

# THE COTTAGES ON OSOYOOS LAKE

## INFORMATION STATEMENT

Developer: Osoyoos Cottages Limited Partnership

Mailing Address: Suite 202  
45793 Luckakuck Way  
Chilliwack, British Columbia V2R 5S3

Address for Service: Gowling Lafleur Henderson LLP  
2300 – 550 Burrard Street  
Vancouver, British Columbia V6C 2B5

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Revised Aug 30, 2012 (address change)

Revised Jan 2013 (misc. changes)

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Revised Oct 30, 2015 (2015 AGM bylaw amendments & minor edits)

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Revised Nov 17, 2017 (2017 AGM bylaw amendments & minor edits)

Revised Jan 15, 2019 (2018 AGM bylaw amendments, updated budget, & minor edits)

## GENERAL DISCLAIMER

This Information Statement is prepared by Osoyoos Cottages Limited Partnership (the “**Developer**”), and contains an overview of the development and construction of a mixed residential and recreational development (the “**Development**”) on lands located within the Osoyoos Indian Reserve No. 1.

The Development Lands, as defined herein, and construction of the improvements thereon are not subject to the British Columbia *Real Estate Development Marketing Act*. This is not a “Disclosure Statement” as the term is defined in the British Columbia *Real Estate Development Marketing Act* and this Information Statement will not be filed with the British Columbia Superintendent of Real Estate or any other office of the Province of British Columbia or Canada.

The interest in the residential units (each a “**Residential Unit**” and collectively the “**Residential Units**”) being offered pursuant to this Information Statement are leasehold interests, they are not fee simple title interests or interests in a strata lot. As the Residential Units are located on the Osoyoos Indian Reserve No. 1, various provincial statutes, including the British Columbia *Land Title Act* and the *Strata Property Act*, are not applicable to the Residential Units or the Development. The Development has been structured, however, so that it will function in a manner similar to a strata development, as described in Section 2.1.

## BUILDING PERMIT AND CONSTRUCTION FINANCING

The Developer has obtained from Aboriginal Affairs and Northern Development Canada (“**AANDC**”) approval of the Development plans. The Developer is currently using its own financial resources to finance this Development but may arrange for construction financing in the future.

## BUYER’S RIGHT OF CANCELLATION

The buyer, being the sublessee (the “**Sublessee**”) of a leasehold interest in a Residential Unit, will have a time limited right to cancel the buyer’s purchase agreement with the Developer. After the buyer’s receipt from the Developer of an accepted purchase agreement for a leasehold interest in a Residential Unit, the buyer will have seven (7) days to deliver a notice of cancellation of the purchase agreement to the Developer. If the buyer cancels the accepted purchase agreement within the seven (7) day cancellation period, the buyer will have no liability whatsoever under the purchase agreement and any deposit paid by the buyer will be returned to the buyer without any deductions whatsoever.

## RESIDENTIAL UNITS TO BE CONSTRUCTED

This Information Statement relates to the Residential Units that have not been constructed as of the date hereof.

# THE COTTAGES ON OSOYOOS LAKE

## INFORMATION STATEMENT

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## 1. The Developer

### 1.1 The Developer

Osoyoos Cottages Limited Partnership (formerly named Stelkia Limited Partnership), is a limited partnership that was formed on November 24, 2010 pursuant to the British Columbia *Partnership Act* under registration number 0543654-10.

Stelkia Homes Ltd. is the managing general partner (the “**Managing Partner**”) of the Developer. The Managing Partner is a British Columbia company that was incorporated on October 7, 2010 pursuant to the British Columbia *Business Corporations Act* under incorporation number BC0892292.

Stelkia Holdings Ltd. (“**Stelkia Holdings**”) is a general partner of the Developer. Stelkia Holdings is a British Columbia company that was incorporated on October 7, 2010 pursuant to the British Columbia *Business Corporations Act* under incorporation number BC0892294.

Yacheen Holdings Inc. (“**Yacheen**”) is a general partner of the Developer. Yacheen is a British Columbia company that was incorporated on October 7, 2010 pursuant to the British Columbia *Business Corporations Act* under incorporation number BC0892352.

(The Managing Partner, Stelkia Holdings and Yacheen are, collectively, the “**General Partners**”).

