Province of Ontario

Document General

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AT 1690927

CERTIFICATE OF RECEIPT
RÉCÉPISSÉ
TORONTO (66)

2008 -01- 22 1151

(1) Registry ☐ Land Titles ☒ (2)

(3) Property Identifier(s) Block Property: 12906-0001 to 12906-0540, both inclusive

Additional: See Schedule ☒

(4) Nature of Document
BY-LAW NO. 2 (THE CONDOMINIUM ACT)
SECTION 56(9)

(5) Consideration

Dollars $

(6) Description
All units and common elements comprising the property included in Toronto Standard Condominium Plan No. 1906, in the City of Toronto, Land Titles Division of Toronto (No. 66)

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:
See Schedule for By-law and Certificate.

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
TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1906 (Applicant) by its solicitors, OWENS, WRIGHT LLP	Per: Arthur L. Shapero	2008 01 18

11) Address for Service: 4580 Dufferin Street, Suite 307, Toronto, ON M3H 5Y2

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

ultiple

(15) Document Prepared by:

Arthur L. Shapero
Owens, Wright LLP
20 Holly Street
Suite 300
Toronto, Ontario.
M4S 3B1

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	
Total	

Document prepared using The Conveyancer

66

CONDOMINIUM ACT, 1998

CERTIFICATE IN RESPECT OF A BY-LAW

(under subsection 56(9) of the *Condominium Act, 1998)*
Toronto Standard Condominium Corporation No. 1906 (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 bylaw.

DATED this 14th day of January, 2008.

TORONTO STANDARD CONDOMINIUM
CORPORATION NO. 1906

Per: _____
President - David Hirsh

Per: _____
Secretary- Lorne MacLean
We have authority to bind the Corporation.

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SCHEDULE "A"
TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1906
BY-LAW NO. 2

BE IT ENACTED AS By-Law No. 2 of TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1906 (hereinafter referred to as the "Corporation" or the "Condominium") as follows:

1. That the Corporation be and it is hereby authorized to execute and deliver the agreement (the "Reciprocal Agreement") attached hereto as Schedule "A" and to execute and deliver any formal transfers or conveyances of easements to Toronto Standard Condominium Corporation No. 1906 as may be required from time to time in order to give effect to the provisions of the said Reciprocal Agreement.

2. That all the terms, provisions and conditions set out in the Reciprocal Agreement, including without limitation, all covenants and agreements made by or on behalf of the Corporation, are hereby authorized, ratified, sanctioned and confirmed.

3. That any two directors of the Corporation be and they are hereby authorized to execute, on behalf of the Corporation, the Reciprocal Agreement, together with all documents or instruments which are ancillary to the Reciprocal Agreement, including without limitation, all instruments or affidavits which may be required in order to register the Reciprocal Agreement, and any transfers or conveyances of easements, pursuant to the terms of the Reciprocal Agreement against the title to the condominium property and/or adjacent lands. The affixation of the corporate seal of the Corporation to all such documents and instruments as hereby authorized, ratified, sanctioned and confirmed.

DATED the 14th day of January, 2008.

Toronto Standard Condominium Corporation No. 1906 hereby enacts the foregoing by-law having been duly approved by the directors of the Corporation and confirmed without variation by the declarant which owns one hundred percent (100%) of the units in the Corporation pursuant to the provisions of the Condominium Act, 1998.

Toronto Standard Condominium Corporation No. 1906

Name: David Hirsh
Title: President

C/S

Name: Lorne MacLean
Title: Secretary

"Schedule A"

THIS AGREEMENT made the 14th day of January, 2008.

B E T W E E N:

TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1906

(hereinafter called the "**Phase 1 Condominium**")

OF THE FIRST PART;

- and -

QUEENSWAY PLAZA INC.

(hereinafter called the "**Declarant**")

OF THE SECOND PART.

WHEREAS the Phase 1 Condominium was created by the registration of the declaration and description in accordance with provisions of the Act, which declaration and description has been registered in the Land Registry Office for the Land Titles Division of Metropolitan Toronto (No. 66) as Instrument No. AT1681008 (the "**Declaration**") creating a condominium plan legally known as Toronto Standard Condominium Plan No. 1906;

AND WHEREAS Queensway Plaza Inc. is the declarant (sometimes called the "**Declarant**") of the Phase 1 Condominium and is the registered owner of the Phase 2 Lands;

AND WHEREAS the Declarant or related companies, intends to develop, construct and register the Phase 2 Condominium on the Phase 2 Lands;

AND WHEREAS the parties hereto are entering into this Agreement to provide, without limitation, for the use, operation, maintenance, repair, service, reconstruction, if necessary, and the sharing of responsibilities and costs for mutual services within the Project, the disposition of insurance and expropriation proceeds, confirmation of and certain general rules with respect to the Easements and to set forth certain other agreements of the parties relating to the Project and the sharing of other responsibilities and costs;

AND WHEREAS it is acknowledged and agreed that the Declarant is entering into this Agreement for and on behalf of the Phase 2 Condominium, on the express understanding that as and when the Phase 2 Condominium is registered as a separate condominium corporation, it shall assume all covenants and obligations of the Declarant relating thereto as set forth herein and correspondingly the Declarant shall thereupon be automatically released, relieved and forever discharged from the said obligations and/or liabilities;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of Two ($2.00) Dollars and other good and valuable consideration paid by each of the parties hereto to each of the others of them, the parties hereto covenant and agree with one another as follows:

ARTICLE 1.00

DEFINITIONS AND INTERPRETATIONS

1.01 Definitions

All capitalized words used herein and not otherwise specifically defined shall have ascribed to them the meanings defined or to be defined thereto in the Act. For the purposes of this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following expressions shall have their meanings respectively hereinafter ascribed to them:

(a) **"Act"** means *the Condominium Act 1998, S.O. 1998 Chapter c. 19* and any amendments and regulations thereto, together with any successor legislation intended to replace or supercede same;

(b) **"Agreement"** means this Agreement including all of the schedules, which are

annexed hereto, any subsequent amendments and any documents which are related to and stipulated to form a part of this Agreement;

(c) **"Arbitration"** means the mediation and arbitration procedures as set out in Article 9.00 of this Agreement and as stipulated in the Act.;

(d) **"Arbitration Notice"** has the meaning ascribed thereto in Section 9.02 hereof;

(e) **"Benefitting Owners"** means those owners of the dominant tenement with respect to the Easements that are entitled to the benefit of the Easements;

(f) **"Budget"** has the meaning ascribed thereto in Section 4.05 hereof;

(g) **"Building Code"** means the building code defined under the *Building Code Act*, R.S.O. 1990 Chapter B. 13 as amended from time to time;

(h) **"Common Areas"** means the common loading and driveway areas, roadways, walkways and landscaped areas between the Two Condominiums;

(i) **"Creditor Party"** has the meaning ascribed thereto in Section 10.01 hereof;

(j) **"Declarant"** means Queensway Plaza Inc., its successors and assigns;

(k) **"Defaulting Party"** has the meaning ascribed thereto in Section 10.01 and 12.01 hereof, as the context applies;

(l) **"Easements"** means those easements, rights-of-way, and rights in the nature of easements described in the declaration of the Phase 1 Condominium;

(m) **"Easement Areas"** means collectively those portions of the Project which are subject to the Easements;

(n) **"Electrical Room Unit"** means Unit 84, Level A of the Phase 1 Condominium;

(o) **"Force Majeure"** means war, other catastrophe, fire, storm, flood, earthquake, explosion, accident, energy shortage, sabotage, act of the Queen's enemies, riot or insurrection, strike, lock-out, or labour disturbance, inability to obtain materials, goods, equipment, services or utilities required, or any law, municipal by-law, governmental regulation or order, or inability to obtain any permission or authority required to be obtained;

