

CITY OF ELLIOT LAKE



CITY COUNCIL - REGULAR MEETING
ADDENDUM

Monday, June 10, 2019

7:00 pm

COUNCIL CHAMBERS

Pages

15. ADDENDUM

- | | | |
|-------------|--|----------|
| 15.1 | <i>By-Law No, 19-28</i>
Being a bylaw to levy and collect property taxes for the year 2019 | 2 |
| 15.2 | <i>Memo from the Chief Administrative Officer</i>
re: Motion of Support for Funding Application - Hwy 108 Connecting Link | 8 |
| 15.3 | <i>Report from the Chief Administrative Officer</i>
re: Socio-Economic Partnership with Serpent River First Nation | 9 |
| 15.4 | <i>Letter of Interest</i>
re: letter of interest on 3 parcels of municipal property for potential commercial development.

As this matter deals with the potential disposition of property owned by the municipality it may be discussed in closed session as per Section 239(2)(c) of the Municipal Act | |

THE CORPORATION OF THE CITY OF ELLIOT LAKE

BY-LAW No. 19-28

Being a by-law to levy and collect
property taxes for the year 2019.

WHEREAS the Council of the Corporation of the City of Elliot Lake has by By-Law 19-25 of the City dated the 10th day of June 2019 prepared and adopted estimates of all sums required during the year for the purposes of the Municipality totaling \$11,800,000 pursuant to Section 290 of the Municipal Act, 2001, S.O. 2001 c.25, as amended (hereinafter referred to as the "*Municipal Act*");

AND WHEREAS the total of sums required by taxation in the year 2019 shall be apportioned as follows, in accordance with Section 312 of the *Municipal Act*:

1. \$10,776,250 by the Municipality's General Local Levy;
2. \$873,750 by the Municipality's Urban Service Area Levy; and
3. \$150,000 by the Municipality's Central Commercial Area Special Local Levy.

AND WHEREAS all property assessment rolls on which the 2019 taxes are to be levied have been returned and revised pursuant to the provisions of the Assessment Act, R.S.O. 1990, c. A31, as amended (hereinafter referred to as the "*Assessment Act*");

AND WHEREAS Property Classes and Property Subclasses have been prescribed pursuant to Section 7 and 8 of the *Assessment Act*;

AND WHEREAS the Municipality is required to establish tax ratios pursuant to Section 308 of the *Municipal Act* for each prescribed Property Class;

AND WHEREAS the Municipality is required to establish tax rate reductions pursuant to Section 313 of the *Municipal Act* for each prescribed Property Subclass;

AND WHEREAS Section 312 of the *Municipal Act* provides for the establishment of tax rates to be levied for local municipal purposes;

AND WHEREAS the taxes for School purposes shall be levied, collected and administered by the Municipality in accordance with the Education Act, R.S.O. 1990, c.E.2, Ontario Regulation 400/98 made and most recently revised under that Act;

AND WHEREAS Part X of the *Municipal Act* provides for the issuance of tax bills and the collection and administration of tax amounts;

NOW THEREFORE, the Council of The Corporation of the City of Elliot Lake **ENACTS AS FOLLOWS:**

In this by-law the following words shall be defined as:

"Collector" shall mean City Treasurer, Deputy Treasurer, Tax Collector, Deputy Tax Collector or person designated by the Treasurer;

1. THAT for the taxation year 2019, the tax ratio for property in:

- a) the residential property class is 1.000000;
- b) the multi-residential property class is 1.863000;
- c) the commercial property class is 1.511100;
- d) the industrial property class is 1.511100;
- e) the pipeline property class is 0.700000;
- f) the farm property class is 0.250000; and
- g) the managed forest property class is 0.250000.

2. THAT for the taxation year 2019, the tax rates that would otherwise be levied for Municipal purposes for the subclasses prescribed under paragraphs 2 and 3 of Subsection 8(1) of the *Assessment Act* shall be reduced by 35.00%;

3. THAT for the taxation year 2019 the City shall levy on rateable property the Tax Rates set out in Schedule "A" attached hereto and forming part of this by-law in accordance with the following:

- a) General Municipal Tax Rates shall be levied on **all** property rateable for Municipal purposes,
- b) Urban Service Area Tax Rates shall be levied on all property ratable for Municipal purposes within the assessment roll ranges set out in Schedule "B" attached hereto and forming part of this by-law.

- c) Central Commercial Area Tax Rates shall be levied on all property rateable for Municipal purposes captured within the assessment roll ranges set out in Schedule "B" attached hereto and forming part of this by-law.
4. THAT the final tax levy to be billed under this by-law shall be reduced by the amount raised by the interim tax levy.
5. THAT the final tax levy to be billed and imposed under this by-law shall be paid in two installments due on the following dates:
 - a) 50% thereof on the 5th day of September 2019; and
 - b) The remainder thereof on the 7th day of November 2019.
6. THAT all taxes levied under this by-law shall be payable into the hands of the Collector in accordance with the provisions of this by-law.
7. THAT there shall be imposed on all taxes a penalty for non-payment or late payment of taxes in default on the installment dates set out above in accordance with Section 345(2) of the *Municipal Act, 2001*. The penalty shall be one and one-quarter percent (1.25%) of the amount in default on the first day of default being the day immediately after the due dates referred to above.
8. THAT there shall be levied an interest charge pursuant to Section 345(3) of the *Municipal Act* of one and one quarter percent (1.25%) calculated on the first day of the next calendar month after default or non-payment of each installment levied pursuant to this by-law and a further one and one quarter percent (1.25 %) shall be levied on the unpaid installment on the first day of each calendar month thereafter for so long as the installment remains unpaid.
9. THAT the Collector may mail or cause to be mailed to the address of the residence or place of business of each person taxed under this by-law, a notice specifying the amount of taxes payable.
10. THAT the notice to be mailed under this by-law shall contain the particulars provided for in this by-law and the information required to be entered on the tax bill under Section 343 of the *Municipal Act*.

11. THAT the Collector shall be authorized to accept part payment from time to time on account of any taxes due, and to give a receipt of such part payment, provided that acceptance of any such part payment shall not affect the collection of any percentage charge imposed and collectable under this by-law in respect of non-payment or late payment of any taxes or any installment of taxes.

12. THAT nothing in this by-law shall prevent the Collector from proceeding at any time with the collection of any tax, or any part thereof, in accordance with the provisions of the statutes and by-laws governing the collection of taxes.

13. THAT the City Treasurer is hereby directed and authorized to undertake any required action necessary to collect the taxes levied herein;

14. THAT this by-law comes into force on the day it is passed.

PASSED this 10th day of June 2019

MAYOR

CITY CLERK

SCHEDULE A: 2019 PROPERTY TAX RATES

Rate Schedule	RTC/RTQ	Ratio	Disc	Municipal			Education	
				General	Urban Surchage	Central Commercial	Disc	Rate
<i>Taxable</i>								
Residential	RT	1.000000	1.00	0.01757737	0.00161715	0.00675252	1.000	0.00161000
Managed Forest	TT	0.250000	1.00	0.00439434	0.00040429	0.00168813	1.000	0.00040250
Multi-Residential	MT	1.863000	1.00	0.03274664	0.00301275	0.01257994	1.000	0.00161000
Commercial Occupied	CT, DT, ST, XT	1.511100	1.00	0.02656116	0.00244368	0.01020373	1.000	0.01030000
Commercial Excess/Vacant	CX, CU	1.511100	0.65	0.01726476	0.00158839	0.00663243	0.825	0.00849750
Industrial Occupied	IT	1.511100	1.00	0.02656116	0.00244368	0.01020373	1.000	0.01030000
Industrial Excess/Vacant	IX, IU	1.511100	0.65	0.01726476	0.00158839	0.00663243	0.825	0.00849750
Pipeline	PT	0.700000	1.00	0.01230416	0.00113201	0.00472676	1.000	0.00839238
<i>Payment In Lieu</i>								
Residential (No Ed)	RG	1.000000	1.00	0.01757737	0.00161715	0.00675252	Municipal Only	
Residential	RH, RP	1.000000	1.00	0.01757737	0.00161715	0.00675252	1.000	0.00161000
Commercial Occupied	CF, CP, GF	1.511100	1.00	0.02656116	0.00244368	0.01020373	1.000	0.01030000
Commercial (No Ed)	CG	1.511100	1.00	0.02656116	0.00244368	0.01020373	Municipal Only	
Commercial Vacant	CJ, CR	1.511100	0.65	0.01726476	0.00158839	0.00663243	0.825	0.00849750
Commercial Vacant (No Ed)	CZ	1.511100	0.65	0.01726476	0.00158839	0.00663243	Municipal Only	
Industrial Occupied	IH	1.511100	1.00	0.02656116	0.00244368	0.01020373	1.000	0.01030000
Industrial Excess/Vacant	IK, IR	1.511100	0.65	0.01726476	0.00158839	0.00663243	0.825	0.00849750
Landfill	HF	1.000000	1.00	0.01757737	0.00161715	0.00675252	1.000	0.01030000

