

No. A972569  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

ERON MORTGAGE CORPORATION, IN IT CAPACITY AS  
TRUSTEE AND OTHERS

PETITIONER

AND:

ERON MORTGAGE CORPORATION  
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE  
OF BRITISH COLUMBIA  
ERON FINANCIAL SERVICES LIMITED  
ALL INVESTORS AS SET OUT IN SCHEDULE "A"  
ATTACHED TO THE PETITION

RESPONDENTS

**ORDER MADE AFTER APPLICATION**

BEFORE ) *Mr. Justice* )  
          ) THE HONOURABLE ~~J.A.~~ TYSOE ) 13 SEPTEMBER, 2010  
          ) )  
          ) )

ON THE APPLICATION OF THE JUDICIAL TRUSTEE, PRICEWATERHOUSECOOPERS  
INC.

- coming on for hearing at Vancouver, British Columbia on 13 September, 2010 and on hearing John Grieve, counsel for the Judicial Trustee and no one else appearing although duly served and upon reading the Judicial Trustee's Report to the Court dated August 13, 2010 and filed (the "Report");

THIS COURT ORDERS that:

1. The transfer of control of the Valleyview Project to the Lenders' Committee from the Judicial Trustee substantially in accordance with Judicial Trustee's recommendations contained in the Report is hereby approved ("Control Transfer");
2. In the context of the Control Transfer new Trust Deeds substantially in the form attached hereto as Schedules "A" and "B" be executed, by 534170 B.C. Ltd, and Stephen



Dimond and Michael Buchanan, respectively (the "New Trust Deeds") and the Trustee and Stephen Dimond and Michael Buchanan execute and deliver such further and other documents as the Trustee or Stephen Dimond and Michael Buchanan require to give effect to the Control Transfer;

3. Concurrent with the execution of the New Trust Deeds, 534 execute a mortgage in a form reasonably satisfactory to the Judicial Trustee, with a two year term, with interest running at 5% per annum, calculated semi-annually, not in advance securing the obligation of 534 to pay the amounts referred to in paragraph 4.3 of the Report;

4. All of the foregoing is subject to the pronouncement in B.C. Supreme Court Action No. H990521 of an Order Absolute in Foreclosure vesting title in those certain parcels or tracts of land and premises situate, lying and being in the Province of British Columbia and more particularly described as:

Parcel Identifier No. 015-258-360  
THE SOUTHWEST ¼ OF DISTRICT LOT 4028 CARIBOO DISTRICT  
EXCEPT PLANS H226, 26531, PGP37520, PGP40312 AND PGP41662 and  
29887

Parcel Identifier No. 015-258-378  
THE SOUTHEAST ¼ OF DISTRICT LOT 4028 CARIBOO DISTRICT  
EXCEPT PLAN 26531.

 5. ~~an order abridging the time for service of this application to two clear days;~~ 

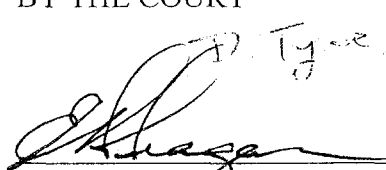
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of \_\_\_\_\_  
 Party  Lawyer for the Judicial Trustee,  
PricewaterhouseCoopers Inc.



JOHN GRIEVE  
\_\_\_\_\_  
<Print Name>

BY THE COURT

  
REGISTRAR

## SCHEDULE "A"

**THIS DECLARATION OF NOMINEE OWNERSHIP** is made effective the \_\_\_\_ day of \_\_\_\_\_, 2010.

### **WHEREAS:**

A. 534170 B.C. Ltd. is the trustee under a Declaration of Trust (the "Valleyview Lenders Trust") made the \_\_\_\_ day of \_\_\_\_\_, 2010.

B. Stephen Dimond and Michael Buchanan (the "Registered Owners") are the initial members of the Lenders Committee established under the Valleyview Lenders Trust.

C. The Registered Owners wish to set-out the terms on which they will hold 100 Common shares in 534170 B.C. Ltd. (the "Shares") in trust for the Beneficiaries (as that term is defined in the Valleyview Lenders Trust).

NOW THEREFORE THIS DECLARATION OF NOMINEE OWNERSHIP WITNESSES AS FOLLOWS:

1. **Nominee, Agent and Bare Trustee.** The Registered Owners hereby declare that they hold and will hold the legal title to the Shares as nominee, agent and bare trustee for the sole benefit and account of the Beneficiaries. The Registered Owners will have no equitable or beneficial interest in the Shares, and the equitable and beneficial interest in the Shares will be vested solely and exclusively in the Beneficiaries. Any benefit, interest, profit or advantage arising out of or accruing from the Shares is and will continue to be a benefit, interest, profit or advantage of the Beneficiaries and if received by the Registered Owners will be received and held by the Registered Owners for the sole use, benefit and advantage of the Beneficiaries.

2. **Registered Owners to Act on Direction of Beneficiaries.** The Registered Owners agree that they will, upon the direction of the Beneficiaries, deal with the Shares and do all acts and things in respect of the Shares at the expense of and as directed by the Beneficiaries from time to time and will assign, transfer, convey, lease, mortgage, pledge, charge, or otherwise deal with the Shares or any portion thereof at any time and from time to time in such manner as the Beneficiaries may direct, to the extent permitted under all relevant laws. Without limiting the generality of the foregoing, the Registered Owners will transfer legal title to the Shares to or as directed by the Beneficiaries forthwith upon the written demand of the Beneficiaries.

3. **Beneficiaries Procedures.** All procedures and meetings of the Beneficiaries hereunder shall be governed by and conducted in accordance with the terms and conditions set out for such procedures and meetings of the Beneficiaries under the Valleyview Lenders Trust.

4. **Beneficiaries Interest in Shares.** The Beneficiaries' respective interests in the Shares shall be as reflected as set out in Schedule C to the Valleyview Lenders Trust, as may be adjusted from time to time.

5. **Direction to and Replacement of Registered Owners.** The Beneficiaries shall be entitled to give directions to the Registered Owners, and to remove and replace the Registered

Owners, in the same manner as the Beneficiaries are entitled to give directions to remove, and replace, the members of the Lenders Committee as set out in the Valleyview Lenders Trust.

6. **Reimbursement of Expenses.** Any payments or disbursements made by the Registered Owners in respect of the Shares in accordance with this Agreement will be made as the agent of and for the account of the Beneficiaries and the Beneficiaries will reimburse the Registered Owners for any amount reasonably and properly expended by the Registered Owners in connection with the Shares, such expenses to be borne by the Beneficiaries in the same manner and proportions as set out in the Valleyview Lenders Trust. The Registered Owners will not be entitled to any remuneration or any revenue or profit in respect of the Shares for acting as nominee, agent and bare trustee.

7. **Governing Law.** This Declaration of Trust and all matters arising hereunder will be governed by and construed in accordance with the laws of British Columbia, which will be deemed to be the proper law hereof, and the courts of British Columbia will have the exclusive jurisdiction to entertain and determine all claims and disputes arising out of or in any way connected with this Declaration of Trust and the validity, existence and enforceability hereof.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written.

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Stephen Dimond

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Michael Buchanan

## SCHEDULE "B"

THIS DECLARATION OF TRUST is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

BY:

**534170 B.C. LTD.**

(the "Original Trustee")

WHEREAS the Trustee holds certain property by way of Trust for the benefit of the Beneficiaries and has made this Declaration of Trust to witness the creation of the Trust, to establish its terms, and to define the rights and obligations of the Trustee.

**NOW THIS DECLARATION OF TRUST WITNESSES** as follows:

### ARTICLE 1 CREATION OF THE TRUST

1.1 Name of Trust. The Trust created by this Declaration of Trust shall be known as **THE VALLEYVIEW LENDERS TRUST**, or by such other name as the Trustee may from time to time appoint in writing. This Declaration of Trust supersedes any prior Declarations of Trust or Trust Agreements which may have existed wherein Pricewaterhouse Coopers was acting as Judicial Trustee under the Original Trustee. Any such prior trust documents will have no force or effect upon the creation of The Valleyview Lenders Trust.

