

ALTERATION AND INDEMNITY AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, 20__

BETWEEN:

THE OWNERS, STRATA PLAN ♦, a strata corporation under the *Strata Property Act*, S.B.C. 1998, c. 43 (the "**Act**"), having an office c/o

(the "**Strata Corporation**")

AND:

_____ and _____ of

([collectively] the "**Owner**")

WHEREAS:

A. The Owner is the registered owner of certain lands and premises known civically as _____, British Columbia and are legally described as Strata Lot _____ in Strata Plan ♦ (the "**Strata Lot**");

B. The Strata Corporation is responsible for the control, repair and maintenance of the common property, including limited common property, and the administration of the Strata Corporation, as set out in the *Act* and the bylaws and rules of the Strata Corporation;

C. The Owner has applied to the Strata Corporation to make certain alterations to the Strata Lot and/or the common property, including limited common property, as described in paragraph 2 of this Agreement (the "**Permitted Alterations**"); and

D. The Strata Corporation has agreed to allow the Owner to make the Permitted Alterations to the Strata Lot and/or common property, including limited common property, and the Owner has agreed to make the Permitted Alterations upon and subject to the terms and conditions in this Agreement.

IN CONSIDERATION of the recitals, covenants and agreements contained herein, other good and valuable consideration and the sum of ONE (\$1.00) Dollar, now paid by each of the parties to the other (the receipt and sufficiency of which are hereby acknowledged), the Strata Corporation and the Owner agree as follows:

1. The Strata Corporation agrees to allow the Permitted Alterations and the Owner agrees to make the Permitted Alterations in accordance with the terms and conditions of this Agreement.

2. The Strata Corporation authorizes the Owner, at the Owner's sole cost and expense, to make alterations as follows:

a) _____;

b) _____;

c) _____; and

d) _____

(collectively, the "Permitted Alterations").

describe the alterations that are approved at the above para 2. For instance, if it is a renovation of the unit, then major components of the renovation need to be described to ensure that future council members can understand from reading the agreement the extent of the alterations that the owner is responsible.]

3. The Owner acknowledges that the common property, including limited common property, and any portions of the Strata Lot that are the responsibility of the Strata Corporation to repair and maintain under the Strata Corporation's bylaws affected by the Permitted Alterations, are in a good state of repair.

4. The Owner agrees with the Strata Corporation:

a) that the Permitted Alterations must be done in accordance with the plans and specifications (the "Plans") dated _____, prepared by _____, copies of which have been or will be provided to the Strata Corporation for approval, prior to the commencement of any of the Permitted Alterations;

OR

a) that the Permitted Alteration must be done in accordance with the following documents:

b) that the Strata Corporation requires as a condition of its approval of the Permitted Alterations, that:

(i) the Owner

A. obtain a written report, prepared by a professional engineer or other professional, satisfactory to the strata council, regarding the Permitted Alterations as follows:

_____;

B. the Owner provide the professional Engineer's report to the Strata Corporation upon receipt by the Owner and pay all the costs of same;

(ii) if the Strata Corporation obtains a written report, prepared by a professional engineer or other professional, regarding the Permitted Alterations, the Owner pay all the costs of same;

c) that the Owner is responsible for obtaining and maintaining property damage insurance coverage and third party liability insurance coverage with respect to the Permitted Alterations;

OR

- c) that the Owner is responsible for obtaining and maintaining in force “all risks” insurance for the Permitted Alterations, for not less than the full replacement cost of the Permitted Alterations and comprehensive general liability insurance with a minimum of \$1 million respecting the use and occupancy of any common property, including limited common property, affected by the Permitted Alterations and to name the Strata Corporation as additional named insured on any such policy and provide a copy of the insurance policy to the Strata Corporation, if so requested;
- d) to install, maintain, replace and repair the Permitted Alterations at the Owner’s sole cost and expense;
- e) that, despite the Permitted Alterations, the Owner will not be exempted from contributing to any common expenses of the Strata Corporation in respect of the repair and maintenance of any property that the Strata Corporation is required to repair and maintain under the Act and its Regulations, and the Strata Corporation’s bylaws;
- f) that the installation, maintenance, replacement and repair of the Permitted Alterations must be conducted:
 - (i) with due care, preparation and precautions to protect and maintain all strata lots and the common property, including limited common property, and the building envelope; and
 - (ii) to, at minimum, the standard of existing structures and materials in terms of quality and appearance;
- g) the contractor(s) selected to undertake the Permitted Alterations will be licensed, insured and qualified to undertake the Permitted Alteration and must be in good standing with WorkSafeBC, as applicable;
- h) the Owner will, in writing, designate one (and one only) of its contractor(s) to act as “prime contractor” for the purposes of *Workers Compensation Act, Occupational Health and Safety Regulation* and/or related regulations (collectively the “**WorkSafe BC Related Laws**”), with a copy of any such designation being provided to the Strata Corporation;

