

INSURANCE TRUST AGREEMENT

This Agreement made this 27th day of May, 1988.

B E T W E E N:

YORK REGION CONDOMINIUM CORPORATION NO. 616
(hereinafter called the 'Settlor' or the 'Corporation')

- and -

THE CANADA TRUST COMPANY
(hereinafter called the 'Trustee')

WHEREAS the Settlor has obtained certain policies of insurance, as more particularly described in Schedule 'A' annexed hereto;

AND WHEREAS the Settlor desires to make provision for the expeditious payment, out of the proceeds of such insurance, in the event of damage to the property of the Corporation (the 'property') as described in the declaration and description of the Corporation registered pursuant to The Condominium Act R.S.O. 1980, as amended, and the regulations thereunder (hereinafter collectively referred to as the 'Act');

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration and the sum of TEN DOLLARS (\$10.00) of lawful money of Canada now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged), the parties hereto hereby covenant and agree to and with each other as follows:

ARTICLE I - Definitions

1.01 The terms used in this Agreement shall have ascribed to them the definitions contained in the Act, and the term 'declaration' shall mean the Settlor's declaration.

ARTICLE II - Appointment of Trustee

2.01 The Settlor hereby appoints the Trustee to act as a trustee for the Corporation for the purposes set forth in this Agreement, pursuant to the provisions of the declaration and by-laws of the Corporation, copies of which have previously been submitted to the Trustee.

ARTICLE III - Payment by Trustee

3.01 The Trustee hereby irrevocably authorizes and directs that all insurance proceeds from an insurance claim, not exceeding \$10,000.00, shall be paid directly from the insurer to the Settlor.

3.02 All insurance proceeds from any insurance claim exceeding \$10,000.00 received by the Trustee, shall be held by it in trust, and paid out in accordance with the terms and conditions hereinafter set out.

3.03 In the event of:

- (1) damage to the building(s) situate on the property, provided the Trustee receives a certificate executed by two officers of the Settlor, certifying that the board of directors of the Corporation (the 'board') has determined that less than 25% of the building(s) have been substantially damaged, or that 25% or more of the building(s) have been substantially damaged, but that owners who own 80% or more of the dwelling units have voted for repairs within sixty (60) days of such determination by the board; or
- (2) damage to the personal property or other assets of the Settlor, other than the buildings and the units;

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then the Trustee shall disburse the proceeds of all insurance policies in its hands arising out of such damage, towards the cost of repairing such damage, from time to time, as the repairs of such damage progress, upon the written request of the Settlor for the payment of a specified sum from the said proceeds, which request shall be accompanied by the following:

- a) A certificate signed by two officers of the Settlor dated not more than thirty (30) days prior to such request and countersigned by the architect or engineer (if any) employed by the Settlor in connection with such repairs, setting forth the following:
 - i) that the sum then requested either has been paid by the Settlor or is justly due to contractors, sub-contractors, materialmen, engineers, architects or other persons who have rendered services or furnished materials for the repairs therein specified, the names and addresses of such persons, a brief description of such services and materials, and the several amounts so paid or due to each of the said persons in respect thereof;
 - ii) that no part of such expenditures has been or is being made the basis of any previous or pending request for payment of insurance proceeds then held by the Trustee, or has theretofore been paid out of such insurance proceeds;
 - iii) that the sum requested, when added to all sums previously paid out by the Trustee, does not exceed the value of the work done to the date of such certificate;
 - iv) that except for the amount, if any, stated in such certificate to be due for services or materials, there is not outstanding any indebtedness known to the Settlor, after due inquiry, which is then due for labour, wages, materials, supplies or services in connection with such repairs which, if unpaid, might become the basis of a construction lien, by reason of such repair to the said buildings, or any part thereof; and setting forth
 - v) the person(s) to whom the payment requested is to be made and the amount to be paid to each such person; and
- b) An opinion of a solicitor, or other evidence reasonably satisfactory to the Trustee, that there has not been filed with respect to the said buildings or the property or any part or parts thereof, any construction lien which has not been discharged, except such liens as will be discharged by payment of the amount then requested.

3.04 Upon the receipt of a certificate of the Settlor stating that the work has been completed, and payment in full of the cost of repairs has been made, any balance of insurance proceeds remaining in the Trustee's hands (after the payments made in accordance with the provisions of section 3.03 hereof), shall be paid over by the Trustee to the Settlor.

3.05 In the event of damage to the building(s) situate on the property, and provided the Trustee receives a certificate executed by any two officers of the Settlor certifying that the board has determined that 25% or more of the building(s) have been substantially damaged, and that owners who own 80% or more of the dwelling units have, within sixty (60) days of such determination, voted to terminate the condominium in accordance with the provisions of the Act, rather than repair such damage, and notice of such termination has been registered against the property, then the Trustee shall disburse any insurance proceeds then in its hands or thereafter received by it pursuant to the provisions of Article VII hereof.

3.06 The Trustee shall promptly notify the Settlor of any proceeds of insurance received by the Trustee.

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- 3.07 Subject to the foregoing provisions of this Agreement, in the event that the Trustee is in receipt of proceeds of insurance from or in respect of any liability policy, the Trustee shall disburse such proceeds only upon receipt of, and in accordance with, the written directions of the Settlor, which directions shall be executed by any two officers of the Settlor.