(p) **"Governmental Authorities"** means the City of Toronto and all other governmental authorities or agencies having jurisdiction over the Project;

(q) **"Liability Insurance"** means the insurance described and referred to in Subsection 6.02 hereof;

(r) **"Management Office Unit"** means Unit 112, Level B of the Phase 1 Condominium;

(s) **"Mediator"** has the meaning ascribed thereto in Section 9.01 hereof;

(t) **"Parties"** means the parties to this Agreement from time to time and their respective successors and assigns; **"Party"** shall have a corresponding singular meaning;

(u) **"Phase 1 Condominium"** means Toronto Standard Condominium Corporation No. 1906 or upon its Termination shall mean the owners of the Phase 1 Lands from time to time;

(v) **"Phase 1 Lands"** means the lands described in Schedule "A";

(w) **"Phase 2 Condominium"** means the condominium corporation to be created by

the registration of a declaration and description with respect to the Phase 2 Lands, in the Land Registry Office for the Land Titles Division of Metropolitan Toronto (No. 66) or upon its Termination shall mean the owners of the Phase 2 Lands from time to time;

(x) **"Phase 2 Condominium Occupancy Date"** means the date that 25% of the residential dwelling purchasers of the Phase 2 Condominium have had an escrow or occupancy closing in connection with their particular Units;

(y) **"Phase 2 Lands"** means the lands described in Schedule "B";

(z) **"Phase 1 Structure"** means the Phase 1 Lands and any structures built or to be built on the Phase 1 Lands, together with all easements and appurtenances thereto;

(aa) **"Phase 2 Structure"** means the Phase 2 Lands and any structures built or to be built on the Phase 2 Lands, together with all easements and appurtenances thereto;

(bb) **"Prime Rate"** means that rate of interest that is declared by the Bank of Nova Scotia to be the rate of interest charged by that Bank to its commercial borrowers for unsecured Canadian dollar loans in Canada, payable on demand, in effect from time to time;

(cc) **"Project"** means collectively the Phase 1 Lands and the Phase 2 Lands;

(dd) **"Project Insurance"** means the insurance described and referred to in Subsections 6.01 (a) and (b) hereof;

(ee) **"Proportionate Interest"** has the meaning ascribed thereto in Section 3.01 hereof;

(ff) **"Proportionate Share"** has the meaning ascribed thereto in Section 3.01 hereof;

(gg) **"Receiving Party "** has the meaning ascribed thereto in Section 9.02 (a)(i) hereof;

(hh) **"Recreation Centre "** means the indoor recreational facility being Unit 21, Level 2, of the Phase 1 Condominium and all equipment and facilities contained therein;

(ii) **"Referring Party "** has the meaning ascribed thereto in Section 9.02(a) hereof;

(jj) **"Relocated Easements "** has the meaning ascribed thereto in Section 2.04 hereof;

(kk) **"Relocated Easement Areas "** has the meaning ascribed thereto in Section 2.04 hereof;

(ll) **"Replacement Value"** means the cost of repairing, replacing or restoring the Project or any portion thereof or property therein, with materials of like kind and quality on the same or a similar site without deduction for physical deterioration or any other depreciation, and including differences made necessary by Building Code requirements;

(mm) **"Shared Facilities"** means the Common Areas, Shared Servicing Facilities, Shared Units, Underground Garage Lanes and Walkways, Visitors Parking Area and the Laneway, irrigation system, landscaping, sod, flowers, shrubs or trees for the Laneway as set out in Section 8.01(k) of the Declaration;

(nn) **"Shared Facilities Costs"** includes the costs and expenses of supplying, operating, maintaining, repairing, replacing, insuring or administering the Shared Facilities and any other costs relating to the Shared Facilities all set out from time to time in the Budget;

(oo) **"Shared Facilities Committee "** has the meaning ascribed thereto in Section 4.06 hereof;

(pp) **"Shared Servicing Facilities"** includes every service, utility, facility and system which now or in the future serves or benefits both of the Two Condominiums, and without restricting the generality of the foregoing, shall include mechanical, plumbing, telephone, communication, electrical, gas, air conditioning and heating systems, water system, waste disposal system, fire and security alarm and/or protection system, mechanical system, sanitary sewer system, ventilation shaft, air intake vents, any pipes, wires, cables, conduits or shafts required for any of the foregoing systems but does not include any of the foregoing which serves or benefits only one of the Two Condominiums exclusively;

(qq) **"Shared Units"** means the Recreation Centre, Electrical Room Unit, Management Office Unit and Water Meter Room Unit;

(rr) **"Structure"** means the Phase 1 Structure or the Phase 2 Structure as the context may require;

(ss) **"Termination"** means termination in accordance with Part VIII of the Act or the application of Part VIII of the Act to the Phase 1 Condominium and Phase 2 Condominium, as the case may be;

(tt) **"Transfer Date"** means the earliest of the following three dates:

(i) not more than sixty (60) days following the date that all the dwelling units in the Two Condominiums (or such lesser number as the Declarant may determine or designate in its sole and absolute direction) have been sold, conveyed and transferred to each of the respective unit purchasers thereof;

(ii) ten years following the date of the registration of the Phase 1 Condominium; and

(iii) such earlier date as the Declarant may determine or designate in its sole and absolute discretion;

(uu) **"Two Condominiums"** means the Phase 1 Condominium and the Phase 2 Condominium;

(vv) **"Underground Garage, Lanes and Walkways"** means the drive lanes, roadway areas and walkways situate within the underground parking garage structure comprising part of the common elements of the Phase 1 Condominium and/or the Phase 2 Condominium, which are intended to be shared by the Two Condominiums, including without limitation all driveway ramps, drive lanes and walkways;

(ww) **"Unit"** has the meaning ascribed to it in the Act;

(xx) **"Unit Owner"** means the owner of a Unit;

(yy) **"Visitors Parking Area"** means the visitor parking spaces contained within Unit 24, Level 1 and Units 80, 81, 82 and 83, Level A of the Phase 1 Condominuim and those visitor parking spaces to be contained within the Phase 2 Condominum; and

(zz) **"Water Meter Room Unit"** means Unit 164, Level A of the Phase 1 Condominium.

1.02 <u>Headings</u>

The division of this Agreement in to Articles and Sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

1.03 <u>Partial Invalidity</u>

Any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, in the remainder of this

Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

1.04 Number and Gender

All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case required and the verb shall be construed as agreeing with the required word and pronoun.

1.05 Schedules

The following are the schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

Description of Schedule	Schedule Number
Phase 1 Lands	"A"
Phase 2 Lands	"B"

1.06 Registration of Phase 2 Condominium

The Declarant covenants and agrees that upon the registration of the Phase 2 Condominium, the Declarant thereof, shall cause the Phase 2 Condominium to ratify this Agreement and to assume and be bound by all of the terms, provisions and conditions contained in this Agreement, as if such condominium corporation had been an original party hereto in the place and stead of the Declarant, insofar as the Declarant's participation in, and liabilities and obligations under this Agreement relate to such condominium corporation. Notwithstanding anything provided to the contrary in this Agreement, it is understood and agreed by all of the parties hereto that as and when the Phase 2 Condominium is registered and has assumed all of the terms, provisions and conditions contained in this Agreement, required to be assumed by it, that the Declarant shall be automatically released and forever discharged from all of its agreements, covenants, obligations and liabilities under or pursuant to this Agreement as same relate to the Phase 2 Lands.

1.07 Recitals

The recitals hereinbefore set forth are true in substance and in fact.

