

**OCCUPANCY AGREEMENT**

**Whattlekainum Housing Co-operative**

**SCHEDULE A TO THE RULES**

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#### Table of Contents

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SCHEDULE A TO THE RULES.....	7
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#### RECITALS

A The Purpose of the Co-op .....	8
B Granting of the Occupancy Agreement .....	8
C Right to Possession.....	8
D Operating Principles .....	8

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#### 1 Conditions of Possession

1.01 Breach of conditions.....	9
1.02 Rules .....	9
1.03 Foreclosure.....	9
1.04 Trustee has no right to possession of the Unit.....	10

#### 2 Right to Possession

2.01 Term .....	10
2.02 Common area .....	10
2.03 Family members.....	10

#### 3 Parking

3.01 Use of parking.....	11
3.02 Parking Policies.....	11

<b>4</b>	<b>Housing Charge</b>	
4.01	Payment of Housing Charge .....	11
4.02	Payment of all charges .....	11
4.03	Setting the Housing Charge .....	12
4.04	Considerations in setting the Housing Charge .....	12
4.05	Failure to pay Housing Charge.....	13
4.06	Problem in payment of Housing Charge.....	13
4.07	NSF payments .....	13
4.08	Payment by bank draft.....	14
4.09	Homeowner Grants.....	14
4.10	Financial information .....	14
4.11	Rent supplement/reduced Housing Charges .....	14
4.12	Household composition .....	15
4.13	Retroactive assessment .....	15
<b>5</b>	<b>Payment of Utilities</b>	
5.01	Utilities .....	16
<b>6</b>	<b>Rules and Policies</b>	
6.01	Comply with Rules and Policies .....	16
6.02	Rules and Occupancy Agreement govern.....	17
6.03	Uniform application.....	17
<b>7</b>	<b>Use of Unit</b>	
7.01	Principal residence.....	17
7.02	Good neighbour provision .....	17
<b>8</b>	<b>Insurance Hazards</b>	
8.01	Responsibility for hazards.....	18
<b>9</b>	<b>Alterations to Property</b>	
9.01	Alterations require consent .....	18
9.02	Restoration costs .....	19
9.03	Municipal compliance of alterations .....	19
9.04	No compensation for alterations.....	20
9.05	Compliance with alteration procedures .....	20
<b>10</b>	<b>Interior Maintenance and Repair of Unit</b>	
10.01	Interior condition.....	20

10.02	Damage caused by leakage .....	21
10.03	Liability for damage .....	21
10.04	Repairs as required .....	21
10.05	Reports defects .....	21
10.06	Repairs on leaving .....	22
10.07	Inspection on withdrawal or termination .....	22
10.08	Cost of repairs and cleaning .....	22
<b>11</b>	<b>Personal Insurance</b>	
11.01	No liability of Co-op for injury .....	23
11.02	Requirement for personal insurance .....	23
11.03	Member may not claim under the Co-op's insurance policy .....	23
<b>12</b>	<b>Liens</b>	
12.01	Member not to permit liens .....	24
12.02	Co-op may pay lien .....	24
<b>13</b>	<b>Assignment and Subletting and Failure to Reside</b>	
13.01	Subletting and assignment requires consent .....	24
13.02	Failure to reside .....	25
<b>14</b>	<b>Signs or Notices</b>	
14.01	Signs not permitted .....	25
<b>15</b>	<b>Termination of Membership and Occupancy Agreement</b>	
15.01	Right of occupancy .....	25
15.02	Material conditions .....	25
15.03	Oppression remedies and arbitration do not apply .....	26
<b>16</b>	<b>Notice and Delivery of Vacant Possession</b>	
16.01	Termination of Occupancy Agreement .....	26
16.02	Vacant possession .....	26
<b>17</b>	<b>Withdrawal</b>	
17.01	Withdrawal from membership .....	27
17.02	Share redemption .....	27