If a contractor, other than the Owner’s contractor has been designated as the “primary contractor”, then the following alternate paragraph h) should be used instead.

The WorkSafe BC Laws only permit the existence of one “prime contractor” per worksite – with the term “worksite” being determined broadly. In a strata plan, the term “worksite” will likely be interpreted to extend to the entirety of the strata plan. The owner of the “worksite” can designate a contractor to act as “prime contractor”, which designation has to be communicated to the designated contractor in writing. If more than one contractor is designated as “prime contractor”, the designations effectively “cancel each other out”, leaving the owner of the property as the “prime contractor”. In a strata setting and depending on the nature of the alteration, this could leave the strata corporation as the “prime contractor”, exposing the strata corporation to significant obligations and potential liabilities. If, at the same time, the strata

corporation is also carrying on work in the complex and/or more than one strata lot is engaged in alteration work, a decision needs to be made as to who amongst the parties engaged in the various projects will act as "prime contractor".

OR

- h) the Owner will, in writing, advise the contractor(s) that the following contractor has been designated as "prime contractor" for the purposes of the "worksite":

the strata corporation will insert the full legal name of designated contractor in the above space.]

- i) that the Owner is responsible for the conduct of the contractor(s) selected to undertake the Permitted Alterations or any maintenance, replacement or repair of the Permitted Alterations.
- j) to observe and comply with all laws, ordinances, regulations, orders, licences and permits of all constituted authorities having jurisdiction with respect to the Permitted Alterations, including:
- (i) the bylaws and rules from time to time of, as applicable, the Strata Corporation and the provisions of the **Act** and its Regulations, as may be amended from time to time and any successor statute;
 - (ii) the requirements of the *Workers Compensation Act, Occupational Health and Safety Regulation* and/or related regulations that apply to or impact the Permitted Alterations;
- k) that the Owner is responsible to determine whether there are any hazardous substances or conditions that may arise in connection with the Permitted Alterations, such as asbestos, lead paint, etc.;
- l) that the Owner will indemnify and hold harmless the Strata Corporation, its strata council members, employees and agents from any and all claims and demands whatsoever arising out of or in any manner attributable to a breach of the *Workers Compensation Act, Occupational Health and Safety Regulation* and/or related regulations that apply or have any impact on the Permitted Alterations. Any costs or expenses incurred, but not necessarily paid, by the Strata Corporation as the result of such claim or demand will be the Owner's responsibility;
- m) that the Owner will not permit, do or cause anything to be done to any strata lot other than the Strata Lot or common property, including limited common property, at any time which would allow any liens, certificates of pending litigation, judgments or any charges of any nature whatsoever to be imposed or to remain upon any strata lot other than the Strata Lot, the common property or the common assets of the Strata Corporation. In the event of the registration of any lien or other encumbrance by a contractor, subcontractor or supplier of another person or of the Owner on or in respect of another strata lot, the common property or the common assets in respect of the

Permitted Alterations, the Owner will, at its own expense, immediately cause the same to be discharged and, if the Owner does not discharge the lien within fifteen days of receiving notice thereof, the Strata Corporation may pay such lien or, in the Strata Corporation's sole discretion may avail itself of any provisions of the *Builders' Lien Act* (British Columbia) to discharge the lien and the Owner will pay to the Strata Corporation, on demand, all amounts so paid and all the Strata Corporation's costs, including Court costs and legal costs, in connection therewith;