SCHEDULE B: 2019 URBAN SURCHARGE AND CENTRAL COMMERCIAL AREA ROLL RANGES**2019 Urban Surcharge
Special Area Roll Ranges**

From	To
57-41-000-001-000-00	57-41-000-016-999-99
57-41-000-023-000-00	57-41-000-061-999-99

**2019 Central Commercial Area
Special Area Roll Ranges**

From	To
57-41-000-005-001-00	57-41-000-005-004-00
57-41-000-005-006-00	57-41-000-005-009-00
57-41-000-005-009-03	57-41-000-005-009-04
57-41-000-005-010-00	57-41-000-005-014-01
57-41-000-005-016-00	57-41-000-005-018-00
57-41-000-005-019-00	57-41-000-005-019-00
57-41-000-005-020-00	57-41-000-005-038-00
57-41-000-005-048-00	57-41-000-005-048-00
57-41-000-005-049-00	57-41-000-005-057-00
57-41-000-005-059-00	57-41-000-005-060-00
57-41-000-005-061-00	57-41-000-005-063-00
57-41-000-005-065-00	57-41-000-005-065-00
57-41-000-005-068-00	57-41-000-005-068-00
57-41-000-005-073-00	57-41-000-005-096-00
57-41-000-005-106-03	57-41-000-005-106-03



MEMO

To: Council
cc. Daryl Halloch
From: Daniel Gagnon
Date: June 10, 2019
Subject: Motion of Support for Funding Application – Hwy 108 Connecting Link

As recommended and approved by Council during budget deliberations the city has applied to the province's Connecting Link funding for several improvements along the Hwy 108 from Timber road to Esten south. If successful the grant will fund 90% of costs for widened shoulders for scooters or bicycles, pave the walking path from Esten South to Esten North, improved pedestrian lighting, improved traffic flow and additional lanes in high traffic areas. The total costs amount to \$1.96 million and if successful the design can be done by the fall of 2019 with substantial completion by September 2020.

A motion of support is needed to accompany the application. The wording is non-negotiable and submitted by the Province.

That the City of Elliot Lake support an application to the Connecting Links Program 2019-20 with a contribution of 10%

And that the City recognizes that any cost overruns may be funded by the municipality

and that the deadlines in the application are attainable.

Respectfully Submitted,

Daniel Gagnon



STAFF REPORT

REPORT OF THE CHIEF ADMINISTRATIVE OFFICER FOR THE CONSIDERATION OF COUNCIL

OBJECTIVE

To provide Council with information on the next steps towards a new socio-economic partnership with the Serpent River First Nation.

RECOMMENDATION

That Council endorse the incorporation of a new corporate entity as equal partners with the Serpent River First Nation to facilitate future waterfront development and other economic development projects

and that

The Mayor and clerk be authorized to execute corporate documents to implement this direction.

Respectfully Submitted

A handwritten signature in blue ink, appearing to be "D. Gagnon", written over a horizontal line.

Daniel Gagnon
Chief Administrative Officer

BACKGROUND

Municipal Resolution Unanimously Passed Monday June 11, 2018

Whereas the City of Elliot Lake wishes to pursue additional waterfront and rural land development within its municipal boundaries to stimulate economic development and job creation and

Whereas all of the City of Elliot Lake is within the Serpent River First Nation's traditional territory, lands equally covered under the Robinson Huron Treaty and

Whereas the City feels that reconciliation and engagement are roles that the municipality must lead wherever feasible rather than rely merely on senior levels of government and

Whereas the Serpent River First Nation has expertise and knowledge of land use, economic development and government relations that can assist Elliot Lake and the region's economic development

Therefore, be it resolved that

The City pursue a full and equal partnership with the Serpent River First Nation in order to develop future waterfront and rural land based on the governing principles of equal revenue sharing, equal representation on the governing development board and processes that respect First Nation rights, and further that

Municipal administration be tasked with researching and pursuing the legal and regulatory framework to proceed based on the direction in this motion.

ANALYSIS

In order to fulfil Council and the Serpent River First Nation's mutual mandates for a new equal partnership it was agreed to incorporate a new entity with equal representation by each partner that would develop and oversee plans and projects together. The attached documents represent the legal foundation of that new corporation named: Serpent River First Nation and Elliot Lake Lands and Economic Development Corporation.

- Unanimous shareholder agreement: There will be two shares: 1 for the Serpent River First Nation and 1 for the City of Elliot Lake.
- Corporate bylaws to govern the operations of the new entity.

It is anticipated that the new corporate documents can be signed into action on Friday, June 21st at a signing ceremony at the Serpent River First Nation Pow Wow Grounds.



FINANCIAL IMPACT

The new corporation may require funds at a future date for projects or administration, that has yet to be clarified. If and when funds are needed, they will be directly tied to economic development pursuits that fit within Elliot Lake and the SRFN's strategic goals.

LINKS TO STRATEGIC PLAN

- Support the local business community
- Develop a strategy to advance the Cottage Lot Program and have a memorandum of understanding (MOU) by the end of 2016
- Explore eco-tourism and geo-tourism possibilities and challenges as part of a tourism package
- Capitalize on opportunities for diversification and community growth. Develop a strategy to advance the Cottage Lot Program and have a memorandum of understanding (MOU) by the end of 2016.
- Explore eco-tourism and geo-tourism possibilities and challenges as part of a tourism package.
- Capitalize on opportunities for diversification and community growth

SUMMARY

It is recommended to approve the establishment of a new corporate entity in partnership with SRFN and to authorize the mayor and clerk to sign the documents necessary to secure new relationship that will accommodate waterfront development and other mutually beneficial economic development projects and initiatives.



BY-LAW NO. 1

being a by-law relating generally to the conduct
of the business and affairs of:

**Serpent River First Nation and Elliot Lake Lands and Economic Development
Corporation**

(the "Corporation")

BE IT ENACTED as a by-law of the Corporation

TABLE OF CONTENTS

1. Interpretation	8. Dividends
2. Directors	9. Financial Year
3. Meetings of Directors	10. Notices
4. Remuneration and Indemnification	11. Execution of Documents
5. Officers	12. Shareholder Agreements
6. Meetings of Shareholders	13. Effective Date
7. Shares	

IT IS ENACTED as a by-law of the Corporation under the *Business Corporations Act* (Ontario) as follows:

1. INTERPRETATION

- 1.01 In this by-law and all other by-laws and resolutions of the Corporation, unless the context otherwise requires:
- (a) "**Act**" means the *Business Corporations Act* (Ontario), R.S.O. 1990, c. 8.16, together with the regulations made pursuant thereto and any statute or regulations that may be substituted in their place, as amended from time to time;
 - (b) "**articles**" means the original or restated articles of incorporation of the Corporation, articles of amendment, amalgamation, arrangement, continuance, reorganization, revival, letters patent, a special Act and any other instrument by which a corporation is incorporated;
 - (c) "**board**" means the board of directors of the Corporation;
 - (d) "**by-laws**" mean this by-law and all other by-laws of the Corporation, as amended from time to time;

- (e) **"Corporation"** means this corporation;
 - (f) **"meeting of shareholders"** means any meeting of shareholders, whether annual or special; and **"special meeting of shareholders"** means a special meeting of the shareholders entitled to vote thereat, duly called for the purpose of considering a special resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast;
 - (g) **"person"** includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, First Nation and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative;
 - (h) **"recorded address"** means, in the case of a shareholder, his or her address as recorded in the shareholders' register; and in the case of joint shareholders, the address appearing in the shareholders' register in respect of such joint holding or the first address so appearing if there are more than one; and, in the case of a director, officer, auditor or member of a committee of the board, his or her latest address recorded in the records of the Corporation; and
 - (i) **"unanimous shareholder agreement"** shall have the meaning ascribed to such term under the Act.
- 1.02 In this by-law, where the context requires, words importing the singular include the plural and vice versa and words importing gender include the masculine, feminine and neuter genders.
- 1.03 Save as aforesaid, all the words and terms appearing in this by-law shall have the same definitions and application as in the Act.

