

**DECLARATION**

**Condominium Corporation # 677548**

**DECLARANT:** West Hills Golf Club Ltd.

**PID:** 75501346

**FORM 5**

**Certificate of Approval for Registration**

**(Condominium Property Act, S.N..B. 2009, Chapter C-16.05, s.9(1))**

Approved for submission for Registration this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

\_\_\_\_\_  
Director of Condominiums

## DECLARATION

MADE PURSUANT TO THE CONDOMINIUM PROPERTY ACT, STATUTES OF  
NEW BRUNSWICK 2009, CHAPTER C-16.05

CONDOMINIUM CORPORATION # 677548

For

**BOBAK PLACE TOWNHOME CONDOMINIUM**

**THIS DECLARATION** (the "Declaration") made pursuant to the *Condominium Property Act*, Statutes of New Brunswick 2009, Chapter C-16.05, as amended from time to time, and the Regulations made thereunder (all of which are hereinafter referred to as "the Act"), by West Hills Golf Club Ltd., a corporation under the laws of New Brunswick, having its registered office in Fredericton, in the Province of New Brunswick (the "Declarant").

### WHEREAS:

1. The Declarant is the Owner of the freehold estate in the lands known as PID 75501346 as described in Schedule "A" (the "Lands");
2. The Declarant intends that the Property, including, without limitation, the building constructed thereon ("the Building") containing eight (8) dwelling Units, shall be governed by the Act, and be registered as a phased-development condominium property;
3. The Declarant is desirous of establishing for its own benefit and for the mutual benefit of all future Owners or occupants of the property or any part thereof certain easements and rights in, over and upon the Property, and certain mutually beneficial restrictions and obligations with respect to the Property and the use, conduct and maintenance thereof;
4. The Declarant desires and intends that the several Owners, mortgagees, occupants and other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of and shall hold their interest together with and subject to the rights, easements, privileges and restrictions hereinafter set forth, and as provided by the Act, Declaration, By-Laws and Common Element rules, all of which are declared to be in furtherance of a plan to promote and protect the aspect of the Property which require cooperation and are established for the purpose of enhancing and protecting the value, desirability and attractiveness thereof;

### NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:

#### 1.0 DEFINITIONS

##### 1.01 Definitions

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

**"Board of Directors"** means the board of directors of the Corporation as constituted from time to time;

**"By-Laws"** means the by-laws of the Corporation made in accordance with the Declaration and the Act;

**"Common Elements"** means all the Property except the Units;

**“Common Element Rules”** means the rules made by the Owners in accordance with the By-Laws respecting the use of the Common elements pursuant to subsections 33(1), 33(2) and 33(3) of the Act;

**“Common Interest”** means the interest in the Common Elements appurtenant to a Unit;

**“Common Expenses”** means the expenses related to the performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration;

**“Corporation”** means the corporation created under the Act by the acceptance for registration of this Declaration and the Description;

**“Description”** mean the Description submitted for registration herewith by the Declarant in accordance with the Act;

**“Owner”** or **“Owners”** means the Owner or Owners of the freehold estate or estates in a Unit and its appurtenant common interest, but shall not include a mortgagee in possession;

**“Phase”** means the additional units and common elements in a phased-development condominium property that are created on the registration of an amendment to a declaration and description;

**“Plan”** means the plan or plans contained in the Description;

**“Property”** means the Lands described in Schedule ‘A’ attached hereto and in the Description and interests appurtenant to the Lands and includes any lands and interests appurtenant to lands that are added to the Common elements;

**“Reserve Fund Study”** means a study undertaken to determine a funding plan that adequately offsets expenditures for substantial repair and replacement of common elements;

**“Termination”** means the termination of the government of the Property by the Act and includes termination as a result of damages;

**“Unit”** means any part of a condominium property included in the property’s description and designated as a unit by the description, and includes the space enclosed by its boundaries and all the material parts of the condominium property within this space in accordance with the declaration and description; and’

Any other words and phrases used herein which are defined in the Act have the meaning given to them by the Act.

## **1.02 Statement of Intention**

The Declarant intends that the Property be registered and governed as a phased-development condominium property as defined by the Act, and any amendments thereto.

## **1.03 Statement of Interest**

The Declarant is the Owner in fee simple of the Property.

#### **1.04 Phased-Development Condominium Property**

1. The Declarant declares that the Condominium Corporation is a phase development Condominium Property.
2. The Declarant has constructed and completed Phase 1, consisting of eight (8) units.
3. The Declarant intends that the phases contained in the development and their estimated registration dates will be as follows:

<b>Phase</b>	<b>Number of Units</b>	<b>Estimated Registration Date</b>
Phase 1	8	August 2014
Phase 2	8	December 2019

4. The location, size, number and general style of the anticipated Units, Common Elements and the land contained in each phase are detailed on the Site Development Plan and conceptual drawing annexed hereto as Schedule 'I'.
5. Any change in the number and/or size of the Units from the original plan shall require the approval of the Condominium Corporation or the Unit Owners.
6. The services and facilities listed in Schedule 'H' are to be shared by each phase as indicated in the said schedule.
7. The insurance coverage shall be amended to accommodate the creation of each Phase.
8. The Declarant is not required to create a Phase after the creation of the present Phase, namely, Phase 1.
9. The Declarant declares that the phase development Condominium Property is subject to Restrictive Covenants registered in and for the New Brunswick District, County of York, on July 25, 2014 as number 34004318.

#### **1.05 Consent of Encumbrancers**

The consent of all persons having registered encumbrances against the Lands described in Schedule 'A' or interests appertinent to the said Lands is contained in Schedule 'B' annexed hereto.

#### **1.06 Boundaries of Units**

The Boundaries of the Units shall be as set out in Schedule 'C'.

#### **1.07 Monuments**

The monuments controlling the extent of Units are fully described in the Description and all dimensions shall have reference to them.

#### **1.08 Proportions of the Common Interests**

Each Owner shall have an undivided interest in the Common Elements as a tenant in common with the other Owners; the proportions of the common interest are the percentages allocated to each Unit as set out in Schedule 'D1' Phase 1 and Schedule 'D2' Phase 2 attached hereto.

### **1.09 Contributions to the Common Expenses**

Each Owner shall contribute to the Common Expenses in the proportions identical to the percentages allocated to each Unit as set out in Schedule "D" attached hereto.

### **1.10 Address for Service**

The Corporation's address for service shall be 1050e Douglas Avenue, Fredericton, NB, E3A 9N2 or such other address within the Province of New Brunswick as the Corporation may determine by a resolution of the Board.