ARTICLE IV - Deficiency of Insurance Proceeds

- 4.01 If, upon the receipt of any certificate referred to in paragraph 3.03 or 3.05 hereof, the Trustee shall not have sufficient funds to pay the amount or amounts due and owing as set out therein, the Settlor shall be so notified by the Trustee, and the Settlor shall then forthwith notify the Trustee, in writing, as to which of the persons or companies set forth in the said certificate(s) are to be paid by the Trustee, and the amount of each of such payments.

ARTICLE V - Notice to Mortgagee(s)

- 5.01 Upon being advised of damage to the said building(s), or upon receipt of any monies in accordance with the terms of this Agreement, the Trustee shall notify all mortgagees shown on the Settlor's register at the addresses noted on said register, by ordinary mail postage prepaid.

ARTICLE VI - Liability and Indemnification of Trustee

- 6.01 The Trustee shall have no active duties to perform or fulfill, either express or implied, except those which are expressly set forth in this Agreement, provided that in acting in accordance with the terms and provisions of this Agreement, the Trustee shall always have regard to the provisions of the declaration of the Settlor, and any applicable provisions of such of the by-laws of the Settlor which have been delivered to the Trustee by or on behalf of the Settlor. The Trustee shall, however, have no obligation or duty to inquire if there have been any new or additional by-laws passed or enacted by the Settlor, or any amendments to the declaration of the Settlor.
- 6.02 The Trustee shall, in no way, be responsible or liable for any loss, cost or damages which may result from anything done or omitted to be done by it, except in the case of its own negligence or bad faith.
- 6.03 The Trustee may act upon any certificate, statement, request, consent, agreement or other instrument provided for herein, not only as to its due execution and validity and the effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which it shall have in good faith believed to be genuine and to have been signed by the proper person or persons when received from the Settlor, without regard to any equities or knowledge that may be brought to the attention of the Trustee.
- 6.04 The Trustee shall not be under any duty to inquire as to the correctness of any amounts received by it on account of the proceeds of any insurance, nor shall it be under any obligation to take any steps or action to enforce the payment of any insurance proceeds or other monies to it. The Trustee shall deposit, in the usual course, all cheques or monies received by it and shall make the payments provided for in this Agreement; provided however, that the Trustee shall be under no obligation to make any payments specified in this Agreement except out of the proceeds of insurance held in trust by it for the Settlor.
- 6.05 The Settlor shall reimburse the Trustee for all disbursements and expenses incurred by the Trustee in connection with its duties under this Agreement, and shall indemnify and save the Trustee harmless from and against any and all liabilities, costs and expenses (including legal fees), which the Trustee may suffer or incur as a result of anything done or omitted to be done by it in the performance of this Agreement, except as a result of its own negligence or bad faith.

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6.06 The Trustee shall have no responsibility with respect to the application of any funds paid by it pursuant to the provisions of this Agreement.

ARTICLE VII - Termination of Condominium

7.01 Notwithstanding anything contained in this Agreement to the contrary, where a notice of termination in respect of the condominium is registered in accordance with the provisions of the Act, the Settlor shall forthwith notify the Trustee, in writing, of such registration, and upon receipt of such notice, the Trustee shall allocate the insurance proceeds then in its hands to each of the units in the condominium, based upon each unit's proportionate interest in the common elements (as set out in Schedule "D" of the declaration of the Settlor), and shall, subject to the provisions of the Act, then disburse such allocated proceeds, on a per unit basis, in the following order of priority:

- a) firstly, to those mortgagees and encumbrancers having a registered charge or encumbrance against the unit, in the order of priority of such outstanding charge(s) or encumbrance(s), to the extent of the amounts owing thereunder; and
- b) secondly, the balance, if any, to the registered owner(s) of the unit.

ARTICLE VIII - Termination of Agreement

8.0 The term of this Agreement shall commence upon the date of registration of the Settlor, and shall run for a period of twelve (12) months thereafter, whereupon in the event that a new board of directors of the Corporation has not been elected by the unit owners at a meeting called pursuant to Section 26 of the Act (the "Turnover meeting"), then this Agreement shall be renewed for a further twelve (12) month period upon written notice delivered by the Settlor to the Trustee requesting the renewal of same, and upon receipt by the Trustee of such notice, a new contract, having the same terms and conditions as herein set forth, shall be deemed to have been entered into for the next ensuing twelve (12) month period, as effectively as if a separate agreement had been executed by the parties hereto.

8.02 In the event that a new board of directors has been elected at the Turnover meeting, then this Agreement, or any subsequent agreement entered into, or deemed to be entered into pursuant to the provisions of Article 8.01 above (the "Subsequent Agreement"), shall terminate at the end of the twelve (12) month period during which the Turnover meeting was held, unless same is ratified by such new board of directors. The Settlor shall forthwith notify the Trustee in writing of any such ratification, and if ratified as aforesaid, this Agreement or the Subsequent Agreement (as the case may be) shall continue automatically from year to year, until sixty (60) days after the Settlor delivers written notice to the Trustee of its desire to terminate same. In the event that the new board of directors fails to ratify this Agreement or the Subsequent Agreement (as the case may be), then such new board shall forthwith cause the Settlor to enter into a new insurance trust agreement with another trust company or other firm qualified to act as a trustee, so that an insurance trust agreement will at all times be in existence and maintained by the Settlor.

8.03 Forthwith upon the termination of this Agreement or the Subsequent Agreement (as the case may be), and upon payment to the Trustee of all fees and charges due over to the Trustee, the Trustee shall turn over all sums deposited with it and not yet distributed by it in accordance with the provisions hereof, to any new trustee appointed pursuant to the provisions of the Settlor's declaration, and thereupon, the Trustee's obligations hereunder shall cease.

