Agreement will prevail.

(13) **Execution by Counterparts.** The Agreement and any amendment, supplement, restatement or termination of any provision hereof, may be executed and delivered in counterparts by facsimile, each of which so executed and delivered counterpart is an original, and such counterparts, together, will constitute but one and the same instrument.

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be duly executed by their proper authorized officers as of the Effective Date

**Rogers Communications Inc.**

Per:   
Name: Adam Newhook  
Title: Director, Major Accounts

Per:   
Name: Michelle Kestinic  
Title: Vice-President, Major Accounts

We have the authority to bind the Corporation.

**IN8 (Sage 9) Developments Inc.**

Per:   
Name: EWA RYGIELSKA  
Title:

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
I/We have the authority to bind the Corporation.

This Schedule provides a detailed description of the equipment and facilities to be installed and managed at the Location under the terms and condition of the Master Services Agreement entered into between Rogers and the Customer. This Schedule is an attachment to and forms an integral part of the Customer's Agreement with Rogers. Capitalized terms set out in this attachment which have not been defined herein shall have the meanings ascribed to them under the Agreement and related Schedules hereto.

Description of System

1. System: The System includes the following equipment ("System");

Bill of Materials - System

Hardware Component	Description	Quantity
	SRX340 (Hardware Only, require SRX340-ISB or SRX340-JSE to complete the System) with 16GE (w 8x SFP), 4G RAM, 8G Flash and 4x MPIM slots. Includes internal power supply, cable and RMK	
	SRX340 Junos Software Base with Firewall, NAT, IPSec, Routing, MPLS and Switching Services (must order SRX340 to complete the system).	
	Juniper Care Next Day Support for SRX340 (SOFTWARE SUPPORT IS NOT INCLUDED, must be purchased separately) - annual	
SVC-COR-SRX340JSB	Juniper Care Core Support for SRX340-ISB	3
	EX 2200, 48-port 10/100/1000BaseT with 4 SFP uplink ports (optics not included)	
SV3-CP-EX2200-48T	Juniper Care 3Yr Prepaid Core Plus Support for EX2200-48T Gigabit Managed Switch - 10-port, 10/100/1000Mbps, 20Gbps, 62W, PoE	7
	A three-year, subscription-based plan, Small Business Support Service provides device-level support. For Cisco SG300-10/P, AP130, indoor plenum rated, 2 radio 2x2:2 802.11a/b/g/n/ac, 1 10/100/1000 Ethernet port, configurable regulatory domain, without power supply (Internal Antenna only)	
	Hive Manager NG Cloud Services Subscription for one (1) Aerohive Device (AP or switch), includes 3 year Global Select Support: phone, software & Support Portal, Hardware Advanced Replacement. Can be used with Hive Manager NG VA.	
24-Port Patch Panel	Category 5e Voice & Data Expansion Module	1
48-Port Patch Panel	Category 5e Voice & Data Expansion Module	7
	Two Post Floor Mountable Rack for Rogers fibre splicing tray, SAS Switch and Juniper security gateway, distribution switch and rack mounted UPS.	
Switch Rack	Two post vertical wall mount rack for access layer switches.	
Patch Cords	Cat5e Ethernet patch cords	1
Battery Back-up	8 outlet Battery Back-up	Included, 2

**2. Rogers Equipment: The Rogers Equipment includes the following ("Rogers Equipment")**

Item	Description	City
	All other equipment installed by Rogers at the Location	

**Installation and Provisioning Costs:** The costs associated with the installation and provisioning of the System, the Rogers Equipment, installation and initial System set up and configuration are as outlined in this Schedule "A". Such costs to be borne by Rogers, up to a maximum value of \$121,600, plus applicable taxes, E & O.E. excepted. This is an estimate only and does not include unforeseen price increases or additional labour, materials or unforeseen changes which may arise. In the event of an increase in such cost Rogers shall detail any such additional work and/or costs ("Additional Work") in a separate quote to the Customer and the Customer may, at its option, agree to pay for such Additional Work, negotiate a change to the rates set out in the Commercial Summary, or, without penalty or cost, terminate this agreement.