1.2 Initial Trust Property. The Trustee declares and acknowledges that it holds the property listed on the attached Schedule A (the "**Original Property**"), including but not limited to those lands and premises located in the City of Prince George (each a "**Prince George Property**", together the "**Prince George Properties**"), such properties being subject to a mortgage (the "**Mortgage**"), a copy of which is attached hereto and marked Schedule B in the principal amount of \$ \_\_\_\_\_, registered as a first financial charge against the Prince George Properties, on the trusts of this Declaration of Trust.

1.3 Reason for Creation. This Trust is created to allow business related to the Trust Property. The Lenders Committee of the Trust Property shall become the sole shareholders of the Original Trustee and shall take over operations and management of the Trust at their sole discretion and on the terms and conditions as provided in this Declaration of Trust.

1.4 Encumbrances at Inception. As of the time of transition to this Declaration of Trust, there are no financial obligations owing related to the Trust Property with the exception of the Mortgage.

1.5 Acceptance of the Trust. The Trustee, by execution of this Declaration of Trust, signifies its acceptance of this Trust and the duties and obligations contained herein.

1.6 Trust is Irrevocable. The Trust created by this Declaration of Trust shall be irrevocable.

1.7 Further Property. Further property or assets to be held on the terms of the Trust:

- (a) may be settled upon the Trust, with the prior consent of the Trustee; and
- (b) may be acquired by the Trustee by purchase or in any other manner.

## ARTICLE 2 INTERPRETATION

2.1 Definitions. For the purposes of this Declaration of Trust:

- (a) “**Beneficiaries**” means those persons set forth on Schedule C, as amended from time to time, attached to this Declaration of Trust in accordance with their interests in the Trust Property therein, as from time to time amended in accordance with ARTICLE 18, and “**Beneficiary**” means any one of them;
- (b) “**Distribution Date**” means the first to occur of the following dates:
  - (i) the date that is one day prior to the eightieth (80th) annual anniversary of the creation of this Trust;
  - (ii) such prior date as the Beneficiaries shall select by an Ordinary Resolution; provided such date is after the sale of the last Prince George Property held by the Trustee; and
  - (iii) such prior date as the Lenders Committee shall select by an Ordinary Resolution; provided such date is after the sale of the last Prince George Property held by the Trustee;
- (c) “**Lenders Committee**” consists of:
  - (i) **STEPHEN DIMOND**, until such time as he may cease to be on the Lenders Committee of this Trust;
  - (ii) **MICHAEL BUCHANAN**, until such time as he may cease to be on the Lenders Committee of this Trust; and
  - (iii) such other person or persons as from time to time make up the Lenders Committee in accordance with ARTICLE 7 below;

- (d) “**Members**” means those persons who are part of the Lenders Committee, and “**Member**” means any one of them;
- (e) “**Ordinary business**” means all business other than special business and shall be determined by Ordinary Resolution;
- (f) “**Ordinary Resolution**” means a resolution passed by a majority of the votes cast. When the relevant body is the Beneficiaries, each Beneficiary shall have one vote for each \$1.00 of interest in the Trust Property as detailed on Schedule C, as amended from time to time. When the relevant body is the Trustee or the Lenders Committee, each person shall have one vote.
- (g) “**Special business**” means all business at a Beneficiaries Meeting, except the adoption of rules of order, and shall be determined by Special Resolution, except as otherwise expressly provided in this Declaration of Trust to be determined by an Ordinary Resolution;
- (h) “**Special Resolution**” means a resolution passed by a majority of not less than two-thirds of the votes cast. When the relevant body is the Beneficiaries, each Beneficiary shall have one vote for each \$1.00 of interest in the Trust Property as detailed on Schedule C, as amended from time to time. When the relevant body is the Trustee or the Lenders Committee, each person shall have one vote.
- (i) “**Trust Property**” means:
  - (i) the Original Property referred to in clause 1.2;
  - (ii) all property hereafter paid or transferred to or otherwise vested in and accepted by the Trustee as additions to the Trust Property;
  - (iii) all income which shall, in accordance with the provisions of this Declaration of Trust, be accumulated and added to capital;
  - (iv) all current income which has not been accumulated and added to the capital of the Trust Property; and
  - (v) all money, investments and other property from time to time representing the Original Property and the said additions and accumulations or any part or parts thereof respectively;
- (j) “**Trustees**” means:
  - (i) the Original Trustee named in this Declaration of Trust at the date of execution thereof until such time as it ceases to be a Trustee; and

- (ii) such other person or persons as from time to time may be appointed as replacement or as co-Trustees of this Trust.

2.2 Standard Interpretation. For the purposes of interpretation and construction of this Declaration of Trust the singular shall mean and include the plural and vice versa and either gender shall mean and include both genders and references to person or persons shall include a corporation or corporations save and except where the contrary intention appears. The titles and subtitles of this Declaration of Trust are inserted and included for the purposes of convenience only and shall not be used in the interpretation or construction of this Declaration of Trust.

### **ARTICLE 3 PURPOSE OF THE TRUST**

3.1 Purpose Prior to the Distribution Date. Prior to the Distribution Date, the Lenders Committee shall administer, maintain and market to sell the Prince George Properties, including the payment of any costs or expenses associated with the Prince George Properties, until such property has been entirely sold, and satisfy all obligations under the Mortgage, including the payment of costs or expenses associated with the Mortgage, as stipulated in the terms and conditions of the Mortgage. Prior to the Distribution Date, the Trustees shall hold and keep invested the Trust Property for the following purposes:

- (a) Discretionary Income Interest. Subject to the last sentence of this subclause and the payment of any and all costs, expenses, taxes and other obligations of the Trust, including the Mortgage and the Prince George Properties, the Trustee may from time to time, in its absolute discretion, pay so much or all of the net income derived from the Trust Property to or for the benefit of the Beneficiaries, in proportion to their interests in the Trust Property as detailed on Schedule C, as amended from time to time. Each distribution to a Beneficiary shall be reduced by such Beneficiary's aggregate Defaulting Amounts, if any, as provided in ARTICLE 14.
- (b) Accumulate Income. At the end of each year, the Trustee shall accumulate any amount or amounts of the net income derived from the Trust Property which have not been paid or made payable under the prior subclause during the year and shall add such amount or amounts to the Trust Property.
- (c) Discretionary Capital Interest. In addition, and subject to the last sentence of this subclause and the payment of any and all costs, expenses, taxes and other obligations of the Trust, including the Mortgage and the Prince George Properties, the Trustee may from time to time, in its absolute discretion, encroach upon the Trust Property and pay or transfer the whole or any part or parts thereof to or for the benefit of the Beneficiaries at such time or times, in proportion to their interests in the Trust Property as detailed on Schedule C, as amended from time to

time. Each distribution to a Beneficiary shall be reduced by such Beneficiary's aggregate Defaulting Amounts, if any, as provided in ARTICLE 14.

- (d) Extent of Encroachment. Notwithstanding the generality of the above subclauses, the Trustee may encroach upon the Trust Property to such an extent that the Trust Property is completely exhausted.

3.2 Purpose on the Distribution Date. On the Distribution Date, subject to the payment of any and all costs, expenses, taxes and other obligations of the Trust, including the Mortgage and the Prince George Properties, the Trustee shall pay any Trust Property remaining to the Beneficiaries in proportion to their interests in the Trust Property as detailed on Schedule C, as amended from time to time (each a "Beneficiary's Final Distribution"). Each Beneficiary's Final Distribution shall be reduced by such Beneficiary's aggregate Defaulting Amounts, if any, as provided in ARTICLE 14. Notwithstanding the foregoing, and subject to the payment of any and all costs, expenses, taxes and other obligations of the Trust, the Trustee, at its sole discretion, shall be entitled to make an interim distribution to the Beneficiaries in proportion to their interests in the Trust Property as detailed on Schedule C, as amended from time to time, at any time after the Mortgage has been repaid in full (each a "Beneficiary's Interim Distribution"). Each Beneficiary's Interim Distributions shall be reduced by such Beneficiary's aggregate Defaulting Amounts, if any, as provided in ARTICLE 14.