### **1.11 Arbitration**

In the event that any disagreement arises between (a) the Corporation and any Unit Owner, (b) the Corporation and a person who has agreed with the Corporation to manage the Property, (c) the Corporation and any other corporation created or continued under the Act, or (d) two or more Unit Owners, then the matter shall be referred to arbitration according to the terms set out in section 59 of the Act.

### **1.12 Voting Rights**

Except as may otherwise be required by the Act, the voting rights of the Unit Owners shall always be equal and will be determined in the manner set out in Schedule 'D'.

### **1.13 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 the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included therein.

## **2.0 COMMON EXPENSES**

### **2.01 Specification of Common Expenses**

The Common Expenses shall be the expenses of the performance of the objects and duties of the Corporation, whether such objects and duties are imposed under the provisions of the Act, this Declaration, the By-Laws or rules of the Corporation and without limiting the generality of the foregoing, shall include those expenses listed in Schedule 'E' annexed hereto.

### **2.02 Assessment and Collection of Contributions toward Common Expenses**

The manner of assessing and collecting contributions toward Common Expenses shall be as set out in Article IX of the By-Laws.

### **2.03 Payment of Common Expenses**

1. Each Owner, including the Declarant, shall pay to the Corporation their proportionate share (as indicated in Schedule 'D1' Phase 1 and Schedule 'D2' Phase 2) of the Common Expenses toward the operating and reserve fund, and the assessment and collection of these contributions may be regulated by the Board in accordance with the By-Laws of the Corporation.
2. Within 90 days of the end of each fiscal year, the Board shall prepare a reconciliation of the amount actually paid by it in respect of Common Expenses against the operating Budget for the preceding fiscal year to determine whether there was a surplus ("a Surplus") or a shortfall (a Shortfall") for the preceding fiscal year.
3. In the event of a Surplus in the operating fund, the Corporation shall apply the amount of Surplus toward future operating expenses or pay into the reserve fund.
4. In the event of a Shortfall in the operating Budget, the Corporation shall separate the amount of the Shortfall in equal shares among all of the Units and, in respect of Units which were owned at one time by the Declarant during the fiscal year in question, shall divide the share of the Shortfall allocated to each Unit between the Declarant and the Owner based up on the number of days that each was the registered owner of the Unit during the first fiscal year; provided that if the Declarant is the Owner of a Unit at the end of the fiscal year, the entire share of the Shortfall allocated to such Unit shall be paid by the Declarant. For all Units which were not owned by the Declarant at any time during the fiscal year in question, the full amount of the share of the Shortfall allocated to the Unit shall be paid by the Owner of the Unit at the end of the fiscal year in question. Within 14 days of receiving notice in writing from the Corporation of the amount so owing, the Declarant and each Owner shall pay to the Corporation the amount payable by each in respect of the Shortfall.

## **3.0 COMMON ELEMENTS**

### **3.01 Use of Common Elements**

Subject to the provisions of the Act, this Declaration, the By-Laws, the Common Element Rules and any other rules and regulations passed pursuant thereto, each Owner has full use, occupancy and enjoyment of the whole or any part of the Common Elements, except as herein otherwise provided.

**3.02** Without the consent in writing of the Board of Directors no Owners shall have the right of access to those parts of the Common Elements used from time to time as a utilities area, building maintenance, service or storage area, an area for operation machinery, or any mechanical or servicing system servicing the Building, nor shall the Owner have access to any other parts of the Common Elements used for the care, maintenance or operation of the Property or any part of the Property. This section shall not apply to any first mortgagee holding first mortgages on at least 10% of the Units, if exercising a right of access for purpose of inspection upon giving 48 hours notice to the Corporation.

**3.03** There shall be no smoking at any time in any of the Common Elements, except in the rear deck and front patio areas as shown on a Survey Plan, "Bobak Place Townhome Condominium", as prepared by Surtek Group Ltd., signed by John L. Prime, NBLs, and approved for submission for registration by the Director of Condominiums, Andre Benoit and filed in the Land Titles Office for the District of New Brunswick jointly with the Declaration.

**3.04** Until the Turn Over Meeting held in accordance with paragraph 3 of Article V of the By-Law No. 1 is held, parking for each Unit shall be designated in the driveways only to each Unit.

### **3.05 Limited Common Elements**

Subject to the provisions of the Act, this Declaration, the By-Laws, the Common Elements Rules and any other rules and regulations passed pursuant thereto, Unit Owners shall have the exclusive use of those parts of the Common Elements set out in Schedule 'F' hereto.

### **3.06 Final Inspection and Deficiencies**

The Board shall, within three days after the Turn Over Meeting held in accordance with paragraph 3 or Article V of By – Law No 1, arrange to inspect the Common Elements with the Declarant's representative and during such inspection, all uncompleted work, if any, with respect to the Common Elements shall be listed in writing (the Deficiency List") and such list shall be signed by the President and the Declarant's representative. The Declarant shall not be responsible for any reason whatsoever for any work not listed on the Deficiency List. The Declarant agrees to complete any deficiencies as soon as reasonably possible, but such completion shall not exceed ninety (90) days unless such deficiencies require work and/or materials beyond the control of the Declarant. There shall be no holdback or set off against any funds owing to the Declarant for any deficiencies. Except for the items listed on the Deficiency List, the Corporation, the Board and all of the Owners shall be deemed to have accepted the condition and state of the Common Elements as of the date of the Turn Over Meeting and such acceptance shall be a complete release by the Corporation, the Board and all of the Owners of the Declarant in respect of the Common Elements and from any and all liability of any kind whatsoever in respect of the Common Elements, save only for the completion of the work, if any, listed on the Deficiency List.

**3.07** For the purpose of determining whether work in respect of the Common Elements is uncompleted or not, the parties will refer to the most recent additions of the standards contained in:

1. National Building Code of Canada;
2. Canadian Electrical Code;
3. Canadian Plumbing Code.

**3.08** If the Declarant's representative and the Board do not agree as to the work that is uncompleted or if the Board does not arrange inspection of the Common Elements aforesaid, the Declarant's only obligation after the Turn Over Meeting, if the Common Elements are not then completed, shall be to substantially complete the Common Elements in accordance with the plans and specifications.

**3.09** The Declarant covenants and warrants to substantially complete the said Common Elements in accordance with the plans and specifications as expediently as is reasonably possible and in the case of seasonal work, the Declarant covenants and warrant to complete the same as soon as weather conditions reasonably permit. The Declarant further covenants and warrants not to suffer any construction liens to be placed upon or remain against the property during construction and that any such lien will be removed prior to closing.

**3.10** If a dispute arises over the completion of an item on the Deficiency List, the parties agree that a third party having experience in the construction field and being acceptable to both parties shall arbitrate. The cost of the arbitrator and the arbitration (other than solicitor and/or expert fees which shall be paid by each respective Party) will be shared equally between the parties. The arbitrator's decision will be final and will be honoured by both parties.