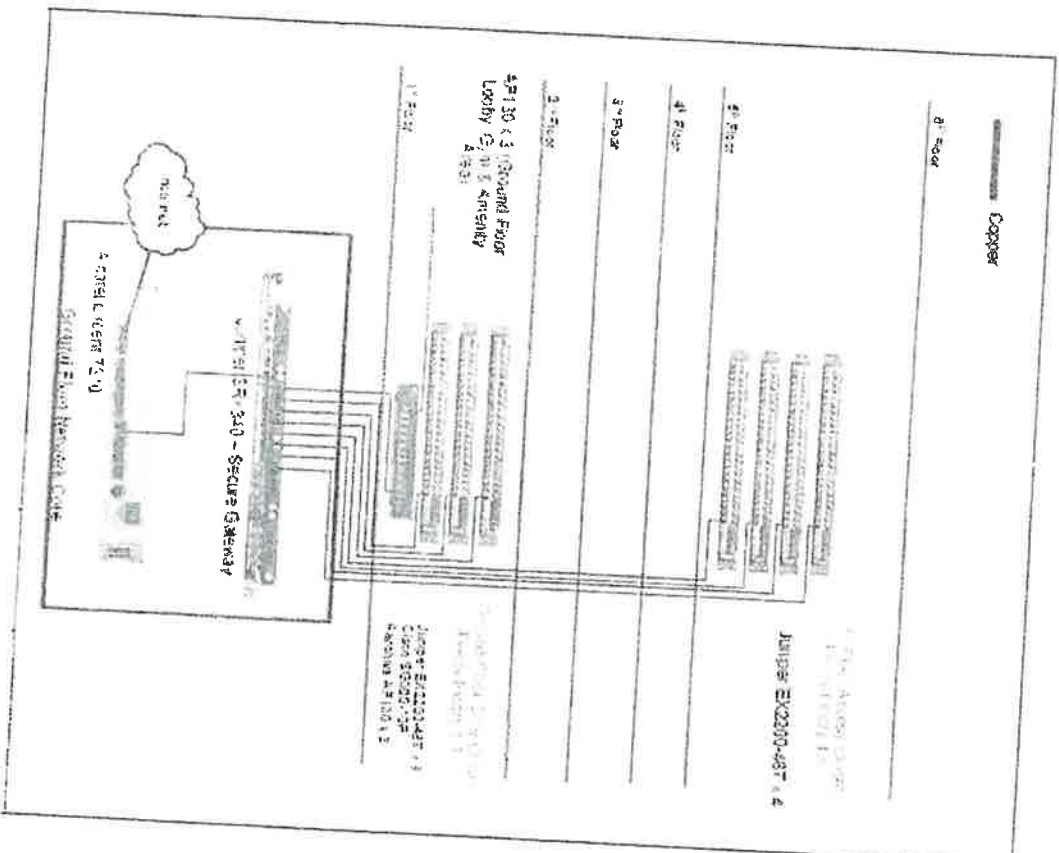
**3. Description of Service Area:** The Service Area includes the areas of the Location listed below, subject to the limitations described in this Agreement (the "Service Area")\*:

The building has 6 floors with 161 units and 186 bedrooms. The proposed solution is for the installation and support of a managed Local Area Network (LAN) that will provide high speed internet access through 327 wired drops (in all bedrooms and living rooms of suites). This solution also includes the installation and support of 3 Wi-Fi Access Points on the ground floor. The access points will provide Wi-Fi hotspot coverage for the ground floor amenity areas including the Lobby, Gym and the ground floor amenity area.

\* Spillover coverage may occur in areas beyond the Service Area but shall not form a part thereof



Network Diagram.



This Service Description sets out provisions with respect to the Customer's subscription to Rogers' Bulk Internet Services (collectively the "Services"). This Service Description Schedule is an attachment to and forms an integral part of the Customer's Master Services Agreement with Rogers. Capitalized terms set out in this attachment which have not been defined herein shall have the meanings ascribed to them under the Agreement and related Schedules hereto.

**Service Description and Additional Terms.**

**Network Services.** Rogers shall provide network services, which services include the ongoing configuration and management of the System, and may include, amongst other things, the authentication of Users subject to such User's acceptance of terms and conditions developed and agreed to by the Customer and Rogers, the development and hosting of Customer specific content, including login pages, notices and policies, the development and hosting of a User database, the acceptance and clearing of financial transactions and accounting thereon, and the application of limitations or specific attributes to User's sessions on the System and/or the Broadband Interconnection Services of the Customer (the "Network Services"). The Network Services may also include the licensing and maintenance of software and the management of connectivity of Users within the Service Area at the Location(s) to the Customer's broadband Internet service using technology based on the 802.11 standard, or its technological successors or functional and technological equivalents and/or replacements, and as determined and amended by Rogers from time to time, to Users.

