



New Brighton Residents Association Brochure



NEW BRIGHTON

NEW BRIGHTON SUBDIVISION BROCHURE February 1, 2002

Description of Lands and Ownership in New Brighton

Carma Developers Ltd. ("Carma") is the owner of approximately 603 acres of land in the New Brighton subdivision in the southeast portion of the City of Calgary, as shown on Exhibit 1 to Schedule "A" to this brochure. Such lands as shown in Exhibit 1, subject to adjustment as Carma in its sole discretion determines, are referred to in this brochure as the "New Brighton Lands". For example, Carma may, if it so determines, acquire an additional 15 acres from The City of Calgary (the "City") to include within the New Brighton Lands.

Planned New Brighton Amenities

Carma is in the course of negotiating (the "Negotiations") with the City for the construction and development by Carma of certain amenities (the "New Brighton Amenities") which are or will be situate on the New Brighton Lands and/or lands owned by the City. The New Brighton Amenities will include certain landscaping, fencing and signage features (the "Amenity Features") at locations to be determined by Carma within the New Brighton Lands and, subject to finalization of the Negotiations, certain indoor and outdoor recreational facilities and other improvements on one or more other sites within the New Brighton Lands (the "Recreational Facilities").

Located within the New Brighton Lands, at the intersection of New Brighton Boulevard and New Brighton Way, is an approximately two (2) acre site, which is anticipated to be zoned to accommodate the development of the Recreational Facilities currently being planned by Carma. Further, subject to the outcome of the Negotiations, the final location and acreage of the site or sites comprising the Recreational Facilities may vary from the two (2) acre site referred to above.

As the outcome of the Negotiations and the arrangements thereby arising cannot yet be determined, Carma will be entitled to conclude the Negotiations in such a manner as Carma in its sole discretion considers to be generally beneficial to the New Brighton Residents Association (the "Association") and its members.

It is presently anticipated that construction of the New Brighton Amenities will be phased as the New Brighton Lands are developed. The Amenity Features will be completed as portions of the New Brighton Lands are serviced and subdivided into individual residential building lots whereas the Recreational Facilities will likely be completed in several phases as homes are built and occupied. Subject to finalization of the Negotiations, construction of the first phase of the Recreational Facilities is anticipated to commence by the later of December 31, 2003 and the completion of construction of not less than 500 single family residential homes within the New Brighton Lands.

In the event that by June 30, 2003 Carma is unable to satisfactorily complete the Negotiations, or to facilitate the necessary regulatory approvals to commence the construction of the Recreational Facilities, then Carma's obligations under the New Brighton Amenities Agreement attached as

Schedule "A" to this brochure will be limited to completion of the Amenity Features only (and shall exclude the Recreational Facilities) and Carma will attempt to have the principal amount of the rental Encumbrance referred to below amended to FIFTY DOLLARS (\$50.00) per year for single family lots in the New Brighton Lands (and not less than THIRTY-SEVEN DOLLARS FIFTY CENTS (\$37.50) per year per unit for multi-family residential rental projects or condominium units), all as adjusted as provided in the Encumbrance.

The New Brighton Amenities are further described in the New Brighton Amenities Agreement attached hereto as Schedule "A" and the final nature, location, acreage and boundaries of the New Brighton Amenities are subject to the Negotiations and the approval of the City and other regulatory authorities. As more particularly described in such Schedule "A", Carma will be responsible for the initial construction cost of the Amenity Features, but the responsibility for the initial construction cost of the Recreational Facilities, if they form a part of the New Brighton Amenities, will be determined by Carma, subject to the Negotiations, and all or some portion thereof may be borne by the Association. Furthermore, the Association may, if it so chooses and at its own cost, expand the New Brighton Amenities beyond the Amenity Features and Recreational Facilities contemplated by this brochure.

The New Brighton Residents Association and Operation by Carma

Attached to and forming part of this brochure are the following Schedules:

Schedule "A"	New Brighton Amenities Agreement
Schedule "B"	Memorandum of Association
Schedule "C"	Articles of Association
Schedule "D"	Encumbrance

The Association has been incorporated by Carma for the purpose of holding title to the New Brighton Amenities, for operating the New Brighton Amenities for its Members, and, if the Association so wishes, for entering into arrangements for the enhanced maintenance of other public lands, for the renting or sharing of the New Brighton Amenities with other persons, including school boards and/or other municipal authorities, for the sharing of other facilities and amenities with the Association's Members, and for ancillary purposes as set forth in the Association's Memorandum of Association. The ownership (whether by fee simple title and/or leasehold estate) of and the management of the New Brighton Amenities will be transferred to the Association in accordance with the terms of the New Brighton Amenities Agreement.

The future resident homeowner(s) or tenant(s) in the New Brighton Lands and the spouse and unmarried children resident with such homeowner(s) or tenant(s), are entitled to become and remain Members of the Association incidental to such persons' ownership or rental of a home located in the New Brighton Lands, subject to their abiding by the rules and regulations of the Association and the timely payment of membership fees to the Association, as hereinafter set forth. A copy of the Memorandum of Association and Articles of Association of the Association are attached hereto as Schedules "B" and "C".

Carma estimates that on completion of development of the New Brighton Lands, the total number of potential Members could range from a minimum of approximately 3,100 (being only those Members derived from development within Carma's present ownership within the New Brighton Lands, in accordance with the densities prescribed in the East McKenzie Area Structure Plan) to as high as approximately 5,300 Members (being the maximum density prescribed in the

East McKenzie Area Structure Plan for the New Brighton Lands). The number of potential Members which is ultimately permitted use of the Recreational Facilities will affect the timing of the construction and completion of the Recreational Facilities, the nature and extent of the facilities provided thereby, and the revenue available to the Association to operate the Recreational Facilities, and hence the annual fees which will be assessed by the Association to its Members.

As long as Carma is managing the Association and operating the New Brighton Amenities, an operating budget so as to allow for their proper operation, as determined in the sole opinion of Carma, shall be approved by Carma, and if such operating budget is not fully funded by income received from the Encumbrances or any other sources of income available to the Association, Carma agrees to loan sufficient funds to the Association, on normal commercial terms, in order to meet such budgeted expenses. Any income received by the Association in excess of actual operating expenses shall forthwith be used by it to repay any outstanding Carma loans.

Within six (6) months of the date that the last lot is sold by Carma within the New Brighton Lands, and subject to repayment of any loans then owing by the Association to Carma, Carma intends to transfer to the Association the management of the Association and the ownership and operation of the New Brighton Amenities for the sum of \$1.00. In the period of time prior to the management of the Association and the ownership and operation of the New Brighton Amenities being transferred to the Association, each Member of the Association will be allowed the use of the New Brighton Amenities subject to such rules and regulations as are provided from time to time by Carma. A breach of such rules and regulations may result in the suspension of the right of a Member to use the New Brighton Amenities.

Carma will use its best efforts to carry out the above commitments; however, its ability to do so and the timing of their completion are subject to satisfactorily concluding the Negotiations and to receiving all required governmental approvals and to any events beyond its reasonable control which may delay such completion.

Carma will operate the Association and will maintain and manage the New Brighton Amenities until it has transferred same to the Association. As set out in the New Brighton Amenities Agreement attached hereto as Schedule "A", Carma shall be entitled to retain agents for the administration, operation and management of the Association and the New Brighton Amenities.

Annual Rent Charge Encumbrance

To pay for the management of the Association and the operation and maintenance of the New Brighton Amenities, Carma will, for the benefit of the Association, attempt to have the title of each single family residential lot, condominium unit and rental project in the New Brighton Lands subject to the rent charge encumbrance generally in the form of Schedule "D", requiring payment to the Association of a rental fee. In the case of single family residential lots within the New Brighton Lands, the amount of such encumbrance shall be TWO HUNDRED FIFTY DOLLARS (\$250.00) per year, subject to adjustment as provided in the Encumbrance. In the case of any multi-family residential rental lots and condominium projects (if any) that are developed in the New Brighton Lands, an appropriate Encumbrance substantially in the form of Schedule "D" hereto will be registered on title, requiring payment of an annual rental fee by the owner of such lot or unit equal to not less than ONE HUNDRED EIGHTY SEVEN DOLLARS AND FIFTY CENTS (\$187.50) per unit, being seventy five percent (75%) of the rental fee paid

by the owners of single-family lots located in the New Brighton Lands, in each case subject to adjustment as provided in the Encumbrance.

The Association may in any year choose to charge an amount other than that provided for in the Encumbrances. As the various phases of the New Brighton Amenities are completed, the annual rental fee will be charged to Members in increasing amounts. It is expected that until the first phase of the Recreational Facilities is completed, the annual fee charged will not exceed FIFTY DOLLARS (\$50.00) per single family lot and THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$37.50) per unit for multi-family rental projects or for condominium units, subject to adjustment as provided in the Encumbrances. All fees as described in this brochure are subject to GST or other applicable taxes.

The payment of annual rental fees, membership in the Association and use of the New Brighton Amenities are more fully explained in the Articles of Association of the Association.

Acknowledgments by Purchaser

The undersigned acknowledges and is aware that, pursuant to the New Brighton Amenities Agreement, Carma has undertaken full responsibility for the Negotiations, and for the design, engineering, development and construction of and initial management and operation of the New Brighton Amenities, and the initial overall management and operation of the Association, and Carma has the complete and unfettered right and authority from the Association to carry out such responsibilities in such manner as it sees fit. The undersigned acknowledges that the Association, as set out in Articles 54 and 55 of its Articles of Association, has instructed its officers and directors to fully cooperate with Carma and has relieved its officers and directors of any responsibility to investigate or to determine whether or not Carma is properly carrying out its obligations as set out above.