### 1.2 Purpose and Assets

The Developer was formed for the purposes of developing the Development described herein and has no other assets other than those related to the Development Lands.

### 1.3 Records Office Address

The Developer’s records office address is:

Suite 2300  
550 Burrard Street  
Vancouver, British Columbia V6C 2B5

### 1.4 Directors

The directors of the Managing Partner are:

Name: Eric Van Maren  
Address: Suite 202  
45793 Luckakuck Way  
Chilliwack, British Columbia V2R 5S3  
Phone: (604) 847-0702  
Email: ericv@vanmarengroup.com

Name: Bernie Van Maren  
Address: Suite 202  
45793 Luckakuck Way  
Chilliwack, British Columbia V2R 5S3

The directors of Stelkia Holdings are:

Name: Eric Van Maren  
Address: Suite 202 -  
45793 Luckakuck Way  
Chilliwack, British Columbia V2R 5S3

Name: Bernie Van Maren  
Address: Suite 202  
45793 Luckakuck Way  
Chilliwack, British Columbia V2R 5S3

The sole director of Yacheen is:

Name: Rodney Samuel Cook (“**Rod Cook**”)  
Address: 304 – 1708 Dolphin Avenue  
Kelowna, British Columbia V1Y 9S4

## 1.5 Developer’s History

- (1) The Developer is a limited partnership, the Managing Partner and the general partner Stelkia Holdings of which are controlled by Bernie Van Maren and Eric Van Maren (together the “**Van Marens**”), long-time residents of Chilliwack, and Rod Cook, a long-time resident of Kelowna, controls the general partner, Yacheen.

The Van Marens are the principals of the Van Maren Group of Companies, which has developed multi-family residential projects throughout British Columbia since 1973. Recent projects include Halcyon Meadows (224 homes located on the Tzeachten Indian Reserve), Aria Apartments (175 homes located on the Westbank Indian Reserve), Clover Creek (61-homes on the Skowkale Reserve in Chilliwack), a 110-acre industrial park in Maple Ridge, and MidTown a 257 unit development in Chilliwack, and are also involved in a number of large residential subdivisions in Alberta and Ontario (see [www.vanmarengroup.com](http://www.vanmarengroup.com)).

Rod Cook is the Principal of Kent-Macpherson, one of the province’s largest real estate appraisal and consulting firms, based in Kelowna. Rod Cook has 30 years’ experience in the real estate appraisal, consulting and development business, specializing in developments on First Nations Lands.

- (2) To the best of the Developer’s knowledge, none of the Developer, the General Partners, the Van Marens or Rod Cook have ever been subject to any penalties or sanctions imposed by a court or regulatory authority relating to the sale, lease, promotion or

management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud.

- (3) To the best of the Developer's knowledge, none of the Developer, the General Partners, the Van Marens or Rod Cook have ever been declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or has been subject to or instituted any proceedings, arrangement or compromises with creditors or had a receiver, receiver manager or trustee appointed to hold the assets of such persons.
- (4) To the best of the Developer's knowledge, none of the Developer, the General Partners, the Van Marens or Rod Cook, have ever been a director, officer or principal holder of any other developer that, while the person was acting in that capacity, that other developer:
  - (a) was subject to any penalties or sanctions imposed by a court or regulatory authority relating to the sale, lease, promotion, or management of real estate or securities, or to lending money secured by a mortgage of land, or to arranging, administering or dealing in mortgages of land, or to theft or fraud; or
  - (b) was declared bankrupt or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver-manager or trustee appointed to hold its assets.

## **2. General Description**

### **2.1 General Description of the Development**

#### **(a) The Development**

The conceptual plan for the Development is for the construction of approximately 285 single-family Residential Units on the Development Lands located adjacent to Osoyoos Lake, British Columbia. This Information Statement relates to the marketing of all the proposed Residential Units. As further phases are marketed, the schedules will be revised. The Development may include all, or any part of, the following uses:

- (i) Residential Units and Common Areas and Common Facilities (as defined in the Subleases) for residential, recreational and ancillary commercial purposes;
- (ii) private and commercial recreational vehicle, campground and manufactured home sites;
- (iii) buildings or structures for tourist accommodation, restaurant, licensed establishment, tourist retail store, mini-storage units for use by owners and

occupiers of the Residential Units and storage of recreational vehicles including campers, boats and all-terrain vehicles;

- (iv) boat slips and related facilities; and
- (v) other ancillary buildings, improvements, facilities, structures and services associated with a mixed residential and recreational development, and all ancillary purposes ordinarily associated with such a mixed use development,

(each a “Use” and collectively, the “Uses”).