ARTICLE 2.00

EASEMENTS

2.01 Easements

The Phase 1 Lands and Phase 2 Lands are subject to the Easements. The parties hereto acknowledge and agree that the Easements are hereby expressly confirmed, ratified and agreed to.

2.02 Regulation and General Use of Easements

(a) The use and enjoyment of the Easements by the Benefitting Owners, shall be subject to the overriding provisions and/or restrictions set forth in the Phase 1 Condominium's Declaration and this Agreement.

(b) In exercising their rights to the Easements, the Benefitting Owners shall act in a prudent and reasonable manner so as to minimize the interference occasioned to any owner of an Easement Area.

(c) Each of the Two Condominiums shall have the right to partially obstruct (on a temporary basis only) an Easement Area (or alternatively, temporarily suspend the benefit of the Easement relating thereto) within its respective lands, in order to maintain and/or repair any buildings, installations, structures and/or services that said condominium has a duty to

maintain and repair under the Act, upon ten (10) days prior written notice of such partial obstruction or temporary suspension (as the case may be), being given to the Benefitting Owners, provided that alternate arrangements with respect to the use and enjoyment of an Easement Area, satisfactory to the Benefitting Owners, acting reasonably, are implemented. Otherwise no obstructions of an Easement Area or suspension of the benefit of an Easement shall take place without the consent of the Benefitting Owners.

2.03 Obligations to Restore

In the event that damage or inconvenience is caused to any Structure, the party that caused or is responsible for the damage or inconvenience shall repair the damage or remedy the cause of the inconvenience forthwith, and such repair shall include any redecoration necessary to restore the damaged Structure to its previous condition.

2.04 Relocation of Easements

(a) The Declarant shall have the unilateral right (without obtaining any consent from the Phase 1 Condominium) to relocate any of the Easement Areas within the Phase 2 Lands (which relocated easements areas shall be hereinafter referred to as the "**Relocated Easement Areas**") as well as amend the Easements relating thereto so that same reflect the Relocated Easement Areas (which amended Easements shall be hereinafter referred to as the "**Relocated Easements**") in order to realign the Easement Areas with the intended or as-built location of any building, structure, facility and/or improvements constructed or intended to be constructed by the Declarant on the Phase 2 Lands or to rectify any encroachment of a building, structure, facility and/or improvement that was not intended to be part of the Easement Area, provided however that:

(i) any relocation of an Easement Area and/or amendment of an Easement does not diminish the benefit of the Easement to such an extent that it would no longer be adequate for the purposes intended;

(ii) the Declarant shall prepare a reference plan delineating the Relocated Easement Areas; and

(iii) the Declarant shall be responsible for procuring any and all consents from the Governmental Authorities required in connection with the relocation of the Easements, on the understanding that the Phase 1 Condominium shall co-operate with the Declarant in satisfying any conditions imposed with respect thereto.

(b) The Phase 1 Condominium shall use its best efforts to procure any such releases and reconveyances as may be required from time to time in order to evidence and confirm the Relocated Easements and/or Relocated Easement Areas, as hereinbefore contemplated, and shall execute any and all documentation and do and suffer any act necessary to give effect to same, and there shall be no additional consideration payable by the parties with respect to the aforesaid release and reconveyance of the relevant Easements, and the transfer, grant and conveyance of the Relocated Easements, provided that the preparation and registration of all of the aforesaid documentation shall be performed by the Declarant, all at its sole cost and expense.

2.05 Invalidity of Easements

Without limiting the generality of the foregoing, and to the extent that any of the Easements shall be finally interpreted or adjudged (by a court of competent jurisdiction) as failing to, or incapable of, creating a right or interest in land, any such Easement so adjudged or interpreted shall be deemed to constitute a licence in favour of those parties and for those specific purposes, as set out herein and the parties hereto shall execute any and all documentation that may be required in order to give further effect to this provision.

ARTICLE 3.00

SHARED UNITS OWNERSHIP

3.01 Ownership of Shared Units

The parties hereto hereby acknowledge, confirm and agree that ownership of the Shared Units shall ultimately be shared amongst the Two Condominiums, as tenants-in-common, each as to such interest therein equivalent to the proportion that the number of dwelling units within that particular condominium bears to the total number of dwelling units ultimately contained in both of the Two Condominiums (which aforesaid interest is sometimes called the "**Proportionate Interest**" and where there is reference to the Two Condominiums paying their share of any Shared Facilities Costs or other monies, such term shall be defined as the "**Proportionate Share**" determined in accordance with their Proportionate Interest).

3.02 Transfer of Shared Units

The actual transfer of ownership of the Shared Units by the Declarant to the Two Condominiums, as tenants in common in accordance with their respective Proportionate Interest shall occur no later than 60 days after the Transfer Date, provided however, that in the event that the Phase 2 Condominium is not registered by the Transfer Date, then such transfer to the Phase 2 Condominium shall occur no later than the turnover meeting convened in connection with the Phase 2 Condominium (as and when same is duly registered).

3.03 Further Transfer, etc.

Once ownership of the Shared Units has been transferred to the Two Condominiums by the Declarant as aforesaid, any further sale, transfer, mortgage, charge or other conveyance of the whole or any portion of the Shared Units or a beneficial interest therein by any one or more of the Two Condominiums shall require, in addition to any other approvals which may be required pursuant to the provisions of the Act, and/or the declarations of such corporations, the prior approval of the other co-tenant in the Shared Units.

ARTICLE 4.00

SHARED FACILITIES

4.01 Shared Use

The parties hereto hereby acknowledge, confirm and agree that the use of the Shared Facilities shall be shared amongst the Two Condominiums subject to the terms of the Act and this Agreement.

4.02 Immediate Use

Notwithstanding that the transfer of ownership of the Shared Units to the Two Condominiums respectively may or may not have yet occurred, the owners of the dwelling Units in any of the Two Condominiums and their respective tenants and lessees thereof shall have immediate use and enjoyment in accordance with the Act and this Agreement of all of the Shared Units as soon as same are completed and operational.

4.03 Use of Service Rooms

The service rooms forming part of the Shared Units shall only be used for the purpose of housing the mechanical and/or electrical equipment contained therein, including any ancillary equipment or supplies required from time to time in order to operate, maintain and repair any component(s) of the mechanical and/or electrical equipment contained therein. Access to the service rooms shall be restricted to the authorized agents, servants, employees and tradesmen or members of the board or any officers of the Two Condominiums or the Shared Facilities Committee.

4.04 Use of Recreation Centre

(a) The Recreation Centre shall be used and enjoyed only by the Declarant and the residential dwelling Unit Owners within each of the Two Condominiums, and their respective residents, tenants and invitees, for general recreational purposes, for meetings convened to conduct the business and affairs of either of the Two Condominiums, for general property management purposes pertaining to the ongoing operation and administration of either of the Two Condominiums, and for such other uses as are consistent with the equipment, facilities and/or amenities situate within or comprising part of the Recreation Centre in accordance with all applicable by-laws and regulations of the Governmental Authorities.

(b) Notwithstanding anything hereinbefore or hereinafter provided to the contrary, and notwithstanding any rules or by-laws of the Two Condominiums hereafter passed or enacted to the contrary, it is understood and agreed that until ownership of the Recreation Centre has been conveyed to the Two Condominiums as hereinbefore provided, the Declarant shall be entitled to use and occupy (exclusively) any portion(s) of the Recreation Centre for its marketing/sales programs(s) and service purposes together with one or more model suites, at such locations(s) within the Recreation Centre as the Declarant may select, in its sole and unfettered discretion, but at its sole cost and expense, save that the Two Condominiums shall not charge the Declarant any rent or other form of user fee or license fee, for the use of the Recreation Centre. In addition, no actions or steps shall be taken by or on behalf of either of the Two Condominiums (nor by any Unit Owner(s)) which would prohibit, limit or restrict the access to, egress from and/or use of the Recreation Centre by the Declarant's marketing/sales agents and representatives, the Declarant's construction/customer service employees and representatives and any prospective Unit purchasers or other invitees of the Declarant during the opening hours of the Declarant's marketing/sales/construction/customer service office(s), provided however that such access and use may nevertheless be subject to the reasonable and customary restrictions now or hereafter imposed or implemented by the security personal retained by the Declarant and/or the Two Condominium.