The undersigned, as a future Member of the Association, acknowledges and unanimously agrees with all other Members or future Members that, as set out in Articles 54 and 55 of the Articles of Association, it is intended and he or she agrees that the officers and directors of the Association should fully cooperate with Carma and that all of their rights, duties and obligations that conflict with Carma's rights as set out in the New Brighton Amenities Agreement, or any other agreement with Carma, are and have been suspended during the period of Carma's initial operation of the Association, including the period of development, planning, construction and initial operation of the New Brighton Amenities except to the extent required in order for them to carry out such cooperation.

No Member of the Association or any property owner shall have any personal or legal interest in the New Brighton Amenities or in any part thereof or to the proceeds of the said Encumbrances other than as a Member of the Association. As well, a Member's right to membership in the Association is not transferable and it only takes effect and is enforceable for so long as he or she remains a resident owner or tenant of such residential lot, condominium unit or rental project which is located in the New Brighton Lands and where (if required) he or she maintains membership in the Association.

The undersigned is the purchaser of:

Lot , Block , Plan

SCHEDULE "A"

NEW BRIGHTON AMENITIES AGREEMENT

THIS AGREEMENT MADE THE __ DAY OF _____, 2002.

BETWEEN:

CARMA DEVELOPERS LTD., a body corporate incorporated pursuant to the laws of the Province of Alberta (hereinafter called "Carma")

OF THE FIRST PART

- and -

NEW BRIGHTON RESIDENTS ASSOCIATION, a body corporate incorporated pursuant to the laws of the Province of Alberta (hereinafter called the "Association")

OF THE SECOND PART

WHEREAS:

A. Carma is the owner of those lands situated in the southeast part of the City of Calgary, Alberta as shown in Exhibit 1 hereto, and being generally called New Brighton (all such lands owned by Carma as shown in Exhibit 1, subject to such adjustments as Carma may in its sole discretion determine are hereinafter collectively referred to as the "New Brighton Lands");

B. Carma proposes to create residential lots and commercial sites on the New Brighton Lands and to benefit such residential lots by creating certain landscaping, fencing and signage features (the "Amenity Features") at locations to be determined by Carma within the New Brighton Lands. Additionally, subject to finalization of negotiations (the "Negotiations") between Carma and The City of Calgary (the "City"), and otherwise in Carma's sole discretion, Carma may (but shall not be required to) construct indoor and/or outdoor recreational facilities and other improvements on one or more sites within the New Brighton Lands (the Amenity Features and, if constructed, the Recreational Facilities, are hereinafter referred to collectively as the "New Brighton Amenities"). The location, character, nature of improvements on, and final acreage and boundaries of, the New Brighton Amenities are subject to the approval of the City and other regulatory authorities, and also to the Negotiations;

C. Carma has determined to create and develop the New Brighton Amenities with the intention that they be private and/or public, non-profit facilities for the benefit of the future residents of the New Brighton Lands;

D. The complete development of the New Brighton Lands and the New Brighton Amenities is expected to take a number of years;

E. The Association would like Carma to fully complete the development of the New Brighton Lands and the New Brighton Amenities;

F. The Association acknowledges that it has had no part in the planning or the development of the New Brighton Amenities or the New Brighton Lands, that all the Negotiations and planning will be done by Carma and that the responsibility for the Negotiations and for developing the New Brighton Lands and the New Brighton Amenities is Carma's;

G. Carma will attempt to have each of its purchasers of lots within the New Brighton Lands sign a copy of the New Brighton Brochure setting out the rights and responsibilities of the members of the Association. Attached to and forming part of the Brochure (as Schedule "A" thereto) is this Agreement and the following additional Schedules:

- Schedule "B" New Brighton Residents Association Memorandum of Association
- Schedule "C" New Brighton Residents Association Articles of Association
- Schedule "D" Encumbrance

which additional Schedules are incorporated in this Agreement and form a part hereof;

H. Carma has caused the Association to be incorporated pursuant to the *Companies Act* (Alberta) and the Association has been organized pursuant to the Memorandum of Association and Articles of Association for the purposes of the Association ultimately owning (whether by way of fee simple estate and/or leasehold estate) and operating the New Brighton Amenities, and for such other purposes which are for the common benefit of the Association's members as contemplated by the Association's Memorandum of Association.

I. The parties acknowledge and agree that it is their common intention that the Association will be initially managed by Carma (or its agents as herein set forth) and that the New Brighton Amenities will initially be wholly engineered, developed and managed by Carma (or its agents as herein set forth) and, subject to the Association's repayment of any outstanding loans owed to Carma, the ownership thereto will then be delivered to the Association and that it is the intention of both parties that the Association will have no responsibility for such items until the date that ownership of the New Brighton Amenities is transferred to the Association, nor have any authority regarding such Negotiations, or the engineering, development, operation and management of the New Brighton Amenities until the date that the management of the New Brighton Amenities is formally delivered to the Association, all in accordance with the terms of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and mutual covenants herein contained, the parties hereto covenant and agree as follows:

1. Carma will construct the New Brighton Amenities and will equip same with such equipment, facilities, signs and landscaping as are, in Carma's opinion, reasonably necessary for the operation of same. The initial costs of construction of the Amenity Features will be borne by Carma, whereas responsibility for the costs of the initial construction and equipping of the Recreational Facilities (if they form a part of the New Brighton Amenities) will be determined by Carma, subject to the Negotiations, and all or some portion thereof may be borne by the Association. To the extent that any such initial costs are to be borne by the Association, Carma may (but shall not be required to) loan the necessary funds to the Association on generally available commercial terms as Carma determines.

2. Carma shall construct, develop and maintain on the New Brighton Lands, as determined by the Negotiations, such improvements as Carma in its sole discretion shall determine and such improvements shall constitute the New Brighton Amenities and, subject to the terms hereof, Carma shall manage and operate the New Brighton Amenities until that date (the "Effective Date") which is the later of:

- (a) six (6) months after the date upon which Carma has sold its last lands within the New Brighton Lands; or
- (b) the date upon which all monies owed to Carma by the Association have been fully repaid to Carma;

or such earlier date as Carma in its sole discretion may determine.

3. Carma may determine, in its sole discretion, prior to the Effective Date:

- (a) to transfer management and/or ownership of all or part of the New Brighton Amenities to the Association. It is understood and agreed that Carma's rights in respect of the New Brighton Amenities as herein contained shall continue unabated until the Effective Date, notwithstanding its prior transfer of management and/or ownership of all or part of the New Brighton Amenities to the Association; and
- (b) to transfer certain aspects of the overall management of the Association to the Association.

4. On such date(s) as Carma determines, but in any event by no later than the Effective Date, if Carma determines same to be necessary, Carma shall, pursuant to assignment agreements acceptable to Carma, assign to the Association Carma's interest in all agreements entered into between Carma and the City relating to the New Brighton Amenities and the maintenance thereof and responsibility therefor, and pursuant to which the Association will assume from Carma all of its obligations and liabilities under such agreements and will indemnify Carma in respect of same.

5. The registration and organization of the Association has been done at the sole expense of Carma.

6. Carma as the initial owner of all the residential building lots and lands to be subdivided into condominium units in the New Brighton Lands will, upon the initial sale by Carma of each such residential building lot or condominium lands, attempt to cause the same to be encumbered by the Encumbrance substantially in the form of Schedule "D" to the Brochure to which this Agreement is also a schedule.

7. Until the Effective Date, Carma will either prepare or approve the operating budget for the Association, so as to allow for the proper operation of the Association and for the maintenance and operation of the New Brighton Amenities as determined in the sole opinion of Carma acting reasonably. Such budget shall be considered in determining the Association's annual membership fees.

8. If such operating budget is not fully funded by the Association's income derived from the Encumbrances or other sources, and provided that Carma has in writing approved the amount of the annual membership fees assessed for that fiscal year, then Carma agrees to loan sufficient funds to the Association in order to meet such budgeted expenses, such loans to be repayable on demand and to bear interest from time to time at the rate of Prime Rate plus one percent (1%). "Prime Rate" shall mean the prime rate of interest charged by The Toronto-Dominion Bank, being a variable per annum reference rate of interest (as announced by the said bank from time to time) for Canadian dollar loans made by the said bank in Canada. Any income received by the Association (whether by collection of assessments through Encumbrances or otherwise) in excess of actual operating expenses shall forthwith be used by it to repay any outstanding Carma loans in priority to any other obligations.

9. It is understood and agreed that either Carma or the Association may refuse membership, or may terminate the membership of those owners of residential building lots, condominium units or rental projects within the New Brighton Lands whose title does not have registered against it the Encumbrance and may require the registration of any such Encumbrance which has been removed from the title to their lot, unit or project.

10. If by the Effective Date all the residential lots or other lands owned by Carma and located in the New Brighton Lands have not been sold by Carma, Carma will be entitled to sell such lots or other lands subject to the right of membership in the Association and the Association shall at that time attempt to obtain the execution and registration of the appropriate Encumbrance as may be determined by Carma.

11. On or prior to the Effective Date, and provided that all loans owed by the Association to Carma have been repaid in full (or other arrangements for repayment thereof, satisfactory to Carma in its sole discretion, have been made) Carma will, for a total nominal consideration of \$1.00, deliver to the Association:

- (a) a good and sufficient transfer under the *Land Titles Act* (Alberta) of Carma's interest in the New Brighton Amenities which on registration will cause title thereto (whether for a fee simple estate and/or a leasehold estate) to vest in the name of the Association subject to those interests or encumbrances endorsed on the title to the New Brighton Amenities on the date thereof, including without limitation any deferred reserve caveat or any other charge, right-of-

way or encumbrance that is imposed upon the New Brighton Amenities by the City of Calgary, or any statutory or regulatory body; and

- (b) a bill of sale of all chattels owned by Carma and specifically used to maintain or benefit the New Brighton Amenities; and
- (c) such other documents as Carma requires to effect the transfer of the New Brighton Amenities to the Association;

all in such forms as Carma determines.