## **4.0 UNITS**

### **4.01 Occupation and Use**

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

- a. Each Unit shall be occupied and used only as a residence for a single family and for no other purpose.
- b. Nothing shall be done or permitted to be done, or brought into or kept in a Unit that will in any way increase the rate of fire insurance on the Property or on any part thereof, or on chattels kept within any Unit.
- c. No Unit shall be occupied or used by anyone in such a manner as to result in the cancellation of any policy of insurance referred to in this Declaration or the By-Laws.
- d. The Owner of each Unit and all residents of and visitors to his Unit shall comply with the Act, this Declaration, the By-Laws, the Common Element Rules and any other rules and regulations passed pursuant thereto.
- e. Prior to making any alterations or repairs to his Unit, the Owner shall submit his plans to the board of Directors, in accordance with the By-Laws, for approval and the Board of Directors shall approve the plans unless the proposed alterations or repairs or the manner of carrying them out are likely to damage or impair the value of any other Unit or the Common Elements.
- f. The occupation and use of each Unit shall be subject in all respects to the terms and provisions of any mortgage financing on the Property, or any portion thereof, granted by the Declarant until such time as such mortgage is partially discharged with respect to the Unit.
- g. Such other restrictions and stipulations set out in the By-Laws or Common Element Rules.
- h. Nothing in this Declaration, the By-Laws, the Common Element Rules or in any other rule or regulation made pursuant thereto shall prevent the Declarant, until all of the Units have been sold for the first time by it, from completing the building and all improvements to the Property, remedying defects, maintaining Units as models for display and sales purposes, and otherwise marketing Units and maintaining marketing and/or construction office, displays and signs relating to the Property,



provided that they are in accordance with any applicable By-Laws of the Municipality in which the Property is situate.

- i. For heating, ventilation, and air conditioning systems (HVAC) see Schedule 'H'.

#### **4.02 Restrictions on Leasing**

1. No Unit shall be leased for a term of less than six (6) months. Such lease shall be the Standard Form of Lease as prescribed by regulation under the Residential Tenancies Act (New Brunswick), which shall include a schedule to the lease containing the By-Laws and Common Element Rules of the Corporation. A copy of the signed lease shall be delivered forthwith to the Board.
2. No Owner shall lease or otherwise allow for the occupancy of his Unit unless he causes the tenant, occupant or boarder (hereinafter referred to collectively as "tenant") to execute or deliver an undertaking signed by the tenant under seal, to the following effect:

*"I undertake that I, the members of my household and my guests from time to time will, in using the Unit rented by me and the Common Elements, comply with the Residential Tenancies Act, the Condominium Property Act, the Declaration, By-Laws, Common Element Rules and all other rules and regulations of "Bobak Place Townhome Condominium" during the term of my tenancy"*

3. Subject to clause 4.02 (2) of this Declaration and pursuant to subsection 54(4) of the Act, entering into occupancy of any unit by an occupant with the consent of the owner shall constitute an agreement that the provisions of the Act, this Declaration, the By-Laws, the Common Element Rules and any other rules or regulations of the Corporation made pursuant thereto are accepted and ratified by such occupant.
4. Any Owner leasing or otherwise allowing for the occupancy his Unit shall not be relieved from any of his obligations with respect to the Unit, which obligations shall be joint and several with is tenant.
5. Each Owner leasing or otherwise allowing for the occupancy his Unit will immediately notify the Corporation that the Unit is leased and will provide the Corporation with the name of the tenant or tenants and from time to time of the name of the new tenant or tenants, and the Owner's new address for service of notices and/or other communication purposes.

#### **4.03 Reservation of Name**

The Declarant reserves the right to use the name "Bobak Place Townhome Condominium" in relation to any aspect of its present or future business, and each Owner is deemed to have consented to such use.

### **5.0 By-LAWS**

**5.01** The Corporation may, by a vote of Owners who own at least 60% of the Common Elements, make By-Laws:

- a. governing the management of the Land and Property;
- b. governing the use of the Units or any of them for the purpose of preventing unreasonable interference with the use and enjoyment of the Common Elements and other Units;
- c. governing the use of the Common Elements;

- d. regulating the maintenance of the Units and Common Elements;
- e. governing the use and management of the assets of the Corporation;
- f. respecting the Board of Directors; and
- g. specifying the duties of the Corporation.

**5.02** The by-Laws shall be reasonable and shall be consistent with the Act and this Declaration.

## **6.0 MODIFICATIONS OF COMMON ELEMENTS AND ASSETS**

**6.01** A vote of Owners representing at least 60% of the Common Elements is required to make any substantial addition, alteration or improvement to or renovation of the common elements or to make any substantial change in the assets of the Corporation.

**6.02** For the purpose of Section 42(1) of the Act, the determination whether any addition, alteration or improvement to or renovation of the common Elements or any change in the assets of the Corporation is "substantial" shall be automatic if the aggregate cost of the proposed addition, alteration or improvement to, or renovation in the common Elements is in excess of \$25,000.00 inclusive of HST.

**6.02.1** Notwithstanding the provisions of Subsection 6.01, during the first twelve months following the Turn Over Meeting, as provided for in the By-Laws, a vote of Owners representing 100% of the Common Elements is required to make any substantial addition, alteration or improvement to or renovation of the common Elements or to make any substantial change in the assets of the Corporation.

## **7.0 MAINTENANCE AND REPAIRS**

### **7.01 Maintenance and Repairs of Units by the Owner**

1. Each Owner shall maintain his Unit, and, subject to the provisions of this Declaration and the By-Laws, repair his Unit after damage, including, without limiting the generality of the foregoing, repair of all improvements made by the Declarant in accordance with the Plan (notwithstanding that some of such improvements may have been made after the registration of this Declaration) at his own expense, with the intent that such Owner will restore his Unit to a state of repair at least equivalent to its condition at the time it was originally completed for sale by the Declarant.
2. Each Owner shall be responsible for all damages to any and all other Units and to the Common Elements which are caused by the failure of the Owner to so maintain and repair his Unit, save and except for any such damages to the Common Elements for which the cost of repairing same may be recovered under any policy or policies of insurance held by the Corporation.
3. The Corporation shall make any repairs that an Owner is obligated to make and which are not made within a reasonable time after written notice is given to such Owner by the Corporation, and in such an event, an Owner shall be deemed to have consented to having such repairs made by the Corporation. Such Owner shall reimburse the Corporation in full for the cost of such repairs, including any legal and collection costs incurred by the Corporation in order to collect the costs of such repairs, taxed as between solicitor and client, and all sums of money shall bear interest at such rate as specified in the By-Laws for unpaid Common Expenses. The Corporation may collect all such sums of money in such instalments as the Board of Directors may decide upon which instalments shall be added to the monthly

contributions towards the Common Expenses of such Owner after delivery of a written notice from the Corporation thereof. All such payments are deemed to be additional contributions by the Owner towards the common Expenses and are recoverable as such.