4.05 Budget

Until the Transfer Date, the Declarant shall have the unilateral right to establish hours of use and designated areas of use in respect of the Shared Facilities and shall prepare and submit to the Phase 1 Condominium (not less than once annually) for incorporation as part of the latter's overall annual budget, a separate budget outlining the costs of providing and maintaining utility services, recreational programs, if any, equipment and staff for the Shared Facilities, as well as the costs of maintaining, repairing and/or replacing same (which separate budget is hereinafter referred to as the "**Budget**"). The Phase 1 Condominium hereby covenants and agrees to adopt and be bound by the Budget prepared by the Declarant, as part of the Phase 1 Condominium's overall annual budget, without any qualification whatsoever, and the Phase 1 Condominium shall pay and be solely responsible for its Proportionate Share of all repair, replacement, maintenance, operating, improvement and other costs related to the Shared Facilities as more particularly set forth in the Budget.

4.06 Shared Facilities Committee

(a) From and after the Transfer Date, the use and maintenance of the Shared Facilities, as well as the preparation and submission of the Budget, shall be governed by a committee (hereinafter referred to as the "**Shared Facilities Committee**"). Each of the Two Condominiums shall have equal representation (two nominees from each of the Two Condominiums) on the Shared Facilities Committee, provided however that until the Phase 2 Condominium is registered as a condominium, the Declarant shall be entitled to nominate its own representatives on the Shared Facilities Committee in the place and stead of the Phase 2 Condominium, and once the Phase 2 Condominium is registered as a condominium pursuant to the Act, then the nominees of the Declarant on the Shared Facilities Committee in respect of the Phase 2 Condominium shall resign and shall be replaced by the Phase 2 Condominium's own representatives. The Phase 1 Condominium and the Phase 2

Condominium hereby covenant and agree to adopt and be bound by the Budget prepared by the Shared Facilities Committee, as part of the Phase 1 Condominium's and the Phase 2 Condominium's overall annual budget and each of them agrees to pay and be solely responsible for their respective Proportionate Share of all repair, replacement, maintenance, operating, improvement and other costs related to the Shared Facilities as more particularly set forth in the Budget.

(b) At least one representative of each of the Two Condominiums must be present, in person or by proxy, in order to constitute a quorum for any meeting held or convened by the Shared Facilities Committee, and all decisions of the Shared Facilities Committee shall be determined, effected and evidenced by the unamimous vote of all members who are present (or represented by proxy) at any such meeting, and the chairman of such meeting(s) shall not have a casting or deciding vote.

(c) The Shared Facilites Committee shall, inter alia, be responsible for the following:

(i) establishing rules and procedues with respect to the use, operation, maintenance and/or repair of the Shared Facilites, and determining the manner in which all maintenance and/or repair work with respect to same shall be carried out;

(ii) making arrangments for the operation, maintenance and/or repair of the Shared Facilites and procuring all requisite public liability and property damage insurance coverage with respect to same; and

(iii) preparing and submitting the Shared Facilites Budget to each of the Two Condominiums, not less than once annually, outling the Shared Facilites Costs, for incorporation by each of the Two Condominiums as part of their respective overall annual budgets, in accordance with the foregoing provisions hereof.

4.07 <u>Discretionary Payment</u>

Each of the Two Condominiums shall be entitled to review all bills, invoices and receipts relating to any Shared Facilities to which such any of the Two Condominiums is being asked to contribute.

4.08 <u>Responsibility for Paying the Shared Facilities Costs</u>

The Shared Facilities Costs shall be allocated and paid as follows:

(a) from and after the registration of the Phase 1 Condominium to and until the Phase 2 Condominium Occupancy Date, the Phase 1 Condominium pay shall (on a monthly basis) and be solely responsible for all of the Shared Facilities Costs;

(b) from and after the Phase 2 Condominium Occupancy Date:

(i) the Phase 1 Condominium shall pay (on a monthly basis) and be solely responsible for its Proportionate Share of the Shared Facilities Costs; and

(ii) the Declarant shall pay (on a monthly basis) and be solely responsible for the Phase 2 Condominium's Proportionate Share of the Shared Facilities Costs, provided however that once the Phase 2 Condominium is registered, it shall thereupon assume, and be solely responsible for paying the Phase 2 Condominium's Proportionate Share of the Shared Facilities Costs; and

(c) upon the registration of the Phase 2 Condominium, the Phase 2 Condominium shall assume and be solely responsible for paying the Phase 2 Condominium's Proportionate Share of the Shared Facilities Costs and the Declarant shall be automatically released, relieved and fully discharged from any further obligations or

liability whatsoever (arising under the Agreement or otherwise) to pay any portion of the Phase 2 Condominium's Proportionate Share of the Shared Facilities Costs.

4.09 Prompt Payment of Shared Facilities Costs

Each of the Two Condominiums shall promptly pay its share of the Shared Facilities Costs when a request is made by any of the Two Condominiums or the Shared Facilities Committee or any manager thereof and any cost or expense incurred in the collection of such costs, including all legal expenses incurred on a solicitor and his client basis, shall be the sole liability of the Two Condominiums who has omitted or neglected to pay same promptly when requested, and in addition, such defaulting party shall be solely liable for any interest or penalty charges incurred as a result of it not remitting any payment or charge promptly when due.

ARTICLE 5.00

COMPLIANCE WITH AGREEMENT

5.01 By Parties Hereto

The parties hereto covenant and agree to comply with all of the provisions contained in this Agreement and that they will not authorize or permit with respect to their respective Structures any breach of this Agreement by any occupant, visitor, guest, servant, agent, tenant, Phase 1 Condominium or Phase 2 Condominium, as the case may be.

5.02 By Phase 1 Condominium

The Phase 1 Condominium agrees that it shall insofar as possible, compel the observance and/or compliance by all owners of Units, residents and their respective tenants and/or invitees, with all of the terms and provisions contained in this Agreement including the obligation of the Phase 1 Condominium to pay all amounts required to be paid by it under this Agreement.

5.03 By Phase 2 Condominium

The Phase 2 Condominium agrees that it shall insofar as possible, compel the observance and/or compliance by all owners of Units, residents and their respective tenants and/or invitees, with all of the terms and provisions contained in this Agreement including the obligation of the Phase 2 Condominium to pay all amounts required to be paid by it under this Agreement.

ARTICLE 6.00

INSURANCE

6.01 All Risk Insurance and Boiler Insurance

(a) Each of the Two Condominiums shall, at all times, cause the Shared Facilities to be insured in accordance with the Act and including without limitation by building insurance against damage from fire and all other perils from time to time customarily included in a property damage insurance policy on an "all risk" coverage basis (as that term is commonly understood in the insurance industry) including, without limitation, coverage against damage by fire, flood, explosion, collapse, earthquake, hail, windstorm, lightning, impact by vehicles or aircraft, riots, vandalism or malicious acts, smoke and leakage from fire protection equipment. This insurance coverage shall be in amounts equal to the Replacement Value of the Shared Facilities.