2. DIRECTORS

- 2.01 **Powers** - Subject to any unanimous shareholder agreement, the business and affairs of the Corporation shall be managed or supervised by a board of directors.
- Until changed in accordance with the Act, the number of directors of the Corporation shall consist of 6 directors.
- 2.02 **Resident Canadians** - Subject to the Act, at least 25 percent of the directors of the Corporation shall be resident Canadians, but if the Corporation has less than four (4) directors, at least one (1) director shall be a resident Canadian.
- 2.03 **Qualifications** - The following persons are disqualified from being a director of the Corporation:
- (a) a person who is less than 18 years of age;
 - (b) a person who has been found under the *Substitute Decisions Act, 1992* (Ontario) or under the *Mental Health Act* (Ontario) to be incapable of managing property or who has been found to be incapable by a court in

Canada or elsewhere;

(c) a person who is not an individual; or

(d) a person who has the status of bankrupt.

- 2.04 **Election and Term of Directors** - Each Shareholder shall be entitled to appoint three (3) directors to the Board, who shall remain a director until his or her resignation, or removal according to this by-law. Each Shareholders may appoint, remove or replace their appointed directors by delivering notice in writing to the President of the Corporation.
- 2.05 **Consent to Act** - The appointment of a director under the Act is not effective unless the person elected or appointed consents in writing before or within 10 days after the date of such election or appointment; provided, however, that if the person elected or appointed consents in writing after the time period referred to above, the election or appointment shall be valid.
- 2.06 **Resignation** - A director who is not named in the articles may resign from office upon giving a written resignation to the Corporation and such resignation becomes effective when received by the Corporation or at the time specified in the resignation, whichever is later. Until the first meeting of the shareholders, a director named in the articles shall not be permitted to resign his or her office unless at the time the resignation is to become effective a successor is elected or appointed.
- 2.07 **Vacation of Office** - A director ceases to hold office when he or she dies or resigns, is removed from office by the Shareholder that appointed that Director, or becomes disqualified to serve as a director.

3. MEETINGS OF DIRECTORS

- 3.01 **Place of Meetings** - Meetings of the board may be held at any place within or outside Ontario and it shall not be necessary that, in any financial year of the Corporation, a majority of the meetings of the board be held at a place within Canada.
- 3.02 **Meetings by Telephone or Electronic Means** - If all the directors of the Corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of the Act and these by-laws to be present at the meeting. If a majority of the directors participating in such a meeting are then in Canada, the meeting shall be deemed to have been held in Canada.
- 3.03 **Calling of Meetings** - Meetings of the board shall be held from time to time at such place, at such time and on such day as the Chair of the Board (if any), the Vice-Chair of the Board (if any), the Managing Director (if any), the President or a Vice-President who is a director or any two directors may determine, and the Secretary shall call meetings when so directed or authorized.

Notice of every meeting so called shall be given to each director not less than 48 hours (excluding any part of a Saturday, Sunday or any other day treated as a holiday under the *Retail Business Holidays Act* (Ontario)) before the time when the meeting is to be held, except that no notice of meeting shall be necessary if all the directors are present or if those absent have waived notice of or otherwise signified their consent to the holding of such meeting. A notice of a meeting of directors need not specify the purpose of or the business to be transacted at the meeting except where the Act requires such purpose or business to be specified.

- 3.04 **Regular Meetings** - The board may appoint a day or days in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the board fixing the place and time of regular meetings of the board shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meetings except where the Act requires the purpose thereof or the business to be transacted thereat to be specified.
- 3.05 **First Meeting of New Board** - Each newly-elected board may, without notice, hold its first meeting immediately following a meeting of shareholders at which such board is elected, provided that a quorum of directors is present.
- 3.06 **Quorum** – Subject to the provisions of the Act or any unanimous shareholder agreement, four directors constitutes quorum for a meeting of directors.
- 3.07 **Resident Canadians** - Directors shall not transact business at a meeting of the board unless a majority of the directors present are resident Canadians.
- 3.08 **Chair of Meeting** - The chair of any meeting of the board shall be the first mentioned of the following officers as have been appointed and who is a director and is present at the meeting:
 - (a) The Co-Chairs of the Board (if any) acting in consensus with each other;
 - (b) A Chair of the Board (if any);
 - (c) The Vice-Chairs of the Board (if any) acting in consensus with each other;
 - (d) A Vice-Chair of the Board (if any);
 - (e) Managing Director (if any);
 - (f) President; or
 - (g) a Vice-President.

The Chair(s) shall be entitled to exercise all rights and privileges of a Director, including making motions and voting.

- 3.09 **Votes to Govern** - At all meetings of the board, every question shall be decided by a majority of the votes cast on the question.
- 3.10 **Casting Vote** - In the case of an equality of votes on any question at a meeting of the Board, the chair(s) of the meeting shall **not** be entitled to a second or casting vote.
- 3.10 **Disclosure of Interest in Contracts** - A director or officer of the Corporation shall disclose in writing to the Corporation and the Shareholders, and request to have entered in the minutes of meetings of directors or committees of directors, as the case may be, the nature and extent of any interest that the director or

officer has in any material contact or material transaction, whether made or proposed, with the Corporation (each, a “**Material Contract**”) if the director or officer:

- (a) is a party to the Material Contract;
- (b) is a director or officer, or an individual acting in a similar capacity, of a party to the Material Contract; or
- (c) has a material interest in a party to the Material Contract.

Disclosure shall be made at the time and in the manner required by the Act, and a director or officer so having an interest in the Material Contract shall, unless expressly permitted by the Act, not vote on any resolution to approve the Material Contract or attend any part of a meeting of the directors at which the Material Contract is discussed. At the discretion of the shareholder that appointed the Director in conflict, that Shareholder may appoint an interim Director for the sole purpose of considering and voting on the matter that triggered the conflict by a full board of Directors.

- 3.11 **Written Resolution in Lieu of Meeting** - A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors. A copy of every such resolution shall be kept with the minutes of the proceedings of the directors or committee of directors.
- 3.12 **Delegation** - Subject to the provisions of the Act, directors may appoint from their number a managing director or a committee of directors and delegate to such managing director or committee of directors any of the powers of the directors. Unless otherwise determined by the board and subject to the Act, each committee shall have the power to fix its quorum at not less than a majority of its members, to elect its chair and to regulate its procedure.

4. REMUNERATION AND INDEMNIFICATION

- 4.01 **Remuneration** - Subject to the provisions of the Act, the articles, the by-laws or any unanimous shareholder agreement, the board may fix the remuneration of the directors. Nothing contained herein shall preclude any director from serving the Corporation in any other capacity and receiving remuneration therefor. In addition, directors shall be paid such sums in respect of their out-of-pocket expenses incurred in attending board, committee or shareholders' meetings or otherwise in respect of the performance by them of their duties as the board may from time to time determine.
- 4.02 **Limitation of Liability** - Every director and officer of the Corporation, in exercising his or her powers and discharging his or her duties to the Corporation, shall act honestly and in good faith with a view to the best interests of the Corporation, and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Subject to the foregoing, no director or officer shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Corporation

through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the monies, securities or effects of the Corporation shall be deposited, or for any loss occasioned by any error of judgment or oversight on his or her part, or for any other loss, damage or misfortune whatsoever, which shall happen in the execution of the duties of his or her office or in relation thereto, unless the same are occasioned by his or her own willful neglect or default; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the Act or from liability for any breach thereof.

- 4.03 **Indemnity of Directors and Officers** - Subject to the provisions of the Act, the Corporation may indemnify a director or officer of the Corporation, a former director or officer of the Corporation or another individual who acts or acted at the Corporation's request as a director or officer, or an individual acting in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the Corporation or other entity if:

- (a) he or she acted honestly and in good faith with a view to the best interests of the Corporation, or as the case may be, to the best interests of another entity for which the individual acted as a director or officer in a similar capacity at the Corporation's request; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

The Corporation may, with the approval of a court, indemnify a director, officer or other individual referred to above or advance moneys to such director, officer or other individual referred to above for all costs, charges and expenses of a proceeding referred to above, but such individual shall repay the money if the individual does not fulfil the conditions set out in items (a) and (b) above.

- 4.04 **Insurance** - Subject to the limitations contained in the Act, the Corporation may purchase and maintain such insurance for the benefit of its directors and officers, as the board may from time to time determine.

5. OFFICERS

- 5.01 **Appointment** - Subject to the provisions of the Act, the articles or any unanimous shareholder agreement, the board may from time to time appoint a Chair (or Co-Chairs) of the Board (who shall be a director), Vice-Chair (or Vice-Chairs) of the Board (who shall be a director), a Managing Director (who shall be a director), a President (or Co-Presidents), one or more Vice-Presidents (to which title may be added words indicating seniority or function), a Secretary, a Treasurer and such other officers as the board may determine, including one or more assistants to any of the officers so appointed.