12. It is understood and agreed that none of the building lots contained in the New Brighton Lands shall be subject to assessment for Association fees until a residential unit (or units in the case of a rental project) has been constructed thereon and until the first occupant of such single family residential home, condominium unit or rental project, as the case may be, has taken possession thereof.

13. On or before the Effective Date, Carma will turn over to the Association all plans, specifications and operating manuals in Carma's possession relating to the management of the Association and the construction, maintenance, operation and management of the New Brighton Amenities.

14. Either on the Effective Date or immediately thereafter, Carma will cause all of the officers and directors of the Association which are Carma's nominees to tender their resignations.

15. Carma when and as requested will during a reasonable period after the Effective Date make available to the directors and officers of the Association any relevant information in its possession relating to the management of the Association and the operation of the New Brighton Amenities, which information shall be provided without any requirement for Carma to determine the accuracy or relevance of such information, and Carma shall not be liable for the results of the inaccuracy or irrelevancy of such information nor for any damages suffered by the Association in using such information.

16. Until the Effective Date, Carma shall have full and absolute control of the overall management of the Association, including the sole right and obligation to proceed with and conclude the Negotiations, and to construct, develop, manage and operate the New Brighton Amenities and the Association, and its Members, officers and directors shall have no right or entitlement to do or share in any of these functions; provided always that each Member of the Association and their guests shall have access to and the right to use the New Brighton Amenities in common with all other Members, subject to the observance of the rules and regulations made by Carma from time to time. Any addition to or amendments of the rules or regulations made prior to the Effective Date by Carma shall be binding upon the Association; PROVIDED ALWAYS that a Member's access to and right to use the New Brighton Amenities may be suspended by Carma if the rent charge Encumbrance registered against the title to the Member's residence is in default, if it is removed or if the Member is in default with respect to the rules and regulations.

17. The following management provisions shall take effect until the Effective Date:

- (a) the Association hereby employs Carma as the Association's exclusive agent to manage the Association and to operate and maintain the New Brighton Amenities to and including the Effective Date without any right of the Association to cancel such management arrangement;
- (b) Carma agrees to perform the management functions set out below in the name of and on behalf of the Association, subject to the terms of this Agreement, and the Association shall not give any direction to Carma, make any investigations or exercise any control of Carma's actions as manager and hereby grants to Carma such complete and absolute authority and power as in Carma's sole opinion may be required by Carma to perform or effect performance of such management function;
- (c) If Carma assists the Association in the collection and receipt of assessments, levies, contributions and any other charges due to the Association from the Members of the Association, Carma shall not be responsible for collection of delinquent assessments or other charges except that Carma may take such further and other collection procedures as Carma in its sole discretion sees fit;
- (d) Subject to the provisions of and any restrictions contained in this Agreement, Carma shall (until the Effective Date only) cause the New Brighton Amenities to be constructed, operated, managed and maintained according to reasonable standards of construction, operation, management and maintenance consistent with the character, size and location of the New Brighton Amenities;
- (e) Carma shall negotiate and may execute on behalf of the Association contracts for such services for the New Brighton Amenities as may be necessary or desirable. Carma shall also either rent or purchase, as it determines is best in its sole discretion on behalf of the Association, such equipment, tools, appliances, materials and supplies as in its sole opinion are necessary for the management of the Association and the operation and maintenance of the New Brighton Amenities. All such purchases and contracts may be in the name of Carma or the Association and in any event shall be assumed by the Association as at the Effective Date;
- (f) Carma shall ensure that appropriate corporate and other legal filings and records in respect of the Association and its operations, including financial statements and accounting records, are prepared and maintained;
- (g) Carma and the Association shall cooperate in maintaining liability and property damage insurance relative to the New Brighton Amenities in force as provided for in paragraph 18 hereof; PROVIDED that the Association will indemnify and hold harmless Carma from any loss, costs or damages arising out of any claim, suit or action made by any of its members or their guests

whomsoever, relating to either claims greater than such insurance or to claims where there is inadequate insurance coverage;

- (h) Carma shall, based on the information and documents made available to it, assist the Association in keeping an up-to-date record of the names and addresses of all members of the Association of which it has knowledge;
- (i) subject to the provisions of this Agreement, the Association shall not pay any fee to Carma as compensation to it for the services to be rendered by Carma in accordance with this Agreement, but any charges for employees or professional managers employed by Carma to assist in its management function hereunder shall be paid for by the Association to Carma on demand, and this may include persons whose firms or groups are also employed by Carma regarding the New Brighton Lands; and
- (j) Carma may engage or use any person, firm or company including any which is associated, affiliated or otherwise connected with it, to perform any work or services for Carma within the scope of Carma's duties pursuant to the terms and conditions of this Agreement, without being in breach of a fiduciary or contractual relationship with the Association.

18. Carma shall provide and maintain in full force and effect during the term of this Agreement, with responsible insurance companies, the following insurance:

- (a) Such general comprehensive liability insurance of such nature and in such amount as Carma shall deem advisable protecting Carma and the Association relating to the operation of the Association including the development, construction of and initial management and operation of the New Brighton Amenities in respect of liability and/or damage because of bodily injury and injury to or destruction of property arising out of such activities. Such insurance shall contain a cross liability clause;
- (b) The Association shall pay to Carma to reimburse it for its actual costs in obtaining and maintaining such insurance, and where such insurance is part of Carma's overall insurance, then the Association shall pay its fair share of such insurance costs as determined by Carma's insurance brokers.

19. At any time before the Effective Date, and notwithstanding anything else contained in this Agreement, Carma shall be entitled to enter into management agreements in its name or in the name of and on behalf of the Association with any person, firm or company (including any which is associated, affiliated or otherwise connected with Carma or the Association) for the administration, operation and management of the Association and the New Brighton Amenities.

20. This Agreement shall be non-assignable by the Association without the prior written consent of Carma, which consent may, in Carma's sole and unfettered discretion, be withheld. This Agreement shall be assignable by Carma without the Association's consent.

21. If the Association breaches its obligations as set out herein to not interfere with the Negotiations or with Carma's designing, engineering, planning, developing, constructing and initially managing and operating the New Brighton Amenities, and initially managing the Association, it shall pay to Carma all of Carma's costs resulting therefrom and damages suffered thereby including but not limited to the costs to Carma of all additional time spent by its employees, all additional costs of professional advisors, additional design, engineering, planning, development, construction, management and operational costs and the damages suffered by Carma resulting from such breach including any delays in completing construction of the New Brighton Amenities and in the sale of its undeveloped building lots as contained in the New Brighton Lands. The Association confirms its understanding that damages at law may be an inadequate remedy for a breach or threatened breach by it of this Agreement and agrees that in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by an action claiming specific performance, injunction or other equitable remedy, but nothing herein contained is intended to, nor shall it, limit or affect any right or rights at law or by statute or otherwise of Carma as against the Association for breach or threatened breach of any provisions hereof, it being the intention of this paragraph to make clear the agreement of the parties that the respective rights and obligations of Carma hereunder shall be enforceable in equity as well as at law or otherwise.

22. As the Association has no responsibility or authority with reference to the Negotiations, the overall management of the Association or the development or operation of the New Brighton Amenities until the Effective Date, until the Effective Date the Association has directed its officers and directors to not investigate or otherwise determine whether or not Carma is complying with the terms of this Agreement and that the Association has waived any responsibility of its officers or directors to determine whether or not Carma is carrying out its obligations pursuant to this Agreement.

23. It is specifically understood that Carma is an independent contractor and that all its actions to be performed hereunder shall be carried on by Carma under its own direction and superintendents, at its own risk and according to its own methods or procedures.

24. Up to and until the Effective Date, the Association shall take all required steps to maintain its existence and shall execute all documents required by Carma for the organization and management of the Association and for the development, construction, maintenance and operation of the New Brighton Amenities and without any legal responsibilities for its actions in so doing.

25. The Association acknowledges that the Negotiations will be conducted and concluded by Carma in its sole discretion and control, on Carma's own behalf and on behalf of the Association, and such Negotiations may provide for, among other matters, the initial and ongoing development and operation of the New Brighton Amenities, and the inclusion of residents of other lands to become part of the New Brighton Lands, as members in the Association. Any agreements resulting from the Negotiations will be binding upon the Association.

26. This Agreement and the Exhibits hereto constitute the entire agreement between the parties and no representations, warranties or promises have been made by Carma to the Association save those herein contained.

27. If any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and each provision hereof shall be enforced to the fullest extent permitted by law.

28. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

29. Amendments to this Agreement must be in writing and signed by each party hereto.

30. This Agreement and all amendments, modifications, alterations or exhibits hereto shall be governed by the laws of the Province of Alberta as to the nature, validity and interpretation thereof.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed by their respective proper officers authorized in that behalf on the day and year first above written.

CARMA DEVELOPERS LTD.