- n) that, if the Strata Corporation needs to maintain, repair or replace the common property, including limited common property, or any strata lot which maintenance, repair or replacement affects the Permitted Alterations, the Owner, and not the Strata Corporation, will be liable for and be required to pay the cost to remove, restore and replace the Permitted Alterations, as the case may be;
- o) that, if the Strata Corporation determines, in its sole discretion, that alterations or repairs must be made to the Permitted Alterations for the safety, preservation, proper administration or improvement of the Strata Lot, any other strata lot or the common property, including limited common property, then on seven (7) days' prior, written notice to the Owner, the Owner must make such alterations or repairs, failing which, the Strata Corporation may, at the Owner's sole cost and expense, make such alterations or repairs to the Permitted Alterations as the Strata Corporation deems necessary;
- p) that the Owner and any subsequent owner(s) benefiting from the Permitted Alterations must be responsible for all present and future maintenance, repairs and replacements, increases in insurance, and any damage suffered or cost incurred by the Strata Corporation or any other strata lot owners as a result, directly or indirectly, by the installation and existence of the Permitted Alterations;
- q) despite any bylaws that state otherwise, the Owner and any subsequent owner(s) benefiting from the Permitted Alterations must indemnify and save harmless the Strata Corporation, its council members, contractors, employees and agents and the other owners in the Strata Corporation against any and all claims, demands, expenses, costs, damages, charges, insurance deductibles, actions and other proceedings made or brought against, suffered by or imposed upon the Strata Corporation or its property with respect to any loss, damage or injury, including death, directly or indirectly, arising out of, resulting from or sustained by the Strata Corporation by reason of the Permitted Alterations;
- r) that any costs or expenses incurred by the Strata Corporation as the result of such claim or demand as specified in paragraph q) will be the responsibility of the Owner and any subsequent owner benefiting from the Permitted Alterations and the said costs or expenses incurred by the strata corporation will be due and payable on or before the first day of the next month following the date on which the strata council provides notice of such costs or expenses.
- s) that the Owner will forthwith give notice in writing to the Strata Corporation of any damage to any strata lot or common property, including limited common property, that

may give rise to an insurance claim arising from or in connection with the Permitted Alterations;

- t) that, promptly after completion of the Permitted Alterations, the Owner will provide the Strata Corporation with a complete set of the Plans, showing the "as built" conditions;
 - u) that the Strata Corporation has incurred certain costs to process the Owner's request to install the Permitted Alterations and the Owner agrees, forthwith upon receipt of written notice of same from the Strata Corporation, to pay to the Strata Corporation, as applicable, the full amount of such costs including, but not exhaustively, the cost of all legal fees, disbursements and applicable taxes incurred by the Strata Corporation, as applicable, in connection with the preparation of this Agreement; and
 - v) to deliver to any prospective purchaser of the Strata Lot, a copy of this Agreement and to require as a term of any contract of purchase and sale in respect of the Strata Lot, the purchaser(s) agree to execute and to deliver to the Strata Corporation, on the completion date, an assignment of this Agreement or an agreement in the form of this Agreement and to be bound by the terms herein or therein, as the case may be.
5. The provisions of this Agreement shall be considered permanent conditions and covenants that are binding on the Owner.
 6. The benefit of this Agreement may not be assigned by the Owner except to the owner(s) from time to time of the Strata Lot, each of whom will, upon becoming the owner of the Strata Lot, be deemed to have assumed all of the obligations of the Owner under this Agreement.
 7. The Owner hereby acknowledges receipt of a copy of this Agreement and acknowledges that this Agreement constitutes the entire agreement between the Strata Corporation and the Owner with respect to the Permitted Alterations.
 8. The voiding of any part of this Agreement by judicial, legislative or administrative means will not void the remainder of this Agreement.
 9. The waiver by the Strata Corporation of any failure by the Owner to conform to the provisions of this Agreement will not affect the rights of the Strata Corporation in respect of any later failure.
 10. If the Owner is comprised of more than one person, all covenants, agreements and undertakings on the part of the Owner contained in this Agreement will be construed as both joint and several.

11. This Agreement will enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and permitted assigns.
12. This Agreement and all claims arising out of or relating to this Agreement will be governed exclusively by and construed in accordance with the laws of the Province of British Columbia.

IN WITNESS WHEREOF the Strata Corporation and the Owner have executed and delivered this Agreement as of the date first above written.

Signature _____
Print Name of the Owner: _____

Signature _____
Print Name of the Owner: _____

THE OWNERS, STRATA PLAN ♦
by its authorized signatories

Strata Council Member/PM