<b>18</b>	<b>Rights and Remedies/Waivers</b>	
18.01	Cumulative rights .....	27
18.02	Failure to pursue remedies .....	28
18.03	Non-waiver of remedies.....	28
18.04	Waiver to be in writing.....	28
<b>19</b>	<b>Termination on abandonment</b>	
19.01	Termination on abandonment.....	29
<b>20</b>	<b>Management of the Co-op</b>	
20.01	Duty to pay.....	29
20.02	Management of Development.....	29
20.03	Co-op to repair .....	29
<b>21</b>	<b>Insurance of Development</b>	
21.01	Insurance by Co-op.....	30
21.02	Damage appraisal .....	30
<b>22</b>	<b>Right to Enter</b>	
22.01	Entry for emergency.....	31
22.02	Costs on emergency entry.....	31
22.03	Entry for non-emergency .....	31
22.04	Definition of "reasonable purpose" .....	31
22.05	Time of entry.....	32
22.06	No refusal to enter Unit .....	32
<b>23</b>	<b>Serving Notices</b>	
23.01	Service of notice by the Co-op or by the Member.....	32
<b>24</b>	<b>Limitation of Liability</b>	
24.01	Liability limited.....	32
<b>25</b>	<b>Miscellaneous Provisions</b>	
25.01	Part of the Rules .....	33
25.02	Amendments to the Occupancy Agreement.....	33
25.03	Interpretation.....	33

25.04 Successors and assigns .....33

SCHEDULE A TO THE RULES

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THIS OCCUPANCY AGREEMENT is SCHEDULE A to the Rules of Whattlekainum Housing Co-operative and is effective as and from the date on which the Rules come into effect and governs

WHATTLEKAINUM HOUSING CO-OPERATIVE, a co-operative association incorporated under the laws of the Province of British Columbia,

(the "Co-op")

- AND -

Each member of the Co-op in respect of the Unit assigned to the member by the Co-op as recorded in its records

(the "Member")

in relation to use and occupation of certain residential premises.

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**RECITALS**

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**WHEREAS:****A The Purpose of the Co-op**

The Co-op has been incorporated under the Act as a not for profit housing co-operative for the purposes of acquiring residential housing units on land owned by the Co-op and more particularly known and described as: Lot 94, District Lots 143 and 148, Plan 51478 New Westminster District (the "Lands") for the use of the members (the "Development");

**B Granting of the Occupancy Agreement**

This Occupancy Agreement is granted to the Member, subject to and under the Memorandum and Rules of the Co-op.

**C Right to Possession**

The right of the Member to possession or occupancy of a residential housing unit assigned to the Member hereunder is dependent upon the Member complying in all respects with the obligations of the Member under this Occupancy Agreement and continuing to be a member in the Co-op and to hold the number of Shares of the Co-op required by the Rules.

**D Operating Principles**

The Co-op is founded on the international principles of co-operation as set out in the Statement on the Co-operative Identity originated by the International Co-operative Alliance. In particular, the Co-op relies on the active engagement of its members to foster good governance and principled leadership in the exercise of democratic member control.

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In consideration of the mutual promises set out in this Occupancy Agreement, the parties agree as follows:

**1 Conditions of Possession**

**1.01 Breach of conditions**

This Occupancy Agreement and the term hereby created shall be subject to the conditions herein set forth, and shall come to an end upon withdrawal from or termination of membership.

**1.02 Rules**

The term of the Occupancy Agreement and possession of the Unit by the Member is subject to:

- [a] the terms and conditions set out in the Rules of the Co-op as amended from time to time;
- [b] relevant and applicable zoning, health, or other laws of the municipal, provincial, or federal governments; and
- [c] the terms and conditions of any mortgages or other agreements between the Co-op and any federal, provincial or municipal authority.

**1.03 Foreclosure**

If an order of foreclosure is made by any court of competent jurisdiction foreclosing the interest of the Co-op in the Lands or the Development, this Occupancy Agreement shall thereupon immediately cease and be void and of no effect at the option of the foreclosing party.

1.04 Trustee has no right to possession of the Unit

No trustee or receiver of the Member or the Member's Shares or person claiming any interest in the Shares pursuant to any bankruptcy assignment, pledge or security is entitled to any right to or possession of the Unit.

2 **Right to Possession**

2.01 Term

The Co-op grants to the Member the Unit for the term (the "Term"):

- [a] commencing with the date on which occupancy of the Unit is granted by the Co-op to the Member;
- [b] ending with the earliest of the withdrawal from, termination or cessation of membership of the Member and the death of the Member; and
- [c] subject always to earlier termination as herein provided.

2.02 Common area

The Co-op hereby grants to the Member during the Term, in common with the other members of the Co-op, the non-exclusive use for their proper purpose, of the entrance, passageways, roadways, sidewalks, common grounds and other common areas of the Development throughout the Term.

2.03 Family members

If the Member shall cease to be entitled to occupy the Unit, the right of persons in the Member's household, whether or not members of the Co-op and all other persons occupying or visiting the premises, to continue to occupy or use the Unit shall come to an end at the same time and without further notice being required.

### **3 Parking**

#### **3.01 Use of parking**

The Member shall be entitled during the Term of this Occupancy Agreement to the use of **one (1) parking space** as assigned by the Co-op for parking of vehicles used by the Member or persons residing with the Member.

#### **3.02 Parking Policies**

The Member agrees to comply with Co op Policies respecting parking, as are applicable from time to time.

### **4 Housing Charge**

#### **4.01 Payment of Housing Charge**

The Member shall pay the Co-op on the first day of each and every month, commencing on the first day of the month the Member takes possession, during the Term of the Occupancy Agreement, a Housing Charge as determined and assessed by the Co-op from time to time and notified to the Member in writing.

#### **4.02 Payment of all charges**

The Member shall pay when due to the Co-op the Housing Charge, any additional or supplemental charge and any other amounts due to the Co-op under this Occupancy Agreement and the Rules to the Co-op:

- [a] at the office of the Co-op; or
- [b] at such other place as the Co-op may from time to time designate in writing; and

in the form and manner determined by the Directors of the Co-op with no right of set-off or abatement under any circumstances.

#### 4.03 Setting the Housing Charge

The Directors of the Co-op shall recommend to the members, at a general meeting duly called for that purpose, the monthly Housing Charge payable hereunder, which shall be approved by an Ordinary Resolution of the members.

#### 4.04 Considerations in setting the Housing Charge

In recommending to the members the monthly Housing Charge payable hereunder, the Directors shall take into account the amount of money which, in the opinion of the Directors, shall be required by the Co-op during each fiscal year for:

- [a] the maintenance of the corporate existence of the Co-op;
- [b] the carrying charges on the Lands and the Development, including taxes, and the sums in lieu of taxes;
- [c] licenses, assessments, insurance, repairs, replacements, upkeep, maintenance and operations;
- [d] adequate contributions to a capital replacement reserve fund and to any other reserve funds established by the Co-op;
- [e] all other fees, costs and expenses incurred in the management of the Lands and the Development;
- [f] the amount, if any, as may be required to meet any deficit in the preceding fiscal year; and
- [g] any other amounts reasonably required to accomplish the purposes for which the Co-op was incorporated.

Notwithstanding the above, if the Co-op is bound by statute or contract to set or maintain the monthly Housing Charge at a specified level or amount, the Directors, not the

members, shall set the monthly Housing Charge payable hereunder by taking those obligations at law or contract into consideration.

4.05 Failure to pay Housing Charge

Failure of the Member to pay the Housing Charge, any additional or supplemental charge or any other amounts owing to the Co-op in accordance with this Occupancy Agreement and the Rules shall be cause for termination of membership under the Rules.

4.06 Problem in payment of Housing Charge

If the Member anticipates a problem in making any payment of the Housing Charge or any other charge on time, the Member shall notify the Co-op of this likelihood in advance of the due date of the Housing Charge. Notice by the Member shall not excuse the Member from any obligation hereunder and shall be without prejudice to an action or proceeding which the Co-op may wish to undertake including termination of membership under the Rules.

4.07 NSF payments

If the Member's payment for monthly Housing Charges is not honoured by the Member's banking institution:

- [a] the Member will be deemed to have failed to make payment of Housing Charges as required hereunder; and
- [b] this may be cause for termination of membership under the Rules.

In addition the Member shall be liable for bank charges incurred in the processing of dishonoured payments and any penalties or fines set by the Directors.

4.08 Payment by bank draft

If the Member's payment is not honoured as contemplated in subsection 4.07 the Member shall, unless excused in writing by the Directors, make all future payments of Housing Charges and supplemental and additional charges by bank draft or money order payable to the Co-op.

4.09 Homeowner Grants

With regard to all homeowner, occupier and property tax rebates, grants, concessions and refunds available from municipal, provincial, and federal governments for which the Member may be eligible ("Homeowner Grants"), and except as otherwise provided by law:

- [a] the Member shall assign to the Co-op all Homeowner Grants; and
- [b] the Co-op shall pay to the Member the portion of any such Homeowner Grants which are paid or credited to the Co-op solely because of the Member's age, disability or special status.