- (1). **User Access.** Access to the Network Services shall be restricted to authorized Users who shall include only residents, permitted guests or patrons, as the case may be, of the Location, as well as the Customer and its employees and agents. At the request of Rogers, the Customer will assist in verifying that each user is, in fact, an authorized User and each User shall:
- (a) provide proper authorization and authentication information such as passwords or other credentials or device information as may be required, provided and managed by Rogers from time to time and agreed upon by the Location Owner. Such authorization and authentication may vary among differing categories of Users, as agreed to by the Parties from time to time;
  - (b) accept terms and conditions of use which are substantially similar to those contained in the General Terms and Conditions, including the Acceptable Use Policy at the time of each access to the Network Services;
  - (c) accept charges and or pay any fee as may be established by the Customer from time to time for the use of the Network Services.

(2). **Limitations on Network Services. The Customer acknowledges and agrees that:**

- (a) the Network Services shall be made available to a User only when such User's authorized device (the "User Equipment") is properly connected to the System via standard Ethernet cable or, if connecting wirelessly, is within the operating range of the System;
- (b) the Network Services may be temporarily refused, interrupted, or limited in whole or in part because of, among other things: (i) limitations of the System and/or the Broadband Interconnection Services or the failure or degradation of the Broadband Interconnection Services; (ii) transmission limitations caused by the physical configuration of the Location (including, without limitation, any walls, doors or other barriers); (iii) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of the Network Services; (iv) signal interference or disruption from other wireless equipment or radio waves or microwaves (including, without limitation, cordless phones and their base stations and microwave ovens); and (v) equipment failures beyond the reasonable control of Rogers. Individual data transmissions may be involuntarily delayed for a variety of reasons, including without limitation, weak batteries in the User Equipment, system over-capacity, movement outside the Service Area and gaps in coverage within the Service Area;
- (c) Rogers shall have the right to suspend all or part of the Network Services or access to the Network Services immediately if Rogers reasonably suspects or determines that there is a malfunction, abuse, incorrect configuration or use of the User Equipment, the System or the Network Services. Customer agrees that, in order to maintain or improve service, Rogers may, at its sole discretion, temporarily restrict or suspend all or part of the Network Services without notice.

- (d) wireless technologies and protocols present risks associated with broadcast of data over public airways and, therefore, it is possible for third parties to receive, capture and potentially monitor data traffic transmitted as part of the Network Services and privacy for Users cannot be guaranteed;
- (e) the System and the Network Services may cause interference with other equipment using similar frequencies (including, without limitation, cordless phones and their base stations); and
- (f) in the event that there is any interference with the Network Services at the Location, the Customer will work with Rogers to mitigate or eliminate such interference.

- (3) **User Intercept Pages.** If requested by the Customer, Rogers will create and host an intercept and login page or pages and implement other authentication processes as may be appropriate for the Network Services. Customer shall provide feedback to Rogers, as requested, with regards to the design and layout of the intercept and login page. In the event that such design may incorporate logos, copyrighted text, designs marks or images, the Customer shall be responsible for obtaining all necessary licenses, permissions and rights thereto and shall indemnify and hold Rogers harmless from any and all loss or damages relating to any unauthorized use of such intellectual property. Rogers shall work with Customer to define the optimal manner for Users to interact with the System. Customer shall have the right of prior approval over all content presented to Users through the System (it being understood that no party has the ability to control content that is generally available on the Internet). Changes to design and/or programming functionality of the Intercept pages shall be provided in accordance with the fees set out in the Commercial Summary.

- (4) **Identifiers.** The Customer and Users do not own and shall have no property right in any Internet Protocol (IP) addresses assigned, or temporarily assigned to Users of the Network Services and Rogers may change such IP addresses at such time or times as Rogers, in its sole discretion, considers necessary without liability.
- 2. **Firewall Services.** Rogers' firewall services, include:

- Consultation to develop requirements
- Design, install, and management of the firewall solution at the Customer location.
- 24 x 7 problem management, and
- Customization and changes, which are provided in accordance with the incremental fees set out in the Commercial Summary.