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- 8.04 Notwithstanding anything hereinbefore provided to the contrary, the Trustee may, at any time, resign from its duties hereunder by giving to the Settlor not less than sixty (60) days notice in writing thereof, and the Trustee's obligations hereunder (except for the payment of any sums remaining in its hands to a successor trustee, as herein provided), shall cease upon the expiry of such notice. Forthwith following such resignation, and upon payment to the Trustee of all fees and charges due to it hereunder, and upon delivery to it of a duplicate original agreement between the Settlor and another trust company registered under The Loan and Trust Corporations Act or such other person or firm qualified to act as a trustee (pursuant to which such other trust company or other person or firm shall assume the duties of an insurance trustee in the place of the Trustee), the Trustee shall turn over all funds deposited with it and remaining in its hands to such new trustee, and thereupon, the Trustee's obligations under this Agreement shall cease.
- 8.05 In the event that the Settlor fails to appoint a new trustee within sixty (60) days after notice to terminate has been given pursuant to paragraphs 8.02 or 8.04 hereof, the Trustee shall be entitled to appoint such new trustee.

ARTICLE IX - Modification or Amendment of Agreement

- 9.01 This Agreement shall not be amended or modified without the written consent of the parties hereto and any mortgagee holding first mortgages on more than 50% of the units in the Corporation.

ARTICLE X - Address for Service

- 10.01 Any certificate, declaration or notice required or desired to be given to the Settlor, pursuant to this Agreement, shall be in writing and shall be sufficiently given if mailed by prepaid registered post to the Settlor at:

33 Weldrick Road
Richmond Hill, Ontario
L4C 8W4

with a copy of any such notice(s) also being delivered to:

4800 Dufferin Street
Downsview, Ontario
M3H 5S9

Attention: Mr. Martin I. Applebaum, Q.C.

- 10.02 Any certificate, declaration or notice required or desired to be given to the Trustee pursuant to this Agreement shall be in writing and shall be sufficiently given if mailed by prepaid registered post to the Trustee at:

The Canada Trust Company
110 Yonge Street
Toronto, Ontario
M5C 1T4

Attention: Personal Trust Department (4th Floor)

- 10.03 Any such certificate, declaration or notice shall be deemed to have been received on the third business day next following the date of such mailing, except in the case of a mail strike existing or imminent at the time of mailing, in which latter event any such certificate, declaration or notice shall be delivered personally.

ARTICLE XI - Remuneration of Trustee

- 11.01 The Settlor shall pay the Trustee's fees and charges set out in Schedule 'B' attached hereto.

ARTICLE XII - Assignment of Agreement

12.01 This Agreement shall be binding upon, and shall enure to the benefit of, the parties hereto and their respective successors and permitted assigns, provided however that neither party hereto shall assign its respective rights or interests hereunder without the prior written consent of the other party hereto.

ARTICLE XIII - Acceptance of Trust

13.01 The Trustee hereby accepts the trusts herein set forth and agrees to disburse the proceeds of insurance in accordance with the provisions of this Agreement.

ARTICLE XIV Schedules

14.01 Schedules 'A' and 'B' annexed hereto form an integral part of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers duly authorized in that behalf.

YORK REGION CONDOMINIUM CORPORATION NO. 616

Per: [Signature]
President

Per: [Signature]
Secretary

THE CANADA TRUST COMPANY

Per: [Signature]
Authorized Signing Officer
D. K. Johnson
Supervisor
Personal Trust

Per: [Signature]
Authorized Signing Officer

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SCHEDULE "B"

Insurance Trustee's Fees

1. The sum of \$150.00 upon the execution of the Insurance Trust Agreement.
2. The sum of \$150.00 per annum.
3. For receipt and disbursement of the proceeds of insurance on each occurrence, an amount equal to the greater of the sum of \$150.00, or 1% of the receipts.
4. The said fees shall be subject to amendment annually upon the mutual agreement of the parties hereto.

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YORK REGION CONDOMINIUM CORPORATION NO. 616

MANAGEMENT AGREEMENT RENEWAL

York Region Condominium Corporation No. 616 and Del Property Management Inc. hereby agree to renew the term of the existing Management Agreement, as amended, for the two-year period to April 30, 1998, at a fee equal to the sum of \$23.50 per unit per month during the first year, increased by a factor based upon the Consumer Price Index effective May 1, 1997, exclusive of estoppel certificate fees, and fees relating to the preparation of certificates of compliance, otherwise under the same terms and conditions.

It is agreed and understood that such remuneration does not include any income, sales, or service taxes which are now, or may become, applicable.

IN WITNESS WHEREOF the parties hereto have executed this document under the seals of their duly authorized signing officers.

YORK REGION CONDOMINIUM CORPORATION NO. 616

Per: _____

Per: _____

DEL PROPERTY MANAGEMENT INC.

Per: _____

Dated at Downsview, Ontario, this 28th day of March, 1996.

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MANAGEMENT AGREEMENT

THIS AGREEMENT made this 27th day of May, 1988.