Per: _____

Per: _____

**NEW BRIGHTON RESIDENTS
ASSOCIATION**

Per: _____

Per: _____

EXHIBIT 1



NTS

Legend

— Boundary of New Brighton Lands
as of February 01, 2002

Client/Project

CARMA DEVELOPERS LTD
NEW BRIGHTON

Title

Exhibit 1



Stantec

SCHEDULE "B"

MEMORANDUM OF ASSOCIATION OF NEW BRIGHTON RESIDENTS ASSOCIATION

1. The name of the Company is "New Brighton Residents Association".
2. The Company is incorporated under Part IX of the *Companies Act* of the Province of Alberta, R.S.A. 2000, c. C-21 as a non-profit corporation.
3. The objects for which the Company is established are:
 - (a) to acquire and take over from Carma Developers Ltd. ("Carma") and/or from The City of Calgary (the "City") and/or others:
 - (i) an interest in certain private amenity lands and/or public community lands; and
 - (ii) all or any of the equipment, chattels and assets used in connection therewith;

(such interests in such private amenity lands and/or public community lands, together with such equipment, chattels and assets as aforesaid are hereinafter referred to collectively as the "New Brighton Amenities"), all of which will be situate within the New Brighton Lands. "New Brighton Lands" means those lands in the southeast portion of the City of Calgary which are contained within the City's East McKenzie Area Structure Plan, and which are designated by Carma as the New Brighton Lands;
 - (b) to maintain and operate the New Brighton Amenities (and such operations may include prescribing rules and regulations for the use of the New Brighton Amenities) for the benefit of the Company's members, and, if the Company so desires, to enter arrangements to rent portions of the New Brighton Amenities to or from other persons;
 - (c) to borrow monies from Carma or others in relation to the costs of constructing, equipping and operating the New Brighton Amenities or portions thereof;
 - (d) to acquire from Carma their rights (if any) under each and every rent charge encumbrance registered on lands in the New Brighton Lands with any and all benefits and advantages to be derived therefrom and to enforce the same;
 - (e) to allow the Company, if it so desires, to enter into arrangements with the City or others for the maintenance of other public or private lands not forming part of the New Brighton Amenities but otherwise situate within the New Brighton Lands or in the vicinity thereof;

- (f) to allow the Company, if it so desires, to enter into arrangements with other persons for the sharing of the use of the New Brighton Amenities with other persons or for the sharing of the use of other facilities or amenities with members of the Company;
 - (g) to allow the Company, if it so desires and subject to any obligations of the Company to Carma, to expand or alter the New Brighton Amenities;
 - (h) to enter into agreements with other parties for the collection of assessments against the Company's members and/or the collection of any other revenues to fund the Company's operations and otherwise for the administration of the Company's financial and other affairs;
 - (i) to enter into agreements with Carma or other persons for the administration of the Company's affairs;
 - (j) to organize events for the benefit of the Company's members and to enter into arrangements with other persons in connection therewith;
 - (k) to provide, conduct or administer any other service or undertaking for the benefit of the Company's members or the New Brighton Lands (or any portion thereof);
 - (l) to enter into arrangements with and cooperate with the City or any community association, as the Company desires, to facilitate any of the above objects or activities;
 - (m) to carry on any other activity or undertaking whatsoever which can, in the opinion of the Company's board of directors, be advantageously carried on by the Company in connection with or ancillary to the general business of the Company;
 - (n) to do all such other lawful things as are incidental or conducive to the attainment of the above objects or any of them.
4. The liability of the members is limited.
5. Each member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same, and for the adjustment of the rights of the contributors amongst themselves, such amount as may be required not exceeding \$1.00.
6. The Company shall apply the profits, if any, or any other income of the Company solely in promoting the objects of the Company and no dividend whatsoever or other distribution of the property of the Company shall ever be paid to its members;

PROVIDED ALWAYS that nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any member or person in return for any service actually rendered to the Company.

7. No additions, deletions, alterations or amendments shall be made to or in the Memorandum or Articles of Association of the Company for the time being in force until after the Company has acquired both title to and management of the New Brighton Amenities without the written consent of Carma.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company pursuant to this Memorandum of Association.

NAMES, ADDRESSES AND OCCUPATIONS OF SUBSCRIBERS

<u>Subscribers</u>	<u>Occupation</u>	<u>Address</u>
_____ Robert F. Clark	Executive	7315 – 8 th Street, N.E. Calgary, Alberta, T2E 8A2
_____ Alan Norris	Executive	7315 – 8 th Street, N.E. Calgary, Alberta, T2E 8A2
_____ Michael Dutczak	Executive	7315 – 8 th Street, N.E. Calgary, Alberta, T2E 8A2

DATED at the City of Calgary, in the Province of Alberta, this ____ day of _____, 2002.

Witness to the above signatures
Print Name:

SCHEDULE "C"

ARTICLES OF ASSOCIATION OF NEW BRIGHTON RESIDENTS ASSOCIATION

1. The Articles of Association contained in Table "A" in the Schedule to the *Companies Act* (Alberta) do not apply to this Company.

INTERPRETATION

2. The headings used throughout these Articles shall not affect the construction hereof. In these Articles and the Memorandum of Association of this Company, unless the context otherwise requires, expressions defined in the *Companies Act* (Alberta) or any statutory amendment or modification thereof, shall have the meaning so defined, and the following terms shall have the following meanings:

- (a) "Carma" means Carma Developers Ltd., its successors and assigns;
- (b) "City" means The City of Calgary;
- (c) "*Companies Act* (Alberta)" means the *Companies Act* R.S.A. 2000, c.C-21, as amended or any substitution therefor from time to time;
- (d) "Company" means New Brighton Residents Association;
- (e) "Directors", "Board" and "Board of Directors" means the directors of the Company for the time being;
- (f) "Encumbrance" means an instrument to secure the annual rent charge to be paid by certain of the Members of the Company and registered or to be registered against the title to residential lands or rental lands of persons in the New Brighton Lands who are Members of the Company, for the purpose of forming an enforceable encumbrance pursuant to the provisions of the *Land Titles Act* (Alberta);
- (g) "Family Members" means the spouse (whether legally married to or not) of a Homeowner Member or Tenant Member and the unmarried children of such Homeowner Member or Tenant Member and/or such spouse which spouse and children are actually residing in the residential property of the Homeowner Member or Tenant Member;
- (h) "Homeowner Member" means the registered owner (including Carma as applicable) or one of the registered owners (as designated by those registered owners) of a single family residential property, including a condominium unit, (or a single tenant residing in such property as designated by the registered owner or owners thereof) located in the New Brighton Lands who is a qualified Member of the Company;

- (i) “Member” means a person for the time being entered in the Register of Members of the Company and Members means collectively all of them from time to time, inclusive of Homeowner Members, Rental Members, Family Members, and Tenant Members;
- (j) “month” means calendar month;
- (k) “New Brighton Amenities” means certain private amenity lands and/or public community lands, in each case including the improvements thereon, all of which will be situate within the New Brighton Lands, with such lands being owned by Carma and/or by the City or others, and all or any of the equipment, chattels and assets used in connection therewith, all of which is more particularly described in the New Brighton Amenities Agreement;
- (l) “New Brighton Amenities Agreement” means that agreement between the Company and Carma which is Schedule A to the New Brighton Residents Brochure;
- (m) “New Brighton Lands” means those residential subdivision lands in the southeast portion of the City of Calgary contained within the City’s East McKenzie Area Structure Plan, and designated by Carma as the New Brighton Lands;
- (n) “office” means the registered office of the Company for the time being;
- (o) “rent charges”, “rental charges”, “annual rental charge” and similar expressions means the fees assessed by the Company for its Members, as more particularly described in these Articles;
- (p) “Rental Member” means the registered owner or one of the registered owners of a multi-family residential rental project located in the New Brighton Lands who is a qualified Member of the Company;
- (q) “Tenant Member” means a tenant actually renting and residing in a multi-family rental project located in the New Brighton Lands, and if the Board so determines, then also of such a property located in the balance of the New Brighton Lands, that may or may not be owned by a Rental Member in accordance with these Articles;
- (r) “these presents” means and includes these Articles of Association, and any modification or alteration thereof for the time being in force;
- (s) “Voting Members” means the Members who are entitled to vote at meetings of the Company and shall be restricted to only Homeowner Members and Rental Members or their respective designates as provided herein, and the subscribers hereto while such subscribers remain Members hereunder; and

- (t) “writing” and “written” includes printing, typewriting, lithographing and other modes of representing or reproducing words in visible form which, without restricting the generality of the foregoing shall include fax, telex, telecopy and telegram.

Words importing the singular number include the plural number and vice versa; words importing the masculine gender shall include the feminine and words importing persons shall include corporations and companies.

REGISTERED OFFICE

3. Subject to the provisions of the *Companies Act* (Alberta), the Company may, by ordinary resolution of the Directors change from time to time the place within the City of Calgary where the registered office of the Company is to be situated.