#### **ARTICLE 4 POWER AND AUTHORITY OF THE LENDERS COMMITTEE**

Without in any way limiting or derogating from the powers, authorities, discretion and immunities otherwise available to the Lenders Committee, whether under any statute or law or otherwise, the Lenders Committee, subject to paragraph 5.7, shall have and be invested with the following powers and authorities, such powers and authorities to be exercised directly by the Lenders Committee or indirectly by the Trustee at the instruction of the Lenders Committee:

4.1 Invest the Trust Property Generally and Sell. To invest or reinvest the Trust Property and sell (whether by public or private sale or with or without notice, for cash or on credit or partly for cash and partly on credit), assign, transfer, exchange, pledge, convey or otherwise dispose of or encumber the Trust Property or any part thereof at any time, or from time to time as the Lenders Committee, in its absolute discretion, may deem advisable, and at such price or prices and on such terms as the Lenders Committee may consider advisable, which terms may extend beyond the duration of the Trust hereby created.

4.2 Investments Not Restricted. To invest the Trust Property in any investments that the Lenders Committee, in its absolute discretion, deems advisable notwithstanding that such investments may not be authorized by any law which governs investments by trustees.

4.3 Retain any Property. To retain any property belonging to or forming part of the Trust Property in the actual state or condition in which the same shall be received by the Lenders Committee for so long as the Lenders Committee thinks proper.

4.4 Lease Trust Property. To lease at any time and from time to time real property, or any interest in real property entrusted to the Trustee or the Lenders Committee, for such term or terms of months or years, to begin presently or in the future, as the Lenders Committee may deem proper, even though such lease or leases shall be for a term or terms exceeding that authorized by law and be beyond the time of termination of any trust estate herein created, such leases to be with such options, covenants, terms, conditions, agreements and provisions as the Lenders Committee deems proper.

4.5 Lease Property from Others. To lease from any other person at any time and from time to time any real property for such term or terms of months or years, to begin presently or in the future, as the Lenders Committee may deem proper, even though such lease or leases shall be for a term or terms exceeding that authorized by law and extend beyond the duration of the Trust hereby created, such leases to be with such options, covenants, terms, conditions, agreements and provisions as the Lenders Committee deems proper.

4.6 Mortgage Trust Property. To mortgage or charge the whole or any part of the Trust Property or any interest therein, upon such terms as to payment of principal and payment of interest as the Lenders Committee shall, in its absolute discretion, see fit.

4.7 Improve, Manage, Repair, etc., the Trust Property. To manage real or leasehold property entrusted to the Trustee or the Lenders Committee, or from time to time held by the Trustee or Lenders Committee hereunder, and to make such ordinary and extraordinary repairs and such alterations and improvements thereon as the Lenders Committee shall deem advisable; to demolish buildings and erect new buildings; to subdivide and plot real property, to lay out and dedicate ways, roads and public places, to grant or release easements and enter into partitions, party wall and boundary line agreements and agreements of any other kind with respect to real property; to make any payment for such repairs, alterations and improvements or services or in connection with such management out of capital or out of income or partly out of capital and partly out of income, as the Lenders Committee shall deem proper, and generally to manage any such real or leasehold property.

4.8 Exchange Property. To exchange property for other property of a like or different nature and for such consideration and on such conditions as the Lenders Committee considers advisable.

4.9 Make Payments, Provisions, Apportionments or Distributions Based on Valuation. To make any payments, provisions, apportionments, or distributions which may be required under the terms of this Trust in whole or in part in moneys, securities or other property comprising the Trust Property. Every apportionment and distribution, and valuation therefore, which in the discretion of the Lenders Committee seem equitable, shall be final, conclusive and binding upon all persons interested.

4.10 Receive Additional Property. To receive additional property or donations by gift or by Will or by provisions of any other trust or trusts or otherwise, on terms, or subject to special provisions or agreements from any person or persons as additions to the Trust Property and to hold the same upon the trusts herein set forth and to administer such additions under the provisions hereof.

4.11 Execute Instruments. To execute and deliver agreements, mortgages, assignments, bills of sale, contracts, deeds, notes, receipts, and any and all other instruments in writing necessary or appropriate in the opinion of the Lenders Committee for the settlement or administration of the Trust Property, and to execute any such instrument without warranty by or without recourse to the Lenders Committee.

4.12 Exercise Voting Powers. To exercise all voting powers attaching to any shares, stock, debentures or other securities at any time forming part of the Trust Property.

4.13 Voting by Proxy. To appoint some person or persons their proxy to vote shares, stock, debentures or other securities.

4.14 Become a Party to a Voting Agreement. To become a party to any voting trust or deposit agreement and to deposit any securities or property held thereunder with any protective organization or depository.

4.15 Consent to Reorganization. To promote and consent to any reorganization or reconstruction of any company, the securities of which form part of the Trust Property, and to consent to any reduction of capital or other dealing with such securities as the Lenders Committee may consider desirable.

4.16 Enter into Partnerships. To enter into partnership agreements.

4.17 Policies of Life Insurance. To purchase or maintain, as the Lenders Committee considers desirable, policies of insurance on the life of any person.

4.18 Purchase of Annuities. To purchase an annuity or annuities for the benefit of any Beneficiary.

4.19 Compromise and Settle. To compromise and settle for such consideration and upon such terms and considerations as the Lenders Committee considers advisable all matters arising in relation to the Trust or the Trust Property and all such compromises and settlements shall be binding on all Beneficiaries and others who in the future acquire any interest under this Declaration of Trust.

4.20 Incorporate any Company. To incorporate any company or companies or any corporation or corporations under the laws of any jurisdiction at the expense of the Trust Property for the purpose of investing the whole or any part of the Trust Property wholly or partly in shares or other securities of such company or companies or corporation or corporations.

4.21 Carry on Business or Trade. To carry on any business or trade and, without limiting the generality thereof, any business or trade relating to the provision of services, manufacturing of goods, or importing or exporting goods, in any part of the world.

4.22 Borrow Money. To borrow at any time or times any monies required for any purpose connected with the administration of the Trust Property upon such terms as to payment of principal and payment of interest (if any) as the Lenders Committee, in its absolute discretion, thinks fit.

4.23 Act as Surety or Guarantor. To act as surety or guarantor or to grant any bond to secure any debt or other obligation of any person or to undertake or give any indemnity with respect to any debt or other obligation, either with or without consideration and whether limited in amount or not and to mortgage, charge or otherwise hypothecate all or any part of the Trust Property to secure the performance of any surety, guarantee, bond, covenant or indemnity given, made or undertaken by the Lenders Committee.

4.24 Payment of Liability. To apply the whole or any part of the capital of the Trust Property in or towards payment of any liability undertaken by the Lenders Committee as guarantor or surety.

4.25 Insure. To carry insurance against hazards, including public liability, in such amounts and type as the Lenders Committee, in its absolute discretion, deems advisable.

4.26 Payment to Guardian. To make any payment, transfer or delivery of any share or part of a share passing to a person during his or her minority either directly to such person, to the surviving parent(s) or guardian(s) of such person or to any person who may stand in loco parentis to such person or to anyone to whom the Lenders Committee's, in their absolute discretion, deem it advisable to make such payments and the receipt of such payment, transfer or delivery by such person, parent, guardian, person in loco parentis or other person shall be a sufficient discharge to the Lenders Committee's notwithstanding the minority of the recipient or that the recipient may not be bonded or may be insufficiently bonded.