B E T W E E N:

YORK REGION CONDOMINIUM CORPORATION NO. 616
(hereinafter called the 'Corporation')

- and -

OF THE FIRST PART

DEL PROPERTY MANAGEMENT INC.,
(hereinafter called the 'Manager')

OF THE SECOND PART:

WHEREAS the Corporation is comprised of owners of units and their appurtenant common interests, in respect of the lands and premises registered as a condominium and situate in the Town of Richmond Hill, in the Regional Municipality of York Region, comprising part of Lot 42, Concession 1, E.Y.S., and being more particularly designated as Part 2 on Reference Plan 65R-10231, registered in the Land Registry Office for the Land Titles Division of York Region (No. 65), and municipally known as 33 Weldrick Road, Richmond Hill, Ontario;

AND WHEREAS the Corporation has agreed to retain the services of the Manager to manage the common elements and other assets of the Corporation, on and subject to the terms and provisions hereinafter contained;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration and the sum of TEN DOLLARS (\$10.00) of lawful money of Canada, now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged), the parties hereto hereby covenant and agreement to and with each other as follows:

1. The terms used herein shall have ascribed to them the definitions contained in The Condominium Act, R.S.O. 1980, as amended, and the regulations made thereunder (all of which are hereinafter collectively referred to as the 'Act').
2. The Corporation hereby appoints the Manager to be its sole and exclusive representative and managing agent (subject to the overall control of the Corporation and to the specific provisions hereof) to manage the common elements and other assets of the Corporation for a period of two (2) years, commencing on the date of registration of the declaration of the Corporation, and to act on the Corporation's behalf in the carrying out of the duties of the Manager as hereinafter set out, and to enter into such contracts and agreements in the name of the Corporation as may be necessary or ancillary to the performance of such duties.
3. The Manager hereby accepts such appointment, and agrees to manage the common elements and assets of the Corporation in a faithful and diligent manner, subject to the direction of the board of directors of the Corporation (the 'board').
4. The Manager hereby acknowledges that it is familiar with the terms of the declaration and by-laws of the Corporation registered pursuant to the Act.
5. The Manager, in the performance of its duties hereunder, covenants and agrees to:
 - a) Take such steps as are within its powers to enforce the terms of the Corporation's declaration, by-laws and rules, and any amendments thereto which presently exist or which may hereafter be made, and in respect of which the Manager is notified in writing;
 - b) Forthwith communicate to all owners the text and import of any further by-laws or rules;

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- c) Advise and consult with the board with respect to any further by-laws and rules which, in the opinion of the Manager, ought to be created and established to further the harmonious and satisfactory operation of the common elements and assets of the Corporation for the common benefit of the owners;
 - d) Prepare and keep current the Corporation's register of owners and mortgagees entitled to vote at meetings, from information supplied by the board;
 - e) Utilize appropriate collection procedures and receive all monies payable by the owners under the declaration and by-laws of the Corporation, and deposit same in a separate account to be maintained by the Manager on behalf of the Corporation, or as the board shall otherwise direct; provided that for the purposes of this Agreement, collection procedures shall not be deemed or construed to include all or whatever legal means are required to effect collection. All such monies collected by the Manager shall thereafter be administered by the Manager, and shall be used to:
 - i) pay all management fees outstanding, and all accounts properly incurred by or on behalf of the Corporation;
 - ii) pay for all insurance coverage obtained and maintained in accordance with the provisions of the declaration and by-laws of the Corporation, in the amounts directed by the board;
 - iii) repair and maintain, or cause to be repaired and maintained, those parts of the common elements which require repair and maintenance by the Corporation in accordance with the provisions of the declaration and by-laws, and without limiting the generality of the foregoing, such repair and maintenance costs shall include the costs incurred in cutting and trimming all lawns and landscaped areas; snow removal; keeping the common elements in a neat and tidy condition, by removing all litter therefrom; keeping all electrical wiring circuits and lighting fixtures in the common elements in good working order and providing all necessary light bulbs; providing for the removal and disposal of garbage; and supervising such employees of the Corporation as may be required at all times to promptly and efficiently carry out all of the foregoing, subject to the overall direction and control of the board;
 - f) Keep proper accounts of all financial transactions involved in the management of the common elements and assets of the Corporation, and render to the board, upon the board's written request for same, unaudited monthly statements of income and expenditures with respect thereto, and keep such accounts open for inspection by the board at all reasonable times.
6. The duties of the Manager shall not include the duties of the officers of the Corporation as set forth in the by-laws, except as otherwise specifically provided in this Agreement.
7. a) The Manager may not enter into any contract on behalf of the Corporation which will extend for a period in excess of one (1) year, without specific authority from the board.
- b) The Manager shall make no expenditure in excess of ONE THOUSAND DOLLARS (\$1,000.00) without first obtaining specific authority from the board, except for monthly or recurring operating costs, and subject further to the following exception:

If, in the Manager's opinion, there exists a hazardous situation which could cause personal injury, or damage to the property of the Corporation or to its equipment or contents, or which could impair the value of the unit owners' investment, or if failure to rectify such situation might expose either the board, the Corporation or the Manager to penalties, fines, imprisonment or any other substantial liability, then the Manager is hereby authorized to proceed with such rectification of the hazard or problem if the board

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or its representatives cannot be reasonably located, at whatever cost is considered necessary to effect such rectification.

- 8. In the course of each year during the term of this contract, the Manager shall furnish to the board in writing, an estimated budget for the following year setting forth, by categories, the Manager's best estimate of all expenses to be incurred in the operation of the common elements and assets of the Corporation for the next ensuing year, including without limiting the generality of the foregoing, any taxes payable by the Corporation, as well as any insurance premiums, water, gas and hydro electric charges, reserve fund assessments, and all estimated repair, maintenance and supervision costs in respect of the common elements. Upon request of the board, or whenever in the opinion of the Manager any change from the expenditures forecast in the annual budget makes it desirable to do so, the Manager shall submit to the board a supplementary budget covering the expenses to be incurred in the operation of the common elements and other assets of the Corporation for the then remaining portion of the current fiscal year. The Manager shall at all reasonable times make itself available for consultation with the board for the purposes of establishing or revising the Corporation's budget(s) and the common expenses to be paid by the owners under the provisions of the declaration and by-laws of the Corporation.