MEMBERS

4. The subscribers hereto shall be Members until they resign. Every person owning a single family residential property condominium unit or rental project (or being a tenant living in such rental project) in the New Brighton Lands shall be entitled to become a Member as long as such person so owns such residential property or rental project or such tenant lives in such rental project and shall forthwith cease to be a Member at any time such a residential property or rental project in the New Brighton Lands is not owned by such person or that such person ceases to be a tenant therein; PROVIDED HOWEVER that the persons owning residential or rental properties or living therein as a tenant shall not be a Member until they agree, in writing to do so and the persons owning a residential property or rental project have allowed the registration of an appropriate Encumbrance against the title to their property confirming such membership, their obligations and their agreement to pay the annual rental charge. In the Board's discretion, the principal amount of the Encumbrance and the annual rental charge for Members may be greater or less than the principal amount of the Encumbrance. PROVIDED ALWAYS with reference to all residential or rental properties located in the New Brighton Lands, or in the balance of the New Brighton Lands:

- (a) Where there is more than one such owner of a property, there shall be only one Voting Member who shall be the person designated as the Voting Member by all the owners of said property. In the absence of such designation the first person named as owner in the Certificate of Title or as Purchaser in an Agreement for Sale, shall be the Voting Member;
- (b) Where a single family residential property is owned by a corporation other than Carma (or another developer within the New Brighton Lands) the Voting Member shall be a person resident in said property and shall be designated by the corporation as the Voting Member;
- (c) Where a Voting Member, including Carma, owns more than one single family residential property in the New Brighton Lands, other than in the case of

condominium units, that Voting Member shall be entitled to one (1) vote for each such property owned by that Voting Member;

- (d) Where a single family residential property or condominium unit is occupied by a tenant such tenant may be designated by the otherwise designated Voting Member pursuant to (a) above, as the Voting Member by and instead of the owner(s) of such property;
- (e) Where a rental project is involved the registered owner or its designate shall be the Voting Member and notwithstanding how many Tenant Members are residing in the rental project, it shall have only one (1) vote;
- (f) Where the owner of the rental project first has become and maintains membership in the Company as a Rental Member, all the tenants of such rental project shall be entitled to become Tenant Members in the Company subject to them complying with the rules and regulations of the Company as well as any special rules and regulations put in place by the Board of Directors and dealing specifically with tenants of Rental Members. The right to membership of a Tenant Member shall automatically cease either at the same time that his Rental Member ceases to be a Member or he ceases to be a tenant in the rental project in question;
- (g) Where a condominium project is located in the New Brighton Lands, each owner of a condominium unit therein shall be entitled to become a Member; PROVIDED THAT where such an owner owns more than one condominium unit in the New Brighton Lands (or in the balance of the New Brighton Lands, if applicable), that owner shall nevertheless have only one (1) vote;
- (h) Where there is any difficulty or dispute in determining the Voting Members, the Directors in their absolute discretion may designate the Voting Member, the intention being that there be one Voting Member from each single family residential property (including a condominium unit, subject to (g) above) or rental project in the New Brighton Lands and, except in the case of a rental project, or in the case of Carma (or other developers of lands in the New Brighton Lands if applicable) and as otherwise set forth above, the Voting Member shall be a natural person resident in the New Brighton Lands;
- (i) Membership is not transferable by a Member but is appurtenant to ownership and residence as herein set out;
- (j) Carma, as registered owner from time to time of any single family lots in the New Brighton Lands (regardless of whether such lots are occupied) shall be deemed to be a Homeowner Member.

REGISTER OF MEMBERS

5. (a) A register of Homeowner Members in such form as the Board may approve shall be maintained in which shall be recorded the names and addresses of all Homeowner Members. The Register shall be amended from time to time so that all Homeowner Members are listed in such register. Amendments to such register may be made by the Board at any time and from time to time of its own volition or upon presentation to the Company of evidence acceptable to the Board. Upon amendment as aforesaid there may be charged a fee as set by the Board from time to time.

REGISTER OF RENTAL MEMBERS AND TENANT MEMBERS

- (b) A register of Rental Members and Tenant Members shall be maintained in such form as the Board may approve, in which shall be recorded the names and addresses of all Rental Members and their tenants who by properly complying with the requirements of membership become Tenant Members. The Company shall attempt to establish a workable procedure whereby it is notified when Tenant Members cease to be tenants of a rental project located in the New Brighton Lands. The register shall be amended from time to time so that all Rental Members and Tenant Members are listed in such register. Amendments to such register may be made by the Board at any time and from time to time of its own volition or upon presentation to the Company of evidence acceptable to the Board. Upon an amendment being made as aforesaid there may be charged a fee as set by the Board from time to time.

REGISTER OF FAMILY MEMBERS

- (c) A register of Family Members shall be maintained in such form as the Board may approve, in which shall be recorded the names and addresses of all Family Members. The register shall be amended from time to time so that all Family Members are listed in such register. Such amendment may be made by the Board at any time and from time to time of its own volition or upon presentation to the Company of evidence acceptable to the Board. Upon amendment as aforesaid there may be charged a fee as set by the Board from time to time.

MEMBERSHIP CARDS

- (d) Every Member shall be periodically issued a membership card as determined by the Directors. The membership cards shall remain the property of the Company. If a membership card is lost it shall be replaced by the Company, provided however that there may be charged a fee as set by the Board from time to time as a condition to delivery of such replacement membership card.

RIGHTS OF ALL MEMBERS

6. Members shall have access to and be entitled to the use of the Company's New Brighton Amenities in common with all Members subject to suspension of such rights:

- (a) for breach of any Rule or Regulation for the conduct of Members; and
- (b) for default by any Member in payment of any fees, dues, deposits or other sum owing to the Company.

Members shall at all times act responsibly with respect to the New Brighton Amenities, it being recognized that the maintenance and appearance of the New Brighton Amenities is for the benefit of the Company and all its Members.

MEMBERS' MEETINGS

7. The first annual general meeting of the Members of the Company shall be held at such time, within sixteen (16) months from the date on which the Company is incorporated and at such place as the Directors may determine. Subsequent annual general meetings shall be held at least once in every calendar year and not more than sixteen (16) months after the holding of the last preceding general meeting, at such time and place as may be determined by the Directors.

- 8. (a) The general meetings referred to in the preceding clause shall be called annual general meetings, and all other meetings of the Company shall be called special general meetings. All meetings of Members shall be held in the City of Calgary, in the Province of Alberta;
- (b) No Family Members shall be entitled to notice of or to attend any meeting, general, special or otherwise of the Company;
- (c) Only Voting Members shall be entitled to vote on, or propose, or second resolutions at meetings of the Members; and
- (d) Only Voting Members shall be entitled to notice of and to attend annual general meetings.

9. The Directors may, whenever they think fit, proceed to convene a special general meeting of the Company.

10. Where it is proposed to pass a special resolution, such notice as is required to be given by the *Companies Act* (Alberta), and in all other cases at least ten (10) days' notice specifying the day, hour and place of every Voting Members' meeting, and in case of special business the general nature of such business, shall be served in one of the manners hereinafter provided on the Voting Members registered in the Members' register at the time such notice is served or if a record date has been fixed by the Directors, on the Voting Members registered in the Register of Members at the record date as so fixed; PROVIDED ALWAYS that a meeting of the Voting Members may be held for any purpose, at any time

and at any place without notice, if all the Voting Members entitled to notice of such meeting are present in person or represented thereat by proxy or if the absent Voting Members shall have signified their assent in writing to such meeting being held. Notice of any meeting or any irregularity in any meeting or in the notice thereof may be waived by any Voting Member or the duly appointed proxies of a Voting Member. It shall not be necessary to give notice of any adjourned meeting.

11. Irregularities in the notice of any meeting or in the giving thereof or the accidental omission to give notice of any meeting or the non-receipt of any notice by any Voting Member or Voting Members, shall not invalidate any resolution passed or any proceedings taken at any meeting and shall not prevent the holding of such meeting.

PROCEEDINGS AT MEMBERS' MEETINGS

12. All business shall be deemed special that is transacted at a special general meeting. All business shall be deemed special that is transacted at an annual general meeting, with the exception of consideration and approval of the financial statements and the ordinary report of the Directors, auditors, and other officers, the election of Directors, the appointment of auditors, the fixing of the remuneration of the auditors and the transaction of any business which under these presents ought to be transacted at a general meeting. Special business or a special resolution may be passed at an annual general meeting provided the requisite notice has been given.

13. No business shall be transacted at a general meeting unless a quorum is present at the time the meeting proceeds to business. Save as herein otherwise provided, the lesser of fifty (50) Voting Members or ten percent (10%) of the Voting Members either personally present or represented by proxy shall be a quorum.

14. The President, or in his absence the Vice-President (if any), shall be entitled to take the chair at every general meeting, or if there be no president or vice-president, or if at any meeting he shall not be present within fifteen (15) minutes after the time appointed for holding such meeting, the Voting Members present shall choose another Director as chairman, and if no Director be present, or if all the Directors present decline to take the chair, then the Voting Members present shall choose one of their number to be chairman. The chairman at any meeting of Voting Members may appoint one or more persons to act as scrutineers.

15. If within thirty (30) minutes from the time appointed for the 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; and if at such adjourned meeting a quorum is not present, the Voting Members personally present or represented by proxy shall be a quorum.

16. Every question submitted to a meeting shall be decided in the first instance by a show of hands or otherwise as the chairman may direct and in the case of an equality of votes the chairman shall, both on a show of hands or otherwise have a casting vote in addition to the vote to which he may be entitled as a Voting Member.

17. (a) At any meeting unless a poll is demanded by the chairman or by ten percent (10%) of the Voting Members present, a declaration by the chairman that a resolution has been carried or carried by a particular majority, and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
 - (b) If a poll is demanded as aforesaid it shall be taken in such manner and at such time and place as the chairman of the meeting directs and either at once or after an interval or adjournment or otherwise and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
18. The chairman of a general meeting may, with the consent of the meeting, adjourn the same from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
19. On a show of hands every Voting Member present in person, including the proxy or representative of a Voting Member, shall be entitled to the number of votes allocated to that Voting Member pursuant to the provisions hereof.
20. Votes may be given either personally or by a nominee appointed by a proxy.
21. A proxy shall be in writing in any effectual form under the hand of the appointer or of his attorney duly authorized in writing, and need not be attested. A person appointed proxy must be a Voting Member.
22. No proxy shall be valid after the expiration of twelve (12) months from the date of its execution unless it is otherwise specified in the instrument.
23. The proxy shall be deposited at the registered office of the Company or such other place as may be specified in the notice of meeting and at a time as the Directors may by resolution fix but not exceeding forty-eight (48) hours before the time for holding the meeting at which the person named in the instrument proposes to vote. If there is any default in this procedure for the deposit of such proxy it shall not be treated as valid.
24. A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal, or revocation of the proxy with respect to which the vote is given, provided no intimation in writing of the death or revocation shall have been received before the meeting at the place where the proxies are to be deposited.
25. No Voting Member shall be entitled to be present or to vote on any question, either personally or by a nominee appointed by a proxy, or as the nominee appointed by a proxy for another Voting Member at any general meeting, or upon a poll, or to be reckoned in a quorum while any sum due or payable to the Company by such Voting Member shall remain unpaid for at least forty-five (45) days following a written request for payment of same.