4.27 Create Other Trusts or Settlements. Notwithstanding any of the trusts, powers and provisions herein, in the Lenders Committee's absolute discretion, at any time to transfer and convey the whole or any share, portion, part or parts of the Trust Property, save and except any such share, portion, part or parts thereof which shall be indefeasibly vested in one or more of the Beneficiaries, to any other trust or settlement established under any jurisdiction whatsoever, to be held by the trustee of such other trust, with and subject to the powers and provisions of such other trust or settlement provided that at least one of the Beneficiaries of this Trust alive at the date of such transfer shall be a beneficiary of such other trust or settlement. Upon such transfer being made, the trusts herein declared concerning the property comprised in such transfer shall cease and determine and the said property shall for all purposes be subject to the trusts, powers and provisions contained in such other trust. For the purposes of such transfer, such new trust or settlement shall be deemed to be a Beneficiary.

4.28 Move Trust Property to Another Jurisdiction. To hold the Trust Property or any part or parts thereof at any place or places and to move same from time to time from place to place.

4.29 Payment of Expenses. To pay out of income or capital or partly out of income and partly from capital, as the Lenders Committee, in its absolute discretion, shall decide, all expenses and disbursements incurred in the administration of the Trust, including, but not limited to, all legal costs incurred in the administration of the Trust or in any litigation or possible litigation which may affect the Trustee, the Lenders Committee, the Trust or the Trust Property.

4.30 Duties and Taxes. To pay out of income or capital, as the Lenders Committee from time to time, in its absolute discretion determines, any taxes or other imposts payable in connection with the Trust or payable by the Beneficiaries in respect of the Trust or any part thereof.

4.31 Banking Arrangements. To open and operate such bank accounts as may be expedient in the opinion of the Lenders Committee and to deposit any cash balances in the hands of the Trustee or the Lenders Committee at any time in any chartered bank or trust company and, for the purposes of the Trust, to draw, make, endorse, deposit or deal in cheques, bills of exchange, promissory notes, drafts or any other mercantile, commercial or security documents of any nature or kind, and to enter into contracts or agreements of any nature or kind, with such a chartered bank or trust company.

4.32 Tax Elections. To make any determinations, designations or elections pursuant to the provisions of any taxing statute including the *Income Tax Act* (Canada), as the Lenders Committee consider advisable.

## **ARTICLE 5 PRIVILEGES, RIGHTS AND DUTIES OF THE LENDERS COMMITTEE AND THE TRUSTEES**

5.1 Act through Agents. The Lenders Committee shall not be bound in any case to act personally but be at full liberty to act through managers or to employ any contractor, manager, solicitor, accountant, clerk, workman, employee or servant or any agent to transact all or any business of whatever nature which it is required or permitted to do including the receipt and payment of money and the Lenders Committee shall decide the remuneration to be allowed and paid and may pay the same and all charges and expenses so incurred out of the Trust Property or the income thereof.

5.2 Employ Professionals. The Lenders Committee shall be permitted to employ and compensate agents, accountants, solicitors, brokers and other assistants and advisors deemed by the Lenders Committee to be helpful, for the proper settlement or administration of the Trust, and to do so without any liability for any neglect, omission, misconduct or default of any such employed person, provided such person was selected, retained and supervised with reasonable care.

5.3 Delegation to Others.

- (a) Subject to subclause 5.3(b), the Lenders Committee and the Trustee may, by instrument, delegate to any person any and all powers, duties and discretions vested in or imposed upon the Lenders Committee or the Trustee, as the case may be, by this Declaration of Trust.
- (b) Notwithstanding 5.3(a), the Lenders Committee or the Trustee, as the case may be, may not delegate to any other person:
  - (i) the power conferred by 5.3(a); or
  - (ii) any power, duty or discretion vested in the Lenders Committee or the Trustee, as the case may be, under this Declaration of Trust or by law to appoint or advance income or capital of the Trust Property to or among the Beneficiaries.

5.4 Safekeeping of Documents. The Lenders Committee shall provide for the safekeeping of all documents of title and securities which form the subject of this Trust, and may, at the expense of the Trust (which expense may include any charges for the safe custody of securities and the collection and remittance of income) deposit the same in the custody of any bank, banking company, corporate trustee, stockbroker or other organization in any part of the world that undertakes the safe custody of securities as part of its business, but so that the Lenders Committee shall not be in any way responsible for any loss or damage of any kind whatsoever arising out of or occasioned by such deposit.

5.5 Keep Accurate Accounts. The Lenders Committee shall keep accurate accounts of the Trust but shall have no obligation to audit the accounts unless requested to do so by a majority vote of the Beneficiaries by an Ordinary Resolution, in which case the accounts will be audited at the expense of the Trust Property or the income thereof as the Lenders Committee shall determine by a firm of chartered accountants selected by the Lenders Committee.

5.6 Schedule C. It is the obligation of the Lenders Committee to maintain and update Schedule C of the Trust in accordance with the disposition of a Beneficiary's interest in the Trust Property. Any person dealing with this Trust may rely upon a copy of Schedule C and on any notices endorsed thereon or attached thereto, certified by the Trustee's lawyer to be a true and correct copy to the same extent as he or she might rely on the original.

5.7 Routine Administrative Decisions. The Lenders Committee shall not be required to notify or obtain approval from the Beneficiaries for all routine administrative decisions related to the Trust Property, including without limitation the payment of taxes, fees, expenses, utilities and other similar expenses related to the Prince George Properties and the Mortgage; the routine maintenance, upkeep and repair of the Prince George Properties; the payment of the Mortgage; and all other reasonably related transactions, including but not limited to planning efforts, dealing with the City of Prince George, and related marketing programs and efforts to sell or

develop the Prince George Properties. All routine administrative decisions may be decided upon at a Lenders Committee Meeting. Any decision made in good faith by the Lenders Committee as to what constitutes a "routine administrative decision" shall not be subject to review by the Beneficiaries, and the Lenders Committee shall be held harmless from any cost or liability as to such decisions.

5.8 Other Decisions Made by the Lenders Committee. All other decisions made by the Lenders Committee, other than routine administrative decisions as described in the preceding paragraph, must be approved at a Beneficiaries Meeting. Without in any way limiting the foregoing, the power to sell all or any part of the Trust Property shall not be considered a routine administrative decision.

5.9 Member May Charge as a Professional. Any Member of the Lenders Committee being a bank, chartered accountant, solicitor or other person or corporation engaged in any profession or business, shall be entitled to charge and be paid all usual professional or other charges for services done by him or her or by his or her firm or by it, in relation to the Trust, including a fee for acting as a Member of the Lenders Committee.

5.10 Remuneration of Members of the Lenders Committee. Subject to paragraph 5.9, each of the Members of the Lenders Committee are entitled to reasonable remuneration for acting as a Member, such remuneration to be adjusted as the Beneficiaries determine by Ordinary Resolution. That remuneration may be in addition to any salary or other remuneration paid to any officer or employee of the Trust as such, who is also a Member.

5.11 Trustee May Act as Officer or Employee. Any officer or employee of a corporate Trustee may act as an officer, manager or employee of any company, the shares or debentures of which may constitute or form part of the Trust Property, or as an officer, manager, or employee of any subsidiary or holding company of any such company, and may retain any remuneration received from such position, even though such position may be obtained as a result of the shares forming part of the Trust Property.

5.12 Obligation to Review. The Trustee shall not be liable for any exercise or non-exercise of the actions of the Lenders Committee. The Trustee shall have no obligation to review or inquire into any of the Lenders Committee's exercise or non-exercise of the Lenders Committee's responsibility.

## ARTICLE 6

### RETIREMENT, REPLACEMENT AND APPOINTMENT OF TRUSTEES

6.1 Resignation or Retirement. A Trustee may resign or be replaced without court approval upon the following terms:

- (a) Trustees may Resign on Giving Proper Notice. A Trustee may at any time resign its trusteeship upon giving thirty (30) days notice in writing addressed to its co-

Trustees, if any, and each Beneficiary. The co-Trustees, if any, and each Beneficiary may waive such thirty (30) day notice period.

- (b) Trustee's Office ipso facto Determined. The office of a Trustee shall be *ipso facto* determined and vacated if such Trustee, being an individual, be found to be of unsound mind or if he or she shall become subject to any proceedings under any bankruptcy or insolvency laws applicable to him or her or if such Trustee, being a company, shall enter into liquidation or dissolution whether compulsory or voluntary, not being merely a voluntary liquidation for the purposes of amalgamation or reorganization.
- (c) Notice of Change in Trusteeship. Notices of all changes in trusteeship may be endorsed or attached to this Declaration of Trust, signed by the continuing Trustees, and the new Trustee or Trustees, and every such notice shall be sufficient evidence to any person having dealings with this Trust as to the fact to which it relates.
- (d) Reliance on Notices Endorsed. Any person dealing with this Trust may rely upon a copy of this Declaration of Trust and on any notices endorsed thereon or attached thereto, certified by the Trustee's or Trustees' lawyer to be a true and correct copy to the same extent as he might rely on the original.

6.2 Removal of Trustees. The Beneficiaries by a Special Resolution may remove any Trustee by giving notice to such Trustee. Such notice shall be in writing and delivered personally to such Trustee. The removal shall be effective upon receipt of such notice by the Trustee or such later date as may be specified in such notice.

6.3 Successor Trustees. The Beneficiaries by an Ordinary Resolution may name by deed a person or a company as a successor Trustee of the Trust.

6.4 Reimbursement up to the date of Retirement or Removal. Upon the resignation or removal of a Trustee, the Trustee shall be entitled to receive reimbursement out of the Trust Property or the income thereof for all reasonable expenses incurred by them and all remuneration, if any, earned and owing in connection with the settlement of his, her or its account as Trustee.

6.5 Appointment of Additional Trustees. The Beneficiaries by an Ordinary Resolution may appoint one or more other persons or companies to be an additional Trustee or Trustees of the Trust.

6.6 Failure of Trustees. If at any time no person is acting as Trustee, or named under the preceding paragraphs of this Article and able and willing to act as Trustee, the Lenders Committee by an Ordinary Resolution shall have the power by deed to appoint one or more Trustees.

6.7 Replacement Trustees have the same Powers and Duties. If a deed by which a new Trustee is appointed contains a declaration to the effect that an estate or interest in land subject to the Trust, or in a chattel subject to the Trust, or the right to recover and receive a debt or other thing in action subject to the Trust, vests in the persons who by virtue of the deed become and are the Trustees for performing the Trust, that declaration operates, without a conveyance or assignment, to vest in those persons, as joint tenants, and for the purposes of the Trust, that estate, interest or right and with all the trusts, powers and authorities herein contained along with the remaining or continuing Trustees without further assignment, transfer or conveyance of any kind or any order of any Court or Tribunal whatsoever.

6.8 Amalgamation, Merger or Consolidation of Trustee.

- (a) A company or corporation into which a Trustee that is a company or corporation is amalgamated, merged or converted or with which that Trustee is consolidated;
- (b) A company or corporation resulting from any amalgamation, merger, conversion or consolidation to which a Trustee that is a company or corporation is a party; and
- (c) A company or corporation that succeeds to all, or substantially all, of the private trust business of a Trustee that is a company or corporation

shall automatically replace that Trustee on the date that the amalgamation, merger, conversion, consolidation or succession takes effect without the execution of any document or any further act by any person except the replacement Trustee giving notice of the replacement to the other Trustee (if any) within three calendar months of the replacement.

## ARTICLE 7 THE LENDERS COMMITTEE

7.1 Initial Members of Lenders Committee. The first Members of the Lenders Committee are STEPHEN DIAMOND and MICHAEL BUCHANAN, as set out in subclause 2.1(c), who have accepted office by executing this Trust.

7.2 Resignation or Retirement. A Member may resign or be replaced without court approval upon the following terms:

- (a) Members may Resign on Giving Proper Notice. A Member may at any time resign upon giving thirty (30) days notice in writing addressed to the Beneficiaries. Each Beneficiary may waive such thirty (30) day notice period
- (b) Membership of a Lenders Committee Member ipso facto Determined. A Member shall *ipso facto* cease to be a Member if such Member, being an individual, be

found to be of unsound mind or if he or she shall become subject to any proceedings under any bankruptcy or insolvency laws applicable to him or her or if such member, being a company, shall enter into liquidation or dissolution whether compulsory or voluntary, not being merely a voluntary liquidation for the purposes of amalgamation or reorganization.

- (c) Notice of Change in Lenders Committee. Notices of all changes in the Lenders Committee may be endorsed or attached to this Declaration of Trust, signed by the continuing Members of the Lenders Committee, and the new Member, and every such notice shall be sufficient evidence to any person having dealings with this Trust as to the fact to which it relates.

7.3 Removal of Members. The Beneficiaries by a Special Resolution may remove any Member by giving notice to such Member. Such notice shall be in writing and delivered personally to such Member. The removal shall be effective upon receipt of such notice by the Member or such later date as may be specified in such notice.

7.4 Successor Members. The Beneficiaries by an Ordinary Resolution may name by deed one or more Beneficiaries as a successor Member or successor Members of the Lenders Committee.

7.5 Reimbursement to Date of Retirement or Removal. Upon the resignation or removal of a Member, the Member shall be entitled to receive reimbursement out of the Trust Property or the income thereof for all expenses incurred by them and all remuneration earned and owing in connection with the settlement of his, her or its account as Member.

7.6 Appointment of Additional Members. The Beneficiaries by an Ordinary Resolution may appoint one or more other persons or companies to be an additional Member or Members of the Lenders Committee.

7.7 Failure of Lenders Committee. If at any time no person is acting as a Member of the Lenders Committee, or named under the preceding paragraphs of this Article and able and willing to act as a Member, the last resigning Member of the Lenders Committee by an Ordinary Resolution shall have the power by deed to appoint a Beneficiary as a Member of the Lenders Committee. Failing such appointment fourteen (14) days after the last Member of the Lenders Committee resigns, is removed, or is otherwise unable to act, the Trustee shall have the power by deed to appoint a Beneficiary as a Member of the Lenders Committee.

7.8 Limit on Membership. Notwithstanding the foregoing provisions of this Article, there shall not be fewer than two (2) or more than five (5) Members of the Lenders Committee.

7.9 Qualification of Members. Notwithstanding any of the provisions of this Article, no person may be appointed a Member of the Lenders Committee unless he or she is a Beneficiary of this Trust, provided that after one year where no Beneficiary consents to act as a Member, and

as approved by the Beneficiaries at a General Meeting, a non-beneficiary may be appointed as a Member of the Lenders Committee.

## **ARTICLE 8 LENDERS COMMITTEE MEETINGS**

8.1 Lenders Committee Meetings shall be held at such time and place as the Lenders Committee decides. Any Member of the Lenders Committee may, whenever he or she thinks fit, convene a Lenders Committee Meeting.

8.2 The first Lenders Committee Meeting shall be held not more than 15 months after the date of the creation of this Trust and thereafter a Lenders Committee Meeting shall be held at least once every calendar year and not more than 15 months after holding the last preceding Lenders Committee Meeting.

8.3 Notice of a Lenders Committee Meeting shall be given to each Member of the Lenders Committee not less than two (2) business days before the date of the meeting, and shall specify the place, the day and the hour of meeting, and the general nature of that business.

8.4 The accidental omission to give notice of a Lenders Committee Meeting under this Article to, or the non-receipt of a notice by, any of the Members entitled to receive notice does not invalidate proceedings at that Lenders Committee Meeting.

8.5 A resolution in writing, signed by all the Members of the Lenders Committee and placed with the minutes of the Members, is as valid and effective as if regularly passed at a Lenders Committee Meeting. Any such resolution may be signed in counterparts and delivered by facsimile or e-mail transmission.

## **ARTICLE 9 BENEFICIARIES MEETINGS**

9.1 Every other meeting other than a Lenders Committee Meeting is a Beneficiaries Meeting. Any Member of the Lenders Committee may, whenever he or she thinks fit, convene a Beneficiaries Meeting. The Beneficiaries may by a vote of ten percent (10%) of the Beneficiaries, whenever they think fit, convene a Beneficiaries Meeting. Beneficiaries Meetings shall be held during business hours at a meeting place in the Lower Mainland of British Columbia.

9.2 Notice of a Beneficiaries Meeting shall be given to each Beneficiary not less than 10 business days before the date of the meeting, and shall specify the place, the day and the hour of meeting, and, in case of special business, the general nature of that business.

9.3 The accidental omission to give notice of a Beneficiaries Meeting under this Article to, or the non-receipt of a notice by, any of the Beneficiaries entitled to receive notice does not invalidate proceedings at that Beneficiaries Meeting.

9.4 A resolution in writing signed by all the Beneficiaries is as valid and effective as if regularly passed at a Beneficiaries Meeting. Any such resolution may be signed in counterparts and delivered by facsimile or e-mail transmission.

9.5 Other than ordinary business or as expressly provided in this Declaration of Trust, questions arising at a Beneficiaries Meeting shall be decided by a Special Resolution of the Beneficiaries.

9.6 Voting by proxy is permitted at a Beneficiaries Meeting as provided in ARTICLE 11.

## **ARTICLE 10 PROCEEDINGS AT ALL MEETINGS**

10.1 No business, other than the election of a chairman and the adjournment or termination of the meeting, shall be conducted at a meeting at a time when a quorum is not present. If at any time during a meeting there ceases to be a quorum present, business then in progress shall be suspended until there is a quorum present or until the meeting is adjourned or terminated. A quorum at Lenders Committee Meeting shall be two (2) Members. A quorum at a Beneficiaries Meeting shall be not less than forty (40) of the Beneficiaries, provided that in sum the Beneficiaries have not less than a six hundred thousand dollar (\$600,000.00) interest in the Trust Property, as set forth on the attached Schedule C, as amended from time to time.

10.2 If within 30 minutes from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place. In the case of a Beneficiaries Meeting, if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the Beneficiaries present will constitute a quorum, provided there are not less than thirty (30) of the Beneficiaries and that in sum the Beneficiaries have not less than a six hundred thousand dollar (\$600,000.00) interest in the Trust Property, as set forth on the attached Schedule C, as amended from time to time.

10.3 Subject to resolutions in writing signed in lieu of a meeting, the Chair, President, Vice-President, or, in the absence of all of the foregoing, one of the Beneficiaries present as chosen by a majority of the Beneficiaries present shall preside as chairman of a Beneficiaries Meeting.

10.4 A meeting may be adjourned from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 10 days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. Except as provided otherwise, it is not necessary to give notice of adjournment or of the business to be transacted at an adjourned meeting.

10.5 No resolution proposed at a Beneficiaries Meeting need be seconded, and the chairman of a Beneficiaries Meeting may move or propose a resolution. In case of an equality of votes, the chairman at a Beneficiaries Meeting shall not have a casting or second vote in addition to the vote to which he may be entitled as a Beneficiary and the proposed resolution shall not pass.

10.6 A Member in good standing present at a Lenders Committee Meeting is entitled to one vote. A Beneficiary in good standing present at a Beneficiaries Meeting is entitled to one vote for each \$1.00 of interest in the Trust Property as detailed on Schedule C, as amended from time to time. Voting is by show of hands, unless the Members or Beneficiaries, as the case may be, otherwise decide.

**ARTICLE 11**  
**PROXY VOTING FOR BENEFICIARIES MEETINGS**

11.1 The instrument appointing a proxyholder and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy thereof shall be deposited at a place specified for that purpose in that notice convening the Beneficiaries Meeting not less than forty-eight (48) hours before the time for holding such meeting at which the proxyholder proposes to vote, or shall be deposited with the chair of such meeting prior to the commencement of such meeting.

11.2 A vote given in accordance with the terms of an instrument of proxy is valid notwithstanding the previous death or incapacity of the Beneficiary or revocation of the proxy or of the authority under which the proxy was executed, provided no intimation in writing of the death, incapability, or revocation has been received by a Member of the Lenders Committee or by the chair of the Beneficiaries Meeting before the vote was given.

11.3 An instrument appointing a proxyholder, whether for a specified meeting or otherwise, shall be in the form following, or any other form that the Lenders Committee by an Ordinary Resolution shall approve:

Valleyview Lenders Trust

The undersigned hereby appoints \_\_\_\_\_, of \_\_\_\_\_ (or, failing her/him \_\_\_\_\_, of \_\_\_\_\_), as proxy for the undersigned to attend at and vote for and on behalf of the undersigned at the meeting to be held on the \_\_\_\_\_ day of \_\_\_\_\_ and at any adjournment of that meeting.

Percent of beneficial interest in respect of which this proxy is given (if no percent is specified, then this proxy is given in respect of the Beneficiary's entire beneficial interest): \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

Printed name of Beneficiary

Signature of Beneficiary

11.4 A proxy is valid for only one Beneficiaries Meeting or any adjournment thereof.

**ARTICLE 12  
OFFICERS**

12.1 The Lenders Committee may, from time to time, appoint such officers, if any, as the Lenders Committee determines, and the Lenders Committee may, at any time, terminate any such appointment.

12.2 The Lenders Committee may, for each officer:

- (a) determine the functions and duties of the officer;
- (b) entrust to and confer on the officer any of the powers exercisable by the Lenders Committee on such terms and conditions and with such restrictions as the directors think fit; and
- (c) revoke, withdraw, alter or vary all or any of the functions, duties and powers of the officer.

12.3 No officer may be appointed unless that officer is a Beneficiary. One person may hold more than one position as an officer.

12.4 All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission or otherwise) that the Lenders Committee thinks fit and are subject to termination at the pleasure of the Lenders Committee.

### **ARTICLE 13 BENEFICIARIES**

13.1 Any and all additional monies required to maintain the Trust Property, as decided by the Lenders Committee at a Lenders Committee Meeting, shall be provided by the Beneficiaries in proportion to their interests in the Trust Property as detailed on Schedule C, as amended from time to time. If a Beneficiary is unable to provide additional funds to maintain the Trust Property (the "Defaulting Beneficiary"), the amount the Defaulting Beneficiary was required to provide (each amount a "Defaulting Amount") shall be subtracted (a) from the distributions the Defaulting Beneficiary receives under subclause 3.1(a) from time to time, if any Defaulting Amount is remaining at the time of a distribution, (b) from the distributions the Defaulting Beneficiary receives under subclause 3.1(c) from time to time, if any Defaulting Amount is remaining at the time of a distribution, and (c) from the Beneficiary's Final Distribution Amount pursuant to ARTICLE 14, if any Defaulting Amount is remaining at the time of a distribution.

13.2 If a Beneficiary disposes of his or her interest in the Trust Property before the Distribution Date (the "Selling Beneficiary"), the aggregate Defaulting Amounts of the Selling Beneficiary, if any, shall continue as a charge against such replacement person or persons holding the Selling Beneficiary's interest in the Trust Property (the "Buying Beneficiary") and will be subtracted from the Buying Beneficiary's distributions as provided in the previous subparagraph 13.1.

13.3 Both a Selling Beneficiary and a Buying Beneficiary must provide notice to the Lenders Committee and the Trustees of a disposition of all or part of an interest in the Trust Property. Only the Beneficiary whose name is listed on Schedule C, as amended from time to time, will be entitled to the rights and powers or subject to the obligations and expenses under this Trust.

### **ARTICLE 14 DEFAULTING AMOUNT**

In determining each Beneficiary's Final Distribution Amount, all Defaulting Amounts of the Beneficiaries shall be considered part of the Trust Residue to be divided under such distribution and each Beneficiary's aggregate Default Amounts shall, after the Trust Residue is divided into the proportional interests as provided on Schedule C, as amended from time to time, be subtracted from the share of such Final Distribution Amount to be allocated to such Beneficiary. If the aggregate Defaulting Amounts to be subtracted from a Beneficiary's Final Distribution Amount exceeds the Beneficiary's Final Distribution Amount, reimbursement of the excess shall be sought and considered to be a debt against the Trust. Any decisions made in good faith by the Trustee or the Lenders Committee in carrying out these directions shall not be subject to review, and the Trustee and the Lenders Committee shall be held harmless from any cost or liability as to such decisions.

**ARTICLE 15**  
**NOTICES**

15.1 Unless the Lenders Committee provides otherwise, a notice, statement, report or other record (each a "record") required or permitted by the Trust to be sent by or to a person may be sent by any one of the following methods:

- (a) mail addressed to the person at the mailing address provided by the intended recipient;
- (b) faxing to the fax number provided by the intended recipient;
- (c) sending the information, or a reference providing the intended recipient with immediate access to the information, by electronic communication to an address provided by the intended recipient ;
- (d) sending the information by any method of transmitting legibly recorded messages, including without limitation by digital medium, magnetic medium, optical medium, mechanical reproduction or graphic imaging, to an address provided by the intended recipient; or
- (e) physical delivery to the intended recipient.

15.2 A record that is mailed to a person by ordinary mail to the applicable address for that person referred to in the previous paragraph is deemed to be received by the person to whom it was mailed on the third day, Saturdays, Sundays and holidays excepted, following the date of mailing. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by electronic communication, on the day of transmittal thereof if given during statutory business hours on the day which statutory business hours next occur if not given during such hours on any day.

15.3 A certificate signed by an officer of the Lenders Committee or of any other individual acting in that behalf for the Trust stating that a record was addressed as required by paragraph 15.1, prepaid and mailed or otherwise sent as permitted by paragraph 15.1 is conclusive evidence of that fact.

15.4 A record may be provided by the Lenders Committee to the persons entitled to a beneficial interest in the Trust Property in consequence of the death, bankruptcy or incapacity of a Beneficiary by:

- (a) mailing the record, addressed to them:

- (i) by name, by the title of the legal personal representative of the deceased or incapacitated Beneficiary, by the title of trustee of the bankrupt Beneficiary or by any similar description; and
  - (ii) at the address, if any, supplied to the Lenders Committee for that purpose by the persons claiming to be so entitled; or
- (b) if an address referred to in subclause 15.4(a)(i) has not been supplied to the Lenders Committee, by giving the notice in a manner in which it might have been given if the death, bankruptcy or incapacity had not occurred.

## **ARTICLE 16**

### **PERSONAL LIABILITY OF TRUSTEES AND LENDERS COMMITTEE**

16.1 No Personal Liability of the Trustees and Lenders Committee. The Trustee and the Lenders Committee shall have the power to bind the Trust Property without rendering himself or herself or in the case of a corporate trustee, itself or its officers or directors, personally liable. No Trustee or Lenders Committee shall be personally liable upon any monies to become due from or other claims against the Trust Property or upon any instrument executed by the Trustee or the Lenders Committee under the provisions hereof. The legal title to all the Trust Property shall be and remain vested in the Trustee and its successors.

16.2 No Liability for Loss unless Fraud or Wilful Wrongdoing. In the purported execution of the trusts and powers hereof, no Trustee or Member shall be liable for any loss to the Trust Property arising by reason of any investment made in good faith, any discretion exercised or not exercised in good faith, any mistake or omissions made in good faith by any Trustee or the Lenders Committee, or any other matter or thing except wilful fraud or wrongdoing on the part of the Trustee or Lenders Committee who is sought to be made liable.

16.3 No Liability for Loss Occasioned by an Agent. No Trustee or Member shall be liable by reason of the negligence or fraud of any agent employed in good faith by him or her or by any other Trustee or Member although the employment of the agent was not strictly necessary or expedient.

16.4 No Liability for Loss Occasioned by co-Trustee or co-Member. No Trustee or Member shall be liable for any breach of trust occasioned by a co-Trustee or other Member of the Lenders Committee except to the extent that such breach results from his or her own wilful and individual fraud or wrongdoing.

**ARTICLE 17  
PROPER LAW OF THE TRUST**

17.1 Proper Law of the Trust. The laws of British Columbia shall be the proper law of this Trust.

17.2 Alteration of Proper Law of Trust. The Trustee may by instrument alter the proper law of this Trust to any jurisdiction the Lenders Committee shall designate.

**ARTICLE 18  
VARIATION OF TERMS OF TRUST.**

18.1 Subject to the terms and conditions below, the Beneficiaries by a Special Resolution may, from time to time but before the Distribution Date, by deed vary this Declaration of Trust. No variation may be made:

- (a) to ARTICLE 3, and with respect only to their use in ARTICLE 3 and not to their use in any other Article of the Declaration of Trust, words or phrases used in that ARTICLE 3 and defined in ARTICLE 2;
- (b) to any clause of the Trust which imposes a duty on the Trustee or Lenders Committee or relieves the Trustee or Lenders Committee from a liability to which they might otherwise be subject if the effect of the variation would be to reduce or eliminate the duty or further extend the relief from liability;
- (c) this ARTICLE 18; and
- (d) which contravenes the preceding provisions of this Article; any such variation shall be null and void *ab initio*.

18.2 In this Article “vary” includes vary, amend, add to or delete, and “variation” has a corresponding meaning.

18.3 Any variation made under this Article shall be effective from the date of the deed making the variation or such later date as is specified in the deed.

**ARTICLE 19  
TRUSTEES’ PROCEDURE**

19.1 Trustees may Adopt Rules and Regulations. If there are two or more Trustees, the Trustees may adopt any rules and regulations which they may from time to time deem proper to govern their own procedures.

19.2 Delegation Among Co-Trustees. If there are two or more Trustees, the Trustees may divide their duties among themselves as they may from time to time deem advisable, other than those duties set out in ARTICLE 3 of this Declaration of Trust. Any Trustee may with the consent of his, her or its co-Trustees, be relieved of any and all powers, duties and discretions vested in or imposed upon him or her by this Declaration of Trust (other than those powers, duties and discretions set out in ARTICLE 3 of this Declaration of Trust) by delivering to his or her other co-Trustees an instrument delegating the same to his or her co-Trustees. Any act done or decision made pursuant to such delegation shall be binding upon and not subject to question or challenge by any person whomsoever.

19.3 Majority Decisions. If there are more than two Trustees, subject to any division or delegation of their powers, duties and discretions pursuant to the foregoing provisions, all questions requiring action by the Trustees shall be determined by a majority of the Trustees for the time being in office. The Trustees may act either by a resolution passed by a majority of them at a meeting or by an instrument signed by a majority of them. Any such decision or act of a majority of the Trustees shall, for all purposes of this Trust, be deemed the decision or act of the Trustees. Any one or more of the Trustees who act in good faith and does not form part of any majority decision shall not be liable for any loss suffered by reason of acts or omissions which result from that majority decision.

19.4 Majority Execution of Instruments. Without limiting the generality of the foregoing and subject to any division or delegation of their powers, duties and discretions pursuant to the foregoing provisions, every deed or instrument signed by a majority of the Trustees for the time being in office shall be as valid, effectual and binding as if signed by all; provided that no Trustee shall be liable for any act or thing done or omitted without his, her or its consent by reason of the provisions of this section or for any act in which he, she or it joins for conformity only.

19.5 Interested Trustees. Provided the transaction is one that might reasonably have been entered into by parties dealing at arms' length, the Trustees or any of them, in their personal capacity or acting on behalf of any other person, may enter into any transaction related to the Trust Property and he, she or it, or the other person, in respect of any benefit they derive from the transaction, shall not be obliged to account to, or hold any property for the benefit of, any beneficiary, notwithstanding any rule of law which might in the circumstances have required an accounting to, or that property be held for, the beneficiary. If there are two or more Trustees, any of the Trustees who may be personally interested in the result of any exercise of a discretion vested in the Trustees may, if he, she or it thinks fit, leave the real exercise of such discretion to the other Trustees concurring in it merely for conformity.