- 9. The Manager shall at all times keep the board and all owners advised of the telephone number or numbers at which an agent of the Manager may be reached at any time during normal business hours in respect of any infraction of the declaration, by-laws or rules of the Corporation, or at any time during the day or night in respect of any emergency involving or pertaining to any part of the common elements, and the Manager will make arrangements to deal promptly with such infractions, and shall deal immediately with any emergency arising in connection with the maintenance and operation of the common elements. The Manager shall deal in the first instance with minor emergencies and infractions, and shall forthwith report to the board on any major emergency, or on any persistent, flagrant or serious violation of the declaration, by-laws or rules. It is understood and agreed by the parties hereto that the Manager shall, in its sole discretion, determine whether or not an emergency exists, and whether or not such emergency is of a minor or major nature.

- 10. The Corporation hereby covenants and agrees to do the following:
 - a) Pay to the Manager, on a monthly basis, for its managerial services performed hereunder during the term of this Agreement, a management fee equal to the sum of:
 - i) \$20.00 per dwelling unit per month; and
 - ii) \$75.00 per guest suite per month.

It is understood and agreed that the foregoing monthly remuneration does not and shall not include the cost of performing any of the services set forth in paragraph 5(e)(iii) hereof, which services shall be an additional charge to the Corporation. In addition, the Corporation shall forthwith pay to the Manager the sum of \$25.00 for each estoppel certificate prepared by the Manager on behalf of the Corporation pursuant to the provisions of the Act;

 - b) Reimburse the Manager promptly for any monies which the Manager may elect to advance for the account of the Corporation, provided that nothing herein contained shall be construed to obligate the Manager to make any such advances.

 - c) Except in the case of gross negligence, fraud, or willful misconduct on the part of the Manager, and its servants or agents, performed in the course of their respective duties, the Corporation shall indemnify and save harmless the Manager and its servants or agents from any and all costs, claims, actions, demands, damages and liabilities which they may suffer or incur in connection with, or arising from, any damage or injuries to persons or property in or about or in any way connected

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with the property of the Corporation, or arising out of the payment or non-payment of any debts or accounts incurred by or on behalf of the Corporation, and to defend at the expense of the Corporation all suits which may be instituted or pursued against the Manager and its servants or agents on account thereof. It is understood and agreed that the Manager shall not be responsible for any claims, actions, demands, damages or injuries caused by any employee or agent of the Manager acting outside the scope of the duties described in this Agreement, or beyond the limits of authority prescribed to such employee or agent by the terms of his employment or agency agreement with the Manager.

- d) Deliver to the Manager copies of all by-laws and rules made by the Corporation or the owners.
 - e) Provide without charge, for the exclusive use of the Manager and its staff, such office accommodation as the Manager deems necessary in order to perform its management functions.
 - f) Employ such staff as may be required to promptly and efficiently repair and maintain the common elements and other assets of the Corporation. Without limiting the generality of the foregoing, such staff shall include superintendents and cleaners and all other individuals employed by the Corporation to repair and/or maintain the common elements. The burden of remunerating such staff shall be borne by the Corporation. The Corporation shall have the sole responsibility, and the final authority, to hire, dismise, discipline, accept termination, direct replacement or advancement, set or authorize pay increases and vacations, and to direct or define the overall duties and working conditions of such staff. However, the Corporation may, in the sole discretion of the board, delegate from time to time to the Manager the implementation of its decisions relating to those responsibilities set forth in the preceding sentence, and with such authorization or approval, the Manager, as managing agent, may so act for and on behalf of the Corporation.
11. a) The Manager may, at its option, terminate this Agreement by written notice to the Corporation, and upon such termination, all obligations of the Manager shall cease, and the Corporation shall forthwith pay to the Manager any monies due to it pursuant to provisions of paragraph 11(b) hereof, up to the date of termination of this Agreement. The Corporation may, at its option, terminate this Agreement upon giving 60 days notice in writing to the Manager, at which time all outstanding accounts owed by the Corporation to the Manager pursuant to the provisions of paragraph 11(b) hereof shall be forthwith settled and paid.
- b) Upon the termination of this Agreement pursuant to the provisions of paragraph 11(a) above, the Corporation shall pay to the Manager, as a termination debt and as liquidated damages, the following: all outstanding accounts owed by the Corporation to the Manager; all disbursements incurred by the Manager for or on behalf of the Corporation, and not paid; all outstanding salaries, wages and fees, and all expenses, disbursements and wind-down costs related to the transfer of management control on such termination, from the Manager to the board, or to the new property manager selected by the board.
12. a) All notices required or desired to be given to either of the parties hereto shall be in writing, and shall be sufficiently given:
- i) to the Corporation, if signed by or on behalf of the Manager and personally delivered or mailed by prepaid registered post to the Corporation at the address for service set out in the declaration of the Corporation, or at such other address as the Corporation may from time to time designate by written notice pursuant hereto;

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ii) to the Manager, if signed by an authorized signing officer of the Corporation and delivered personally or mailed by prepaid registered post to the Manager at:

4800 Dufferin Street,
Downsview, Ontario,
M3H 5S9

Attention: Mr. A. Pilish

or at such other address as the Manager may from time to time designate by written notice pursuant hereto.

b) All such notices shall be deemed to have been received on the date of personal delivery, or if mailed as aforesaid, on the third business day next following the date of such mailing.

IN WITNESS WHEREOF the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their duly authorized signing officers.

YORK REGION CONDOMINIUM CORPORATION NO. 616

Per: [Signature]
President

Per: [Signature]
Secretary

DEL PROPERTY MANAGEMENT INC.

Per: [Signature]
Authorized Signing Officer

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AGREEMENT TO PROVIDE ENERGY MANAGEMENT SERVICES

THIS AGREEMENT entered into this 27th day of May, 1988.

B E T W E E N:

PROVIDENT ENERGY MANAGEMENT INC.
(hereinafter called ('Energy'))

OF THE FIRST PART

- and -

YORK REGION CONDOMINIUM CORPORATION NO. 616
(hereinafter called the 'Corporation')

OF THE SECOND PART

WHEREAS the Corporation is comprised of owners of units and their appurtenant common interests in respect of the lands and premises registered as a condominium and situate in the Town of Richmond Hill, in the Regional Municipality of York Region, comprising part of Lot 42, Concession 1, E.Y.S., and being more particularly designated as Part 2 on Reference Plan 65R-10231, registered in the Land Registry Office for the Land Titles Division of York Region (No. 65), and municipally located at 33 Weldrick Road, Richmond Hill, Ontario (the 'Real Property');

AND WHEREAS the Corporation has agreed to retain the energy management services provided or furnished by Energy in respect of the high-rise condominium apartment building situate on the Real Property (the 'Building');

NOV THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration and the sum of TEN (\$10.00) DOLLARS now paid by each of the parties hereto to the other (the receipt and sufficiency of which is hereby acknowledged), the parties hereto hereby covenant and agree, to and with each other, as follows:

ARTICLE I - What Energy Shall Do

- 1.01 Energy shall attend to the installation of a system in the Building to monitor and control the consumption of heating fuel and electricity therein or therefrom, which system shall consist of wiring, fittings, sensors, a computer and such other devices as Energy may deem necessary or appropriate in its sole and unfettered discretion (hereinafter collectively referred to as the 'System').
- 1.02 Energy shall maintain and operate the System in accordance with Energy's internal operating criteria which have been established and may be modified, from time to time in the future, in Energy's sole discretion.
- 1.03 Prior to the installation of the System, Energy shall arrange (or has already arranged) with the declarant of the Corporation for an energy audit to be conducted, consisting of the inspection of the Building, its heating and electrical apparatus, and a review of the Corporation's books and records pertaining to the consumption of heating fuel and electricity in the Building, and the conducting of such tests and examinations as Energy may deem appropriate in its sole discretion. Energy shall advise the Corporation of the consumption of heating fuel and electricity in the Building during the period used as a basis for the energy audit (which shall be a twelve month period selected by the person conducting the energy audit or such shorter period of time for which reliable data is available) and the estimated potential savings which the Corporation can expect to realize by virtue of the installation of the System. The energy audit shall be conducted by an engineering firm selected by Energy. Energy's sole and exclusive obligations pertaining to the selection of the engineering firm shall be to select an engineering firm which is independent of Energy and

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acts at arm's length with Energy, and is recommended or approved for energy management work by Energy, Mines and Resources Canada or any similar governmental authority. Such firm shall be retained by Energy on behalf of the Corporation, and the Corporation shall be solely responsible for payment of all fees charged by such engineering firm in connection with the said energy audit.

ARTICLE II - Term of Agreement and Renewal Option

- 2.01 The term of this agreement shall commence on the later of:
- (a) the date of execution of this agreement (which shall for all purposes be the date above-mentioned); and
 - (b) the first day of the month immediately following the completion of the installation of the System in the Building by or on behalf of Energy;
- and shall expire five (5) years thereafter (hereinafter referred to as the 'Initial Term').
- 2.02 The Corporation shall have the right to renew this agreement for an additional term of five (5) years, commencing from the date immediately following the last day of the Initial Term (hereinafter referred to as the 'Second Term'), upon giving written notice to Energy of its desire to renew the term of this agreement as aforesaid, at least 60 days prior to the end of the Initial Term.
- 2.03 In the event that the System (or any component parts thereof which are, in the sole opinion of Energy, material to the proper operation of the System) destroyed by fire or any other cause, or in the event that the Corporation defaults in the due and regular performance of any of its obligations hereunder, then Energy shall have the unilateral right and option of immediately terminating this agreement, by written notice delivered to the Corporation, without prejudice to any other rights or remedies that Energy may have as a result of the Corporation's default.

ARTICLE III - Charges Payable By The Corporation To Energy

- 3.01 The Corporation shall pay Energy the following monthly fees, payable in arrears on the last day of each and every month throughout the term of this agreement and any renewal thereof:
- (a) \$715.42 per month, for the monitoring of the Corporation's overall energy savings; and
 - (b) \$80.00 per month, for the logging/recording and monitoring of the operation of all supervisory systems in the Building, including the sump pump, the water treatment system and the emergency generating system (if and where applicable).
- 3.02 Notwithstanding anything contained herein to the contrary, it is understood and agreed by the parties hereto that the foregoing monthly fees shall only be applicable for the first year of the Initial Term and thereafter, the monthly fees for each of the succeeding or subsequent years of the Initial Term and the Second Term shall be increased respectively from the monthly fees payable during the immediately preceding year by the percentage increase in the Consumer Price Index published by Statistics Canada (all items for regional cities) for the Municipality of Metropolitan Toronto (hereinafter referred to as the 'CPI') during the immediately preceding year (determined by comparing the CPI as at the beginning of such year with the CPI as at the end of such year).
- 3.03 The Corporation shall obtain and maintain adequate fire, theft and liability insurance in respect of the System throughout the term of this agreement and any renewal thereof (for the full replacement cost thereof, on a stated amount/no co-insurance basis) and shall be responsible for paying all applicable insurance premiums in connection therewith. Each insurance policy will name Energy or its nominee as