(1) **Level 1 – Level 1 Firewall Services include:**  
**Intrusion Prevention Services (IPS)**

- Standard set of IPS signatures.
- Design, configure and manage the IPS feature.
- Automated IPS signature updates, notification to the customer of any suspicious network activity.
- Custom selection of IPS signatures to be monitored and ongoing tuning of signatures.

(2) **Level 2 – Level 2 Firewall Services include:**  
**Antivirus/Antispam/Antimalware**

- Design, configure and manage the anti-malware features.
- Automated anti-malware updates.
- Changes and modifications.

**Web Filtering**

- Design, configure and manage the Web Filtering features
- Automated website filtering updates.
- Customization and changes, which are provided in accordance with the incremental fees set out in the Commercial Summary.

- **Anti-spam**
- Design, configure and manage the anti-spam features
- Automated anti-spam updates.

Customization and changes, which are provided in accordance with the incremental fees set out in the Commercial Summary.



combined upload and download bandwidth limit of a maximum of 60 Gigabytes (61,440 Megabytes) per month.

6. Maintenance and Repair. Subject to any limitations contained in this Agreement, Rogers or its qualified Contractors shall maintain and repair the System and perform normal correction services for the System at all times during the term of this Agreement in accordance with the Fees set out in the Commercial Summary. The System will be operational in accordance with the Location Standards and Specification set forth in Schedule C. Maintenance and repair of the Rogers Equipment shall be accordance with Rogers standard business practices.

7. Technical Support Services. Subject to the limitations set forth in Section 4(3) of the General Terms and Conditions, Rogers or its Contractors shall provide breakfix repair and replacement of lost or damaged equipment forming a part of the System within 2 business days of notification of any failure, and subject to the Fees, if any, set out in the Commercial Summary. The Rogers Equipment shall be maintained, repaired or replaced in accordance with Rogers standard business practices. In addition, Rogers or its Contractors shall offer the following Technical Support Services selected by the Customer:

- (1). Level 1 - User Support - Subject to any restrictions set out in Schedule C hereto, Rogers or its Contractors shall provide toll free telephone support to Users 24 hours per day, 7 days per week;
- (2). Level 2 - Customer Support - Subject to any restrictions set out in Schedule C hereto, Rogers or its Contractors shall provide normal business hours telephone support to Customer and its employees and agents at the Location.

8. Design and Programming Services. Design and programming services as may be requested by Customer from time to time relating to the System, Customer's intercept pages, web portal hosted by Rogers or its Contractor, or to customize User experience, administrative functionality or other feature support reasonably required by Customer ("Design and Programming"). Design and Programming services shall be provided at rates to be quoted and agreed upon in advance from time to time in accordance with the Fees set out in the Commercial Summary.

This Schedule sets out the standards and obligations of the Parties relating to the provision of facilities and conditions at the Location and forms an integral part of the Customer's Master Services Agreement with Rogers. Capitalized terms set out in this attachment which have not been defined herein shall have the meanings ascribed to them under the Agreement and related Schedules hereto.

**PHYSICAL REQUIREMENTS:**

The following are the continuing physical requirements of the Location required for the System and the Rogers Equipment:

- (a) **Indoor and Restricted Access.** Indoor only, private and secure location (telecommunications room, master control room, computer room or private office) that has limited and restricted access and is not accessible by the public.
- (b) **Mounting.** Customer shall ensure that mounting locations for equipment will accommodate proper mounting hardware and support requirements.
- (c) **Temperature.** The temperature of the Location must be maintained at between 15°c - 30°c (59°F - 86°F).
- (d) **Humidity.** The location of the System and the Rogers Equipment must be a dry environment with relatively low humidity. Locations that have access to water (kitchen, lavatories, sprinklers, etc.) should be avoided.
- (e) **Interference.** All equipment which radiates radio waves and/or microwaves (such as cordless phones and their base stations and microwave ovens) should be kept away from the System and the antennas of the System.
- (f) **Power.** Electrical power shall be provisioned and paid for by Customer where the access points, access controller and gateways are to be installed. Where possible power over Ethernet will be provisioned and used by Rogers for powering of access points.
- (g) **Existing Facilities.** The Customer shall provide access to Rogers to existing equipment at the Location, including, routers, switches, firewalls, cabling and other elements currently in place or purchased by the Customer (the "Existing Facilities") in order for Rogers to interconnect the System and the Rogers Equipment, as the case may be, to the Existing Facilities. Rogers shall not be responsible for outages, reductions or interruptions in Service caused by the loss of access to, loss, malfunction or failure of any Existing Facilities.
- (h) **User Authentication.** Customer shall ensure that the configuration of its Existing Facilities, if any, provides interception of any User's access to the Internet, subject to the acceptance of such User of the Rogers Acceptable Use Policy, a copy of which is attached as Schedule D hereto, and which Acceptable Use Policy may be amended from time to time, with a current version being posted at [www.rogers.com/central200](http://www.rogers.com/central200)