(b) The Two Condominiums shall, at all times, if customary for Projects of this nature, maintain comprehensive boiler and pressure vessel insurance coverage against loss or damage, by inter alia, explosion, boilers, pipes or accessories. This insurance coverage shall be in amounts equal to the Replacement Value of the Shared Facilities.

6.02 Liability Insurance

The Two Condominiums shall, at all times, maintain comprehensive general liability

insurance against claims for personal injury, death or property damage or loss in an amount of not less than Five Million ($5,000,000.00) Dollars in respect of any one accident or occurrence.

6.03 General

(a) The Project Insurance, Liability Insurance and any other insurance maintained in accordance with this Agreement shall comply with the provisions of the Act and the declarations of each of the Two Condominiums and shall contain such other provisions as would be included by prudent owners, or condominium corporations in comparable buildings in the City of Toronto.

(b) Nothing in this Agreement shall be construed to prohibit any of the Two Condominiums from obtaining any other insurance coverage, and the premium therefor shall be the sole responsibility of the Phase 1 Condominium or the Phase 2 Condominium who has obtained further coverage.

(c) Each of the Two Condominiums shall at all times retain the same insurance trustee.

ARTICLE 7.00

DAMAGE TO SHARED FACILITES

7.01 Damage

In the event there is damage to or the destruction of the Shared Facilities, or any portion thereof by any cause whatsoever, and regardless of whether such damage or destruction shall have partially, substantially or completely destroyed any or all of the Shared Facilities, the Shared Facilities Committee shall forthwith proceed to repair, restore and reconstruct or otherwise provide the Shared Facilities, that it is obligated to maintain, so that the use, benefit and enjoyment thereof will not be adversely affected in any material way.

7.02 No Insurance Proceeds

To the extent that insurance proceeds are not available therefor, the cost of the repairs, restoration and reconstruction of the Shared Facilities shall be borne by the Two Condominiums in their Proportionate Share.

7.03 Commencement and Completion

All repairs, replacements, restoration, or reconstruction pursuant to this Article 7.00 shall be commenced as expeditiously as possible under the circumstances, and shall be carried out continuously and expeditiously in order to be completed as soon as reasonably possible, and in a good and workmanlike manner.

7.04 New Easements

The Two Condominiums within which such repair, restoration and reconstruction of Shared Facilities is occurring will grant such relocated, amended or new easements, where it is reasonably able to do so, over its particular Structure to the other of the Two Condominiums whose particular Structure benefits from the Shared Facilities, as will enable the latter of the Two Condominiums to enjoy all of the benefits intended to be granted by the Easements.

7.05 Section 127(1) and (2) of the Act

For purposes of Section 127(1) and (2) of the Act, the obligations created by this Article 7.00 shall be deemed to be encumbrances against each Unit and their appurtenant common interest.

7.06 Original Project Plans

All repairs, restoration and reconstruction of the Shared Facilities shall be effected and performed substantially in accordance with the original plans, specifications, drawings and designs

used in the original construction of the Project. In the event that such original plans cannot be functionally or legally re-utilized, then variations or changes therefrom, desired or required by the Shared Facilities Committee shall be submitted to the Two Condominiums for their approval, not to be unreasonably withheld, together with detailed plans and specifications in duplicate of the proposed replacement, restoration or reconstruction.

ARTICLE 8.00

FORCE MAJEURE

8.01 Force Majeure

Whenever and to the extent any Party is prevented, hindered or delayed in the fulfillment of any obligation hereunder or the doing of any work or the making of any repairs or replacements by reason of Force Majeure, the fulfillment of such obligation or the doing of such work or making of such repairs or replacements shall be postponed and such Party shall be relieved from any liability in damages or otherwise for breach thereof, for so long as and to the extent such prevention, hindrance or delay continues to exist.

ARTICLE 9.00

MEDIATION/ARBITRATION

9.01 Mediation

(a) Any Party may refer any matter of disagreement respecting this Agreement, to mediation pursuant to the Act and otherwise in accordance with the following procedures.

(b) The Mediator has no authority to render a binding decision or force the parties to accept a settlement.

(c) (i) The parties shall co-operate to select a mediator (the "**Mediator**"), who shall be an impartial third party.

(ii) No person shall serve as a Mediator in any dispute in which he or she has any financial or personal interest in the result of the mediation.

(iii) Prior to accepting an appointment, the prospective Mediator shall disclose any circumstances likely to create a presumption of bias or interest in the outcome of the proceedings, or prevent a prompt meeting with the parties.

(d) (i) Upon appointment, the parties shall enter into a written agreement with the Mediator.

(ii) The agreement shall include the time and location of the mediation session. The parties and the Mediator may schedule additional mediation sessions.

(iii) If the parties are unable to reach a settlement the Mediator shall not act as an arbitrator.

(iv) The Mediator or any member of the Mediator's firm or company will not act for any of the parties individually in relation to the subject matter of the mediation in any capacity during the currency of the mediation or at any time thereafter.

(e) (i) At the first session, the parties will produce all information the Mediator reasonably requires to understand the issues including, any written materials; a description of any witnesses and what they each could testify to; or the Mediator may ask the parties for written materials or information in advance of the mediation session.

(ii) At the mediation session(s), the Mediator will conduct an orderly settlement negotiation. The parties shall be represented by a person with authority to settle the case. The Mediator will be impartial in such proceedings and has no authority to force the parties to agree to a settlement. The Mediator may conduct separate meetings (caucuses) with each party to improve the Mediator's understanding of

the respective positions of each party.

(f) (i) The parties recognize that mediation proceedings are settlement negotiations and that all offers, promises, conduct and statements, whether written or oral made in the course of the proceedings are inadmissible in any litigation or arbitration of their dispute, to the extent the law allows.

(ii) The parties agree not to subpoena or otherwise require the Mediator to testify or produce records, notes or work product in any future proceedings and no recording or stenographic record will be made of any mediation session. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in a mediation session.

(iii) In the event the parties do reach a settlement that is made into a written agreement, the agreement will be admissible in a court or arbitration proceedings to enforce it, unless the parties otherwise agree.

(iv) Any information disclosed to the Mediator in a private caucus shall remain confidential unless the party disclosing the information agrees that the Mediator may disclose it.

(g) If one or more of the parties has a substantial need for discovery to prepare for the mediation session, the parties shall attempt to agree on a plan for such necessary discovery. Should they fail to reach agreement, the parties will present the matter to the Mediator for a non-binding recommendation.

(h) 1. All parties agree that the Mediator:

(i) Is not acting as legal advisor or legal representation for either of the parties;

(ii) Has no duty to assert, analyze or protect any legal right or obligation including lien rights, statute of limitation or any other time limit or claim requirement;

(iii) Has no duty to make an independent expert analysis of the situation or raise issues the parties do not raise or determine that additional or necessary parties should participate in the mediation; and

(iv) Cannot guarantee that the mediation will result in a settlement.

2. The parties may be represented by a lawyer at any stage of the mediation process and are encouraged to consult legal counsel concerning the proceedings or any proposed settlement agreements.

3. The Mediator shall not be a party to any proceedings to enforce a settlement agreement.

(i) The mediation shall be terminated in any of the following circumstances:

(i) By the execution of a settlement agreement by the parties;

(ii) By a declaration by the Mediator to the effect that, in the judgment of the Mediator, further efforts at mediation are no longer worthwhile; or

(iii) By a declaration by any party to the effect that the mediation proceedings are terminated.

(j) The parties undertake not to take any further steps in any legal proceedings regarding the issues being mediated while the mediation is in progress unless the same is required to preserve rights.