BORROWING POWERS

26. The Directors may from time to time at their discretion raise or borrow money:

- (a) from Carma or others without limitation for the purposes of the initial construction of, and the operating of, the New Brighton Amenities; and
- (b) from any person for the purposes of the Company's business in amounts in the aggregate not exceeding TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) at any one time;

provided that the Directors may, in any instance, at their discretion raise or borrow money in excess of the limit in (b) above if so authorized by a duly passed ordinary resolution of the Voting Members.

DIRECTORS

27. Until otherwise determined by a general meeting, the number of Directors shall be not less than three (3) or more than ten (10). Subject to the foregoing and articles 28 and 30, the number of Directors to be elected at any annual general meeting of Members shall be that number determined by a majority vote of the Voting Members.

28. The subscribers hereto shall be the first Directors of the Company and they (or their replacements from time to time as nominated by Carma) shall remain as Directors until that date which is the later of:

- (a) six (6) months after the date on which Carma has transferred title to the last lands it owns in the New Brighton Lands; or
- (b) the date on which all monies loaned by Carma to the Company have been fully repaid to Carma;

or such other date as Carma in its sole discretion may determine.

29. The Directors shall have power from time to time and at any time, to appoint any other person or persons as Directors, to fill a casual vacancy or vacancies to the Board, but so that the total number of Directors shall not at any time exceed the maximum number fixed by these Articles.

30. A Director, except for any nominee of Carma or any subscriber hereto, must be a Voting Member of the Company or a spouse of a Voting Member of the Company.

31. The Directors shall not be paid out of the funds of the Company by way of remuneration for their services as Directors.

32. A Director may retire from office upon giving five (5) days' notice in writing to the Company of his intention to do so, and such resignation shall take effect upon the expiration of such notice or its earlier acceptance.

33. The office of a Director shall automatically be vacated:

- (a) If he is found a lunatic or becomes of unsound mind;
- (b) If by notice in writing to the Company he resigns his office upon the time hereinbefore fixed for the resignation to take effect or the previous acceptance of the same;
- (c) If he be removed by resolution of the Company, as hereinafter provided.

34. A Director shall not be disqualified solely by his office as a Director from holding any other office with the Company and from contracting with the Company either as a vendor, purchaser or otherwise howsoever.

35. At the first annual general meeting and at every succeeding annual general meeting, all of the Directors, howsoever appointed or elected, shall retire from office. A retiring Director shall retain office until the dissolution of the meeting at which his successor is elected. If at any general meeting at which an election of Directors ought to take place, no such election takes place, the retiring Directors shall continue in office until the annual general meeting in the next year, and so on from year to year until their places are filled up, unless it shall be determined at such meeting to reduce the number of Directors.

36. A retiring Director shall be eligible for re-election.

37. The Voting Members at every annual general meeting shall fill up the vacated offices by electing a like number of persons to be Directors, or in case any change in the number of Directors is made at any such meeting, by electing the number of persons to be Directors as required by these Articles.

38. The Company may, by special resolution of the Voting Members, at any time remove any or all of the Directors before the expiration of his or their period of office and by ordinary resolution appoint another or other qualified person or persons in his or their stead; and the person or persons so appointed shall hold office during such time only as the Director or Directors in whose place he is or they are appointed would have held the same if he or they had not been removed.

REGISTER OF DIRECTORS AND MANAGERS

39. The Directors shall duly comply with the provisions of the *Companies Act* (Alberta), or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the keeping of the registers of the Directors and managers and their addresses and occupations, the signing of the balance sheet, the filing with the Registrar of Corporations an annual report and copies of special and other resolutions and of

any change in the registered office or of Directors and, where applicable, the mailing of a form of proxy and the issuing of information circulars.

PROCEEDINGS OF DIRECTORS

40. The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings and proceedings, and may declare the quorum necessary for the transaction of business, but until the Directors make such determination, one-half of the Directors shall be a quorum.

41. Subject to the provisions of Article 42, meetings of the Board of Directors shall be held in the City of Calgary, in the Province of Alberta unless all the Directors otherwise agree. The Directors may make regulations in regard to the manner and time that notice shall be given of such meetings. Until such regulations are made, meetings of the Board may be held at any time without formal notice if all the Directors are present or those absent have signified their consent in writing to the meeting being held in their absence; and notice of any meeting where notice has not been dispensed with, delivered, mailed, telegraphed or telecopied to each Director at his ordinary address two (2) days prior to such meeting, shall be sufficient notice of any meeting of the Directors.

In computing such period of two (2) days the day on which such notice is delivered, mailed, telegraphed or telecopied shall be included, and the day for which notice is given shall be excluded. Notice of any meeting, or irregularity in any meeting or in the notice thereof, may be waived by any Director. The Directors may by resolution appoint a regular time and place for meetings, and no further or other notice of such time and place than the entry of such resolution upon the minutes of the meeting at which it was passed shall be necessary. Immediately upon the conclusion of the annual general meeting a meeting of the Directors shall be held and no notice of such meeting shall be necessary.

42. Any Director may participate in a meeting of the Board of Directors by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a Director participating in a meeting pursuant to this article shall be deemed to be present in person at that meeting and the meeting shall be deemed to have been held at such place in Canada as the Directors may from time to time determine.

43. The President may, or the Secretary shall at the written request of not less than twenty-five (25%) percent of the Directors, at any time convene a meeting of Directors.

44. Questions arising at any meeting of Directors shall be decided by a majority of votes, and in case of an equality of votes, the chairman shall not have a second or casting vote.

45. The continuing Directors may act notwithstanding any vacancy in their number; but if and so long as their number is reduced below the number fixed by or pursuant to the Articles of the Company as the necessary quorum of Directors, the continuing Directors may act only for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.

46. The Directors may approach one of their number to be chairman of the Board of Directors, and in the absence of such appointment the president for the time being of the Company shall be chairman of the Board. If the chairman is not present at any meeting at the time appointed for holding the same, the Directors present shall choose some one of their number to be chairman of such meeting.

47. A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under the regulations of the Company for the time being vested in or exercisable by the Directors generally.

48. The Directors may delegate any of their powers to committees consisting of such one or more member or members of the Board as they think fit and may from time to time revoke such delegation. Any committee so formed shall, in the exercise of the powers so delegated conform to any regulations from time to time imposed upon it by the Directors.

49. The meetings and proceedings of any such committee consisting of two (2) or more Members of the Board shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors, including the appointment of a quorum, so far as the same are applicable thereto and are not superseded by any regulations made by the Directors under the preceding clause.

50. All acts done at any meeting of the Directors, or of a committee of Directors or any person acting as a Director shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

51. A resolution in writing, signed by all the Directors without their meeting together, (which may be executed in several counterparts) shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted, and shall be held to relate back to any date therein stated to be the effective date thereof.

MINUTES

52. The Directors shall cause minutes to be duly entered in books provided for the purpose:

- (a) of all appointments of officers;
- (b) of the names of Directors present at each meeting of the Directors and of any committee of Directors;
- (c) of all resolutions made by the Directors and committees of Directors; and
- (d) of all resolutions and proceedings of general meetings;

and any such minutes of any meetings of the Directors or of any committee of Directors, or of the Company, if purporting to be signed by the chairman of such meeting, or by the chairman of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes.

POWERS OF DIRECTORS

53. Subject to Articles 54 and 55 below, the management of the business of the Company shall be vested in the Directors who, in addition to the powers and authorities by these presents or otherwise expressly conferred upon them, may exercise all such powers and do all such acts and things as may be exercised or done by the Company and are not hereby or by statute expressly directed or required to be exercised or done by the Voting Members in general meeting; and without restricting the generality of the foregoing the Directors shall exercise general supervision of the affairs of the Company and may from time to time make rules and regulations in relation to the Company, and may at any time in like manner annul or vary any rules and regulations so made, and all rules and regulations so made and for the time being in force shall be binding on the Members, and shall have full effect accordingly; and without limiting the generality of the foregoing it is expressly declared that the following shall be deemed to be included as rules and regulations in relation to the Company within the meaning of this clause, that is to say, regulations:

- (a) As to proof required from persons claiming to be eligible to be Homeowner Members, Family Members, Rental Members and Tenant Members;
- (b) As to the rental charges to be payable by the Members, including whether the same will be payable annually, quarterly or otherwise, and the amounts thereof (including any charges for late payment), subject to Article 67(f);
- (c) As to visitors and guests;
- (d) As to the manner in which use of the New Brighton Amenities by Members may be suspended or terminated.
- (e) As to the use of the New Brighton Amenities by Members; and
- (f) As to committees of Members in connection with the management of the Company, and as to the appointment, removal, qualification, disqualification, duties, functions, powers and privileges of members of such committees.