The board may specify the duties of and, in accordance with this by-law and subject to the provisions of the Act, delegate to such officers the power to manage the business and affairs of the Corporation. Except for the Chair(s) of the Board, the Vice-Chair(s) of the Board and the Managing Director, an officer may be, but need not be, a director, and one person may hold more than one office.

- 5.02 **Term, Remuneration and Removal** - The terms and remuneration of all officers appointed by the board (including the President) shall be determined from time to time by resolution of the board. The fact that any officer or employee is a director or shareholder of the Corporation shall not disqualify him from receiving such remuneration as may be determined. All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the board at any time with or without cause.

- 5.03 **Chair of the Board** - The board may from time to time appoint a Chair and Co-Chair of the Board who shall be a director or directors. If appointed, the board may assign to the Chair or Chairs of the Board any of the powers and duties that are by any provisions of this by-law capable of being assigned to the Chair of the Board; and he or she, or they, shall, subject to the provisions of the Act and any unanimous shareholder agreement, have such other powers and duties as the board may specify. During the absence or disability of the Chair or Chairs of the Board, his, her, or their duties shall be performed and those powers exercised by the Vice-Chair or Vice-Chairs of the Board.

- 5.04 **Vice-Chair of the Board** - The board may from time to time appoint a Vice-Chair, or Vice-Chairs of the Board who shall be director. If appointed, the board may assign to the Vice-Chair or Vice Chairs of the Board such powers and such duties as the board or the Chair of the Board may prescribe.

- 5.05 **Managing Director** - The board may from time to time appoint a Managing Director who shall be a resident Canadian and a director. If appointed, he or she shall be the chief executive officer and, subject to the authority of the board, shall have general supervision of the business and affairs of the Corporation; and he or she shall, subject to the provisions of the Act or any unanimous shareholder agreement, have such other powers and duties as the board may specify. During the absence or disability of the President, or if no President has been appointed, the Managing Director shall also have the powers and duties of that office.

- 5.06 **President** - The board may from time to time appoint a President or Co-presidents. The President(s) shall be the chief operating officer(s) of the Corporation and, if no Managing Director has been appointed, and subject to the authority of the board, shall have the general supervision of the business and affairs of the Corporation and he or she shall have such other powers and duties as the board may specify. During the absence or disability of the Managing Director, or if no Managing Director has been appointed, the President(s) shall also have the powers and the duties of that office.

- 5.07 **Vice-President** - The board may from time to time appoint one or more Vice-Presidents. A Vice- President so appointed shall have such powers and such duties as the board or the President or chief executive officer may prescribe.

- 5.08 **Secretary** - The board may from time to time appoint a Secretary. The Secretary

shall attend all meetings of the directors, shareholders and committees of the board and shall enter or cause to be entered in books kept for that purpose, minutes of all proceedings at such meetings; he or she shall give, or cause to be given, when instructed, notices required to be given to shareholders, directors, auditors and members of committees; he or she shall be the custodian of the stamp or mechanical device generally used for fixing the corporate seal of the Corporation, if any, and of all books, papers, records, documents and other instruments belonging to the Corporation; and he or she shall perform such other duties as may from time to time be prescribed by the board.

- 5.09 **Treasurer** - The board may from time to time appoint a Treasurer. The Treasurer shall keep, or cause to be kept, proper accounting records as required by the Act; he or she shall deposit, or cause to be deposited, all monies received by the Corporation in the Corporation's bank account; he or she shall, under the direction of the board, supervise the safekeeping of securities and the disbursement of the funds of the Corporation; he or she shall render to the board, whenever required, an account of all his or her transactions as Treasurer and of the financial position of the Corporation; and he or she shall perform such other duties as may from time to time be prescribed by the board.
- 5.10 **Other Officers** - The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board requires of them. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the board otherwise directs.
- 5.11 **Variation of Duties** - From time to time and subject to the provisions of the Act, the board may vary, add to or limit the powers and duties of any officer.
- 5.12 **Agents and Attorneys** - The board shall have power from time to time to appoint agents or attorneys for the Corporation in or outside Ontario with such powers of management or otherwise (including the power to sub-delegate) as may be thought fit.
- 5.13 **Fidelity Bonds** - The board may require such officers, employees and agents of the Corporation, as it deems advisable, to furnish bonds for the faithful performance of their duties, in such form and with such surety as the board may from time to time prescribe.

6. MEETINGS OF SHAREHOLDERS

- 6.01 **Annual Proceedings** - Subject to paragraph 6.16 below, the directors shall call the first annual meeting of shareholders not later than 18 months after the Corporation comes into existence and, subsequently, not later than 15 months after holding the last preceding annual meeting. The annual meeting of shareholders of the Corporation shall be held at such time and on such day in each year as the board may from time to time determine, for the purposes of receiving the reports and statements required by the Act to be laid before the annual meeting, electing directors, appointing auditors and fixing or authorizing the board to fix their remuneration, and for the transaction of such other business as may properly be brought before the meeting.

- 6.02 **Special Shareholders' Meetings** - The board may at any time call a special meeting of shareholders for the transaction of any business which may properly be brought before such meeting of shareholders. All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, is deemed to be special business.
- 6.03 **Place of Meetings** - Meetings of shareholders shall be held at the registered office of the Corporation, or at such other place within or outside Ontario as the board from time to time determines.
- 6.04 **Participation in Meeting by Electronic Means.** Unless the articles, by-laws or any unanimous shareholder agreement otherwise provide, a meeting of the shareholders may be held by telephonic or electronic means and a shareholder who, through those means, votes at the meeting or establishes a communications link to the meeting shall be deemed for the purposes of the Act to be present at the meeting. A meeting held as aforesaid shall be deemed to be held at the place where the registered office of the Corporation is located.
- 6.05 **Notice of Shareholder Meeting** - Notice of the time and place of each meeting of shareholders shall be sent not less than 10 days, but not more than 50 days, before the date of the meeting:
- (i) to each shareholder entitled to vote at the meeting,
 - (ii) to each director, and
 - (iii) to the auditor of the Corporation.

Notice of a special meeting of shareholders shall state:

- (a) the nature of the business to be transacted at the meeting in sufficient detail to permit the shareholders to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting.

A shareholder and any other person entitled to attend a meeting of shareholders may, in any manner, and at any time waive notice of or otherwise consent to a meeting of shareholders.

For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders but the record date shall not precede by more than 60 days or by less than 30 days the date on which the meeting is to be held. Where no record date is fixed,

(a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,

(i) at the close of business on the date immediately preceding the day on which the notice is given, or

(ii) if no notice is given, the day on which the meeting is held; and

(b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto.

- 6.06 **Persons Entitled to be Present** - The only persons entitled to attend a meeting of shareholders shall be those entitled to vote thereat, the directors and the auditor of the Corporation and others who, although not entitled to vote, are entitled or required under any provision of the Act or by- laws of the Corporation to be present at the meeting. Any other persons may be admitted only on the invitation of the chair of the meeting or with the consent of the meeting.
- 6.07 **Quorum** - Subject to the provisions of the Act or any unanimous shareholder agreement, the holders of a majority of the shares, being greater than fifty percent of the shares, entitled to vote at a meeting of shareholders present in person or by proxy constitute a quorum for the transaction of business at any meeting of shareholders.
- 6.08 **One Shareholder Meeting** - If the Corporation only has one shareholder, or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting.
- 6.09 **Right to Vote** - At any meeting of shareholders, unless the articles otherwise provide, each share of the Corporation entitles the holder thereof to one vote at a meeting of shareholders, subject to the provisions of the Act.
- 6.10 **Joint Shareholders** - Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of shareholders may, in the absence of the other, vote the shares but, if two or more of such persons who are present in person or by proxy, vote, they shall vote as one on the shares jointly held by them.
- 6.11 **Proxies** - Every shareholder entitled to vote at a meeting of shareholders may, by means of a proxy, appoint a proxy holder or one or more alternate proxy holders who are not required to be shareholders to attend, act and vote at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by such proxy.

A proxy shall be originally-signed or by electronic signature by the shareholder or his or her attorney authorized in writing or, if the shareholder is a body corporate, by an authorized signing officer of such body corporate, and shall conform with the requirements of the Act. The board may by resolution fix a time not exceeding 48 hours, excluding a Saturday, Sunday or any other day treated as a holiday under the *Retail Business Holidays Act* (Ontario), preceding any meeting or adjournment thereof, before which time proxies to be used at that meeting must be deposited with the Corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting. A proxy shall be acted upon only if, prior to the time so specified, it shall have been deposited with the Corporation or an agent thereof specified in such notice or, where no time is specified in such notice, the proxy has been received by the Secretary of the Corporation or by the chair of the meeting or any adjournment thereof prior to the time of voting.

- 6.12 **Scrutineers** - At each meeting of shareholders, one or more scrutineers may be appointed by a resolution of the meeting or by the chair of the meeting with the consent of the meeting to serve at the meeting. Such scrutineers need not be shareholders of the Corporation.

- 6.13 **Votes to Govern** - Subject to the provisions of the Act, the articles, the by-laws or any unanimous shareholder agreement, all questions proposed for the consideration of the shareholders at a meeting shall be decided by a majority, more than fifty percent, of the votes cast thereon. In case of an equality of votes either on a show of hands or on a poll, the chair of the meeting shall **not** be entitled to a second or casting vote.
- 6.14 **Show of Hands** - Subject to the provisions of the Act, at all meetings of shareholders, every question shall be decided by a show of hands unless a ballot thereon shall be required by the chair of the meeting or be demanded by a shareholder or proxyholder present and entitled to vote. Upon a show of hands, every person present and entitled to vote has one vote regardless of the number of shares he or she represents. After a show of hands has been taken upon any question, the chair of the meeting may require, or any shareholder or proxyholder present and entitled to vote may demand a ballot thereon. Whenever a vote by show of hands shall have been taken upon a question, unless a ballot thereon be so required or demanded, a declaration by the chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the question. The result of the vote so taken and declared shall be the decision of the Corporation on the question. A demand for a ballot may be withdrawn at any time prior to the taking of the ballot.
- 6.15 **Ballots** - If a ballot is required by the chair of the meeting or is demanded and the demand is not withdrawn, a ballot upon the question shall be taken in such manner as the chair of the meeting directs.
- 6.16 **Adjournment** - The chairman of a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and from place to place.
- 6.17 **Resolution in Lieu of Meeting** - Except where a written statement with respect to the subject matter of the resolution is submitted by a director in accordance with the Act or where representations in writing are submitted by an auditor in accordance with the Act,
- (a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and
 - (b) a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of the Act relating to meetings of shareholders.

7. SHARES

- 7.01 **Issue of Shares** - Subject to the provisions of the Act, the articles or any unanimous shareholder agreement, the board may from time to time issue or grant options or rights to purchase the whole or any part of the authorized and unissued shares of the Corporation at such time and to such persons and for such consideration as the board may determine, provided that no share shall be

issued until it is fully paid as provided by the Act.

- 7.02 **Lien for Indebtedness** - Subject to the provisions of the Act, the Corporation shall have a lien on shares registered in the name of a shareholder or the shareholder's legal representative indebted to the Corporation. Such lien may be enforced, subject to any other provision of the articles and to any unanimous shareholder agreement, by the sale of the shares thereby affected or by any other action, suit, remedy or proceeding authorized or permitted by law or by equity and, pending such enforcement, the Corporation may refuse to register a transfer of the whole or any part of such shares.
- 7.03 **Share Certificates** - A security issued by the Corporation may be represented by a security certificate or may be an uncertificated security. Unless otherwise provided in the articles, the board may provide by resolution that any or all classes and series of its shares or other securities shall be uncertificated securities, provided that such resolution shall not apply to securities represented by a certificate until such certificate is surrendered to the Corporation. Within a reasonable time after the issuance or transfer of an uncertificated security, the Corporation shall send to the registered owner of the uncertificated security a written notice containing the information required to be stated on a share certificate pursuant to the Act. Except as otherwise expressly provided or authorized by law, the rights and obligations of the registered owners of uncertificated securities and the rights and obligations of the holders of certificated securities of the same class and series shall be identical.
- 7.04 **Joint Holders** - The Corporation is not required to issue more than one security certificate in respect of securities held jointly by several persons, and delivery to one of several joint holders is sufficient delivery to all. Any one of such persons may give effectual receipts for the certificate issued in respect thereof or for any dividends, bonus, return of capital or other money payable or warrant issuable in respect of such share.
- 7.05 **Replacement Share Certificates** - Subject to the provisions of the Act, the board may by resolution prescribe, either generally or in a particular case, the conditions upon which a new share certificate may be issued to replace a share certificate which has been defaced, lost, stolen or destroyed.
- 7.06 **Transfer Agent and Registrar** - The board may from time to time appoint a registrar to maintain the securities register and a transfer agent to maintain the register of transfers and may also appoint one or more branch registrars to maintain branch security registers and one or more branch transfer agents to maintain branch registers of transfers, but one person may be appointed both registrar and transfer agent. The board may at any time terminate any such appointment.

8. DIVIDENDS

- 8.01 **Declaration of Dividends** - Subject to the provisions of the Act, the articles and to any unanimous shareholder agreement, the board may declare and the Corporation may pay dividends to the shareholders, according to their respective rights and interests in and to the Corporation. Dividends may be paid by issuing fully-paid shares of the Corporation or options or rights to acquire fully-paid shares of the Corporation or, subject to the provisions of the Act, may be paid in

money or property.

- 8.02 **Payment of Dividends** - A dividend payable in cash shall be paid by cheque drawn on the Corporation's bankers or one of them to the order of each registered holder of shares of the class in respect of which it has been declared, and mailed by ordinary mail, postage prepaid, to such registered holder at his or her recorded address, unless such holder otherwise directs. In the case of joint holders, the cheque shall, unless such joint holders otherwise direct, be made payable to the order of all of such joint holders and mailed to them at their recorded addresses. The mailing of such cheque as aforesaid shall satisfy and discharge all liability for the dividend to the extent of the sum represented thereby plus the amount of any tax which the Corporation is required to and does withhold, unless such cheque is not paid on due presentation.
- 8.03 **Non-Receipt of Cheque** - In the event of the non-receipt of any cheque for a dividend by the person to whom it is so sent as aforesaid, the Corporation shall issue to such person a replacement cheque for a like amount on such terms as to indemnity, reimbursement of expenses and evidence of non-receipt and of title as the board may from time to time prescribe, whether generally or in a particular case.

9. FINANCIAL YEAR

- 9.01 **Financial Year** - The financial year of the Corporation shall terminate on such day in each year as the directors may determine.

10. NOTICES

- 10.01 **Method of Giving Notice.** Any notice, communication or other document required or permitted by the Act, the articles or the by-laws to be given by the Corporation to a shareholder, director, officer, auditor or member of a committee of the board of the Corporation under any provision of the Act, the articles or by-laws or otherwise shall be sufficiently given if (i) sent by electronic means in accordance with the *Electronic Commerce Act, 2000* (Ontario), as may be amended or re-enacted from time to time, or (ii) delivered personally to the person to whom it is to be given or if delivered to his or her recorded address or (iii) mailed to such person at his or her recorded address by prepaid ordinary mail. A notice sent by prepaid ordinary mail shall be deemed to have been received on the fifth day after mailing. The Secretary or, in the absence of the Secretary, any other officer of the Corporation, may change or cause to be changed the recorded address of any shareholder, director, officer or auditor of the Corporation in accordance with any information believed by such officer to be reliable. The declaration by the Secretary, or any other officer of the Corporation, that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice.
- 10.02 **Computation of Time** - In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, "day" means a clear day and a period of days shall be deemed to commence on the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a Saturday, Sunday or any other day treated as a holiday under the *Retail Business Holidays Act* (Ontario), the period shall

terminate at midnight of the day next following that is not a Saturday, a Sunday or a holiday under such statute.

- 10.03 **Omissions and Errors** - The accidental omission to give any notice to any shareholder, director, officer or auditor, or the non-receipt of any notice by any shareholder, director, officer or auditor or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.
- 10.04 **Notice to Joint Shareholders** - All notices with respect to any shares registered in more than one name may, if more than one address appears on the records of the Corporation in respect of such joint holding, be given to such joint shareholders at the first address so appearing, and notice so given shall be sufficient notice to all the holders of such shares.
- 10.05 **Shareholders Who Cannot be Found** - If the Corporation sends a notice or document to a shareholder at his or her recorded address and the notice or document is returned on two (2) consecutive occasions because the shareholder cannot be found, the Corporation is not required to send any further notices or documents to the shareholder until such shareholder informs the Corporation in writing of his or her new address.
- 10.06 **Persons Entitled by Death or Operation of Law** - Every person who by operation of law, by transfer or the death of a shareholder or otherwise becomes entitled to shares is bound by every notice in respect of such shares which has been duly given to the registered holder from whom he or she derives title prior to his or her name and address being entered on the records of the Corporation (whether such notice was given before or after the happening of the event upon which he or she becomes so entitled) and prior to his or her furnishing to the Corporation the proof of authority or evidence of his or her entitlement prescribed by the Act.
- 10.07 **Waiver of Notice** - Any shareholder (or his or her duly appointed proxy), director, officer or auditor may waive any notice or abridge the time required for any notice required to be given under any provision of the Act, the articles or by-laws of the Corporation or otherwise, and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in the giving or in the time of such notice, as the case may be. Any such waiver or abridgement shall be sent (i) by electronic means in accordance with the *Electronic Commerce Act, 2000* (Ontario), or (ii) in writing, except a waiver of notice of a meeting of shareholders or of the board or a committee of the board which may be given in any manner.
- 10.08 **Signatures to Notices** - The signatures to any notice to be given by the Corporation may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.

11. EXECUTION OF DOCUMENTS

- 11.01 **Signing Officers** - Contracts, documents or instruments in writing requiring execution by the Corporation may be signed by the following without any further authorization or formality:

Select ONE of the following:

any officer or director; OR

any two of the directors and officers; OR

the Chair of the Board (if any), the Vice-Chair of the Board (if any), Managing Director (if any), the President or a Vice-President or a director together with the Secretary or Treasurer or an Assistant Secretary or Assistant Treasurer or another director.

If no selection is made as aforesaid, then any **officer or director** of the Corporation is authorized to sign contracts, documents or instruments in writing for and on behalf of the Corporation.

In addition to the foregoing, the directors are authorized from time to time by resolution to appoint any officer or officers or any other person or persons on behalf of the Corporation either to sign contracts, documents or instruments in writing generally or to sign specific contracts, documents or instruments in writing for and on behalf of the Corporation. Any person authorized to sign any document may affix the corporate seal (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

The signature or signatures of any officer or director of the Corporation may, if authorized by board resolution, be printed, engraved or otherwise mechanically reproduced upon all contracts, documents or instruments in writing of the Corporation executed or issued by or on behalf of the Corporation.

The term "**contracts, documents or instruments in writing**" as set out above shall include, without limitation, deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property, real or personal, immovable or movable, powers of attorney, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of securities and all other paper writings.

- 11.02 **Corporate Seal** - The Corporation may, but need not, have a corporate seal. Notwithstanding the foregoing, the Corporation may have a corporate seal in the form approved from time to time by the board. A document executed on behalf of the Corporation is not invalid merely because the corporate seal, if any is not affixed thereto.

12. SHAREHOLDER AGREEMENTS

- 12.01 **Shareholder Agreements** - This by-law and all other by-laws of the Corporation shall be subject to the terms and conditions of any shareholder agreement (including a unanimous shareholder agreement) made between the shareholders of the Corporation from time to time and, to the extent of any inconsistency between the by-laws and any such shareholder agreement, such shareholder agreement (including a unanimous shareholder agreement) shall prevail over the by-laws of the Corporation.

13. EFFECTIVE DATE

13.01 **Effective Date** - This by-law shall come into force when made by the directors in accordance with the Act.

by the board on the _____ day of _____, 2019

President

Secretary

CONFIRMED by the shareholders on the ____ day of __, 2019.

Secretary

UNANIMOUS SHAREHOLDER AGREEMENT

THIS AGREEMENT is effective as of the ____ day of _____, 2019.

BETWEEN :

(“Serpent River First Nation”)

- and -

(“City of Elliot Lake”)

- and -

Serpent River First Nation and Elliot Lake Lands and Economic Development Corporation
Incorporated _____
, a corporation incorporated under the laws of Ontario
(the “**Corporation**”)

BACKGROUND

1. The authorized capital of the Corporation consists of 1 Class of Common Shares.
2. The parties to this agreement are the holders of record and the beneficial owners of the following number of issued and outstanding shares of the Corporation:

<u>Holder of Shares</u>	<u>Number and Class of Shares</u>
City of Elliot Lake	1
Serpent River First Nation	1

3. No other shares of the Corporation have been issued.

NOW THEREFORE this agreement witnesses that in consideration of the mutual covenants and agreements contained in it, the parties agree with each other as follows:

ARTICLE I PRELIMINARY MATTERS

1.1. Recitals

The information in the Background forms part of this agreement, and each party respectively declares that the foregoing recitals, insofar as they relate to it, are true and correct.

1.2. Prior Agreements

All other agreements regarding the matters contained in this agreement, whether written or oral, are terminated.

ARTICLE II DEFINITIONS AND INTERPRETATION

1.3. Definitions

In this agreement, or any amendment to this agreement:

- a) “Act” means the *Business Corporations Act* (Ontario), as such act may be amended from time to time, and all successor legislation.
- b) “Affiliated Body Corporate” has the meaning attributed to that phrase in the Act. at the effective date of this agreement.
- c) “Business Day” means every day except Saturdays, Sundays and holidays (as that term is defined in the *Interpretation Act* (Ontario)).
- d) “Control” means control in fact, whether direct or indirect; shares are controlled if the voting rights which attach to those shares are controlled.
- e) “Event of Default” has the meaning attributed to that phrase in Section.
- f) “Material Decision” means any decision involving the Corporation:
 - i. except as contemplated by this agreement, declaring or paying any dividends or making any other distribution in respect of any securities of the Corporation or making any other distribution of any nature (including repayment of loans) to any Person not acting at arm’s length with the Corporation or any of its Shareholders, as that concept is construed for the purposes of the *Income Tax Act* (Canada);
 - ii. selling or disposing of any assets or property by the Corporation during any Fiscal Year (whether in one or more transactions) with an aggregate book value in excess of 10% of the total assets of the Corporation;
 - iii. making or committing to make during any Fiscal Year capital expenditures which, in the aggregate, exceed 10% of the total assets of the Corporation and which have not been expressly provided for in the Budget for that Fiscal Year;
 - iv. establishing, acquiring or otherwise becoming involved in any corporate entity or any partnership, joint venture or similar arrangements;
 - v. hiring any employee whose annual remuneration exceeds \$100,000.00 per annum (inclusive of all benefits), or amending, terminating or otherwise altering or waiving the terms of any employment, consulting or management contract with respect to an individual whose annual remuneration exceeds that amount;

- vi. entering into any transactions with officers, directors or employees or members of their families or other Persons with whom they do not act at arm's length, as that concept is construed for the purposes of the *Income Tax Act* (Canada);
- vii. entering into (other than in the ordinary course to fund working capital needs expressly contemplated by the Budget for the applicable Fiscal Year), modifying or cancelling any credit facility;
- viii. creating any mortgage, lien, charge or other form of encumbrance with respect to any of the assets of the Corporation or its subsidiaries;
- ix. altering the nature of the Corporation's business or otherwise engaging in other businesses or activities that are not incidental to the businesses or activities presently undertaken by the Corporation;
- x. instituting, modifying or terminating any profit sharing or similar incentive arrangement for employees of the Corporation or its subsidiaries;
- xi. approving the Budget for any Fiscal Year;
- xii. selecting or changing the auditors of the Corporation;
- xiii. issuing or selling any of its share capital or any rights, warrants or securities convertible into or exercisable or exchangeable for Shares;
- xiv. purchasing any of its Shares, except pursuant to the exercise of any retraction or redemption right which attached to such Shares;
- xv. winding up, dissolving or liquidating;
- xvi. continuing under the laws of another jurisdiction;
- xvii. changing the Fiscal Year;
- xviii. amending the Articles or by-laws of the Corporation; or,
- xix. setting, or amending, the remuneration and expenses to be paid to any Directors of the Corporation by the Corporation for work, time or effort fulfilling their duties as Directors. Provided it is properly approved by the Board of Directors in accordance with the by-laws, reasonable remuneration and expenses a Director may receive from the Corporation for any services to the Corporation that he or she performs in any other capacity are not included as a material change.

g) "Permitted Transferee" means:

- A. a corporation of which the Shareholder is at all times the legal and beneficial owners of shares carrying at least 51% of the issued and outstanding voting rights, which votes are sufficient, if exercised, to elect a majority of the board of directors of such corporation,

B. a trust, the sole beneficiaries of which is a Shareholder, or

C. an Affiliated Body Corporate of the Shareholder;

- h) “Person” means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative.
- i) “Share” means a share in the capital of the Corporation.
- j) “Transfer” means to sell, assign, surrender, gift, transfer, pledge, mortgage, charge, create a security interest in, hypothecate or otherwise encumber any of the Shares or any interest, whether legal or beneficial, in the Shares, whether voluntary, involuntary, by operation of law or otherwise.

1.4. Construction

In this agreement, except as otherwise expressly provided:

- a) all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties require and the verb shall be read and construed as agreeing with the required word and pronoun;
- b) the division of this agreement into Articles and sections and the use of headings are for convenience of reference only and shall not modify or affect the interpretation or construction of this agreement or any of its provisions;
- c) when calculating the period of time within which or following which any act is to be done or step taken pursuant to this agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day; and
- d) all accounting terms which are not specifically defined shall be construed in accordance with accounting principles which are generally accepted in Canada from time to time as set forth in the handbook published by The Canadian Institute of Chartered Accountants.

ARTICLE III GENERAL CONTRACT PROVISIONS

1.5. Closing

The closing of any purchase of Shares by the Corporation or one or more Shareholders from another Shareholder pursuant to this agreement shall be held at the head office of the Corporation at **[10:00 a.m.]** (local time) on the prescribed date and shall be subject to the following terms and conditions:

- a) the Corporation or the Shareholder(s) (the “Buyers”) who are to acquire Shares shall pay the applicable purchase price by certified cheque to the Shareholder(s) (the

“Vendors”) who are to sell their Shares and the Vendors shall deliver to or to the order of the Buyers certificates for the Shares to be acquired, duly endorsed for transfer, free and clear of all liens, mortgages, charges, security interests and other encumbrances;

- b) the Vendors and their nominees, if any, shall resign in writing the positions which they then hold with the Corporation and the Vendors and any Person having a legal or beneficial interest in the Vendors (whether direct or indirect) and nominees of the Vendors shall release the remaining Shareholders and the Corporation from all manner of actions, causes of action, suits, claims or demands against any of them which they ever had, then have or may thereafter have, for or by reason of or arising out of any cause, matter or thing but excluding claims arising from the transaction and claims for other moneys then owing pursuant to bona fide debts of the Corporation;
- c) if the Shares to be purchased are subject to any lien, pledge, security interest or encumbrance or any of the Vendors owe any money to the Corporation or the Buyers, as determined by the auditor of the Corporation, the Buyers shall have the right to deduct from the amount otherwise required to be paid by them to that Vendor the amount required to discharge all such liens, pledges, security interests or encumbrances and repay any moneys so owing by the Vendor and such amount shall be used accordingly;
- d) the Vendors shall be repaid any amounts owing to them pursuant to loans advanced to the Corporation (including interest accrued thereon) and shall be released from any guarantees provided for the benefit of the Corporation or, if such releases are not forthcoming, shall be provided security (in form acceptable to the Vendors, acting reasonably) for amounts which may be payable by them pursuant to such guarantees; and

if, on the date of closing of the transaction, any of the Vendors shall fail or refuse to complete the transaction, then the Buyers shall have the right, on payment of the purchase price for the Shares into any chartered bank or trust company in the City of Elliot Lake, Ontario (provided notice is given to the Defaulting Shareholder of such payment) within 15 Business Days after the date of closing, to execute and deliver all such transfers, resignations and other documents and instruments which may be necessary or advisable in order to complete the transaction and for such purpose, the Shareholders who may become Vendors hereby nominate, constitute and irrevocably appoint the Secretary of the Corporation and the Shareholders who may become Buyers as their lawful attorney and agent, which appointment is coupled with an interest, with full power and authority to execute for and in the name of and on behalf of the Vendors any deeds, transfers, conveyances, assignments, assurances, certificates and other documents and to do all things which the Vendors are required to do under the terms hereof.

ARTICLE IV ORGANIZATION AND MANAGEMENT OF THE CORPORATION

- 1.6.** Each of the Shareholders shall vote or cause to be voted the Class A - Common Shares beneficially owned or controlled by it and exercise its influence so that:

- a) the board of directors of the Corporation shall at all times consist of 6 directors, 3 of whom shall be nominees of the City of Elliot Lake and 3 of whom shall be

nominees of Serpent River First Nation;

- b) The Mayor of the City of Elliot Lake shall be one of the 3 directors appointed by the City of Elliot Lake, and shall be entitled to all powers and voting privileges of any other Director;
- c) The Chief of the Serpent River First Nation shall be one of the 3 directors appointed by the Serpent River First Nation, and shall be entitled to all powers and voting privileges of any other Director;
- d) Each of the City of Elliot Lake and the Serpent River First Nation may select from amongst their three Directors a Co-Chair and a Vice-Chair of the Board of Directors;
- e) all directors shall be residents of Canada;
- f) all matters or questions requiring action or decision at a meeting of the board of directors of the Corporation shall be determined by a majority of the votes cast at such meeting, except as is required by law or this agreement.

1.7. Quorum for the board of the directors of the Corporation shall be composed of equal representation from the City of Elliot Lake and the Serpent River First Nation and at least four (4) persons present in person or present by means of conference telephone or other communications equipment whereby all persons participating in the meeting can hear each other. Where there is a tie vote, be it at a Board meeting or a meeting of the Shareholders, the motion or resolution shall fail. The parties hereto are aware of and intend this to be the case.

1.8. No Material Decision may be made by the Corporation, the board of directors, the executive, or otherwise unless prior supported by a unanimous resolution of the full (6 members) Board of Directors.

1.9. Budgets - Prior to the commencement of each fiscal year, the President or Chief Executive Officer of the Corporation shall prepare and present to the Directors an annual operating and capital expenditures budget for the following fiscal year, which budget will be subject to final approval by resolution of the Directors. Any variance in budgeted items of greater than 10% per item shall be set out in a statement to be delivered to the Directors and each Shareholder concurrently with the delivery of monthly financial statements to the Directors and each Shareholder as set out in this Agreement. Any capital expenditure that constitutes a Material Decision which does not appear on a budget approved by the Directors, or which exceeds the amount of such capital expenditure appearing on a budget approved by the Directors by 10%, shall require approval of the Directors.

1.10. No transfer by any Shareholder of any Common Shares to any Person other than a Permitted Transferee or another Shareholder shall be effected except in compliance with this Agreement.

1.11. Sale of Shares to Third-Parties: Right of First Refusal

(a) Any Shareholder (hereinafter in this Article referred to as the "Offeror") that desires to sell all or any of its Shares shall give notice of such proposed sale (hereinafter in this Article referred to as the "Notice") to the Corporation and to the other Shareholders and shall set out in the Notice the number of Shares that it desires to sell (hereinafter in this Article referred to as the "Offered Shares") and the terms upon which and the price at which it desires to sell the

Offered Shares (such price being hereinafter in this Article referred to as the “Purchase Price”).

- (b) Upon the Notice being given, the other Shareholders (hereinafter in this Article sometimes referred to as the “Offerees”), individuals or collectively, shall have the right to purchase all, but not less than all, of the Offered Shares for the Purchase Price.
- (c) Within 10 Business Days of having been given the Notice, if an Offeree desires to purchase all of the Offered Shares, it shall give notice to the Offeror and to the Company.
- (d) If the Offeror fails to transfer the Offered Shares to the Offeree in accordance with the terms set out in the Notice, the Secretary of the Corporation is authorized and directed to receive the purchase money and to thereupon cause the names of the Offeree to be entered in the registers of the Corporation as the holders of the Shares purchasable by them. The said purchase money shall be held in trust by the Corporation on behalf of the Offeror and not commingled with the Corporation's assets, except that any interest thereon shall be for the account of the Corporation. The receipt by the Secretary of the Corporation for the purchase money shall be a good discharge to the Offeree and, after the Offeree's name has been entered in the registers of the Corporation in exercise of the aforesaid power, the validity of the proceedings shall not be subject to question by any person. On such registration, the Offeror shall cease to have any right to or in respect of the Offered Shares except the right to receive, without interest, the purchase price received by the Secretary of the Corporation.
- (e) If the Offerees does not give notice in accordance with the provisions of this Article that it is willing to purchase all of the Offered Shares, the rights of the Offeree under this Article shall forthwith cease and determine and the Offeror may sell the Offered Shares to any person within four months after the expiry of the 10 Business Day period specified in subsection (c) of this section, for a price not less than the Purchase Price and on other terms no more favourable to such person than those set forth in the Notice, provided that the person to whom his or her Shares are to be sold agrees prior to such transaction to be bound by this Agreement and to become a party hereto in place of the Offeror with respect to the Offered Shares. If the Offered Shares are not sold within such four month period on such terms, the rights of the Offeree pursuant to this Article shall again take effect and so on from time to time.