4.10 Financial information

If any Member shall fail to complete any request, approval or other return or to provide any information required in respect of any Homeowner Grant with respect to the Unit upon written request the amount of any Homeowner Grant shall be payable in full by the Member to the Co-op immediately upon written notice to the Member.

4.11 Rent supplement/reduced Housing Charges

The Member acknowledges that:

- [a] rent supplement, assistance or subsidy may be paid by federal, provincial or municipal agencies or authorities to the Co-op with respect to members who meet

and comply with the criteria and requirements established by the responsible agencies or authorities;

- [b] under the terms of a Co-op Policy, some members who meet and comply with the criteria set out in Policy may be eligible from time to time to pay a reduced Housing Charge; and
- [c] to substantiate eligibility of the Member to receive rent supplement, assistance or subsidy or to pay a reduced Housing Charge, the Member must:

- [1] provide verification of household income and any other proof or information required by the Directors; and
- [2] report any increases in household income and changes in household composition.

The Member authorizes the Co-op:

- [d] to take such steps as are necessary and reasonable to verify the accuracy of any information provided by the Member; and
- [e] to the extent required by Policy or by agreements binding the Co-op, to provide to an external party or parties all verification of income and other relevant information.

#### 4.12 Household composition

For the purposes of 4.11, a household shall consist of the Member and all adult persons living in or intending to live in the Unit for more than 30 days in aggregate in the fiscal year.

#### 4.13 Retroactive assessment

If the Member fails to comply with subsection 4.11:

- [a] the Directors may, in their sole and absolute discretion, increase the Housing Charge, to be assessed retroactively to the effective date of the Member's failure to comply; and

[b] the assessed amount shall be payable in full by the Member to the Co-op immediately upon written notice to the Member.

## 5 Payment of Utilities

### 5.01. Utilities

The Member shall pay all applicable gas, oil, water and electrical, telephone and any utility, cablevision, or similar charges or accounts, except for the cost of heat and hot water incurred in respect of the common areas. If the Member shall fail to pay the same, the Co-op may pay the same or any part thereof on behalf of the Member, and the amount so paid shall be due and payable by the Member to the Co-op immediately on written notice to the Member.

## 6 Rules and Policies

### 6.01 Comply with Rules and Policies

The Member shall comply with and cause the Member's family, guests, employees and any other person occupying or visiting the Unit to comply with all the terms, conditions and provisions of this Occupancy Agreement and

- [a] the terms and conditions set out in the Memorandum, the Rules and the Policies of the Co-op as amended from time to time; and
- [b] all changes and additions to the Occupancy Agreement,

to the same extent as if they were herein incorporated.

6.02 Rules and Occupancy Agreement govern

If there is a conflict or inconsistency between the Rules, the Occupancy Agreement and the Policies, the Rules and Occupancy Agreement govern.

6.03 Uniform application

Unless otherwise specifically provided therein, all Rules, this Occupancy Agreement and Policies shall apply to all members of the Co-op uniformly and without preference or discrimination.

7 **Use of Unit**

7.01 Principal residence

The Member shall use the Unit and all parts thereof only:

- [a] as the Member's principal residence; and
- [b] for no other purpose except as provided by Co-op Policy or as provided herein without the prior written consent of the Directors.

Without limiting the generality of the foregoing, the Member shall not permit any other person occupying or visiting the Unit to use or conduct from the Unit any active or daily trade, business or profession except as provided by Co-op Policy or as provided herein.

7.02 Good neighbour provision

The Member shall not use the Unit and shall not permit any person occupying or visiting the Unit to use the Unit in any way or engage in conduct which:

- [a] interferes with or disturbs other members' quiet or peaceful enjoyment of the Development;

- [b] unreasonably annoys or interferes with the other members of the Co-op by sound, conduct or other activity;
- [c] obstructs or interferes with the rights of other persons;
- [d] obstructs the roads, sidewalks or areas designated as common areas;
- [e] injures the reputation of the Co-op; or
- [f] in any other way breaches this Occupancy Agreement or any Policy.

## **8 Insurance Hazards**

### **8.01 Responsibility for hazards**

The Member shall not:

- [a] cause or permit any nuisance, or activity in the Unit or in any part of the Development; or
- [b] suffer anything to be done or kept therein,

which shall increase the cost of fire, liability and other hazards insurance upon the Lands or the Development or the contents therein.