(k) 1. Each party shall pay the share of the Mediator's fees and expenses that,

(i) the settlement specifies, if a settlement is obtained; or

(ii) the Mediator specifies in the notice that the mediation has failed, if the mediation fails.

2. Each party will bear its own costs and expenses of its participation in the Mediation, unless otherwise agreed.

(l) The Mediator shall not be liable to the parties for any act or omission in connection with the services provided by him or her in, or in relation to, the mediation, unless the act or omission is fraudulent or involves willful misconduct.

9.02 - <u>Arbitration</u>

(a) Any Party (the "**Referring Party**") may refer any matter of disagreement respecting this Agreement, including its validity, interpretation, application or implementation to arbitration pursuant to the Act and the Arbitrations Act (Ontario) in accordance with the following procedure:

(i) the Referring Party shall give notice in writing (the "**Arbitration Notice**") to the other of the Parties (the "**Receiving Party**") specifying the matter being referred in reasonable detail and nominating and appointing an arbitrator;

(ii) the arbitrator or arbitrators selected to act hereunder shall be qualified by education and training to make decisions upon the particular question or dispute;

(iii) within ten (10) days after the giving of an Arbitration Notice, the Party receiving the Arbitration Notice shall nominate and appoint an arbitrator and shall notify the Referring Party in writing thereof;

(iv) within five (5) days of the appointment of the second arbitrator, the two arbitrators appointed shall appoint in writing a willing third arbitrator to act as Chairman and notify the Parties in writing thereof;

(v) if the two arbitrators do not agree on a third arbitrator as contemplated in Section 9.02 (a)(iii) hereof, then the third arbitrator shall be appointed by the Superior Court of Ontario, pursuant to the Arbitrations Act;

(vi) if the Party receiving the Arbitration Notice fails within the said ten (10) days to nominate and appoint an arbitrator, then the arbitrator appointed by the Referring Party shall be deemed to be a mutually-agreed-on sole arbitrator;

(vii) notwithstanding the foregoing, any arbitration may be carried out by a single arbitrator if the Parties so agree; and

(viii) if a single arbitrator is acting pursuant to Section 9.02 (a) (vi) or (vii) hereof, the provisions of Section 9.02 (b) shall apply mutatis mutandis.

(b) Any arbitration carried out pursuant to Section 9.02(a) hereof shall take place in the City of Toronto at the time and place fixed by the arbitrator appointed by the arbitrators to act as chairman, in the following manner:

(i) each arbitrator shall be sworn faithfully and fairly before the others to determine the matter of difference in issue;

(ii) the arbitrators shall hear such evidence and representations as the Parties may present, with cross-examination of witnesses permitted;

(iii) arbitrators shall proceed with all possible speed (but no later than 60 days after the appointment of all arbitrators) to make their decision in writing and shall give a signed copy thereof to each of the Parties;

(iv) the conduct and procedure during the arbitration shall be in accordance with the rules of natural justice;

(v) each of the Parties shall bear the cost of the services of its own appointee and each of the Parties shall pay its Proportionate Share of the cost of the third arbitrator or any sole arbitrator and all other normal costs of the arbitration or costs which they all agree should be borne equally shall be borne equally, but the costs of any transcription services shall be borne solely by the Parties ordering same; and

(vi) a written decision concurred in by a majority of the arbitrators shall be final and binding upon the Parties as to any question or questions referred to arbitration and shall not be subject to appeal. The Parties shall be bound by any such decision and shall perform the terms and conditions thereof.

ARTICLE 10.00

LIENS, COVENANTS, ETC.

10.01 Liens

If at any time a Party (the **"Defaulting Party"**) shall fail to pay to any other Party or the Shared Facilities Committee (the **"Creditor Party"**) any sum of money payable to the Creditor Party pursuant to the provisions of this Agreement, then, in addition to any other rights which the Creditor Party may have by operation of law, the Creditor Party shall (unless otherwise specifically provided herein) have a lien, to secure the payment of such sum of money, together with all costs and interest accruing thereon pursuant to Section 10.06 hereof, against the Structure of the Defaulting Party. Such lien shall arise immediately upon the receipt or deemed receipt of notice by the Creditor Party to the Defaulting Party demanding payment of said sum of money by the Defaulting Party and asserting the said lien against the Structure of the Defaulting Party. From and after the date upon which such lien arises, the Creditor Party shall be entitled to file a caution or such other notice of such lien as may be permitted by the provisions of the Land Titles Act or any amendments thereto or by such other legislation that may be applicable to the title of the Project from time to time.

10.02 Enforcement of Lien and Other Rights

If a lien shall arise under Section 10.01 hereof, such lien shall be enforceable in addition to the remedy otherwise available in law or at equity by enforcement in the same manner as a mortgage in default.

10.03 Liens Survive Termination of Agreement

Notwithstanding any termination of this Agreement, any lien which shall have arisen prior to such termination pursuant to Section 10.01 hereof shall remain in full force and effect until the amount secured thereby shall be paid in full or satisfied, together with the costs and interest provided for in Section 10.06 hereof.

10.04 Lien as Encumbrance against Unit

(a) For the purposes of Sections 123, 124, 125, 126, 127 and 128 of the Act, a lien against the Phase 1 Condominium shall be deemed to be an encumbrance against each Unit and its appurtenant Common Interest therein.

(b) For the purposes of Section 123, 124, 125, 126, 127 and 128 of the Act, a lien against the Phase 2 Condominium shall be deemed to be an encumbrance against each Unit and its appurtenant Common Interest therein.

10.05 Liens Survive Conveyance

No conveyance or other divestiture of title shall in any way affect or diminish any lien arising pursuant to Section 10.01 hereof, and any lien which would have arisen pursuant to Section 10.01 had there been no conveyance or divestiture of title shall not be defeated, or otherwise diminished or affected, by reason of such conveyance or divestiture of title.

10.06 Interest and Costs

In each instance when a Party shall be obligated to pay any sum of money to another Party or the Shared Facilities Committee hereunder, interest shall accrue thereon and be payable hereunder at five (5%) per cent above the Prime Rate from the date such sum first became due, calculated and compounded monthly, not in advance. If any legal action, demand or proceeding is brought, instituted or taken by a Party, or if a Party shall cure a default of the other party, the Party in default shall pay to the other Party all expenses incurred therefor, including a solicitor's fee (on a solicitor and his own client basis), unless a court shall otherwise award.

10.07 Mortgagee's Right to Assignment of Lien

Any mortgagee holding a mortgage upon any Structure, or upon any Unit shall have the right to receive an assignment or obtain a discharge of any lien affecting such Structure or Unit arising pursuant to Section 10.01 hereof upon payment, in the case of a lien against a Structure, of the amount secured by such lien or, in the case of a Unit, upon payment of a portion of the lien in an amount determined by the proportion specified in the Declaration for sharing Common Interest in accordance with the provisions hereinafter set forth in this paragraph. Such mortgagee shall give to the person asserting the lien a written notice offering to purchase by way of assignment, or to obtain a partial discharge of same, which notice shall set forth a date and time of closing which shall be not less than ten (10) days nor more than thirty (30) days after the giving of such notice, and the place of closing in the City of Toronto. On the date of closing, the person asserting the lien shall deliver to such mortgagee an instrument in registerable form discharging or assigning the lien, together with the debt secured thereby, or partially discharging and assigning the lien for any Unit and its appurtenant Common Interest to such mortgagee, upon payment by such mortgagee of the full amount secured by the lien, including interest, or that amount, including interest, to obtain a partial discharge of a lien affecting a Unit.

ARTICLE 11.00

TERMINATION OF AGREEMENT OR OF PHASE 1 OR PHASE 2 CONDOMINIUM

11.01 Termination of Agreement

This Agreement cannot be terminated other than by the written consent of the Parties.

11.02 No Termination of Shared Facilities and Easements

Notwithstanding Section 11.01, unless the written consent referred to therein includes a mutual and specific surrender of the rights and obligations relating to the Shared Facilities and the Easements by the Parties, the termination of this Agreement pursuant to and to the extent provided in Section 11.01 hereof shall not be deemed to terminate with respect to:

(a) the Easements which shall remain in full force and effect regardless of whether any Structure is in a form similar to that which existed on the date this Agreement came into effect; and

(b) the rights and obligations of the Parties as they relate to the Shared Facilities.

11.03 Debts and Liens Survive

Notwithstanding the termination of this Agreement, if at the time of such termination, any Party shall be obligated to pay any sum of money pursuant to the provisions hereof, such obligation shall not be extinguished until such sum of money, together with any interest accruing thereon, shall be paid, and any lien securing the payment of such sum of money shall, as provided in Section 10.03 hereof remain in full force and effect and continue to secure the payment and any interest

which shall accrue thereon.

11.04 Continuity

For the purpose of greater certainty and clarity, this Agreement shall continue and remain in full force and effect upon any person succeeding to the interest of any Party, (other than in those circumstances resulting from Termination) and such succeeding person shall, at the request of any other Party, enter into an agreement or covenant with, or acknowledgment addressed to such other Party, wherein the succeeding person covenants to assume the obligations of that Party to which it is succeeding.

11.05 Termination of Phase 1 Condominium

(a) Notwithstanding Termination of the government of the Phase 1 Condominium Lands by the Act, the Unit Owners of the Phase 1 Condominium and their interests in the Phase 1 Structure will continue after Termination to be bound by the provisions of this Agreement as if original signatories to this Agreement.

(b) For the purpose of greater certainty and clarity, after Termination, every reference to the Phase 1 Condominium in this Agreement shall mean and be deemed to refer to Unit Owners as tenants in common of the Phase 1 Condominium Structure.

(c) Without limiting the generality of the foregoing, the lien referred to in Article 10.00 asserted by a Creditor Party (as defined in Section 10.01) against a Defaulting Party (as defined in Section 10.01) in those situations where the Defaulting Party is the Phase 1 Condominium shall be a lien against the Phase 1 Structure only.

(d) Notwithstanding anything contained in this Agreement to the contrary, any claim against the Phase 1 Structure and any judgment by a court with respect to such claim shall be deemed to be a claim or judgment, as the case may be, against such Unit Owners of the Phase 1 Condominium jointly and severally for the amount of such claim or judgment.

(e) If Termination occurs, the Phase 1 Condominium shall forthwith give notice thereof to the Phase 2 Condominium.

11.06 Termination of Phase 2 Condominium

(a) Notwithstanding Termination of the government of the Phase 2 Condominium Lands by the Act, the Unit Owners of the Phase 2 Condominium and their interests in the Phase 2 Structure will continue after Termination to be bound by the provisions of this Agreement as if original signatories to this Agreement..

(b) For the purpose of greater certainty and clarity, after Termination, every reference to the Phase 2 Condominium in this Agreement shall mean and be deemed to refer to Unit Owners as tenants in common of the Phase 2 Structure.

(c) Without limiting the generality of the foregoing, the lien referred to in Article 10.00 asserted by a Creditor Party (as defined in Section 10.01) against a Defaulting Party (as defined in Section 10.01) in those situations where the Defaulting Party is the Phase 2 Condominium shall be a lien against the Phase 2 Structure only.

(d) Notwithstanding anything contained in this Agreement to the contrary, any claim against the Phase 2 Structure and any judgment by a court with respect to such claim shall be deemed to be a claim or judgment, as the case may be, against such Unit Owners of the Phase 2 Condominium jointly and severally for the amount of such claim or judgment.

(e) If Termination occurs, the Phase 2 Condominium shall forthwith give notice thereof to the other Phase 1 Condominium.

ARTICLE 12.00

SELF HELP

12.01 Self Help

If any Party or the Shared Facilities Committee (the **"Defaulting Party"**) fails to perform any of its obligations under this Agreement, then in addition to the other rights or privileges specifically provided for in this Agreement, any other Party or the Shared Facilities Committee if it is not a Defaulting Party (the **"Requesting Party"**) may give the Defaulting Party written notice outlining the nature of the default and requesting the Defaulting Party to perform its obligation.

If, without reasonable cause, the Defaulting Party has not, within seventy-two (72) hours of receipt of such notice, commenced and thereafter is not taking all reasonable steps necessary to cure the default set out in such notice, then the Requesting Party may take all reasonable steps necessary to cure the default outlined in such notice, including, without limitation, the payment of any cost or expense required to be made by the Defaulting Party, the performance of maintenance, repair or replacement work, the hiring of contractors, entry onto the Structure of the Defaulting Party, the exercise of any right of access of such Defaulting Party, the payment of any sum secured by lien and/or the filing of a bond to discharge a lien. The Defaulting Party agrees to pay directly to the Requesting Party any cost or expense actually paid or incurred by the Requesting Party in performing the obligations of the Defaulting Party pursuant to this Agreement together with interest at the rate equal to the Prime Rate plus five (5%) per cent per annum, from the date such payment is made by the Requesting Party until reimbursement is made to the Requesting Party. Provided, however, that any amount expended or incurred by the Requesting Party as can clearly be demonstrated to be substantially in excess of the reasonable costs or expenses which would properly have been paid to cure the default is not recoverable from the Defaulting Party.

12.02 Exercising Rights of Phase 1 Condominium

(a) If a Requesting Party is not the Phase 1 Condominium and if the Requesting Party has elected, in accordance with paragraph 12.01 to cure the default set out in the notice to the Defaulting Party, then such Requesting Party shall be entitled, to the extent necessary, to exercise all of the rights of access over Units to which the Phase 1 Condominium is entitled under the Act; and for such purposes the Unit Owners agree that the Requesting Party shall have all such rights of access.

(b) If a Requesting Party is not the Phase 2 Condominium and if the Requesting Party has elected, in accordance with paragraph 12.01, to cure the default set out in the notice to the Defaulting Party, then such Requesting Party shall be entitled, to the extent necessary, to exercise all of the rights of access over Units to which the Phase 2 Condominium is entitled under the Act; and for such purposes the Unit Owners agree that the Requesting Party shall have all such rights of access.

ARTICLE 13.00

STATUS CERTIFICATE

13.01 Status Certificate

Each Party, within ten (10) days after receipt of a written request by any person (the **"Requesting Party"**) and the payment of a reasonable fee established by such Party to whom the request has been sent, shall execute, acknowledge and make available to the Requesting Party, a certificate stating:

(a) whether or not this Agreement has been modified and if this Agreement has been modified, the certificate shall identify the nature of the modifications.

(b) whether or not this Agreement has been terminated in accordance with Sections 11.01 or 11.02 hereof.

(c) whether or not a lien in accordance with Section 10.01 has arisen and is then outstanding

in favour of or against the Party executing the certificate, and if a lien has so arisen and is then outstanding, stating the amount and subject matter of the lien and the Structure that is affected by the lien.

(d) whether or not the Party executing the certificate has given or received a notice in accordance with Section 12.01; and if such notice has been either given or received, stating the nature of the default set out in the notice and whether or not such Defaulting Party has taken or commenced all reasonable steps necessary to cure such default, whether or not the Requesting Party (as defined in Section 12.01) has elected to take steps to cure such default, and if so, the amount of the costs and expenses actually or anticipated to be paid or incurred by the Requesting Party in curing such default.