TEMPORARY REMOVAL OF OFFICERS' AND DIRECTORS'
AUTHORITY AND RESPONSIBILITIES

54. The New Brighton Amenities will be negotiated, designed, engineered and planned solely by Carma who has agreed to develop and construct such New Brighton Amenities at its sole responsibility. Carma has also agreed, in accordance with the terms of the New Brighton Amenities Agreement, to be responsible for the overall management of the Company and the management and operation of the New Brighton Amenities for a limited period of time and to, within a certain specified period of time, transfer overall management of the Company and title to, and the operation and management of such New Brighton Amenities to the Company providing that the Company does not hinder its efforts or increase the development, construction, management and operating costs for the New Brighton Amenities by becoming involved in, investigating or interfering in or trying to exercise any authority or control in the overall management of the Company or the development, construction, management and operation of the New Brighton Amenities. The Company has agreed to this condition and in order to relieve its officers and directors from any responsibility that they may otherwise have in the proper exercise of their responsibility to protect the interests of the Company and its Members and any alleged resulting breach of fiduciary obligations, until both the operation and control of the Company and of the New Brighton Amenities have been formally transferred to the Company by Carma, the powers of the officers and directors of the Company to manage the business and affairs of the Company are hereby temporarily restrained and are transferred to Carma and such officers and directors are hereby released from such duties and from any liability for failure to otherwise exercise such duty insofar as such duty relates in any way to the investigation of, determination of and enforcing of the proper and adequate quality of design, engineering, planning, development, construction, maintenance and operation of the New Brighton Amenities or overall management of the Company. Except as set out above, such officers and directors shall retain their normal and usual rights, duties and responsibilities and will on a limited basis as requested by Carma be involved in the operation of the Company and the New Brighton Amenities.

55. It is hereby disclosed to all Members that Carma is a Member of the Company and officers of Carma may also be directors and officers of the Company. All Members of the Company do hereby unanimously agree to the provisions of Article 54 above and do hereby unanimously and entirely release Carma, the Company and the directors and officers of the Company from the legal results of any conflict that they or Carma may otherwise be in as a result of Carma and the Company entering into an agreement for the initial overall management of the Company and for the development, the initial management of, and delivery of the New Brighton Amenities to the Company including from the legal consequences of the directors and officers of the Company being partially restrained from and being partially released from their normal and usual rights, duties and responsibilities as provided for in Article 53 above.

OFFICERS

56. The officers of the Company shall consist of a president, a secretary and a treasurer, or a secretary-treasurer and such other officers as the Directors may from time to time appoint. Any one person may fill more than one of the above offices. Such persons

holding such offices, besides fulfilling any duties assigned to them by the Directors, shall have such powers as are usually incidental to such offices.

57. The president shall be elected by the Board from amongst their number. The secretary and the treasurer or secretary-treasurer of the Company shall be appointed by the Board. The Board may appoint an assistant secretary, who shall be empowered to act in the absence of or under the direction of the secretary in the performance of the duties of the secretary. The Directors may appoint a temporary substitute for any of the above officers, who shall for the purposes of these presents be deemed to be the officer for the position he occupies.

58. Any executive officer of the Company shall be entitled to attend any meeting of Members.

SEAL

59. The Company shall have a corporate seal which shall be of such form and device as may be adopted by the Directors, and the Directors may make such provisions as they see fit with respect to the affixing of the said seal and the appointment of a Director or Directors or other persons, to attest by their signatures that such seal was duly affixed.

NO DIVIDENDS

60. As the Company is formed solely for the purposes of promoting recreation and social communication amongst its Members and it is the intention of the Company to apply the profits, if any, or any other income of the Company in promoting its objects and as the Company is not formed with gain for its object, no dividend whatsoever and no part of the income of the Company shall be divided among, payable to or be available for the personal benefit of any of the Members of the Company.

RESERVES AND FUNDS

61. The Directors may budget for and may set aside any of the profits of the Company to create a reserve or reserves to provide for maintaining the property of the Company, replacing wasting assets, meeting contingencies, forming an insurance reserve or for any other purposes whatsoever for which the profits or revenues of the Company may be lawfully used. The Directors may also carry forward to the accounts of the succeeding year or years any profit or balance of profit which they shall not think fit to place in such reserve.

62. The Directors may create a fund or funds out of the assets of the Company not greater in amount than the reserve or reserves as hereinbefore provided for and may apply the fund or funds either by employing them in the business of the Company or investing them in such manner as they shall think fit, and the income arising from such fund or funds shall be treated as part of the profits of the Company for the year in which such income arose. Such funds may be applied for the purpose of maintaining the property of the Company, replacing wasting assets, meeting contingencies, forming an insurance fund or for any other purpose for which the profits of the Company may lawfully be used.

63. The Directors may from time to time increase, reduce or abolish any reserve or reserve fund in whole or in part and may transfer the whole or any part to surplus.

OPERATING COSTS OF COMPANY

64. The Directors shall implement a procedure to monitor and to determine the costs of operating the Company and the New Brighton Amenities, and without limitation, shall prepare for each fiscal year a detailed operating budget for the Company.

65. Not later than thirty (30) days prior to the commencement of each fiscal year of the Company, the Directors shall determine the net amount of these costs and of all anticipated revenue.

66. The Directors shall then determine the assessment rate of the annual rent charge for Homeowner Members and Rental Members in accordance with the following provisions:

- (a) each Homeowner Member's annual assessment for each single family residential lot (excluding condominium units) shall be the same;
- (b) each Homeowner Member's annual assessment for each condominium unit shall be equal to seventy five percent (75%) of the assessment for each Homeowner Member owning a non-condominium single family residential lot; and
- (c) the annual assessment for each Rental Member shall be equal to seventy five percent (75%) of the assessment for each Homeowner Member owning a non-condominium single family residential lot, multiplied by the number of units in that Rental Member's rental project. Tenant Members will not be required to pay a separate assessment if the Rental Member in respect of their rental project has paid the full assessment due from that Rental Member.

67. If the Members' assessments as aforesaid, which are actually received, together with the Company's other sources of revenues, if any, do not result in sufficient income to pay the costs of the Company, then the Directors shall increase its available cash in the following manner:

- (a) if necessary, they shall borrow, on a short term basis, any funds required to meet the operating cash deficiency being experienced;
- (b) they shall present a full report on the operating cash deficiency to the next annual meeting of the Company together with their recommendations for increasing the income of the Company including if so determined by the Directors increasing the annual rental charges to the Homeowner Members and the Rental Members;

- (c) if they determine that addressing such deficiency should not await the next ensuing annual meeting, they shall call a special meeting of the Company to consider the matter;
- (d) subject to (f) hereof, any increase in the principal amount of the Encumbrances (excluding any inflation adjustment as provided therein) must be approved by a majority of votes cast by Voting Members at a meeting of the Company and shall only be increased in the same ratio that then existing Encumbrances have one to another at the time of the meeting;
- (e) all of the Members shall be bound by the decision of the Voting Members passed in accordance with these Articles and the Homeowner Members and the Rental Members agree to the amendment of their Encumbrance in accordance with the decision of such meeting;
- (f) while Carma is a Member, any change in the annual rental charge or in the principal amount of the Encumbrances (excluding any inflation adjustment as provided therein) shall require the prior written consent of Carma; and
- (g) if any Encumbrance has been foreclosed off of the title to the lot of a Member or has otherwise been taken off such title or if pursuant to a meeting of the Members, it has been agreed to register a new Encumbrance or a caveat giving notice of the change, the Homeowner Member or Rental Member agrees either to enter into any requested new Encumbrance to be registered against the title to his property or agrees to the filing of a caveat as referred to above and if he delays, fails, or refuses to complete the new Encumbrance the Company is hereby irrevocably appointed as his attorney on his behalf and for the Company's use and benefit, to sign and deliver such new Encumbrance in his place and stead.

Notwithstanding the foregoing or anything else in these Articles, the Directors shall cause the Company to execute and deliver an absolute postponement (in a form registrable under the *Land Titles Act* (Alberta)) of any Encumbrance in favour of a mortgage on a single family residential lot in the New Brighton Lands, upon the Company receiving a written request therefor from the mortgagee or mortgagor under such mortgage, or from their respective legal representatives; PROVIDED THAT this requirement to postpone shall only apply if the mortgage has been granted or made pursuant to the *National Housing Act* (Canada) or any act passed or enacted in amendment thereof or substitution therefor.

ACCOUNTS

68. The Directors shall cause true accounts to be kept of the sums of money received and disbursed by the Company and the manner in respect of which said receipts and disbursements take place, of all sales and purchases by the Company and of the assets and liabilities of the Company and of all other transactions affecting the financial position of the Company.

69. The books of account and accounting records shall be kept at the registered office of the Company or, subject to the limitations of the *Companies Act* (Alberta) in this regard, at such other place or places as the Directors think fit, and shall be open to inspection of the Directors.

70. The Directors shall from time to time determine whether and to what extent and at what time and place and under what conditions or regulations the accounts and books of the Company, or any of them shall be open to the inspection of any of the Members not being Directors, and none of the Members (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorized by the Directors or by the Company in general meeting.

71. The Directors shall lay before each annual meeting of the Voting Members financial statements and the report of the auditor to the Voting Members thereon. The financial statements shall:

- (a) be approved by the Board of Directors and signed by two (2) of them;
- (b) be for a period that ended not more than six (6) months before the annual meeting;
- (c) be subject to the provisions of the *Companies Act* (Alberta) and contain a comparative statement (except in the case of the first statement) relating separately to the latest completed financial year preceding it; and
- (d) be made up of:
 - (i) a statement of profit and loss for each period,
 - (ii) a statement of surplus for each period,
 - (iii) subject to the provisions of the *Companies Act* (Alberta), a statement of source and application of funds for each period, and
 - (iv) a balance sheet as at the end of each period with each statement containing the information required by the *Companies Act* (Alberta) to be disclosed in such statements.

72. Subject to the provisions of the *Companies Act* (Alberta), a copy of the financial statements and a copy of the auditor's report shall be sent to each Voting Member, by prepaid post, ten (10) days or more before the date of the annual meeting.