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the insured party and loss payee thereof. Energy shall be solely responsible for determining the adequacy of the insurance coverage so obtained by the Corporation. The Corporation shall also be responsible for the cost of procuring and maintaining a complete labour and materials preventative-maintenance contract with a contractor selected by Energy in its sole discretion, and the cost of same is presently estimated at approximately \$2,100.00. Should Energy pay any insurance premiums for procuring the insurance coverage hereinbefore contemplated, or make any payments in connection with the aforementioned preventative-maintenance contract, then the Corporation shall reimburse Energy therefor, within 30 days of its receipt of an invoice from Energy with respect thereto.

ARTICLE IV - Calculating and Reporting Energy Savings

- 4.01 Energy shall prepare and deliver to the Corporation a yearly report setting out the aggregate amount of monetary savings that the Corporation realizes as a result of the installation of the System (hereinafter collectively referred to as the "Savings").
- 4.02 The Savings shall be calculated for each year throughout the term of this agreement and any renewal thereof. The Savings in respect of electrical consumption shall be equal to the decrease in consumption, based on kilowatt hours, (reflected by the electrical billing demand charge and predicated on the supplier's demand charge per kilowatt used) in comparison to the corresponding period of time utilized as a basis for the energy audit conducted pursuant to section 1.03 hereof. The Savings in respect of gas consumption shall be based on the amount or number of cubic feet of gas used, in comparison to the corresponding period of time utilized as a basis for the energy audit conducted pursuant to section 1.03 hereof.
- 4.03 In calculating the Savings, Energy may make adjustments deemed appropriate by Energy in its sole discretion, taking into account factors generally accepted by the engineering profession as being relevant in determining the consumption of heating fuel and electricity in the Building during all relevant periods of time, including without limitation, variations in energy costs and outside temperatures, changes to the Building and its use or occupancy, the start-up of equipment and the addition of new equipment.

ARTICLE V - Ownership of the System

- 5.01 It is expressly understood and agreed by the parties hereto that the System, and all of its component parts, shall at all times remain the sole property of Energy (or of any party leasing any of such component parts to Energy), and to the extent required or desired by Energy, the latter shall be entitled to attach such markings or identification plates to the components of the System in order to give notice of such rights and interests therein or thereto as Energy may determine in its sole discretion, and the Corporation shall not alter or interfere with such markings or identification plates whatsoever.
- 5.02 Upon the expiration or other termination of this agreement, Energy shall be entitled to enter the Building and remove the System and all or any of its component parts, but nothing contained herein shall be construed or interpreted as imposing upon Energy the obligation to remove the System or any of its component parts, as Energy shall also be entitled to retain same within and/or upon the Building, even after the termination hereof.

ARTICLE VI - Option to Purchase the System

- 6.01 Provided it has not been in default of its obligations under this agreement, the Corporation shall have the unilateral right and option of purchasing the System and all of its component parts, from Energy, at either the end of the Initial Term, or the end of the Second Term, for the following price:

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- (a) If acquired by the Corporation at the end of the Initial Term, the purchase price shall be equal to \$25,000.00. The Corporation shall give written notice to Energy, no later than sixty (60) days prior to the last day of the Initial Term, of its desire to exercise such option to purchase the System, and shall complete such purchase transaction on the last day of the First Term, whereupon the Corporation shall pay to Energy the said purchase price for same, by cash or certified cheque, and shall also pay any balance owing to Energy in respect of the monthly fees due and payable in accordance with the foregoing provisions, up to the end of the Initial Term.
- (b) If acquired by the Corporation at the end of the Second Term, the purchase price shall be \$10,000.00. The Corporation shall give written notice to Energy, no later than 60 days prior to the last day of the Second Term, of its desire to exercise such option to purchase the System, and shall complete such purchase transaction on the last day of the Second Term, whereupon the Corporation shall pay to Energy the said purchase price for same, by cash or certified cheque, and shall also pay any balance owing to Energy in respect of the monthly fees due and payable in accordance with the foregoing provisions, up to the end of the Second Term.