The Developer does not represent or warrant that all the potential Uses will form part of the Development. Presently, the intention is to construct only Residential Units and the boat slip facility, but other Uses may occur. Buyers may contact the Developer for details of the current scope of the planned Uses for the Development.

The Development will take place in phases as more particularly described in Section 2.4. The Developer may alter the conceptual plans, and numbers and types of Residential Units and the Uses described above, based on market conditions.

The Residential Units will be wood framed construction, with the average size of the Residential Units anticipated to be +/- 2,000 square feet. While it is anticipated that some Residential Units will be used on a seasonal or recreational basis, full-time residency is a Permitted Use. To date, most residents live on site year-round.

The Common Areas and Common Facilities of the Development, as more particularly described in Section 3.12, will include all portions of the Development other than the Residential Units and those units subleased for commercial purposes (the “**Commercial Units**” and together with the Residential Units, the “**Development Units**”). The Commercial Units, if constructed, will be used for purposes ancillary to the residential and recreational Uses of the Development.

The Development Lands, as more particularly described in Section 4.1, presently comprises two lots briefly described as Lot 39-1-1 and Lot 39-2 situate on Federal Crown land reserved for the Band.

(b) Location of the Development

The Development is located on the Osoyoos Indian Reserve Number 1, adjacent to Osoyoos Lake in British Columbia. The civic address of the Development is 2450 Radio Tower Road, Oliver, British Columbia V0H 1T0. Access to the Development will be by way of a private road (the “**Access Road**”) which connects to Radio Tower Road. The Access Road will be governed by a permit



for the term of the Head Leases in favour of the Homeowners Corporation, see details in Section 3.16(f).

(c) Preliminary Site Plan

The proposed layout of the Development and location of the Residential Units, the Common Areas and Common Facilities and the proposed improvements relating to the Commercial Units are set out in the preliminary site plan (the “**Preliminary Site Plan**”) attached hereto as Exhibit “A”. The Preliminary Site Plan is based on current architectural and design drawings and the final layout and location of the constructed Residential Units and Common Areas and Common Facilities, the Commercial Units and other aspects of the Development may vary from the layout, location and design shown in the Preliminary Site Plan. The Developer reserves the right to make variations and modifications to the Preliminary Site Plan, provided such variations and modifications do not materially change the size or location of Residential Units being marketed under this Information Statement. Each buyer will select a floor plan from those available for the lot in question. Sample floor plans may be viewed on the Development’s website at <http://osoyooscottages.com/project/floorplans-2/>. The Developer reserves the right to make modifications to available floor plans. The Unit entitlement for each Residential Unit is set out on Exhibit “B”. Lakeside Homes have a Unit Entitlement of 1.5, all other homes have a Unit Entitlement of 1.

(d) Legal Form of the Development

The Developer, acting through its Managing Partner, has leased the Development Lands from Her Majesty the Queen in Right of Canada, as represented by the Minister of AANDC (the “**Federal Crown**”) on behalf of Jane Stelkia (“**Stelkia**”) in respect of Lot 39-1-1 and Modesta Betterton (“**Betterton**”) in respect of Lot 39-2, for a term of 99 years pursuant to a separate prepaid head lease for the two lots, as more particularly described in Section 3.1(a).

The head leases for Lot 39-1-1 (the “**Lot 39-1-1 Head Lease**”) and Lot 39-2 (the “**Lot 39-2 Head Lease**”, and together with the Lot 39-1-1 Head Lease, the “**Head Leases**”) each commenced on December 1, 2010 and expire on November 30, 2109.

The Head Leases are registered in the Indian Lands Registry (the “**Registry**”) in Ottawa, Ontario under registration numbers 6053868 for the Lot 39-1-1 Head Lease and 6053869 for the Lot 39-2 Head Lease. Certain modifications to the Head Leases have been or will be registered in the Registry, as more particularly described in Section 3.1(b).