NOTICES

73. Any notice may be served by the Company on any of the Members either personally or by sending it through the post in a prepaid envelope or wrapper addressed to such Member or by telegraphing it prepaid to such person at his address as the same appears in the books of the Company, or if no address is given therein, to the last address of such

person known to the secretary. If no address is known to the secretary a notice posted up in the registered office of the Company shall be deemed to be well served on such person upon it being so posted up, and any notice sent by post shall be deemed to have been served on the day on which the envelope or wrapper containing the same is posted. With respect to every notice sent by post, it shall be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and put into one of Canada Post Corporation's letter boxes.

74. Any notice or document delivered or sent by post or left at the address of any of the Members as the same appears on the books of the Company or posted in the registered office of the Company as hereinbefore provided shall, notwithstanding such person be then deceased and whether or not the Company has notice of his decease, be deemed to have been duly served until some other person is entered in his stead in the books of the Company as one of the Members, and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all persons interested with any one of such Members.

75. The signature on any notice to be given by the Company may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.

76. Where a given number of days notice or a notice extending over any other period is required to be given, the day of service of the notice and the day for which notice is given shall, unless it is otherwise provided, be counted in such number of days or other period.

77. A certificate of the secretary or other duly authorized officer of the Company in office at the time of the making of the certificate as to the facts in relation to the mailing or telegraphing or delivery or posting up of any notice to any Member, Director or officer or publication of any notice, shall be *prima facie* evidence thereof and shall be binding on every one of the Members, and a Director or officer of the Company, as the case may be.

78. It shall not be necessary for any notice to set out the nature of the business which is to come before a meeting of the Directors and it shall not be necessary for any notice to set out the business which is to come before a meeting of the Voting Members unless the same is special business.

79. A special general meeting and the annual general meeting may be convened by one and the same notice, and it shall be no objection to the said notice that it only convenes the second meeting contingently on any resolution being passed by the requisite majority at the first meeting.

RECORD DATE

80. The Directors may fix a time in the future not exceeding thirty (30) days preceding the date of any meeting of Voting Members as a record date for the determination of the Voting Members entitled to notice of, and to vote at, any such meeting, and only the Voting Members of record in the Register of Members at the close of business on that date so fixed shall be entitled to such notice of, and to vote at, such meeting, notwithstanding any

change of Voting Members on the Register of Members after any such record date fixed as aforesaid.

INDEMNITY

81. Except as otherwise hereinafter provided, every Director and officer of the Company shall be indemnified by the Company against, and it shall be the duty of the Directors out of the funds of the Company to pay, all losses and expenses which any such Director or officer shall incur or become liable to by reason of any contract entered into or act or thing done by him as such Director or officer, or in any way in the discharge of his duties.

82. Any person made a party to any action, suit or proceedings by reason of the fact that he, his testator or intestate, is or was a Director or officer of the Company, or of any corporation which is served by such Director or officer as such at the request of the Company, shall be indemnified by the Company against the reasonable expenses, including solicitor's fees, actually and necessarily incurred by him in connection with the defence of such action, suit or proceeding, or in connection with any appeal therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceedings that such Director or officer is liable for gross negligence or similar misconduct in the performance of his duties. Such right of indemnification shall not be deemed exclusive of any other rights to which such Director or officer may be entitled. None of the provisions hereof shall be construed as a limitation upon the right of the Company to exercise its general power to enter into a contract or undertaking of indemnity with or for the benefit of any Director or officer in any proper case not provided for herein.

83. No Director or officer of the Company shall be liable for the acts, neglects or defaults of any other Director or officer, or for joining in any receipt or other act for conformity, or for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Company shall be invested, or for the loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects shall be deposited, or for any loss occasioned by an error of judgment or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto, unless the same happen through his own dishonesty, or unless it is otherwise provided in a contract of service with such Director or officer.

DATED at the City of Calgary, this ____ day of _____, 2002.

NAMES, ADDRESSES AND OCCUPATIONS OF SUBSCRIBERS

<u>Subscribers</u>	<u>Occupation</u>	<u>Address</u>
_____ Robert F. Clark	Executive	7315 – 8 th Street, N.E. Calgary, Alberta, T2E 8A2

Alan Norris

Executive

7315 – 8th Street, N.E.
Calgary, Alberta, T2E 8A2

Michael Dutczak

Executive

7315 – 8th Street, N.E.
Calgary, Alberta, T2E 8A2

Witness to the above Signatures
Print Name:

SCHEDULE "D"

NEW BRIGHTON ENCUMBRANCE

To secure an annual rent charge of _____ DOLLARS (\$_____) plus the Adjustment Amount (as hereinafter defined), pursuant to the *Land Titles Act* (Alberta):

_____, as Encumbrancer (hereinafter called the "Owner") being registered as owner of an estate in fee simple in possession, subject however, to such encumbrances, liens and interests as are notified by memorandum endorsed hereon or expressed or implied in the existing certificate(s) of title of that land situate in the Province of Alberta, Canada, being composed of:

[Legal Description of lot]

EXCEPTING THEREOUT ALL MINES AND MINERALS

(hereinafter called the "Lands"), and desiring to render the Lands available for the purpose of securing the rent charge hereinafter mentioned to and for the benefit of New Brighton Residents Association (hereinafter called the "Association"), as Encumbrancee, do hereby encumber the Lands for the benefit of the Association with the annual rent charge of _____ DOLLARS (\$_____) plus the Adjustment Amount (as hereinafter defined), for each twelve (12) consecutive months commencing the 1st day of January, 2002 to be paid to the Association in lawful money of Canada, at the Association's office at 7315 – 8th Street, N.E., Calgary, Alberta, T2E 8A2, in the City of Calgary, (or such other place in the said City as the Association may from time to time or at any time designate in writing) on or before the 1st day of January in each and every year thereafter. The "Adjustment Amount" as used herein shall mean, in respect of any calendar year after 2002, that sum of money equal to the product obtained by multiplying _____ DOLLARS (\$_____) by the percentage increase, if any, in the "all items" consumer price index (or its equivalent from time to time) for the City of Calgary as issued by Statistics Canada, from that figure reported for 2002. There shall be no adjustment for any decrease from time to time in such index.

And the Owner does hereby covenant, acknowledge and agree that:

1. The true consideration for the granting of this Encumbrance and for the covenant to pay the rent charge hereby secured is the sale by the previous registered owner of the Lands to the Owner or the payment by the Association to the Owner of One (\$1.00) Dollar and other good and valuable consideration (the receipt or sufficiency of which by the Owner being hereby acknowledged);
2. The Owner shall pay the said rent charge at the times and place hereinbefore set forth without deduction or defalcation; and that any amount in default shall bear interest at the rate of five (5%) percent per annum in excess of the prime rate of interest charged by The Toronto-Dominion Bank and being a variable per annum reference rate of

- interest (as announced and adjusted by The Toronto-Dominion Bank from time to time) for loans made by The Toronto-Dominion Bank in Canada in Canadian dollars, calculated yearly not in advance and payment of such rent charge and such interest is secured by these presents;
3. The Association shall be entitled to and is hereby granted the right of distress together with all powers and remedies of an Encumbrancee under the *Land Titles Act* (Alberta);
 4. Any discretion, option, decision or opinion hereunder on the part of the Association shall be sufficiently exercised or formed if exercised or formed by or subsequently ratified by the manager, acting manager or an executive officer of the Association or any officer or agent appointed by the Association for such purpose;
 5. Any notice to be given by the Association to the Owner may either be delivered to the Owner's address or be forwarded by ordinary mail addressed to the Owner at the civic address of the Lands or to the last post office address of the Owner known to the Association and shall be deemed to have been received by the Owner when delivered or three (3) business days following the letter being deposited, postage prepaid, in a post office;
 6. If any provision of this Encumbrance shall be determined by a Court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Encumbrance shall not be affected thereby and each provision hereof shall be enforced to the fullest extent permitted by law;
 7. All legal costs, as between a solicitor and his own client, and taxable court costs, incurred in respect to the enforcement of this Encumbrance are secured hereby, and shall constitute a charge on the Lands;
 8. The words in the hereinbefore contained covenants, provisos, conditions and agreements referring to the Owner which import the singular number shall be read and construed as applied to each and every Owner male or female and to his or her executors, administrators and assigns, and in the case of a corporation, to such corporation and its successors and assigns, and that in case of more than one Owner, the said covenants, provisos, conditions and agreements shall be construed and held to be several as well as joint;
 9. These presents shall enure to the benefit of the Association its successors and assigns and shall be binding upon the Owner and the Owner's assigns and successors in title, PROVIDED HOWEVER that on conveyance of its interest in the Lands, provided it is not in default of these presents as regards the Lands, the Owner without any further written agreement, shall be freed and released of liability under its covenants and obligations contained herein;
 10. The Owner shall require any purchaser or transferee of the Lands to execute in favour of the Association an encumbrance in the form of this Encumbrance, as a condition to any such purchase or transfer;

- 11. The Owner shall not negative or modify the implied covenants and conditions contained in section 62(1) of the *Land Titles Act* (Alberta), it being agreed that this provision shall run with the Lands, binding the Lands and each and every part thereof, and each successor in title to the Lands from time to time; and
- 12. All applicable goods and services tax or similar taxes are in addition to the amounts described above in this Encumbrance as payable by the Owner, and shall be deemed to be secured hereby.

IN WITNESS WHEREOF the Owner has subscribed, affixed the Owner's seal and delivered these presents as the Owner's deed, this ____ day of _____, 2002.

Signed, sealed and delivered by the)
Owner in the presence of:)
) _____ seal
) Print Name:
_____)
Print Name:)
) _____ seal
) Print Name: