

**ALBERTA GOVERNMENT SERVICES
LAND TITLES OFFICE**

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ADVISORY

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ENCUMBRANCE

To secure an annual rent charge of \$300.00 (the "Annual Rent Charge Amount") applied to each of the Lots hereinafter described plus the Adjustment Amount, Additional Costs and applicable GST (as such terms are hereinafter defined), pursuant to the Land Titles Act (Alberta) and the Law of Property Act (Alberta).

WHEREAS Highview Communities Inc. (the "**Developer**") is developing (in various stages or phases) the lands described in Schedule "A" attached hereto as a residential community located in the City of Airdrie and known as Lanark Landing (the "**Project**") with certain amenities within or near that community for the benefit of its residents;

AND WHEREAS Lanark Landing Homeowners Association (which together with its successors and assigns is hereinafter called the "**Association**") currently manages, operates, maintains and repairs and may provide certain amenities or services for the benefit of the residents of the Project, including, without limitation, signage, entry features, naturalized storm pond(s), park structures, decorative fencing, enhanced landscaping and other features and services, which are now or may hereafter be located on lands owned, controlled or managed by the Association or on lands owned or controlled by others (including the municipality) over which the Association and/or its members have a right of entry or use (collectively the "**Amenities**"), all located or to be located in or about the Project, including those, if any, set forth in Schedule "C" attached hereto comprised within the plan of subdivision containing the Lots, as hereinafter defined;

AND WHEREAS an owner of each of the residential lots is a voting member of the Association (subject to the limitations contained in the Association's bylaws);

AND WHEREAS the Developer is also a member of the Association (with voting control as provided in the Association's bylaws) and has been retained by the Association as the Association's manager for a period of time to enable the Developer to complete the Project, including the Amenities that form a part of the Project, in a manner that the Developer considers desirable and to manage the Amenities on behalf of the Association in a manner that the Developer considers appropriate as the community grows until such management is turned over by the Developer to the Association;

AND WHEREAS it is intended that each of the residential lots within each phase of the Project shall be subject to an annual rent charge on terms similar to the terms set forth herein to collectively secure the Association's ability to fund costs associated with the Amenities and the Association's operations and other undertakings, provided that the Developer shall have no obligation to contribute towards the Association's costs in respect of undeveloped portion of the Project nor any Lots owned by the Developer;

NOW THEREFORE in connection with the development of the phase of the Project containing the residential lots described in Schedule "B" attached hereto (hereinafter collectively called the "**Lots**" or, in the case of reference of only one of the lots described in the said Schedule "B", "**Lot**") **HIGHVIEW COMMUNITIES INC.**, as encumbrancer (who and whose successors-in-title to the Lots are hereinafter called the "**Owners**" or, where reference is in relation to a single Lot only, "**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 certificates of title for those Lots, and desiring to render the Lots available for the purpose of encumbering each Lot with the Annual Rent Charge Amount plus the Adjustment Amount, Additional Costs, and applicable GST (as each of those terms is hereinafter defined) to and for the benefit of **LANARK LANDING HOMEOWNERS**

ASSOCIATION, DOES HEREBY SEPARATELY CHARGE AND ENCUMBER each Lot for the benefit of the Association in the amount of each annual levy assessed by the Association against such Lot up to the maximum of the Annual Rent Charge Amount plus the Adjustment Amount and Additional Costs (as each of those terms is hereinafter defined), together with applicable GST and any other amounts stated herein to be secured by this encumbrance, from time to time from and including the Commencement Date (as hereinafter defined). The first payment secured by this encumbrance shall be prorated for the period commencing on the Commencement Date and ending on the following December 31. Thereafter, the annual levies secured by this encumbrance, for each calendar year, shall be paid by the Owner of each Lot to the Association on or before the 1st day of each January of each and every year following the year containing the Commencement Date. The "**Commencement Date**" for each of the Lots shall vary as follows: the Commencement Date for a Lot shall be the later of:

- (a) the date when at least 150 homes have been constructed within the Project and are legally occupiable; and
- (b) the date which is the earlier of:
 - (i) the date on which any building constructed on that Lot is occupied;
 - (ii) the date which is the later of:
 - 1. the date any building constructed on that Lot is occupiable unless the Developer has provided a notice to the Owner of that Lot of an extension of the Commencement Date for a stated period of time (which period of time shall be deemed to be at an end upon the said building being occupied as a residence); and
 - 2. the date the undersigned encumbrancer ceases to be the registered owner of that Lot.

All payments due hereunder shall be paid to the Association in lawful money of Canada, at the Association's office at c/o Melcor Developments Ltd., 900, 10310 Jasper Avenue, Edmonton, Alberta T5J 1Y8 (or such other place as the Association may from time to time designate in writing), or at such other time or times or in such number of instalments as the Association may require from time to time by written notice to the registered Owners from time to time of each of the Lots.

The "**Adjustment Amount**" as used herein shall mean the cumulative sum of money equal to the product obtained by multiplying the Annual Rent Charge Amount by the Adjusting Factor commencing, irrespective of the date of this encumbrance, on January 1, 2021 and each and every year thereafter so as to have the effect of annual compounding whereby the Adjusting Factor is applied yearly (on each January 1) to the Annual Rent Charge Amount (as adjusted by the previous years' application of the Adjusting Factor) for the immediately preceding year.

"**Adjusting Factor**" as used herein shall mean the greater of:

- (a) ten percent (10%); and
- (b) the increase, expressed as a percentage, over the past calendar year in the "all items" consumer price index (or its equivalent from time to time) for the City of Calgary as issued by Statistics Canada (the "CPI").

"Additional Costs" as used herein shall mean an additional amount of money, together with applicable GST, required by the Association, in excess of all monies secured by the annual rent charge encumbrances and other revenues, to maintain, repair, provide, operate and manage the Amenities and its operations and undertakings. Such Additional Costs will be determined in accordance with the by-laws of the Association (receipt of a copy of which is acknowledged by the Owners), as may be amended from time to time, and will be apportioned, levied and assessed to and upon each person or entity which is a contributor to the Association in proportion to their respective annual rent charge amounts.

"GST" as used herein shall mean the goods and services tax set out in the *Excise Tax Act*, R.S.C. 1985 c. E-15, as amended from time to time and any future similar tax levied in addition to or substitution for the said goods and services tax.

AND THE UNDERSIGNED AS OWNER OF EACH LOT COVENANTS, ACKNOWLEDGES AND AGREES AS FOLLOWS:

1. It is acknowledged and agreed that the true consideration for the granting of this encumbrance and for the covenant to pay the amounts hereby secured is payment by the Association to the undersigned of one (\$1.00) dollar and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Owners).
2. The registered Owners of the Lots are automatically members of the Association (subject to limitations as provided in the Association's by-laws in the event of more than one person owning a Lot) during their respective periods of ownership of a Lot and are entitled to the benefits and are subject to the obligations of such membership all in accordance with and subject to the articles of incorporation, by-laws, rules and regulations of the Association, as the same may be amended, supplemented or restated from time to time. In addition to all such rights and obligations, the by-laws of the Association require or may permit the Association to levy periodic fees, usage fees or other charges which must be paid by each member and, in default of payment, such fees and charges are deemed a charge on the Lot owned by the member in arrears of payment (the undersigned as registered Owner of each of the Lots hereby charges all of its estate and interest in the Lots as security for payment of such additional fees and charges) and payment of such fees and charges may be enforced in the same manner as provided in this encumbrance or as set out in the articles, rules, regulations or by-laws of the Association. **It is therefore essential that anyone purchasing or acquiring an interest in any of the Lots make inquiries of the Association to determine the current annual amount of charges secured by this encumbrance and the status of payment of such fees and charges which are due and owing to the Association in respect to the Lot(s) being purchased or an interest therein being acquired.** Failure to pay such fees and charges may, in addition to all other remedies available to the Association, result in inability of a member to use certain or all of the Amenities and the inability to vote as a member at meetings of the Association.
3. If there shall be a default in any of the amounts due to the Association by an Owner of a Lot and secured by this rent charge, then the amount in default shall bear interest at the rate which is the greater of:
 - (a) sixteen percent (16%) per annum; and
 - (b) thirteen per cent (13%) per annum added to the prime commercial lending rate of the Royal Bank of Canada (Calgary Main Branch);

(or at such lesser rate if so provided in the by-laws of the Association) calculated monthly not in advance before and after judgement and payment of such arrears. The undersigned as registered Owner of each of

the Lots hereby charges all of its estate and interest in the Lots as security for payment of such interest and such charge hereby forms a charge on that Lot owned by the Owner which is in default.

4. Each Owner of a Lot shall also be solely responsible for and shall pay any and all taxes, whether federal, provincial or municipal, including without limitation GST, that may be levied on or in respect of the fees, charges or payments required hereunder in respect to that Owner's Lot and the amount of all such taxes, if paid by the Association to protect its security interest in the Lot, is hereby further secured by this encumbrance and hereby forms a charge on that Owner's Lot.
5. The Association shall be entitled to and is hereby granted, in respect to a Lot which is owned by an Owner who is in breach of any of the obligations under this encumbrance in respect to that Lot, the right of distress together with all powers and remedies given to an encumbrancee under the provisions of the *Land Titles Act*, being Chapter L-4 of the Revised Statutes of Alberta, 2000 and the *Law of Property Act*, being Chapter L-7 of the Revised Statutes of Alberta, 2000, in each case as amended or replaced in respect of the matters set out therein. Further, and without restricting any other rights or remedies set forth in this encumbrance or at law or in equity, in respect to all monies due to the Association and forming a charge secured by this encumbrance, the Association shall be entitled to enforce such charge as if it were a mortgage and be entitled to similar rights of enforcement, including the right of foreclosure.
6. 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.
7. Any notice to be given by the Association to an Owner of a Lot may either be delivered or forwarded by ordinary mail addressed to the Owner at the civic address of the Owner's Lot or to the last address of the Owner known to the Association and shall be deemed to have been received by the Owner on the day of delivery (if delivered) or three (3) business days following the letter being mailed, postage prepaid.
8. 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. This encumbrance shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable thereto. The parties irrevocably attorn to the jurisdiction of the courts of the Province of Alberta.
9. Each Owner of a Lot shall be responsible for and pay all legal costs, as between a solicitor and his own client on a full indemnity basis, incurred by the Association in respect of any action taken to enforce this encumbrance as against that Lot in respect to the default by the Owner of that Lot, all of which costs are additionally secured hereby, and shall constitute a charge on that Lot in respect of which such action is taken.
10. The words in the hereinbefore contained covenants, provisos, conditions and agreements referring to the Owner of a Lot which import the singular number shall be read and construed as applied to each and every registered 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 the case of more than one person constituting the Owner of a Lot, the said covenants, provisos, conditions and agreements shall be construed and held to be several as well as joint and the charge created hereunder shall be a charge upon

the whole estate in that Lot notwithstanding that one of the owners of that Lot is not a member of the Association at the time of the breach of covenant or enforcement of this rent charge.

11. These presents shall enure to the benefit of the Association, its successors and assigns and shall be binding upon the Owner of a Lot and that Owner's assigns and successors-in-title, provided however that on conveyance of the Owner's interest in the Lot, provided the Owner is not in default of these presents as regards the Lot, the Owner without any further written agreement, shall be freed and released of liability under the Owner's covenants and obligations contained herein in respect to that Lot.

12. The Owner of a Lot shall require any purchaser or transferee of that Lot to execute in favour of the Association an assumption of this encumbrance and such further agreements as may be required of the Association, as a condition to any such purchase or transfer. The Owner of the Lot and the Owner's successors-in-title shall be members of the Association (subject to limitations as provided in the Association's by-laws in the event of more than one person owning the Lot) in accordance with the terms of the by-laws of the Association and shall observe and be bound by the rules, regulations and by-laws of the Association.

13. No Owner shall negative the implied covenants and conditions contained in section 58(1) of the *Land Titles Act (Alberta)* R.S.A. 2000 c. L-4, as may be amended from time to time, it being agreed that this rent charge shall run with each of the Lots, binding each of the Lots and each and every part thereof, and each successor-in-title to the Lots from time to time.

14. In the event that a Lot is at any time further subdivided, then the following shall apply:

- (a) if that Lot is further subdivided pursuant to a conventional subdivision, a bare land condominium plan, or strata space plan which creates separate titles for the area previously comprised within that Lot, then:
 - (i) this rent charge encumbrance shall separately apply to and charge each parcel, bare land condominium unit or strata space created by such conventional subdivision plan, bare land condominium plan or strata space plan, respectively, in each case, with respect to the separate payment of annual levies up to the full Annual Rent Charge Amount, Adjustment Amount and Additional Costs and applicable GST and other amounts stated to be secured hereby as against that Lot as set forth herein, and, by way of example, this rent charge encumbrance would secure double those amounts as against the lands subdivided if that Lot was to be subdivided into two separate parcels; and
 - (ii) the owner of each of such subdivided parcel, bare land condominium unit or strata space, and each of the successors-in-title thereto shall, by acquiring title to each such subdivided parcel, bare land condominium unit or strata space, be conclusively and irrevocably deemed to have agreed to become liable for all matters hereunder and remain liable for all matters hereunder at all times during which each of such parties holds title to each such subdivided parcel, bare land condominium unit or strata space, all in accordance with and subject to this rent charge encumbrance and the by-laws of the Association, as the same may be amended, supplemented or restated from time to time; and
- (b) if the development upon a Lot is further divided pursuant to a condominium plan (other than a bare land condominium plan or a strata space plan), then:

- (i) this rent charge encumbrance shall separately apply to and charge each separate condominium unit created by such condominium plan, in each case with respect to the separate payment of the annual levies up to the full Annual Rent Charge Amount, Adjustment Amount and Additional Costs and applicable GST and other amounts stated to be secured hereby as against that Lot as set forth herein, and, by way of example, this rent charge would secure triple those amounts if the development upon that Lot was to be divided by way of a condominium plan containing three units; and
- (ii) each owner of such condominium unit, and each of the successors-in-title thereto shall, by acquiring title to such condominium unit, be conclusively and irrevocably deemed to have agreed to become liable for all matters hereunder and remain liable for all matters hereunder at all times during which each of such parties holds title to such condominium unit, all in accordance with and subject to this rent charge encumbrance and the by-laws of the Association, as the same may be amended, supplemented or restated from time to time.

IN WITNESS WHEREOF the Owner has executed and delivered this encumbrance all as of the 30th day of September, 2022

Encumbrancer:

HIGHVIEW COMMUNITIES INC.

Per: _____

Per: _____



(affix corporate seal)

SCHEDULE "A"
Description of Project Lands

MERIDIAN 4 RANGE 29 TOWNSHIP 26

SECTION 34

QUARTER SOUTH WEST

CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

**EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK
THE SAME**

SCHEDULE "B"
Description of Lots

PLAN 221 0806
BLOCK 4
LOTS 15 TO 28 INCLUSIVE
EXCEPTING THEREOUT ALL MINES AND MINERALS

PLAN 221 0806
BLOCK 4
LOTS 37 TO 64 INCLUSIVE
EXCEPTING THEREOUT ALL MINES AND MINERALS



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REGISTERED 2023 02 08

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