Acceptable Use Policy  
Rogers Communications Inc.  
Last Modified: February 22, 2008

**Important Note: Rogers Communications Inc. ("Rogers") may revise this Acceptable Use Policy ("AUP") from time to time without notice by posting a new version at <http://www.rogers.com/cm/aup>. Accordingly, users of the Services (hereinafter referred to as "subscribers") should consult this document regularly to ensure that their activities conform to the most recent version. Please direct any questions or comments regarding this AUP and complaints of violations of this AUP by subscribers to [abus@rogersbusiness.com](mailto:abus@rogersbusiness.com). Except where otherwise indicated, "you" and "your" means you and every person who uses the Services through your computer or your account.**

**Introduction**

Rogers provides a commercial suite of various tiers of cable Internet access services and related services, including web hosting services and domain name services, and certain equipment, all for commercial use. Rogers has joined forces with Yahoo! Inc. ("Yahoo!") to provide Rogers customers with enhanced Internet services that, in addition to the Rogers services referred to above, include various communications tools, personalized content and other programming provided through Yahoo!'s network of properties (the Rogers services and Yahoo! services are collectively referred to as "Services"). The Services allow subscribers to connect to the Rogers cable backbone network and the Internet. The Services use resources that are shared with many other Rogers customers. Moreover, the Services provide access to the Internet which is used by millions of other users. Each subscriber benefits by being able to share resources and communicate almost effortlessly with other members of the user community. However, as with any community, the benefits and privileges available from the Services, and the Internet in general, must be balanced with duties and responsibilities so that other users can also have a productive experience. Use of the Services is subject to the following rules and guidelines. You must comply with this AUP when using the Services. **IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, AS AMENDED FROM TIME TO TIME, YOU SHOULD IMMEDIATELY STOP USING THE SERVICES AND NOTIFY ROGERS THAT YOU ARE TERMINATING THE SERVICES.**

**Illegal Activity**

The use of the Services for any activity that violates any municipal, provincial, federal or international law, order or regulation is a violation of this AUP. Prohibited activities include without limitation, using the Services to: (i) post or disseminate material that is unlawful (such as child pornography or obscene material); (ii) disseminate material that violates the copyright or other intellectual property rights of others; (iii) participate in any illegal soliciting or gaining schemes; and (iv) participate in any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature. You assume all risks regarding the determination of whether material is in the public domain.

**Security**

You are responsible for any misuse of the Services, even if the inappropriate activity was committed by an employee, independent contractor, consultant, agent, worker or any other person with access to the Services through your computer or your account. Therefore, you must take steps to ensure that others do not gain unauthorized access to the Services through any means, including without limitation, wireless networking and wired networking. The Services may not be used to breach the security of another user or to attempt to gain access to any other person's computer, software or data, without the knowledge and consent of such person. Additionally, the Services may not be used in any attempt to circumvent the user authentication or security of any host, network, or account, including without limitation, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other networks. Use or distribution of tools designed for compromising security, such as password guessing programs, cracking tools, packet sniffers or network probing tools, is prohibited. You may not disrupt the Services. The Services also may not be used to

interfere with computer networking or telecommunications services to any user, host or network, including without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host. The transmission or dissemination of any information or software that contains a virus or other harmful feature is also prohibited. You are solely responsible for the security of any device you choose to connect to the Services, including any data stored on that device. In particular, Rogers recommends against enabling file or printer sharing of any sort. Rogers recommends that any files or services you do choose to make available for remote access be protected with a strong password or as otherwise appropriate.

#### **Content Generally**

Matters relating to content, for example, your use of access to and transmission of content while using the Services is addressed in our end user agreement ("EUA"), as well as in this AUP. Please ensure that you familiarize yourself with the provisions of both the EUA and the AUP. Content questions or complaints should be addressed to the content provider.

#### **Confidentiality of Customer Information**

Notwithstanding any term of the EUA or this AUP, unless you provide express consent or disclosure is pursuant to a legal power, all information kept by Rogers regarding you, as the account holder, other than your name, address and listed telephone number, is confidential and may not be disclosed by Rogers to anyone other than: you; a person who, in Rogers' reasonable judgment, is seeking the information as your agent; or an agent retained by Rogers in the collection of your account, provided the information is required for and is to be used only for that purpose. For the purposes of this Section, express consent may be taken to be given by you, the account holder, where you provide: written consent; oral confirmation verified by an independent third-party; electronic confirmation through the use of a toll-free number; or electronic confirmation via the Internet.

#### **E-Mail**

The Services may not be used to send unsolicited or bulk messages. This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures and political or religious messages. Such messages may only be sent to those who have explicitly requested it. Services may not be used to send messages to any individual who has indicated that he/she does not wish to receive messages from you. The Services may not be used to collect responses from unsolicited e-mail messages sent from accounts on other Internet hosts or e-mail services that violate this AUP or the acceptable use policy of any other Internet service provider. Moreover, unsolicited e-mail messages may not direct the recipient to any web site or other resource that uses the Services. Forging, altering or removing e-mail headers is prohibited. You may not reference the Rogers network (for example, by including "Organization: Rogers" in the header or by listing an IP address that belongs to the Rogers network) in any unsolicited e-mail even if that e-mail is not sent through the Rogers network. "Mail bombing" is prohibited. That is, you may not send numerous copies of the same or substantially similar messages, nor may you send very large messages or files to a recipient with the intent to disrupt a server or account. The propagation of chain letters is similarly prohibited, whether or not the recipient wishes to receive such mailings. Rogers is not responsible for the forwarding of e-mail sent to any account that has been suspended or terminated. Such e-mail will be returned to sender, ignored, deleted, or stored temporarily, at Rogers' sole discretion.

#### **Newsgroups and Online Forums**

Messages posted to newsgroups and online forums must comply with the written charters or FAQs for those newsgroups and online forums. Advertisements, solicitations, or other commercial messages should be posted only in those newsgroups and online forums whose charters or FAQs explicitly permit them. You are responsible for determining the policies of a given newsgroup or online forum before posting to it. Posting or cross-posting for same or substantially similar messages to multiple newsgroups or online forums may be prohibited by their respective charters. Binary files may not be posted to newsgroups not specifically named for that purpose. Users



posting binary files to groups with policies concerning the permissible daily volume of posted files are required to observe those limitations. Forging, altering or removing header information is prohibited. This includes attempting to circumvent the approval process for posting to a moderated newsgroup or online forum. Each of Rogers and Yahoo! reserves the right to discontinue access to any Usenet newsgroup or Rogers Yahoo! Groups online forum at any time for any reason. You may not attempt to "flood" or disrupt Usenet newsgroups. Disruption is defined as posting a large number of messages to newsgroup that contain no substantive content, to the extent that normal discussion in the group is significantly hindered. Examples of disruptive activities include, but are not limited to, posting multiple messages with no text in the body, or posting many follow-ups to messages with no new text. Messages may not be cancelled, except by the author or by official newsgroup moderators performing their duties. The Usenet news service and Rogers Yahoo! Groups features included with the Services are provided for interactive use by the subscriber, using the Rogers Yahoo! Home or a commonly-available NNTP client such as Outlook Express or Netscape Communicator. Non-interactive clients that download Usenet articles in bulk are prohibited.

#### **Online Chat and Chat Programs**

The Services may be used to participate in "chat" discussions. These discussions may be hosted by our servers, by servers owned or operated by our affiliates, suppliers or agents, by third party servers, or may not involve any servers at all. Neither Rogers nor Yahoo! has any obligation to monitor the content of any "chat" discussions. Rogers and Yahoo! are not liable for any claims, losses, actions, damages, suits or proceedings arising out of or relating to the content of any such discussions. The Services may not be used to perform chat "flooding". Flooding is defined as deliberately repeating actions in quick succession in order to fill the screens of other Internet users with text. Any computer or other device connected through the Services may not maintain more than 2 simultaneous chat connections. This includes the use of automated programs, such as "bots" or "clones". Automated programs may not be used when the account holder is not physically present at the device. The Services may not be used to send messages that disrupt another Internet user's equipment, including software, hardware and user display. The Services may not be used to access any chat server in violation of the acceptable use policy of that server. The Services may not be used to manipulate any chat server in order to harass or disconnect other Internet users, or to gain privileges that have not been authorized. You may not use the Services to connect to chat servers or channels from which you have not been authorized. You may not use the Services used to continue to send chat messages to an Internet user who has indicated their desire to not receive such messages. Forging, altering, or obscuring your identity (other than using a nickname from which we could not necessarily determine your real name) while participating in chat sessions is forbidden.