1.12. Value of Shares

- (a) The transfer of the Shares or Interest of any Shareholder pursuant to any of the terms of this Agreement shall be subject to the general provisions set out in this section.
- (b) Where pursuant to the provisions of this Agreement a determination of the fair market value of shares is required to be made a Shareholder may give written notice to the other Shareholder requesting that the Shareholders forthwith meet and attempt in good faith to agree upon the fair market value of the subject shares. In the event that all of the Shareholders are able to reach agreement on the fair market value of the subject shares, such agreed value shall be deemed to be the fair market value for the purposes of this Agreement.
- (c) In the event that the Shareholders are for any reason unable to reach agreement on the fair market value of the subject shares within 14 days of the delivery of the notice referred to in paragraph 1.13(b), then the Shareholders shall forthwith meet for the purposes of identifying and retaining a valuator (the “First Valuator”) for the purpose of determining the fair market

value of the subject shares. Unless otherwise unanimously agreed by the Shareholders, the First Valuator shall be an accountant practicing with the Auditors of the Corporation who has at least five years' experience in valuating businesses and is accredited as a chartered business valuator.

(d) The First Valuator shall prepare and deliver to each of the Shareholders a written report (the "First Valuation Report") setting out its Valuation of the subject shares as soon as possible, and in any event within 45 days after being retained.

(e) Any Shareholder may within 30 days of its receipt of the First Valuation Report provide written notice to the other Shareholders advising that it wishes to have a second Valuation of the subject shares undertaken. If no such notice is given, the First Valuation Report shall be final and binding on the parties. If such notice is given the Shareholders shall forthwith meet for the purposes of identifying and retaining a second valuator (the "Second Valuator") for the purpose of preparing a second Valuation of the subject shares. The Second Valuator shall be an accountant practicing with a national accounting firm other than the Auditors and who has the experience and credentials referred to in paragraph 1.13(c).

(f) The Second Valuator shall prepare and deliver to each of the Shareholders a written report (the "Second Valuation Report") setting out its Valuation of the subject shares as soon as possible, and in any event within 45 days after being retained. Where a Second Valuation Report has been prepared, the fair market value of the subject shares for the purposes of this Agreement shall be equal to the average of the fair market values of the Subject Interest as set out in the First Valuation Report and the Second Valuation Report.

(g) The Company and each of the Shareholders shall make available to the First Valuator and the Second Valuator all books, records and other data and information in their possession or control as the First Valuator or Second Valuator may reasonably require for the purposes of its valuation.

(h) In determining the fair market value of the subject shares under this section, the First Valuator and the Second Valuator may apply such principles of valuation as each considers appropriate in the circumstances provided that:

- i. there shall be no premium for a control position or discount for a minority position;
- ii. the fair market value of any Shareholder Loan shall not be discounted by reason only of the fact that such loans are not demand loans and may not bear interest; and
- iii. the Company shall be valued on a going-concern basis.

(i) The Company shall pay all fees and expenses charged by the First Valuator for preparing the First Valuation Report. The Shareholder who requested the Second Valuation shall pay all fees and expenses charged by the Second Valuator for preparing the Second Valuation Report.

(j) The First Valuator and the Second Valuator shall be entitled to retain such qualified independent appraisers as each may deem appropriate to assist with its valuation.

ARTICLE V

GENERAL CONTRACT PROVISIONS

1.13. Term of Agreement

This agreement shall take effect on the date hereof and shall remain in full force and until,

- (a) the date on which a Person becomes the registered and beneficial owner of all the Shares;
- (b) the date this Agreement is terminated by written agreement of all of the Shareholders;
- (c) the date upon which there is an initial public offering of Shares; or
- (d) the date upon which the Corporation is wound-up, liquidated or dissolved, whether voluntarily or involuntarily; and
- (e) with respect to any individual Shareholder, upon the sale or disposal of all of such Shareholder's Shares in accordance with this Agreement.

Notwithstanding the foregoing, the provisions of Sections [Confidentiality clause] and [Non-Competition clause] and any other obligations under this Agreement which by their terms survive the termination of this Agreement, shall survive the termination of this Agreement.

1.14. Implementation of this Agreement

The parties shall sign such further and other documents, cause such meetings to be held, cause such resolutions to be passed and such by-laws to be enacted, exercise their vote and influence and do and perform (and cause to be done and performed) such further and other acts or things as may be necessary or desirable in order to give full effect to this agreement and every part of it. If any conflict shall appear between the articles, by-laws or resolutions of the Corporation and the provisions of this agreement, the provisions of this agreement shall govern and supersede the provisions of the articles, by-laws and resolutions. If there shall be any such conflict, the Shareholders shall amend the articles, by-laws and resolutions so as to ensure conformity with the terms of this agreement.

1.15. Endorsement on Certificates

All share certificates of the Corporation shall be endorsed with the following legend:

“The Corporation is bound by, and the securities evidenced by this certificate are subject to, a unanimous shareholder agreement, as may be amended from time to time, and such securities may not be pledged, sold or otherwise transferred except in accordance with the provisions thereof. Any transferee of the securities evidenced by this certificate is deemed, and required, to be a party to that agreement.”

1.16. Notices

All notices, requests, demands or other communications required or permitted to be given by one party to another under this agreement shall be given in writing by personal delivery or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

Serpent River First Nation
195 Village Road
Cutler, Ontario
P0P 1B0

City of Elliot Lake
45 Hillside Dr. N.

Elliot Lake, On.
P5A 1X5

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when delivered, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal delivery.

1.17. Authorized Representative

For all purposes of this agreement, any notice or other instrument in writing which is required to be delivered by a Group shall be effective only if such notice or other instrument is executed by each of the members of such Group or by the Group Representative on behalf of the Group, in which event the members of the other Group shall be entitled to rely on such notice or other instrument as being duly authorized by each member of the Group on whose behalf it has been delivered.

1.18. Confidential Information

Each Shareholder acknowledges that in their capacity as a shareholder, director, employee or officer of the Corporation they may from time to time be entrusted with confidential information, without limiting the foregoing may include information such as customer lists, financial information, marketing strategies, production techniques, software etc., and other information of a privileged and confidential nature which, upon disclosure, would be highly prejudicial to the interests of the Corporation (collectively the "Confidential Information").

Each Shareholder acknowledges and agrees that the right to possess and maintain confidential all such Confidential Information constitutes a proprietary right of the Corporation which the Corporation is entitled to protect.

Each Shareholder agrees that it will not at any time, whether then a shareholder of the Corporation or not, directly or indirectly disclose Confidential Information to any Person, other than the Shareholder's own professional advisors on a need-to-know basis or a purchaser as permitted under this Agreement who is subject to obligations of confidentiality in favour of the Corporation, not authorized by the Corporation to receive such information.

Each Shareholder shall return to the Corporation all property, written information and documents of the Corporation and all Confidential Information and all copies of the same, whether in written, electronic or other form or certify as to such information's destruction forthwith upon his or her cessation as a Shareholder.

For greater certainty, nothing in this Agreement imposes liability upon any Shareholder for making disclosures of Confidential Information where such disclosure:

- (a) is required by law or court order; or
- (b) is otherwise disclosed not as a result of a breach by the Shareholder of his, her or its obligations hereunder.

1.19. Dispute Resolution

If any disagreement arises between any of the parties with respect to the interpretation of this Agreement and upon which the parties cannot agree, then every such disagreement shall be referred to arbitration pursuant to the provisions of the *Arbitration Act, 1991* (Ontario) and in accordance with the provisions of this Section. The following provisions shall govern any arbitration:

- (a) the reference to arbitration shall be to 3 arbitrators, one of whom shall be chosen by each of the parties and one which the two arbitrators shall, together, appoint as the third mutually acceptable arbitrator;
- (b) a decision and any award shall be made by a majority of the arbitrators; and
- (c) there shall be no appeal from any award of the arbitrators.

1.20. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. All of the parties to this agreement hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Province of Ontario.

1.21. Entire Agreement

This agreement constitutes the entire agreement between the parties with respect to the matter herein and supersedes all prior agreements relating to the subject matter hereof. The execution of this agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof. This agreement shall not be amended, altered or qualified except by a memorandum in writing signed by all the parties.

1.22. Waiver

No party to this agreement shall be deemed or taken to have waived any provision of this agreement unless such waiver is in writing, and then such waiver shall be limited to the circumstances set forth in such written waiver.

IN WITNESS WHEREOF the parties have executed this agreement as of the date above stated.

[SERPENT RIVER FIRST NATION]

Title

**[CITY OF
ELLIOT
LAKE]**

Title