4. The Unit Owner shall be responsible to maintain the originally specified underlay under the floor in the Unit in the event of the replacement of floor coverings.

### **7.02 Repairs to Common Elements**

The Corporation shall, at its own expenses, repair the Common Elements after damage, including the repairs and replacement of structural components, building envelope including all exterior doors providing ingress to and egress from all Units., roofing, exterior cladding, underground services to building, driveways and walkways, landscaping features etc.

### **7.03 Maintenance of Common Elements**

The Corporation shall maintain the Common Elements, save and except for any improvements made by any Owner to the portion of the Common Elements appurtenant to his Unit of which that Owner has exclusive use pursuant to clause 3.05 of this Declaration, which improvements shall be maintained by the Owner having the exclusive use thereof pursuant to this Declaration. The maintenance by an Owner of such improvements shall be in accordance with any directions and specifications set from time to time by the Board of Directors.

### **7.04 Additions, Alterations or Improvements by Owners**

1. No Owners shall make any structural change in or to his Unit or any change to an installation upon the Common Elements or maintain, decorate or repair any of the Common Elements and maintenance of improvements to the portion of the Common Elements of which that Owner has the exclusive use and is obligated to maintain pursuant to clause 7.03 of this Declaration) without the prior consent in writing of the Board of Directors.
2. Any change shall, if approved by the Board of Directors, be made in accordance with the provisions of all relevant municipal and other governmental by-laws, rules, regulation or ordinances and in accordance with the condition, if any, of such approval by the Board of Directors.

**7.05** Each Owner shall forthwith reimburse the corporation for the cost of repairs made by the corporation to any windows or doors servicing the Owner's Unit, which repairs are necessitated by damage caused by such Owner's negligence or wilful misconduct or as a result of the negligence or wilful misconduct of the resident, tenants, invitees, or licensees of the Owner's Unit.

## **8.0 DAMAGE**

### **8.01 Procedure Where Damage Occurs**

Where there has been a determination by the board of Directors that there has been substantial damage to at least 25% of the building, notice of such determination shall, within 30 days thereof, be given by the Corporation by registered mail to the Owners and mortgagees entered in the register kept for such purpose, addressed to the Owner and mortgagee(s) at the address set out in the said register in accordance with

the provisions of clause 15.06 hereof and together with such notice there shall be notice to the Owners and mortgagees of a meeting called and to be held at a time designated within the next 60 days for the purpose of voting for repair or termination of the Corporation.

### **8.02 Repairs after Damage**

1. In the event of a vote for repair by Owners who own at least 60% of the Common Elements, the Corporation shall repair the Units and Common Elements in accordance with the Plan with the following provisos:
  - a. the obligation of the Corporation to repair after damage hereunder extends to all improvements made to the Units by the Declarant in accordance with the Plan and notwithstanding that some of such improvements may have been made after registration of the Declaration and the Description, but does not include repair of any improvements made to the Unit by the Declarant for the Owner thereof which are not included in the Plan;
  - b. the obligation of the Corporation to repair the Units after damage shall not be limited to repair in respect of all risks which are insured or insurable under any available policy or policies of insurance; and
  - c. each Unit Owner shall repair his Unit after damage in respect of all risks which are not insured or insurable under any available policy or policies of insurance.
2. In the event that the board of Directors shall determine that there has not been substantial damage, as defined in clause 8.01 of this Declaration, then the Corporation and such Owners whose Units have been damaged shall repair their Units in accordance with the provisions of clauses 7.01 and 7.02 of this Declaration.

### **8.03 Plans and Specifications**

The complete Plan, including, without limitation, all original survey, architectural and structural plans and specifications for the Building, including plans and specifications for any additions, alterations or improvements from time to time made to the Common Elements or to any Unit with the prior consent in writing of the board of Directors shall be maintained in the office of the Corporation at all times for the use of the corporation in rebuilding or repairing any damage to the building and for the use of any Owner or mortgagee.

## **9.00 INSURANCE**

### **9.01 By the Corporation**

1. The Corporation shall be required to obtain and maintain, to the extent obtainable, the following insurance, in one or more policies:
  - a. Insurance against damage by fire and extended perils and such other perils or events as the Board of Directors may from time to time deem advisable, in respect of the Corporations obligation to repair and in respect of the Owners' interest in the Units and common Elements, and in respect of the Owners' obligations to repair any damage to:

- (i) the Common Elements;

- (ii) the personal property owned by the Corporation, excluding furnishings, furniture and other personal property supplied or installed by the Owners; and
- (iii) the Units, except for any improvements or betterment made or acquired by the Owners unless such improvements or betterment was made in accordance with the Plan, notwithstanding such improvements or betterment may have been made after the registration of the Declaration and Description;

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.

- b. public liability and property damage insurance insuring the liability of the Corporation with limits to be determined by the Board of Directors but in no event for less than \$1,000,000.00 and without right of subrogation as against the Corporation, its Manager, agents, servants, and employees.
- c. Machinery insurance to the extent required as the Board of Directors may from time to time deem advisable; and
- d. Directors and officers liability insurance insuring the liability of the directors and officers of the Corporation with limits to be determined by the Board of Directors, but in no event for less than \$1,000,000.00 in order to indemnify them against any liability, cost, charge or expense ("the Liabilities") incurred by them in the execution of their duties provided that the insurance shall not indemnify the directors and officers against liabilities incurred as a result of contravention of the Act.

2. Such policy or policies of insurance as required by clauses 9.01(1)(a) and 9.01(1)(b) of this Declaration shall insure the interest of the Corporation and the Owners from time to time as their respective interest may appear, with mortgagee endorsements, being subject to the provisions hereof and the insurance trust agreements, and all such policy or policies of insurance shall contain the following provisions:

- a. where the amount received from an insurer arising out of any one loss or occurrence does not exceed Thirty Thousand Dollars (\$30,000.00) the said insurance amount for that loss shall be payable to the Corporation' in the event that the said loss exceeds Thirty thousand Dollars (\$30,000.00), the said insurance amount for that loss or occurrence shall be payable to an Insurance Trustee whose services are retained for this purpose by the Corporation at the time of the said loss;
- b. waivers of subrogation against the Corporation, its Manager, agents, employees and servants;
- c. such policy or policies of insurance shall not be cancelled or substantially modified without at least 60 days prior written notice to all parties whose interests appear thereon, and to an Insurance Trustee if one has been retained;
- d. all policies of insurance (insuring the liabilities of the Corporation) shall provide that the same shall be primary insurance in respect of any other insurance carried by the Owners; and
- e. a waiver of the insurer's and/or insurers' option to repair, rebuild, or replace in the event that after damage, the government of the Property by the Act is terminated as a result of a vote pursuant to clause 8.01 of this Declaration.