## **9 Alterations to Property**

### **9.01 Alterations require consent**

Except with the prior written consent of the Directors, the Member shall not make or permit:

- [a] any structural alterations, changes or additions in or to the Unit; or
- [b] any alterations, changes or additions in or to the exterior of the Development or any building or structure forming a part thereof, or any part of the interior thereof.

Consent shall not entitle the Member to reimbursement for any amount expended by the Member for alterations, additions or changes.

#### 9.02 Restoration costs

The Member shall pay all costs of repair and restoration of the Unit which result from alterations, changes or additions made by the Member if the alterations, changes or additions have not been approved by the Directors. If the Member refuses or neglects for a period of ten days following receipt of written notice from the Directors to repair and restore the Unit to its original condition, then the Directors without further notice to the Member may:

- [a] cause repair and restoration of the Unit to be made; and
- [b] enter or cause their agents or servants to enter the Unit for that purpose.

All expenses and costs incurred by the Co-op in doing so shall be due and payable by the Member to the Co-op immediately upon written notice to the Member.

#### 9.03 Municipal compliance of alterations

When consent is given for alterations as provided herein:

- [a] All alterations, changes or additions made by the Member shall comply with applicable municipal by-laws and regulations and provincial and federal building codes and requirements;
- [b] The Directors may require such proof of compliance as may be necessary, including further improvements, to bring the said alterations, changes or additions to the standards required, with all costs to be borne by the Member;
- [c] If the Member fails to comply with the standards required the Directors may cause all measures to be taken so as to comply and may cause their agents and servants to enter the Unit for that purpose; and

- [d] All expenses and costs incurred by the Co-op in doing so shall be due and payable by the Member to the Co-op immediately upon written notice to the Member.

#### 9.04 No compensation for alterations

Upon withdrawal from or termination of membership:

- [a] the Member shall not receive any compensation from the Co-op for alterations, changes or additions left in, on or affixed to the Development or the Unit by the Member;
- [b] if the Member chooses to remove the alterations, changes or additions, the Unit must be left in the same condition as it was prior to the alterations, changes or additions having been made; and
- [c] if the Member refuses or neglects for a period of ten days following receipt of written notice from the Directors to repair and restore the Unit to its original condition, then the Directors without further notice to the Member may cause repair and restoration of the Unit to be made, and may enter or cause their agents or servants to enter the Unit for that purpose.

#### 9.05 Compliance with alteration procedures

The Member shall comply with the procedures established by the Co-op from time to time for authorization and installation of alterations, changes or additions to the Unit.

### 10 **Interior Maintenance and Repair of Unit**

#### 10.01 Interior condition

The Member shall at the Member's own expense, keep the interior of the Unit in good condition and repair and in keeping with the character of the rest of the Development.

10.02 Damage caused by leakage

The Co-op shall not be answerable or chargeable for any decorations nor for any damage caused to contents of the Unit by leakage or overflow of water, electricity, gas, oil, steam or vapour from any water, steam, drain, or gas or oil pipes or electrical conduits, or from any other source, belonging or appertaining to any other part of the Development.

10.03 Liability for damage

The Member shall be liable for any damage to any part of the Lands, Unit, or the Development caused by a pet of the Member or by those for whom the Member is responsible in law or caused by the negligent act or omission of either the Member or the Member's family, guests, agents, employees or any other person occupying or visiting the Unit.

10.04 Repairs as required

The Member shall make all repairs as required by the Occupancy Agreement in a manner acceptable to the Directors. If the Member at any time fails, refuses or neglects for a period of thirty days after having received written notice from the Directors to make repairs, or to maintain the Unit in good condition, the Directors may:

- [a] cause the repairs to be made, or restore the Unit to good condition; and
- [b] enter or cause its agents or servants to enter the Unit for that purpose.

All expenses and costs incurred by the Co-op in doing so shall be due and payable by the Member to the Co-op immediately upon written notice to the Member.

10.05 Reports defects

The Member shall immediately report in writing to the Directors any failure or defect of electrical, mechanical, or structural components or systems of the Unit or the Development of which the Member has notice or knowledge.

10.06 Repairs on leaving

Upon withdrawal from or termination of membership in the Co-op, the Member shall surrender and deliver up to the Co-op vacant possession of the Unit, including all additions thereto, in the same condition and state of repair as at the date the Member took possession, (reasonable wear and tear and damage or loss by fire, tempest, earthquake, the Queen's enemies, and acts of God excepted).

10.07 Inspection on withdrawal or termination

The Directors shall cause the Unit to be inspected on, before, or within a reasonable time after withdrawal from or termination of membership and provide the Member with a written list of cleaning, repairs, changes, alterations and restorations which the Co-op requires to be carried out at the Member's expense.

10.08 Cost of repairs and cleaning

After the Member vacates the Unit:

- [a] the Directors shall provide the Member as soon as practical with a written schedule of estimated charges for cleaning, repairs, changes, alterations and restorations not carried out prior to vacating the Unit by the Member;
- [b] the Co-op may make decorations, repairs, changes, alterations or restorations to the Unit as may be necessary to put the Unit in the required condition and state of repair;
- [c] the total of the said charges shall be due and payable by the Member to the Co-op immediately on written notice to the Member; and
- [d] the Directors may deduct the charges from the amount paid for the Member's Shares.

## 11 Personal Insurance

### 11.01 No liability of Co-op for injury

The Co-op shall not be liable for any loss of property or personal injury for which a Member or any other person occupying or visiting the Unit is responsible at law and the Member shall hold the Co-op harmless from any claim with respect thereto.

### 11.02 Requirement for personal insurance

The Member shall at the Member's expense:

- [a] take and keep in force third party liability, standard fire and comprehensive insurance coverage on the member-supplied fixtures and improvements, furniture and all other contents of the Member's Unit under an insurance policy satisfactory to the Directors; and
- [b] provide the Directors with a copy of the insurance policy or other evidence satisfactory to the Directors on written request for the same,

but no acceptance by the Directors of any insurance policy shall constitute any approval or liability in respect of the adequacy or suitability thereof by the Directors or the Co-op.

### 11.03 Member may not claim under the Co-op's insurance policy

A Member may not make any claim or require or expect the Co-op to make a claim under the Co-op's insurance policy for any matter for which the Member has or ought to have insurance coverage under the Occupancy Agreement. If in the discretion of the Directors it is in the best interests of the Co-op to make a claim under its policy, the Member shall be liable for any applicable deductible of the Co-op.

## 12 Liens

### 12.01 Member not to permit liens

The Member shall not cause or permit any builders' liens or any other lien to be placed upon or against the Lands, the Development or the Unit on account of any material or labour used in the making of any decoration, alteration or repairs to the Unit.

### 12.02 Co-op may pay lien

If any lien is filed, or an attempt is made by any person, corporation or firm to file a lien against the Member's Unit by reason of the action, conduct or omission of the Member, the Co-op may, at its option:

- [a] pay and discharge any such lien or purchase any such lien; and
- [b] add the amount so paid to the Housing Charge due or to become due hereunder.

The amount shall be immediately due and payable by the Member to the Co-op upon written notice to the Member.

## 13 Assignment and Subletting and Failure to Reside

### 13.01 Subletting and assignment requires consent

Except with the prior written consent of the Directors, consent to be in the sole and absolute discretion of the Directors, the Member shall not:

- [a] assign this Occupancy Agreement;
- [b] sublet in whole or part the Unit;
- [c] otherwise part with possession of the Unit; or
- [d] encumber any interest in the Occupancy Agreement.

### 13.02 Failure to reside

The Member shall reside in the Unit on a full-time permanent basis as the principal residence of the Member and shall not without the written consent of the Directors, cease or fail to reside in the Unit on a full-time permanent basis for a period exceeding thirty (30) days.

## 14 Signs or Notices

### 14.01 Signs not permitted

Unless otherwise permitted by law, the Member shall not place signs or notices on any door, window or wall or other part of the Unit where they may be visible from the outside of the Unit without prior written consent of the Directors, consent to be in the sole and absolute discretion of the Directors.

## 15 Termination of Membership and Occupancy Agreement

### 15.01 Right of occupancy

The Occupancy Agreement and the right of the Member, and that of any person residing in the Unit, to possession or occupancy of the Unit shall terminate if the membership of the Member is terminated under the Rules.

### 15.02 Material conditions

For the purposes of the Rules and this Occupancy Agreement, material conditions of this Occupancy Agreement include, without limitation, Section 3 to Section 14 inclusive and Section 22 in their entirety.

**15.03 Oppression remedies and arbitration do not apply**

If the membership of the Member is terminated, the Member agrees that Sections 156 (i.e. oppression remedy) and 208 (i.e. arbitration) of the Act, and any grievance or dispute procedure that may exist in the Rules or the Policies of the Co-op do not apply and are expressly waived and shall not be invoked by the Member.

**16 Notice and Delivery of Vacant Possession**

**16.01 Termination of Occupancy Agreement**

This Occupancy Agreement shall be automatically terminated:

- [a] in the case of withdrawal from membership in the Co-op, at 12:00 noon on the effective date of withdrawal; or
- [b] in the case of termination of membership in the Co-op, at 12:00 noon on the date determined by the Co-op pursuant to the termination proceedings under the Rules.

**16.02 Vacant possession**

The Member agrees to immediately quit and give-up vacant possession of the Unit upon the effective date of withdrawal from or termination of membership. If the Member does not immediately quit and give up vacant possession then the Member shall pay to the Co-op:

- [a] an amount equal to the Housing Charges herein prorated on a daily basis for each day that the Member fails to quit and deliver vacant possession; and
- [b] any loss or damage the Co-op may suffer as a result of the failure to quit and deliver possession.

## 17 Withdrawal

### 17.01 Withdrawal from membership

Withdrawal of the Member from the membership of the Co-op shall terminate the Occupancy Agreement, and withdrawal shall occur:

- [a] at any time by written agreement signed by the Member and the Co-op;
- [b] by the Member giving at least two full calendar months' notice of withdrawal in writing, the time being calculated from the last day of the month in which notice is given; or
- [c] in the circumstances provided for withdrawal specified in the Rules of the Co-op.

### 17.02 Share redemption

Upon withdrawal from or termination of membership, the Co-op shall redeem the Member's Shares in the Co-op in the amount and in the manner specified in the Rules.

## 18 Rights and Remedies/Waivers

### 18.01 Cumulative rights

The rights and remedies hereby created are cumulative and are in addition to all common law and statutory rights and remedies. The use of one remedy shall not be taken to exclude or waive the right to the use of another. Said remedies may be proceeded under simultaneously or successively.

18.02 Failure to pursue remedies

Any failure by the Co-op to terminate the Member's membership because of any breach by the Member of any of the provisions of the Occupancy Agreement or any extension of time granted to the Member for the payments of any amount due under the provisions of the Occupancy Agreement, shall not in any way be construed as a waiver of any of the Co-op's rights hereunder or as an implied future waiver or extension on any subsequent default by the Member.

18.03 Non-waiver of remedies

The failure of the Co-op to insist in one or more instances upon a strict performance of the Member of any covenant herein contained, or the failure of the Co-op to exercise any right or option herein contained, or to serve any notice, or to institute any action or proceeding hereunder shall not be construed to be a waiver or relinquishment for the future of such covenant, option or right, but, on the contrary, every such covenant, option and right shall continue and remain in full force and effect.

18.04 Waiver to be in writing

The receipt by the Co-op of any sum due by the Member, with the knowledge on the Co-op's part of any breach by the Member of any term, covenant or provisions hereof shall not constitute a waiver of the breach, and the Co-op shall not under any circumstances be considered to have waived any breach unless the waiver shall have been expressed in writing signed by two of the Co-op's officers pursuant to authority thereunder given by a resolution approved by the Co-op's Directors.

## 19 Termination on abandonment

### 19.01 Termination on abandonment

If the Member has abandoned the Unit, the Co-op may terminate the Member's membership under the Rules.

## 20 Management of the Co-op

### 20.01 Duty to pay

The Co-op shall pay insurance premiums on policies of insurance required to be held by the Co-op in accordance with this Occupancy Agreement, and shall pay the mortgage interest and principal amounts due and owing by the Co-op from time to time.

### 20.02 Management of Development

The Co-op shall maintain and manage the Development, keeping it and the grounds surrounding in good condition and repair, free from obstruction, and shall keep the passageways, roads, sidewalks and common grounds in good repair and order and well lighted.

### 20.03 Co-op to repair

The Co-op shall keep in good repair the foundations, walls, supports, roof, gutters, beams, pipes, electrical conduits and other equipment or machinery required for the proper operation and safety of the Development. The Co-op may, upon notice as herein required, enter into and upon any portion of the Unit for any of the purposes aforesaid.

## 21 Insurance of Development

### 21.01 Insurance by Co-op

With regard to insurance:

- [a] The Co-op shall keep the Development insured (except that this does not include insurance of personal property of the Member) against loss or damage by fire and other perils as the Directors in their discretion may determine.
- [b] In case any of the Development shall be partially damaged by fire or otherwise, the Co-op shall have the same repaired as speedily as possible at the Co-op's expense and in conformity with the plans and specifications on which the Development was erected, except as may be required by law or by Special Resolution of the members, and subject to the provisions of any mortgage charging the Lands.
- [c] In the case of destruction of all or substantially all of the Development by fire or otherwise, this Occupancy Agreement shall thereupon terminate. If the insurers shall elect to rebuild within a reasonable time, the Member shall be entitled to a replacement Unit in the rebuilt Development.

### 21.02 Damage appraisal

The Co-op shall have an appraisal made of any damage done to each Unit by reason of fire or otherwise. In repairing such damage it shall expend any insurance moneys collected by the Co-op proportionately in accordance with the ratio shown by the appraisal, subject however, to the provisions of any mortgage charging the Lands and Development.

## 22 Right to Enter

### 22.01 Entry for emergency

If any Co-op employee or agent, including the Co-op co-ordinator or manager, or any Director determines that an emergency exists in or about the Unit and the Member cannot be immediately contacted to authorize entry to the Unit, then any Co-op employee or agent, including the Co-op co-ordinator or manager, or any Director may, and is hereby authorized by the Member, without notice, to enter the Unit to remedy the emergency.

### 22.02 Costs on emergency entry

Any costs associated with the emergency, the entry or remedial measures shall be borne by the party or parties responsible, as shall be determined by the Directors and the costs to be paid by the Member shall immediately become due and payable by the Member to the Co-op upon written notice to the Member.

### 22.03 Entry for non-emergency

Where an emergency does not exist, a Co-op employee or agent, including the Co-op co-ordinator or manager, or any Director shall enter the Member's Unit only if:

- [a] the Member consents; or
- [b] the Directors give the Member 24 hours' written notice that access is required for a reasonable purpose.

### 22.04 Definition of "reasonable purpose"

**"Reasonable purposes"** shall include:

- [a] entry to access, inspect, or repair structures or systems of the Development;
- [b] entry for the purpose of determining if the Member has ceased to occupy the premises or has otherwise abandoned same; and

[c] entry for the purposes of showing the Unit to a prospective member.

**22.05 Time of entry**

Entries except in cases of emergency shall be between the hours of 8:00 a.m. and 9:00 p.m.

**22.06 No refusal to enter Unit**

The Member may not refuse entry to the Unit where Sections 22.01 to 22.05 apply.

**23 Serving Notices**

**23.01 Service of notice by the Co-op or by the Member**

The Co-op and the Member must serve any notices as required under this Occupancy Agreement in the manner set out in the Rules.

**24 Limitation of Liability**

**24.01 Liability limited**

The Member shall indemnify the Co-op against, and save the Co-op harmless from all liability, loss, damage and expenses arising from injury to persons or property caused by the failure of the Member or any person occupying or visiting the Member's Unit to comply with any provisions of this Occupancy Agreement, or done wholly or in part to any act, default or omission by the Member or any person occupying or visiting the Member's Unit.

## 25 Miscellaneous Provisions

### 25.01 Part of the Rules

This Occupancy Agreement is Schedule "A" to, and forms part of, the Rules of the Co-op and is binding on the Member and the Co-op.

### 25.02 Amendments to the Occupancy Agreement

This Occupancy Agreement may only be amended or modified by a Special Resolution.

### 25.03 Interpretation

Wherever the singular or masculine are used in this Occupancy Agreement, the same shall be construed as meaning the plural or feminine or body corporate where the context or the parties hereto so require. Where there are two or more members party hereto, all obligations to be performed by the Member shall be deemed to be joint and several.

### 25.04 Successors and assigns

The obligations in this Occupancy Agreement shall be binding upon the Member, the respective heirs, executors, administrators, and successors of the Member as if the same had been signed and sealed by the Member. This Occupancy Agreement shall be binding upon and enure to the benefit of the permitted assigns of the respective parties hereto and replaces in its entirety any agreement entered into heretofore with respect to occupancy and use of the Unit.