13

# YORK REGION CONDOMINIUM CORPORATION NO. 616

## BY-LAW NO. 4

A By-Law respecting Insurance Deductible

**WHEREAS** subsection 105(1) of the *Condominium Act, 1998*, (hereinafter referred to as the "Act") provides that if an insurance policy obtained by the condominium corporation in accordance with the Act contains a deductible clause that limits the amount payable by the insurer, that portion of a loss excluded from coverage shall be deemed a common expense;

**AND WHEREAS** subsection 105(2) of the Act, requires the corporation to claim the deductible from a unit owner as an additional payment of common expenses with respect to that owners unit under the following circumstances:

a) the insurance claim relates to damage to the owner's unit;
b) the claim resulted from an act or omission;
c) the act or omission was that of an owner, a lessee of an owner or person residing in the owner's unit with the permission or knowledge of the owner; and
d) the amount claimed is the lesser of cost of repairing the damage and deductible limit of the corporation's I insurance policy.

**AND WHEREAS** subsection 105(3) of the Act, permits the corporation to pass a by-law to extend the circumstances above under which an amount shall be added to the common expenses payable for an owner's unit provided that a claim relating to damage to the unit did not result from an act or omission of the corporation or its directors, officers, agents or employees;

**NOW THEREFORE BE IT ENACTED** as By-Law No. 5 of York Region Condominium Corporation No. 616 (hereinafter referred to as the "Corporation") as follows:

### ARTICLE I

### DEFINITIONS

All words used herein which are defined in the Act or any successor, shall have ascribed to them the meanings set out in the Act as amended from time to time.

### ARTICLE II

### INSURANCE DEDUCTIBLES

1) Property insurance obtained by the corporation on its own behalf and on behalf of the owners in accordance with subsection 99(1) of the Act against damage to the units and common elements may contain and may be subject to a loss deductible clause.

2) In accordance with the above provision, the property insurance policy shall be deemed not to cover any loss, or portion of a loss, falling within any such deductible amount. Responsibility for any such loss is therefore determined in accordance with section 105 of the Act and this by-law.

3) The corporation has the right to increase deductibles on the property insurance in the master policy, from time to time, and shall promptly provide written notice of any change to the deductible to all owners. This right shall be exercised reasonably, in the overall interest of all owners. Notwithstanding the foregoing, if the corporation is required to increase the deductible amount in order to obtain and maintain insurance as required by the Act and this by-law, than it shall do so.

## ARTICLE III

## EXTENDED CIRCUMSTANCES

In accordance with subsection 105(3) of the Act, the corporation shall claim from the unit owner every loss, or portion of a loss with respect to the owner's unit, falling within the deductible amount referred to above, even if the damage to the owner's unit is not caused through an act or omission of that owner, a lessee of an owner or a person residing in the owner's unit with the permission or knowledge of the owner (provided that the damage is not caused by an act or omission of the corporation or its directors, officers, agents or employees). For greater clarity, this claim may be made from the owner with respect to damage to the owner's own unit and added to the common expenses payable for the owner's unit, regardless of the cause of the damage (provided that the damage is not caused by an act or omission of the corporation or its directors, officers, agents or employees).

## ARTICLE IV

## FURTHER EXTENDED CIRCUMSTANCES

Further in accordance with subsection 105(3) of the Act, the corporation shall claim from the unit owner every loss, or portion of a loss, falling within the deductible amount referred to above, where damage is caused to the common elements of York Region Condominium Plan No. 616 or to another unit or units within the said condominium plan by a condition or occurrence in the owner's unit, even if the damage to the common elements or other units is not caused through an act or omission of that owner, a lessee of an owner or a person residing in the owner's unit with the permission or knowledge of the owner (provided that the damage is not caused by an act or omission of the corporation or its directors, officers, agents or employees).

## ARTICLE V

## OWNER INSURANCE

Subsection 105(4) of the Act specifies that the claim made by the corporation from an owner pursuant to the said section and this by-law constitutes an insurable interest by the owner. It shall be the responsibility of the unit owner to obtain and maintain this insurance for the entire period of ownership of a unit in the condominium plan. If an owner fails to obtain and maintain such insurance, and becomes responsible for a claim which is added to the common expenses payable for the owner's unit, then enforcement of the claim and lien resulting therefrom could result in sale of the unit for the arrears or foreclosure by the condominium corporation, together with all associated interest and legal costs relating to the claim and collection proceedings.

## ARTICLE VI

## MISCELLANEOUS

1) Invalidity. The invalidity of any part of this by-law shall not impair or affect in any manner the validity and enforceability or effect of the balance hereof.

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

3) 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; and

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

The foregoing By-Law is hereby passed by the Directors and confirmed by the owners pursuant to the Act.

**PASSED by the Board of Directors of YORK REGION CONDOMINIUM CORPORATION NO. 616** on the 28th day of February, 2012.

Steffen Herrnsdorf, President

Lois Kay, Secretary

*We have authority to bind the Corporation*

**CONFIRMED** by a vote of the owners of a majority of the units in accordance with the *Ontario Condominium Act*, on the 22nd day of May ,2012.

Lois Kay, Secretary

*I have authority to bind the Corporation*