## **ARTICLE 20**

### **LENDERS COMMITTEE'S PROCEDURE**

20.1 Delegation Among Co-Members. If there are two or more Members of the Lenders Committee, the Members may divide their duties among themselves as they may from time to

time deem advisable. Any act done or decision made pursuant to such delegation shall be binding upon and not subject to question or challenge by any person whomsoever.

20.2 Omission from Decision. Any one or more of the Members who act in good faith and do not form part of a decision shall not be liable for any loss suffered by reason of acts or omissions which result from that decision.

20.3 Majority Execution of Instruments. Without limiting the generality of the foregoing and subject to any division or delegation of their powers, duties and discretions pursuant to the foregoing provisions, every deed or instrument signed by a majority of the Members for the time being in office shall be as valid, effectual and binding as if signed by all; provided that no Member shall be liable for any act or thing done or omitted without his, her or its consent by reason of the provisions of this section or for any act in which he, she or it joins for conformity only.

20.4 Interested Members. Provided the transaction is one that might reasonably have been entered into by parties dealing at arms' length, the Members or any of them, in their personal capacity or acting on behalf of any other person, may enter into any transaction related to the Trust Property and he, she or it, or the other person, in respect of any benefit they derive from the transaction, shall not be obliged to account to, or hold any property for the benefit of, any beneficiary, notwithstanding any rule of law which might in the circumstances have required an accounting to, or that property be held for, the beneficiary. If there are two or more Members, any of the Members who may be personally interested in the result of any exercise of a discretion vested in the Members may, if he, she or it thinks fit, leave the real exercise of such discretion to the other Members concurring in it merely for conformity.

## **ARTICLE 21 EXECUTION IN COUNTERPARTS.**

This Declaration of Trust may be executed in any number of counterparts, each of which so signed shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties to this Declaration of Trust set their hands and seals as of the date first hereinbefore mentioned.

SIGNED, SEALED AND DELIVERED by )  
**534170 B.C. LTD.**, in the presence of: )

\_\_\_\_\_) )  
Witness )

\_\_\_\_\_) )  
Address )

\_\_\_\_\_) )  
Occupation )

SIGNED, SEALED AND DELIVERED by )  
**STEPHEN DIAMOND** in the presence of: )

\_\_\_\_\_) )  
Witness )

\_\_\_\_\_) )  
Address )

\_\_\_\_\_) )  
Occupation )

SIGNED, SEALED AND DELIVERED by )  
**MICHAEL BUCHANAN** in the presence )  
of: )

\_\_\_\_\_) )  
Witness )

\_\_\_\_\_) )  
Address )

\_\_\_\_\_) )  
Occupation )

\_\_\_\_\_) )  
**534170 B.C. LTD.**, as Original Trustee and )  
Trustee )

Per: )

Authorized Signatory

\_\_\_\_\_) )  
**STEPHEN DIMOND**, as Lenders )  
Committee )

\_\_\_\_\_) )  
**MICHAEL BUCHANAN**, as Lenders )  
Committee )

**SCHEDULE A**

[Original Trust Property]

**SCHEDULE B**

[Mortgage]

[Beneficiaries]

**SCHEDULE C**

## SCHEDULE "B"

**THIS DECLARATION OF NOMINEE OWNERSHIP** is made effective the \_\_\_\_ day of \_\_\_\_\_, 2010.

### WHEREAS:

A. 534170 B.C. Ltd. is the trustee under a Declaration of Trust (the "Valleyview Lenders Trust") made the \_\_\_\_ day of \_\_\_\_\_, 2010.

B. Stephen Dimond and Michael Buchanan (the "Registered Owners") are the initial members of the Lenders Committee established under the Valleyview Lenders Trust.

C. The Registered Owners wish to set-out the terms on which they will hold 100 Common shares in 534170 B.C. Ltd. (the "Shares") in trust for the Beneficiaries (as that term is defined in the Valleyview Lenders Trust).

NOW THEREFORE THIS DECLARATION OF NOMINEE OWNERSHIP WITNESSES AS FOLLOWS:

1. **Nominee, Agent and Bare Trustee.** The Registered Owners hereby declare that they hold and will hold the legal title to the Shares as nominee, agent and bare trustee for the sole benefit and account of the Beneficiaries. The Registered Owners will have no equitable or beneficial interest in the Shares, and the equitable and beneficial interest in the Shares will be vested solely and exclusively in the Beneficiaries. Any benefit, interest, profit or advantage arising out of or accruing from the Shares is and will continue to be a benefit, interest, profit or advantage of the Beneficiaries and if received by the Registered Owners will be received and held by the Registered Owners for the sole use, benefit and advantage of the Beneficiaries.

2. **Registered Owners to Act on Direction of Beneficiaries.** The Registered Owners agree that they will, upon the direction of the Beneficiaries, deal with the Shares and do all acts and things in respect of the Shares at the expense of and as directed by the Beneficiaries from time to time and will assign, transfer, convey, lease, mortgage, pledge, charge, or otherwise deal with the Shares or any portion thereof at any time and from time to time in such manner as the Beneficiaries may direct, to the extent permitted under all relevant laws. Without limiting the generality of the foregoing, the Registered Owners will transfer legal title to the Shares to or as directed by the Beneficiaries forthwith upon the written demand of the Beneficiaries.

3. **Beneficiaries Procedures.** All procedures and meetings of the Beneficiaries hereunder shall be governed by and conducted in accordance with the terms and conditions set out for such procedures and meetings of the Beneficiaries under the Valleyview Lenders Trust.

4. **Beneficiaries Interest in Shares.** The Beneficiaries' respective interests in the Shares shall be as reflected as set out in Schedule C to the Valleyview Lenders Trust, as may be adjusted from time to time.

5. **Direction to and Replacement of Registered Owners.** The Beneficiaries shall be entitled to give directions to the Registered Owners, and to remove and replace the Registered Owners, in the same manner as the Beneficiaries are entitled to give directions to remove, and replace, the members of the Lenders Committee as set out in the Valleyview Lenders Trust.

6. **Reimbursement of Expenses.** Any payments or disbursements made by the Registered Owners in respect of the Shares in accordance with this Agreement will be made as the agent of and for the account of the Beneficiaries and the Beneficiaries will reimburse the Registered Owners for any amount reasonably and properly expended by the Registered Owners in connection with the Shares, such expenses to be borne by the Beneficiaries in the same manner and proportions as set out in the Valleyview Lenders Trust. The Registered Owners will not be entitled to any remuneration or any revenue or profit in respect of the Shares for acting as nominee, agent and bare trustee.

7. **Governing Law.** This Declaration of Trust and all matters arising hereunder will be governed by and construed in accordance with the laws of British Columbia, which will be deemed to be the proper law hereof, and the courts of British Columbia will have the exclusive jurisdiction to entertain and determine all claims and disputes arising out of or in any way connected with this Declaration of Trust and the validity, existence and enforceability hereof.

IN WITNESS WHEREOF this Agreement has been executed as of the day and year first above written.

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Stephen Dimond

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Michael Buchanan

No. A972569  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ERON MORTGAGE CORPORATION, IN IT CAPACITY  
AS TRUSTEE AND OTHERS

PETITIONER

AND:

ERON MORTGAGE CORPORATION  
HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA  
ERON FINANCIAL SERVICES LIMITED  
ALL INVESTORS AS SET OUT IN SCHEDULE "A"  
ATTACHED TO THE PETITION

RESPONDENTS

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**ORDER MADE AFTER APPLICATION**

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**FASKEN MARTINEAU DuMOULIN LLP**  
Barristers & Solicitors  
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604 631 3131

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