A buyer of a Residential Unit in the Development will receive a sublease from the Developer which gives the buyer, as sublessee, the right to occupy the Residential Unit and the lot associated with the Sublease. The use by a buyer of a Residential

Unit and the Common Areas and Common Facilities will be subject to the terms and conditions of the Subleases.

A copy of the Sublease is available from the Developer, and is posted on the developer website at <http://osoyooscottages.com/owners-section/documents/>. The Developer reserves the right to make changes to the form of the Sublease as may be reasonably required.

When a buyer acquires a Residential Unit, the buyer will become a member (shareholder) in the homeowners' corporation for the Development. The Stelkia Homeowners Corporation (the "**Homeowners Corporation**") is a company incorporated pursuant to the British Columbia *Business Corporations Act* and will be responsible for management and maintenance of the Common Areas and Common Facilities, the administration and enforcement of certain terms of the Subleases and the rules (the "**Rules**") established by the directors of the Homeowners Corporation, as more particularly described in Section 3.1(d) and set out in Exhibit "C" attached hereto.

The only members of the Homeowners Corporation will be owners of Residential Units, the Developer and any mortgagee of the Developer. Ownership of a Residential Unit will entitle the owners of that Residential Unit to one (1) vote at meetings of the Homeowners Corporation. Before the last Residential Unit in the Development is transferred to buyers the Developer will issue a Sublease of Common Areas and Common Facilities to the Homeowners Corporation for nominal consideration. The Sublease for the Community Centre was issued to the Homeowners Corporation before the Sublease of other Common Areas and Common Facilities. Pursuant to this Sublease the Homeowners Corporation will control and manage the Common Areas and Common Facilities.

(e) Amenities

The Development will include a Community Centre (the "**Community Centre**") of approximately 7,500 square feet. The Developer has the right to use the Community Centre lobby, tuck-shop, club room, kitchen and storage room as well as four adjacent parking spaces for as long as it has Development Units available in the Development. The Developer will not pay for the use of this space. The Community Centre and pools were completed on Aug 1, 2014.

(f) Boat Slips

The Development will include approximately 166 boat slips on Osoyoos Lake immediately adjacent to the Development Lands. These boat slips were completed in July 2017. Boat slips will be available to buyers on a first-come, first-served basis.

## **2.2 Permitted Use**

The Residential Units are intended for residential use only. No Residential Unit in the Development may be used for commercial or other purposes that are not ancillary to residential purposes. Ancillary uses to the Residential Units include home office use. Residential Units may be rented, for periods of at least five consecutive days. Use of the Residential Units is subject to the terms of the applicable Head Lease, the Sublease, the bylaws and resolutions of the Band and the Rules. Certain rentals of a Residential Unit may result in an obligation of the Sublessee to pay Goods and Services Tax (“GST”) as described in Section 3.1(c).

## **2.3 Building Construction**

The Developer is responsible for the construction of the Residential Units and the Common Areas and Common Facilities. The Developer will retain an AANDC approved inspector, to inspect the Residential Units. Common Areas and Common Facilities will be designed and inspected by engineers or an architect licensed in British Columbia. Such Common Facilities will include the Community Centre, site services, and sewage and water treatment facilities. All buildings will be designed and built in accordance with the 2006 edition of the British Columbia Building Code.

## **2.4 Phasing**

The Developer intends to develop the Development in phases. As each phase is sold the associated roads and landscaping will be completed (subject to seasonal limitations). The completion of the entire Development is dependent on market conditions.

## **3. Lease Agreement**

### **3.1 The Head Leases and Sublease**

#### **(a) Head Leases**

The following is a description of the material terms in the Head Leases. The Lessor under the Head Leases is the Federal Crown and the Lessee is the Developer. The Homeowners Corporation is a party to the Lot 39-1-1 Head Leases, Stelkia is a party to the Lot 39-1-1 Head Lease and Betterton is a party to the Lot 39-2 Head Lease. Both Stelkia and Betterton are the holders of Certificates of Possession for Lot 39-1-1 and Lot 39-2, and have authorized the granting of the Head Leases. The material terms of the Head Leases include the following:

- (i) the term of the Head Leases is 99 years, having commenced on December 1, 2010 and expiring on November 30, 2109;
- (ii) the Prepaid Basic Rent under the Lot 39-1-1 Head Lease has been fully prepaid by the Developer to the Federal Crown;

- (iii) the Prepaid Basic Rent under the Lot 39-2 Head Lease has been fully prepaid by the Developer to the Federal Crown;
- (iv) the lessee under the Head Leases, which is currently the Developer, has certain ongoing obligations under the Head Leases, including the obligation to pay all ongoing third party expenses such as taxes and utilities, the obligation to maintain, repair, replace, reconstruct and restore the premises, the obligation to insure and the obligation to ensure compliance by all subtenants with the terms of the Head Leases. Such obligations will be the Homeowners Corporation, in a similar manner as a strata corporation would have such obligations;
- (v) the Head Leases are registered in the Indian Lands Registry in Ottawa as described above in Section 2.1(d). The Head Leases will not be registered under the British Columbia Land Title system; and
- (vi) in consultation with the Federal Crown and the Canada Mortgage and Housing Corporation (“CMHC”), the Head Leases include two mechanisms to ensure that any buyer of a Residential Unit, who is not in default under its Sublease, will continue to have possession of its Residential Unit if the Lessee (the Developer) or a Sublessee causes a default under a Head Lease. First, each Head Lease includes a mechanism whereby it can be severed and assigned to the Homeowners Corporation in connection with Subleases already issued, if there is a default by the Lessee. Second, by the terms of the Third Modification, as defined in Section 3.1(b), each Head Lease includes a provision that restricts the Lessor from terminating either Head Lease if the Lessee or its assignee enters into a trust arrangement with the Lessor under which the Lessee or its assignee (as trustee ) agrees to enforce defaulting Subleases, and use proceed from such Subleases to cure defaults.

(b) Head Lease Modifications

A modification of the Head Leases was registered on October 24, 2011 under No. 6059688 to record the change of the Developer’s name. A second modification of the Head Leases was registered on February 15, 2012 under Nos. 6062832 (as to the Lot 39-1-1 Head Lease) and 6053869 (as to the Lot 39-2 Head Lease) to delete Section 6.6 of the Head Leases, which restricted the Developer’s ability to improve the Development Lands until it satisfied certain conditions in favour of Stelkia and Betterton, all of which have been satisfied. The Developer has registered a third modification of the Head Leases (the “**Third Modification**”) to incorporate the protections for a buyer and its lender described in Sections 3.1(a)(vi) and 3.3(a), which will allow CMHC to insure mortgage loans obtained by buyers of the Residential Units.

(c) Sublease

The Developer will create individual Subleases for each Residential Unit in the Development. The material terms of the Sublease include the following:

- (i) the term of the Subleases will end one day prior to the termination of the applicable Head Lease subject to prior termination in the event of default;
- (ii) each occupant is obligated to maintain, repair and replace his or her Residential Unit and pay his or her proportionate share of certain ongoing expenses relating to the Common Areas and Common Facilities, during the term of the Sublease (in the same fashion as an owner of a strata lot would pay), including costs of insurance and costs of repairs, maintenance and upkeep;
- (iii) the assignment (sale) or mortgaging of a Sublease is subject to the prior written consent of the Federal Crown, which is a statutory requirement granted in most instances as a matter of course upon presentation of standard documentation for registration in the Registry, and there must be no default under the Sublease at the time of an assignment;
- (iv) the Sublease will be registered in the Indian Lands Registry in Ottawa. The Sublease will not be registered under the British Columbia Land Title system;
- (v) the Sublease will provide that the Sublessee prepay the full amount of the rent for each year of the Term on the Closing Date. Subject to the qualification at the end of this Section 3.1(c), the Developer has been advised that GST is not payable on rent under the Sublease. If it is determined that any rent is subject to GST, the Sublessee will pay to the Developer the GST attributable to that rent under the Sublease;
- (vi) the Sublease will provide that the sublessor may install on the side of some homes an irrigation control box, which will be powered by electricity supplied and paid for by the sublessee of a Residential Unit. The Subleases will further provide that the Developer and the Homeowners Corporation or any employee, agent or contractor of the Developer or the Homeowners Corporation may enter upon a Sublessee's lot, at all reasonable times, for the purposes of installing, inspecting, maintaining, repairing and replacing the irrigation control box, irrigation pipes and systems located on or under a buyer's lot and the appurtenant facilities connected thereto;
- (vii) certain Subleases for the Downhill Lots require the Sublessee to grant to the Sublessee of an adjacent lot an easement over a portion of the Sublessee's sideyard for the purposes of permitting the adjacent Sublessee to manoeuvre and park vehicles within the easement area. The Sublessee

is entitled to use the easement area for maintenance, repair or replacement of its Residential Unit; and

- (viii) certain lots may be subject to easements or rights of way for shared services and utilities servicing the other lots and Common Areas and Common Facilities within the Development.

### **Disclosure Regarding GST and Rentals**

The Developer has been advised as follows:

Generally, long-term rentals of homes and vacations residences are exempt from GST. However, there are circumstances where GST may become payable if the Sublessee uses its Residential Unit for rental purposes for a period of time. For example, where in one year a Sublessee has four or more *consecutive* weeks of short-term rental with no break between the different renters, then the pre-paid or monthly Rent under the Sublease paid or attributable for the year will become subject to GST. Under the terms of the Sublease, each Sublessee must pay to the Developer the applicable GST on the Rent under the Sublease paid or attributable to that year. Attached hereto as Exhibit "G" is a copy of the memorandum provided by the Developer's tax advisors concerning the circumstances where GST may become payable if a Sublessee uses its Residential Unit for rental purposes. Sublessees should consult a tax professional to determine whether their use of their Residential Unit triggers a GST obligation and to address any other issues that a Sublessee may have in respect of GST.

#### (d) Homeowners Corporation

The Development Lands are Federal Crown lands which are not registered in the British Columbia Land Title System and the *Strata Property Act* of British Columbia does not apply to the Development Lands. As a result, the following steps have been taken to structure the Development in a manner similar to a bare land strata:

- (i) the Homeowners Corporation is a company incorporated under the *Business Corporations Act* (British Columbia). Such legislation, or any successor legislation, and the Articles of the Homeowners Corporation will govern the operation of the Homeowners Corporation and the rights and obligations of its shareholders, officers and directors. The Articles of the Homeowners Corporation require that certain significant decisions be approved by not less than seventy-five (75%) percent of the votes cast at a meeting. The Homeowners Corporation will acquire a sublease or subleases of the Common Areas and Common Facilities;
- (ii) the Homeowners Corporation will perform similar functions to those performed by a strata corporation under the *Strata Property Act* of British Columbia. In particular, the Homeowners Corporation (which will function through its board of directors) will be responsible for maintaining

the Common Areas and Common Facilities, placing insurance on the Common Areas and Common Facilities, establishing budgets, collecting maintenance and operating fees and enforcing certain provision of the Subleases and Rules relating to the Project;

- (iii) each holder of a Sublease will be a shareholder of the Homeowners Corporation. The only shareholders of the Homeowners Corporation will be the Developer, the holders of the Subleases and any mortgagee of the Developer;
- (iv) upon the assignment of a Sublease the assigning party ceases to be a shareholder of the Homeowners Corporation, and the party acquiring the Sublease will become a shareholder; and
- (v) the Homeowners Corporation has entered into a management contract with Homelife Property Management for management services.

The Developer will transfer control of the Homeowners Corporation on the Developer's disposition of the last unit of the Development.

### **3.2 Occupancy Restrictions**

The Residential Units may only be occupied for residential purposes, which includes home office uses and the right to rent the Residential Units for periods not less than five (5) consecutive days.

The environmental report for the Development recommended prohibitions on free roaming cats and dogs in the Development, as a means of minimizing interference with birds and other wildlife. The Subleases will contain such prohibitions.

### **3.3 Termination Provisions**

(a) The Lot 39-1-1 Head Lease

The termination provisions under the Lot 39-1-1 Head Lease are set out in Article 20, as amended by the Third Modification.