#### **Personal Web Pages, Web Hosting**

As part of the Services Rogers may from time to time offer storage space and access to web pages and also provide web hosting services to certain subscribers. You are solely responsible for any content that you publish or display on your web pages or web site, including ensuring that such content complies with the terms of the EUA. You must ensure that such content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving or accessing inappropriate content. Each of Rogers, its affiliates, suppliers and agents reserves the right to remove or refuse to post any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, obscene or otherwise inappropriate, regardless of whether such material or its dissemination is unlawful. This includes, but is not limited to: (i) obscene material; (ii) defamatory, fraudulent or deceptive statements; (iii) threatening, intimidating or harassing statements; or (iv) material that violates the privacy rights or property rights of others (copyrights or trademarks, for example). For purposes of this AUP, "material" refers to all forms of communications including narrative descriptions, graphics (including photographs, illustrations, images, drawings, logos), executable programs, video recordings, and audio recordings. Rogers has no obligation to monitor your content and will not routinely monitor your content. However, Rogers has the right to monitor or investigate content, including without limitation, if complaints are received regarding the language, content or materials, in whole or in part, that Rogers decides are unacceptable, undesirable, or in violation of this AUP or the EUA. As part of the Services you may be provided with storage space and access for web pages through the

Yahoo! GeoCities service. You are solely responsible for ensuring that any materials that you publish via the GeoCities service complies with the applicable Yahoo! terms of service, including the rules and regulations set forth in the 'Yahoo! GeoCities Terms of Service' (<http://ca.docs.yahoo.com/info/tos.html>) and the 'Yahoo! GeoCities Guidelines' (<http://ca.docs.yahoo.com/info/terms/geocities.html>).

#### **Bandwidth, Data Storage and Other Limitations**

You must comply with the then current bandwidth, data storage and other limitations on the Services. You must also ensure that your activity does not improperly restrict, inhibit, or degrade any other subscriber's use of the Services, nor represent (in the sole judgment of Rogers) an unusually large burden on the network itself. In addition, you must ensure that your activity does not improperly restrict, inhibit, disrupt, degrade or impede Rogers' ability to deliver the Services, and monitor and investigate the Services, backbone, network nodes, and/or other network services or components. You may not resell, share, or otherwise distribute the Services or any portion thereof to any third party without the written consent of Rogers. For example, you cannot provide Internet access to others through a dial up connection, host shell accounts over the Internet, provide e-mail or news service, or send a news feed.

#### **Bandwidth Limit**

Currently, each of the various home office solutions has a combined upload and download bandwidth limit of 60 Gigabytes (61,440 Megabytes) per month.

#### **Violation of Acceptable Use Policy**

Neither Rogers nor Yahoo! has an obligation to monitor any content or your use of our networks for violations of this AUP or otherwise; however, we may monitor or investigate content or your use of our networks, including bandwidth consumption. We may also access, preserve or disclose information to comply with legal process in Canada or foreign jurisdictions; operate the Services; ensure compliance with this AUP, the EUA or any additional terms; or protect ourselves, our subscribers and the public. We prefer to advise subscribers of inappropriate behavior and any necessary corrective action. However, if the Services are used in a way that we, in our sole discretion, believe violates this AUP, Rogers, Yahoo!, and their respective affiliates, suppliers and agents may take any responsive actions they deem appropriate. Such actions may include without limitation, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and/or the immediate suspension or termination of all or any portion of the Services or your account. Rogers, Yahoo! and their respective affiliates, suppliers and agents will have no liability for any such responsive actions. The above described actions are not exclusive remedies and Rogers, Yahoo! and their respective affiliates, suppliers and agents may take any other legal or technical action deemed appropriate. Upon termination of an account, Rogers and Yahoo! are authorized to delete any files, programs, data and e-mail messages associated with such account. The failure to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this AUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect. This AUP shall be exclusively governed by, and construed in accordance with, the laws of the province in which you are using the Services.