13.02 Estoppel Defence

The status certificate referred to in Section 13.01 may be pleaded and shall be a complete defence by the Requesting Party to any action brought on a claim that is inconsistent with the facts stated in such certificate.

ARTICLE 14.00

PHASE 2 CONDOMINIUM

14.01 Effective Agreement

This Agreement shall be and remain in full force and effect and be binding upon the signatories hereto, notwithstanding that the Phase 2 Condominium is not in existence or does not come into existence with respect to the Phase 2 Lands.

Upon the registration of the Declaration under the Act in regard to the Phase 2 Lands or any part thereof, the condominium corporation so created will be deemed to have assumed the obligations of the Declarant. From and after such date the term "Phase 2 Condominium " as used in this Agreement will mean the Phase 2 Condominium which will thereafter have all of the rights and obligations of the "Phase 2 Condominium " hereunder and the term "Phase 2 Condominium" will not thereafter mean the Declarant, which Declarant shall be automatically released and relieved of all obligations and liabilities hereunder in respect of the performance of the duties, covenants and agreements to be performed by the "Phase 2 Condominium ".

ARTICLE 15.00

GENERAL PROVISIONS

15.01 Notices

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made and served personally upon the party for whom it is intended, or (except in the case of actual or pending disruption of the postal service) mailed by registered mail, in the case of:

(a) Toronto Standard Condominium Corporation No. 1906
4580 Dufferin Street, Suite 307
Toronto, ON M3H 5Y2

(b) Queensway Plaza Inc.
4580 Dufferin Street, Suite 307
Toronto, ON M3H 5Y2

(c) Phase 2 Condominium
4580 Dufferin Street, Suite 307
Toronto, ON M3H 5Y2

or to such other address as a Party may, from time to time, advise to the other party by notice in writing. The date of receipt of any such notice, demand, request, consent or approval, if served personally, shall be deemed to be the date of delivery thereof or if mailed as aforesaid, the fifth (5th) business day following the date of mailing.

15.02 Provisions Run with the Land

(a) Each of the Parties covenant and agree that they shall not interfere with, hinder, impede, or disturb the enjoyment of any of the Easements and all other rights, benefits and privileges conferred on the other Party in this Agreement except as expressly provided in this Agreement.

(b) The Parties hereby acknowledge and agree that the Easements, rights and provisions as set forth in this Agreement establish a basis for mutual and reciprocal use and enjoyment of such Easements, rights and provisions and as an integral and material consideration for the continuing right to such use and enjoyment, each Party does hereby accept, agree to assume the burden of, and to be bound by each and every of the covenants entered into by them in this Agreement.

(c) Without limiting the operation of the provisions of Subsection 15.03 (b) hereof, the Phase 1 Condominium hereby expressly acknowledges and agrees that its obligations and liabilities hereunder for Shared Facilities Costs are and shall be treated as Common Expenses of the Phase 1 Condominium.

(d) Without limiting the operation of the provisions of Subsection 15.03 (b) hereof, the Phase 2 Condominium hereby expressly acknowledges and agrees that its obligations and liabilities hereunder for Shared Facilities Costs are and shall be treated as Common Expenses of the Phase 2 Condominium.

(e) The Parties consent to the registration of this Agreement against title to the Project and hereby acknowledge that the provisions of this Agreement are intended to run with the real property benefitted and burdened thereby, specifically, the real property described in Schedules "A" and "B" and except as may otherwise be specifically provided shall bind and enure to the benefit of the respective Parties and their respective successors and assigns.

(f) Upon the sale, transfer or conveyance by any Unit Owner, such Unit Owner shall be automatically released and discharged pro tanto from any of the liabilities and obligations it would bear hereunder as the owner of such units sold, transferred or conveyed and shall no longer be liable to any other owner for any breach of this Agreement caused or occurring subsequent to the date of such sale, transfer or conveyance relating to such unit; correspondingly, any subsequent Unit Owner shall assume pro tanto to such liabilities and obligations insofar as the burden of such liabilities are capable of passing to such person by operation of law.

15.03 Compliance with Law

The Parties, in performing their respective obligations and exercising their respective rights under this Agreement, covenant and agree to comply with all rules, laws, by-laws, orders, ordinances, regulations and requirements of the City of Toronto, Province of Ontario, and any board, agency or governmental authority having jurisdiction over the Project.

15.04 Performance of Work and Maintenance Standards

All work required to be performed pursuant to this Agreement shall be performed in a manner equivalent to standards from time to time maintained in other first-class buildings in the City of Toronto, of comparable age and size. In connection with any equipment, device, apparatus or system, same shall be operated, maintained and repaired in an efficient and safe operating manner for its intended purposes, in accordance with the standards specified by its manufacturer/supplier and prescribed by all applicable laws, regulations and by-laws.

15.05 Construction and Other Liens

Each of the Parties which has borrowed money, or contracted for work, services, or materials to be performed or installed, or supplied, as the case may be, covenants and agrees to remove any construction liens or other encumbrance or charge registered against the Structure of any of the others of them, within thirty (30) days of written request from the party whose Structure is so

affected.

15.06 The Planning Act

This Agreement is entered into subject to the express condition that it is to be effective only on obtaining such consents, if any, as may be required under Section 50 of the Planning Act, (Ontario), or any successor legislation or other statute which may hereafter be passed to take the place of or to amend the Planning Act, (Ontario). Where a consent under the Planning Act to any Easement, licence or right to use is required and has not then been granted, such Easement, licence or right to use shall be deemed to be for twenty-one (21) years less a day.

15.07 Time of the Essence

Time shall be of the essence of this Agreement and of each of the provisions hereof.

15.08 No Partnership or Agency

The Parties hereto do not in any way whatsoever or for any purpose become partners of each other, or joint venturers or members of a joint enterprise, nor is the relationship of principal and agent hereby created.

15.09 Further Assurances

The Parties hereto covenant and agree to execute whatever further documents or assurances are required, and shall and will sign further and other papers and documents, and shall cause such meetings to be held, resolutions passed and by-laws enacted to and cause to be done and performed such further and other acts or things as may be necessary or desirable from time to time in order to give full effect to this Agreement and each and every part hereof.

15.10 Number and Gender

This Agreement shall be construed with all changes of number and gender required by the context.

15.11 Severability

If any provision of this Agreement is determined by a Court of competent jurisdiction to be illegal or beyond the powers or capacity of the Parties bound hereby, or in the event any part or provision of the Agreement is liable to determination pursuant to any provision of the Act, such provision or part shall be severed from this Agreement and the remainder of this Agreement shall continue in full force and effect mutatis, mutandis. For purposes of giving effect to this paragraph, each paragraph or Article of this Agreement shall be considered severable from every remaining paragraph or Article of this Agreement.

IN WITNESS WHEREOF the parties hereto in all of their respective capacities relating to the Project have executed this Agreement.

)SIGNED, SEALED AND DELIVERED	)	**TORONTO STANDARD**
	)	**CONDOMINIUM CORPORATION**
	)	**NO. 1906**
	)	**Per:**
	)	**Name: David Hirsh**
	)	**Title: President**
	)	
	)	**Per:** c/s
	)	**Name: Lorne MacLean**
	)	**Title: Secretary**
	)	
	)	**QUEENSWAY PLAZA INC.**
	)	**Per:**
	)	**Name: David Hirsh**
	)	**Title: President**

SCHEDULE "A

PHASE 1 LANDS

All units and common elements in Toronto Standard Condominium Plan No. 1906, City of Toronto.

SCHEDULE "B"

PHASE 2 LANDS

Part of Lot 219, Registrar's Compiled Plan 9875, designated as Part 2, on Reference Plan 66R-23222, City of Toronto.