ARTICLE VII - Access to System/Security of System

- 7.01 The Corporation shall take all steps desired or required by Energy to assist and co-operate in the installation and operation of the System, and shall permit access to Energy's authorized agents and representatives to all relevant parts of the Building in connection therewith. Without limiting the generality of the foregoing, it is understood and agreed that for as long as this agreement is in existence, and up to two (2) years thereafter, Energy and its authorized agents and representatives shall have the free, uninterrupted and unobstructed right and license to enter upon and within the Building (and any office where books and records pertaining to the Building are maintained) for the purposes of installing, maintaining, repairing and monitoring the System, and examining the books and records pertaining to the consumption of heating fuel and electricity with respect thereto, and ultimately dismantling and removing the System (or any of its component parts) therefrom.
- 7.02 The Corporation shall, throughout the term of this agreement and any renewal thereof, make available to Energy all of its books and records pertaining to the consumption of heating fuel and electricity in the Building, in respect of the period of time utilized as a basis for the energy audit conducted pursuant to section 1.03 hereof, as well as in respect of any other period of time during the term of this agreement, including without limitation, copies of all invoices pertaining to the consumption of heating fuel and electricity in the Building. By entering into this agreement, the Corporation hereby irrevocably authorizes its property manager or managing agent to make available to Energy all of its books and records, in order to allow Energy to conduct its investigations and perform its duties and responsibilities as herein set forth.
- 7.03 The Corporation covenants and agrees to supply, without any charge or cost to Energy, adequate space in the Building for the installation and maintenance of the System, in a location secured by a locked door and accessible only to personnel authorized by Energy. The Corporation shall keep said location secure, and shall forthwith report to Energy any incident of violation of said security which comes to the attention of the Corporation.

ARTICLE VIII - Miscellaneous Provisions

- 8.01 The Corporation represents and warrants to Energy that it is the owner of the Building, or alternatively, if the Corporation is a condominium corporation, that it is responsible for the operation and maintenance of the Building, and has the power and authority to enter into this agreement and fulfill its covenants and obligations contained herein.

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- 8.02 Energy shall not be responsible or liable for any death or injury arising from, or in connection with, any occurrence in or relating to the Building, nor for any damage to any property of the Corporation or of others located in or relating to the Building, nor shall it be responsible or liable for any loss or damage to any property of the Corporation or of others from any cause or source whatsoever, whether or not any such death, injury, loss or damage results from the negligence of Energy or its agents, servants or employees, or any other person(s) for whom Energy may in law be responsible, and whether or not such death, injury, loss or damage results from a fundamental breach of this agreement (or any other agreement made between the parties hereto), or the breach of a fundamental term of this agreement (or of any other agreement made between the parties hereto). Without limiting the generality of the foregoing, it is expressly understood and agreed that Energy shall not be responsible or liable for any injury or damage caused, either directly or indirectly, to any person(s) or property, whether resulting from the installation, operation, maintenance and/or malfunction of the System (or of any component parts thereof) or otherwise.
- 8.03 The liability of Energy hereunder, in respect of any default or breach of this agreement (of any nature or kind whatsoever), including without limitation, a fundamental breach of this agreement or the breach of a fundamental term hereof, shall be limited to the sum of ONE HUNDRED (\$100.00) DOLLARS, in respect of each such breach.
- 8.04 Notwithstanding anything contained in this agreement or set out in any reported results of the aforementioned energy audit (conducted pursuant to section 1.03 hereof) to the contrary, it is acknowledged and understood that Energy has not made, and is not making, any representation or warranty whatsoever to the Corporation that any Savings shall result from the installation and operation of the System, and Energy shall not be liable to the Corporation in any manner if no Savings are, in fact, realized as a result of the installation of the System, or if the amount of the Savings realized are unsatisfactory to the Corporation in any respect.
- 8.05 This agreement constitutes the entire agreement between Energy and the Corporation pertaining to the subject matter hereof, including, without limiting the generality of the foregoing, the installation, operation and monitoring of the System, and all prior negotiations, commitments, conditions, representations, warranties and undertakings are merged herein. Except as provided in this agreement, there are no oral or written conditions, representations, warranties, undertakings or agreements (including collateral agreements) either expressed or implied, made by Energy to the Corporation relating to the subject matter of this agreement.
- 8.06 No amendment or other modification to this agreement shall be valid or binding upon Energy or the Corporation unless it is writing and signed by both Energy and the Corporation.
- 8.07 In the sole discretion of Energy, any of its rights or obligations under this agreement may be exercised or performed by an independent person designated by Energy, which person shall be deemed not to be the employee or agent of Energy for liability purposes.
- 8.08 No waiver by Energy of any breach, failure or default in performance by the Corporation and no failure, refusal or neglect by Energy to exercise any right under this agreement or to insist upon strict compliance with the obligations of the Corporation under this agreement shall constitute a waiver of the provisions of this agreement with respect to any subsequent breach, failure or default and shall not constitute a waiver by Energy of its right at any time to require strict compliance with the provisions of this agreement.
- 8.09 This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
- 8.10 Time shall be of the essence of this agreement.

- 8.11 Any notice or report which Energy desires (or is required) to deliver to the Corporation hereunder may be duly delivered by mailing same to the Corporation at the address indicated at the bottom of this agreement, and if so mailed, same shall be deemed to have been delivered on the second business day following the date of mailing same. Any notice which the Corporation desires (or is required) to deliver to Energy hereunder may be duly delivered by personal delivery to Energy at the address indicated at the bottom of this agreement, and same shall be deemed to have been delivered when actually received by Energy.
- 8.12 This agreement shall be binding upon, and may be enforced by, the parties hereto and their respective heirs, administrators, personal representatives, executors, successors and assigns, provided however that this agreement shall at all times be personal to, and non-assignable by, the Corporation.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement as of the date first mentioned above.

PROVIDENT ENERGY MANAGEMENT INC.

YORK REGION CONDOMINIUM CORPORATION NO. 616

Per: [Signature]
Authorized Signing Officer

Per: [Signature]
President

Per: [Signature]
Secretary

Address for service:

Provident Energy Management Inc.
4800 Dufferin Street, Suite 200
Downsview, Ontario
M3H 5S9

Address for service:

York Region Condominium Corporation No. 616
33 Weldrick Road
Richmond Hill, Ontario
L4C 8W4

Attention: Andre Pilish