## 9.02 General Provisions

1. Prior to obtaining any policy or policies of insurance under clause 9.01 of this Declaration or any renewal or renewals thereof, the Board of Directors may, at its discretion, or shall at the request of a majority of Unit Owners, obtain an appraisal from an independent qualified appraiser, of the full replacement cost of the building and the assets of the Corporation for the purpose of determining the amount of insurance to be effected pursuant to clause 9.01 of this Declaration and the cost of such appraisal shall be a Common Expense.
2. The Board of directors shall have the exclusive right on behalf of the Corporation and as agents for the Owners, to adjust any loss and settle all claims with respect to all insurance purchased by the Corporation and to give such releases as are required, and any claimant, including the Owner of a damage Unit, shall be bound by such adjustment, provided, however that the Board of Directors may, in writing, authorize an Owner to adjust any loss to his Unit with an insurer.
3. 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 shall no prejudice the right of any mortgagee to exercise the right of an Owner to vote or to consent to matters at meetings of Owners, if the mortgage itself contains a provision giving the mortgagee that right, and also the right of any mortgagee to receive the proceeds of any insurance policy if the Property is not repaired.
4. At the written request of an Owner or mortgagee, a certificate of all insurance policies and endorsements thereto shall be issued as soon as possible to that Owner or mortgagee and at the written request of an Owner or mortgagee, renewal certificates or certificates of new insurance policies shall be furnished to that Owner or mortgagee. The master policy for any insurance coverage shall be kept by the Corporation in its offices and shall be available for inspection by an Owner or mortgagee on reasonable notice to the Corporation.
5. No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation, or to direct that loss shall be payable in any manner other than as provided in this Declaration.
6. If the Corporation, receives any proceeds of insurance pursuant to clause 9.01 of this Declaration, the proportion of such proceeds attributable to damage to any Unit or Units shall be held in trust for the Owner or Owners of such Unit or Units and, at the discretion of the Board of directors, may be applied by the corporation to the repair of such Unit or Units or may be paid to such Owner or Owners subject at all times to the interest, if any, of any mortgagee.
7. If insurance proceeds are paid to an Owner for the purpose of effecting repairs to his Unit, such Owner shall effect such repairs within two months of such payment or within such further period of time as the Board of Directors may permit in writing, and he shall furnish the Corporation with evidence that such repairs have been completed in accordance with this Declaration.

### **9.03 By the Owner**

1. Each Owner shall obtain and maintain his own insurance on any additions or improvements made by the Owner to his Unit, and for furnishings, fixtures, equipment, decorations and personal property and chattels of the Owner contained in his Unit and his personal property and chattels stored elsewhere on the Property, including his automobile or automobiles, and for the loss of use and occupancy of his Unit in the event of damage, which policy or policies of insurance shall contain waivers of subrogation against the corporation, its manager, agents, employees and servants.
2. Each Owner shall obtain and maintain his own public liability insurance covering any liability of the Owner or any member of his household or occupant of his Unit with regard to the Property and his Unit pursuant to this Declaration to the extent not covered by any public liability and property damage insurance obtained by the Corporation.
3. At the written request of the Board of Directors, each Owner shall file with the corporation, within 10 days of such request, a certified copy of any policy or policies of insurance obtained and maintained by him pursuant to this clause.

## **10.0 INSURANCE PROCEEDS**

### **10.01 Insurance Trustee**

1. Upon any claim being made by the Board of Directors against a policy of insurance held by the corporation for loss to a Unit or Units and/or the Common Elements which exceeds the sum of \$30,000.00 the Board of Directors, on behalf of the Corporation and the Owners, shall enter into an agreement which a trust company authorized to carry on business in New Brunswick or a chartered bank (the "Insurance Trustee"), which agreement shall, without limiting its generality, provide the following:
  - a. the receipt by the Insurance Trustee of all proceeds of insurance payable to the Corporation or anyone loss or occurrence where such proceeds exceed \$40,000.00;
  - b. the holding of such proceeds in trust for those entitled hereto pursuant to the provisions of this Declaration; and
  - c. the disbursement of such proceeds in accordance with the provisions of such insurance trust agreement and the Declaration.
2. In the event that the Board of Directors is unable to enter into such agreement with such a trust company, or chartered bank, by reason of their refusal to act, the Board of Directors may enter into such Agreement with such other corporation or individual authorized to act as a trustee, as in its discretion the Board of Directors may deem advisable.
3. The Corporation shall pay the fees and disbursements for any insurance trustee and any fees and disbursements shall constitute a Common Expense.

### **10.02 Distribution of Insurance Proceeds by Trustee**

1. In the event that:
  - a. the Corporation is obligated to repair any Unit insured under clause 9.01(1)(b) of this Declaration, the said insurance trustee shall hold all proceeds for the corporation and shall disburse the same in accordance with the provisions of the said insurance trust

- agreement, in order to satisfy the obligation of the corporation to make such repairs; and
- b. there is no obligation by the Corporation to make such repairs or there is termination in accordance with the provisions of the Act, the said insurance trustee shall hold all proceeds for the Owners in the proportion of their respective interests in the Common Elements and shall pay such proceeds to the Owners in such proportions, upon registration of a notice of termination by the Corporation.
2. Notwithstanding anything to the contrary herein contained, any proceeds payable by the said insurance trustee to an Owner shall be subject to payment in favour of any mortgagee or mortgagees to whom such loss is payable in such policy or policies of insurance and in satisfaction of the amount due under any liens registered by the Corporation against such Unit.

## **11.0 INDEMNIFICATION**

### **11.01 Indemnity by Owner**

1. Each Owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever, including the insurance deductible and legal costs on a solicitor and client basis, which the Corporation may suffer or incur resulting from or caused by any act or omission of such Owner, any occupants of his Unit or any guests invitees or licensees of such Owner or occupancy to or with respect to the Common Elements and/or all other Units, except for any loss, costs, damages, injury or liability cause by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation.
2. Any sums of money to be paid by an Owner to the Corporation pursuant to clause 11.01(1) of this Declaration shall include any legal or collection costs as between solicitor and client incurred by the corporation in order to collect such sums of money and all such sums of money shall bear interest at the rate of interest specified in the By-Laws for unpaid Common Expenses. The Corporation may collect such sums of money in such instalments as the board of Directors may decide upon, which instalments shall be added to the monthly contribution towards the common Expenses of such Owner, after receipt of notice from the Corporation thereof. All payments pursuant to clauses 11.01(1) and 11.01(2) of this Declaration are deemed to be additional contributions towards the Common Expenses and are recoverable as such.

### **11.02 Indemnity by Corporation**

The Corporation shall indemnify and save harmless the Owner of each Unit from and against any loss, costs, damages, injury or liability whatsoever which may be suffered or incurred by each Owner, any occupancy of his Unit or any guests, invitees or licensees of such Owner or occupant, resulting from or caused by the negligence or wrongful actor omission of the Corporation, its manager, agents, servants, employees or independent contractors, or for damage done to the Unit substantially resulting from the repair or maintenance by the Corporation of the common Elements; provided that notwithstanding anything hereinbefore contained, such indemnity shall be solely from the proceeds received from the insurer or insurers of the public liability and property damage insurance of the corporation in the event of such loss, costs, damages, injury or liability.



## **12.0 TERMINATION OR SALE**

### **12.01 Termination**

A vote of Owners representing 100% of the common elements and the consent of all non-owners having registered encumbrances against the Property created after the registration of the Declaration and Description is required to terminate the government of the Property by the Act.

### **12.02 Sale of Part of the Common Elements**

A vote of Owners representing 60% of the common Elements and consent of the persons having registered claims against the Property or any part of the common Elements, as the case may be, created after the acceptance for registration of the Declaration and Description, is required for the sale of the Common elements.

### **12.03 Management after Termination**

In the event that sale of the Property or any part of the Common Elements or termination of the government of the Property by the Act is authorized, then the Board of Directors may authorize any procedures, rules, regulations and any other matters deemed necessary to complete such sale or termination and to manage the Property pending such completion.

## **13.0 EXPROPRIATION**

### **13.01 Expropriation of the Whole of the Lands and Property**

1. If the whole of the Property is expropriated, the claim for compensation shall be negotiated and settle by the Board of Directors, whether or not proceedings are necessary. The compensation received from the expropriating authority, less expenses incurred in obtaining compensation, if any, shall be distributed amongst the Owners in proportion to their respective interest in the Common Elements.
2. Notwithstanding clause 13.01(1) of this Declaration, each Owner shall have separate rights to negotiate and settle his personal compensation for additions, alterations or improvements made by the Owner to his Unit after registration of this Declaration, the cost of moving and other similar items personal to each Owner.

### **13.02 Expropriation of Common Elements**

If the whole of the Property is not expropriated and the expropriation includes part of the Common Element, then compensation shall be negotiated and settled by the Board of Directors with respect to the Common Elements, whether or not proceedings are necessary. The Board of Directors may deal with such compensation in any one or more of the following ways:

- a. to distribute the compensation among the Owners and mortgagees in proportion to their respective interest in the common Elements;
- b. to retain the compensation as an asset of the corporation;
- c. to use the compensation to add to, change or alter the Common Elements; or
- d. where the part of the Common Elements expropriated includes Common Elements the exclusive use of which is annexed to one or more specified Units by virtue of this Declaration, the Board of Directors may deal with the compensation received in respect of such exclusive use Common Elements by distributing such compensation among the Owners or any mortgagees as their respective interest appear whose exclusive use Common Elements have been taken, or

by applying such compensation to the replacement of such exclusive use Common Elements.

### **13.03 Partial Expropriation Including Units**

1. In the event of partial expropriation which includes some or a portion of some Units, such Owner whose Unit is wholly or partially expropriated shall deal with the expropriating authority with regard to compensation relating to his Unit and interest in the Common Elements. The compensation for any damage suffered by the remaining Owners whose Units are not expropriated shall be negotiated and settled by the Board of Directors for the Corporation whether or not proceedings are necessary; and the compensation so reviewed from the expropriating authority, less expenses involved, if any, in obtaining such compensation, may be dealt with by the Board of Directors, except as required in connection with the restoration of the balance of the Property, in any one or more of the ways set out in clauses 13.02(a), 13.02(b), 13.02(c) and 13.02(d).
2. The cost of restoring the balance of the Property so that it may be used shall be determined by the Corporation, and the Corporation shall negotiate with the expropriating authority with regard to compensation for this expenditure and shall, unless the government of the Lands and Property by the Act is terminated within 30 days of the receipt of such compensation, reconstruct using the funds received for such reconstructions.

### **13.04 Reconstitution of Scheme and Condominium after Reconstruction**

1. In the event of reconstruction as provided in clauses 8.02 or 13.03 of the Declaration, all of the Owners and other persons having an interest in or encumbrance against any part of the Property agree to sign such documents and to vote on all occasions as may be necessary to reconstitute the condominium scheme to the Property.
2. If any Unit is wholly taken or rendered wholly unusable then that Owner shall:
  - a. Have no further interest in the Common Elements or the Property, and
  - b. Only be entitled to receive the amount, if any, to be paid to that Owner as provided in clauses 8.02, 13.01, 13.02 and 13.03 of this Declaration.
3. The percentage contributions towards Common Expenses and the percentage interest in the Common Elements of the Owner of a unit that is wholly taken or rendered wholly unusable shall be dissolved and ended and the remaining percentage interests in the Common Elements and the percentage obligation towards Common Expenses shall be determined by dividing the existing percentages by the total of the percentages of the Owners left in the Property after its reconstruction.

## **14.0 DUTIES OF THE CORPORATION**

### **14.01**

The duties of the Corporation are to manage the Property and any assets acquired by the Corporation in connection with the use and enjoyment of the Property, to prepare budgets and collect Common Expenses and Reserve Funds with a view to maintaining financial stability and to provide

such services to the Owners as are specified in the Act, the Declaration or the By-Laws. Without limiting the generality of the foregoing, the duties of the Corporation include the following:

- a. to assess, collect, and receive all contributions towards the Common Expenses from the Owners, and deposit the same in a separate account with a chartered bank or trust company;
- b. to establish and maintain an operating fund and reserve fund as required by the Act including, but not limited to, those referred to in sections 37 and 38 of the Act;
- c. to update and/or complete from time to time and as required by the Act, a Reserve Fund Study in compliance with the requirements of the Act;
- d. to file such documents with the Director of Condominiums as may be required by the Act from time to time;
- e. to keep accurate accounts of the financial transactions involved in the performances of its duties and the exercise of its rights;
- f. within 90 days after the end of each fiscal year, and in any event no later than 10 days prior to the Annual Meeting of Unit Owners, to deliver or mail to each Owner, and to each mortgagee which has notified its interest to the Corporation, a copy of the Corporation's financial statements for the preceding fiscal year, prepared by the accountants of the Corporation in compliance with section 36 of the Act and signed by two directors;
- g. for the purpose of complying with the provisions of the Act and the Declaration with respect to insurance, to do all acts and things and to take out and maintain such insurance as the Board of Directors may from time to time deem advisable;
- h. to control, manage and administer the Common Elements for the benefit of all the Owners and for the benefit of the entire condominium project, and to maintain such staff at all times as may be required to promptly and efficiently carry out its duties in such management of the Property;
- i. to repair and maintain the Common Elements in accordance with the provisions of the Act, this Declaration and the By-Laws;
- j. to effect compliance by the Owners with the Act, this Declaration, the By-Laws, the Common Element Rules and any rules and regulations made pursuant thereto;
- k. to obtain and maintain, if deemed necessary, fidelity bonds where obtainable in such amounts as the Board of Directors may deem reasonable, for such officers and directors or employees as are authorized to receive or disburse any funds on behalf of the Corporation; and
- l. such other duties as are specified in the By-Laws.

## **15.0 GENERAL MATTERS AND ADMINISTRATION**

### **15.01 Rights of Entry**

1. The Corporation or any insurer of the Property or any part thereof, their respective agents or any person authorized by the Corporation, shall be entitled to enter any Unit or any part of the Common Elements over which any Owner has the exclusive use thereof between the hours of 8 am and 8 pm upon giving 48 hours notice, for the purpose of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy or policies remedying any condition which might result in damage to the Property, or carrying out any duty imposed upon the Corporation.
2. The Corporation or any person authorized by the corporation may enter a Unit, or any part of the Common Elements over which any Owner has the exclusive use thereof, at any time and without

notice, or express permission, in order to gain immediate access in the case of emergency for the purpose of repairing the Unit, Common elements, or any part of the Common Elements over which any Owner has the exclusive use thereof, 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 any emergency exists in their sole and unfettered discretion.

3. If an Owner, resident or tenant 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 for any claim or cause of action for trespass or damages by reason thereof, provided that it exercises reasonable care.
4. The Corporation shall not be liable to the Owner of any Unit for damages for any interference or inconvenience caused by repairs or any other work permitted by this Declaration provided such repairs or work are carried out as expeditiously as reasonably possible and provided further that such damages are not caused by the negligent or wilful acts of the Corporation, its servants, agents and workmen.
5. The right or authority hereby reserved to the Corporation, its agents or any insurer or its agents does not impose any responsibility or liability whatever for the care or supervision of any Unit except as specifically provided in this Declaration or the By-Laws.
6. The Corporation shall retain a key to all locks to each Unit. No Owner shall change any lock or place any additional locks on the doors of any Unit or within the Unit or to any part of the Common Elements over which such Owner has the exclusive use thereof, without immediately providing to the Corporation a new key for each new or changed lock.

#### **15.02 Units Subject to Declaration, By-Laws, Common Element Rules and Rules and Regulations**

All present and future Owners and occupants of Units and their guests, invitees or licensees shall be subject to and shall comply with the provisions of this Declaration, the By-Laws, the Common Element Rules, and any other rules and regulations made pursuant thereto in effect from time to time. The acceptance of a deed or transfer, the entering into of a lease or entering into occupancy of any Unit shall constitute an agreement that this Declaration, the By-Laws, the Common Element Rules, and any other rules and regulations made pursuant thereto in effect from time to time and accepted and ratified by such Owner, tenant or resident and all of such provisions shall be deemed and taken to be covenants running with the Unit and as such shall bind any person having, at any time, any interest or estate in such Unit as though such provisions are recited and stipulated in full in each and every such deed, transfer, lease or occupation agreement.

#### **15.03 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 the provisions of this Declaration 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 the other provisions of this Declaration will continue in full force and effect as if such invalid provision was not included herein.

#### **15.04 Waiver**

The failure to take action to enforce any provision contained in the Act, this Declaration, the By-Laws, the Common Element Rules or any other rules and regulations made pursuant thereto 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.

#### **15.05 Resolution of Conflict of Provisions**

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

#### **15.06 Notice**

Any notice, direction or other instrument required or permitted to be given hereunder shall be in writing and shall be sufficiently given if served personally by delivering same to the party to be served or to any officer of the party to be served, or may be given by ordinary mail, postage prepaid, addressed to the Corporation in the care of its recognized agent, to each Owner at their respective Unit or at such other address as is given by the Owner to the Corporation for the purpose of notice, and to each mortgagee who has notified his interest to the Corporation at such address as is given by each mortgagee to the Corporation for the purpose of notice; and if mailed as aforesaid, the same shall be deemed to have been received and to be effective on the third business day following the day on which it was mailed. Any Owner or mortgagee may change his address for service by notice given to the Corporation in the manner aforesaid. The Corporation shall maintain a register of addresses where notice shall be sent for each Owner and each mortgagee who has notified his interest to the Corporation.

#### **15.07 Construction of Declaration**

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

#### **15.08 Headings**

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

#### **15.09 Effective Date:**

IN WITNESS WHEREOF, the Declarant, West Hills Golf Club Ltd., has caused this Declaration to be duly executed and sealed at the City of Fredericton, in the Province of New Brunswick this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

West Hills Golf Club Ltd.

By: \_\_\_\_\_  
Darren Hill, President

**SCHEDULE 'A'**

**DESCRIPTION OF "LANDS"**

**PID 75501346**

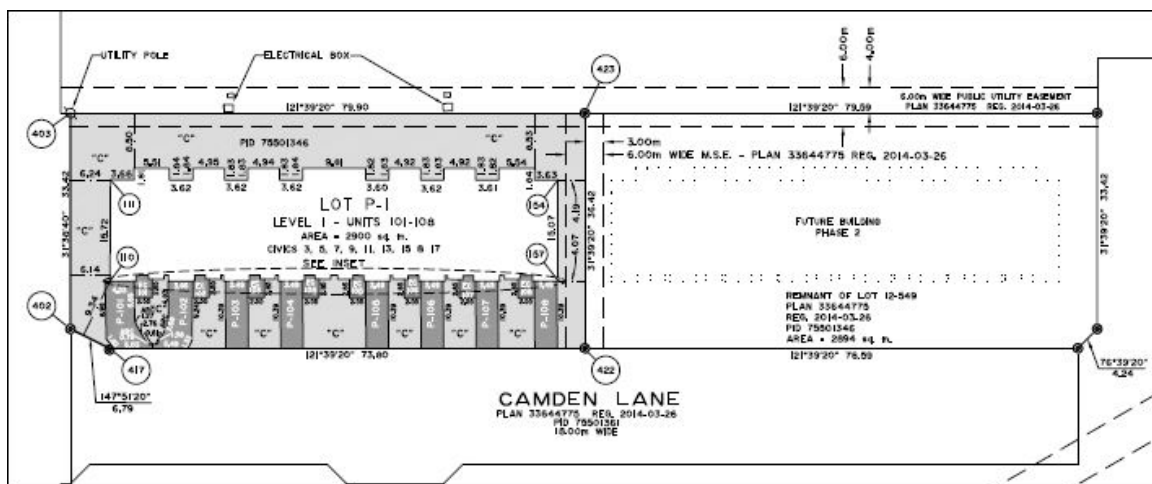
Place Name: Fredericton Parish/County: Douglas/York  
 Designation of Parcel on Plan: Lot 12-549  
 Title of Plan: West Hills - Phase II 2013  
 Subdivision Registration County: York Registration Number of Plan: 33644775  
 Registration Date of Plan: 2014-03-26 12:12:12



**SCHEDULE 'A-1'**

**DESCRIPTION OF "CURRENT PHASE"**

Being Lot P-01 as shown on Survey Plan of Level 1, Bobak Place Townhome Condominium Phase No.: 01, prepared by Surtek Group Ltd., signed by John Prime, NBLs, approved for submission by the Director of Condominiums and filed herewith as part of the description.



**SCHEDULE 'B'**

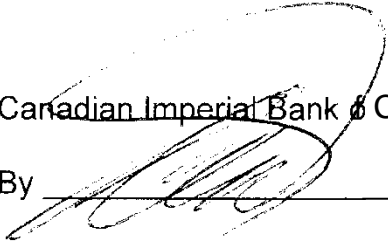
To the Declaration of West Hills Golf Club Ltd. Consent under subsection 6(2)c of the Act.

The Undersigned being a person having registered encumbrances against the land or interests appertinent to the land described in Schedule 'A' and in the Description within the meaning of subsection 6(2)c of the Condominium Property Act, S.N.B. 209 Ch. 16.05, hereby consents to the registration of this Declaration:

Canadian Imperial Bank of Commerce having the following security:

1. Collateral Mortgage registered on June 26, 2014, as Number 33902322.

Canadian Imperial Bank of Commerce

By  \_\_\_\_\_

By  \_\_\_\_\_

## **SCHEDULE 'C'**

Unit boundaries are as outlined and described under the "Unit Boundaries" section on the Survey Plan of Level 1 and Cross-Sections A-A & B-B Bobak Place Townhome Condominium, as prepared by Surtek Group Ltd., signed by John L. Prime, NBLs, and approved for submission for registration by the Director of Condominiums, Andre Benoit and filed in the Land Titles Office for the District of New Brunswick jointly with the Declaration. Each description will be particular to the Units being created on these plans.



**SCHEDULE 'D1' Phase 1**

<b>Unit Number Camden Lane</b>	<b>% Percentage Ownership, Common Elements, Common Expenses &amp; Voting Rights.</b>
101	12.5%
102	12.5%
103	12.5%
104	12.5%
105	12.5%
106	12.5%
107	12.5%
108	12.5%
<b>Total</b>	<b>100.0%</b>

**SCHEDULE 'D2' Phase 2**

<b>Unit Number Camden Lane</b>	<b>% Percentage Ownership, Common Elements, Common Expenses &amp; Voting Rights.</b>
101	6.25%
102	6.25%
103	6.25%
104	6.25%
105	6.25%
106	6.25%
107	6.25%
108	6.25%
109	6.25%
110	6.25%
111	6.25%
112	6.25%
113	6.25%
114	6.25%
115	6.25%
116	6.25%
<b>Total</b>	<b>100.0%</b>

## **SCHEDULE 'E'**

“Common Expenses” means all of the expenses of the Corporation incurred by it in the performance of its objects and duties, whether such objects and duties are imposed under the provisions of the Act, the Declaration, the By-Laws or the Common Element Rules, and without limiting the generality of the foregoing, include the following:

- a. the cost of the maintenance, repair, replacement and operation of ALL Common Elements:
- b. where applicable, the cost of electricity, hot and cold water, heating, fuel (including propane and natural gas), water disposal, landscaping and snow removal and all other utilities and services purchased by the Corporation for use in the Common Elements;
- c. the remuneration payable by the Corporation to any employees deemed necessary for the operation and maintenance of the Property including payment of any remuneration payable pursuant to any management agreement which the Corporation may enter into;
- d. the cost of furnishings and equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
- e. the cost of legal, accounting and auditing services, engineering services, premiums for the Corporation’s insurance obligations, appraisals, fees and disbursements of an Insurance Trustee, fidelity bonds, the cost of carrying out a reserve fund study and the costs of carrying out any other objects and duties imposed by the Act, this Declaration and the By-Laws and by the Board of Directors;
- f. the cost of borrowing money to carry out the objects and duties of the Corporation;
- g. all sums of money assessed by the Corporation for collection from the Owners to be set aside in such separate fund or funds as may be provided for by the By-Laws and to be applied, from time to time, in whole or in part, in the absolute discretion of the Corporation towards meeting deficits and such other common purposes, or to be used or expended for major maintenance items, which occur less frequently than annually, and for major items of repair or replacement made necessary by damage, deterioration or obsolescence, as the Corporation may deem necessary or desirable in order to carry out the objects and duties of the Corporation;
- h. all sums of money paid or payable on account of real property taxes (including local improvements charges) levied against the Property (until such time as such taxes are levied against the individual Units); and
- i. any other reasonable expenses incurred in the reasonable maintenance of the Property and the administration of the Corporation.

## **SCHEDULE 'F'**

1. Each Owner is entitled to the exclusive use of the inner surface of the glass windows to which their Unit has sole access and the interior side of the exterior doors that provide the means of ingress to and egress from their Unit.
2. Each Owner of a Unit is entitled to the exclusive use of the rear deck designated by the number on the Unit and preceded by the prefix "D".
3. Each Owner of a Unit is entitled to the exclusive use of the front patio in front of each front door designated by the number on the Unit and preceded by the prefix "EC".
4. Each Owner of a Unit is entitled to the exclusive use of the driveway designated by the number on the Unit and preceded by the prefix "P".

## **SCHEDULE 'H'**

### **HEATING, VENTILATION, AIR CONDITIONING (HVAC)**

Owners of Units that have a heating, ventilation, air conditioning (HVAC) systems will have the full ownership and possession of those apparatus installed on the exterior and in the Unit along with all the wiring and pipes used to link to the wall unit. Each owner of a Unit will be personally responsible for the care and maintenance of the HVAC systems that they respectively own as per the terms of this Declaration.

SCHEDULE 'I'