Article 20

The termination provisions in Article 20 of the Lot 39-1-1 Head Lease relate to defaults of the Developer, as Lessee under the Lot 39-1-1 Head Lease and are subject to the protective provisions described below. If the Lessee is in default under the Lot 39-1-1 Head Lease, the Federal Crown, as Lessor, will give to the Lessee, any mortgagee of the Lessee and the Homeowners Corporation written notice of the default and the notice will specify the particulars of the default. Upon receipt of a default notice, the Lessee, any mortgagee of the Lessee or the Homeowners Corporation will have thirty (30) days (which, subject to the Lessor formalizing its agreement in principle with the Lessee under the Third

Modification, will increase to fifty (50) days) after the notice is delivered to cure the default or if such default is not reasonably capable of being cured in thirty (30) or fifty (50) days, as the case may be, such longer time as is reasonably required to cure the default. If the curing party fails to proceed to cure the default with all due diligence the Lessor may by notice, subject to the rights of the Homeowners Corporation and buyers described next, declare the term of the Lot 39-1-1 Head Lease ended.

There are two mechanisms under the Head Leases to protect the interests of buyers if the Lessor, one of which restricts the ability of the Lessor to terminate the 39-1-1 Head Lease.

First, Section 20.10 of the Lot 39-1-1 Head Lease provides that if the Lessor is entitled to terminate the Lot 39-1-1 Head Lease, and it has not waived such default under Article 20A, if one or more Subleases of the Development Lands (including by way of a mortgage granted by the Lessee to a mortgagee) are registered in the Registry, then the Lessor will not declare the term of the Lot 39-1-1 Head Lease and the interest of the Lessee in the Development Lands charged by such Subleases terminated and the interest of the Lessee under the Lot 39-1-1 Head Lease will be assigned to the Homeowners Corporation pursuant to the mechanism set out in Section 20.10 of the Lot 39-1-1 Head Lease.

Second, by the terms of the Third Modification, as defined in Section 3.1(b), the Lot 39-1-1 Head Lease includes a provision that restricts the Lessor from terminating the Lot 39-1-1 Head Lease if the Lessee or its assignee enters into a trust arrangement with the Lessor under which the Lessee or its assignee ( as trustee ) agrees to enforce defaulting Subleases, and use proceed from such Subleases to cure defaults.

(b) The Lot 39-2 Head Lease

The termination provisions are identical to those in the Lot 39-1-1 Head Lease.

(c) The Subleases

The termination provisions are set out in Article 21 of the Subleases. If the Sublessee of a Residential Unit is in default under the Sublease the Sublessee will be given written notice of the default and the notice will specify the particulars of the default. Upon receipt of a default notice, the Sublessee will have:

- (i) 25 days from receipt of written notice from the sublessor to cure a default which constitutes a default under the terms and conditions of the applicable Head Lease; or
- (ii) if the default is with respect to a default which does not constitute a default under the applicable Head Lease, the Sublessee will have 90 days from receipt of written notice from the sublessor to cure such default,



following which the sublessor shall have the right, subject to the rights of the Sublessee's mortgagee to cure such default under Section 21.5 of the Subleases, to re-enter and re-take possession of the Residential Unit and terminate the Sublease.

### **3.4 Rent/Additional Rent**

The purchase price agreed to by the Developer and Sublessee in the Purchase Agreement will be equal to the Rent owing under the Sublease. The Sublease also requires payment of Additional Rent. This Additional Rent is similar to a monthly strata fee and will be collected by the Homeowners Corporation to cover its costs of maintaining, repairing and replacing the Common Areas and Common Facilities, together with a contingency reserve. Additional Rent also includes any GST that is to be paid by a Sublessee to the Developer, including any interest or penalties arising from non-payment of such amounts by the Sublessee. For owners of Boat Slips, Additional Rent will also include the cost of managing, operating and maintaining the boat slips.

### **3.5 Repayment Provisions**

No portion of the Rent under the Sublease will be repaid to the Sublessee under any circumstances.

### **3.6 Registration**

Each Sublease, once signed by the Developer and the buyer and consented to by the Federal Crown, will be submitted and registered in the Indian Lands Registry when the purchase of the Residential Unit closes. The Sublease cannot be registered in the British Columbia Land Title Office.

### **3.7 Assignment and Subleasing**

#### **(a) Assignment (Transfer to a Purchaser)**

A Sublessee of a Residential Unit may assign (sell) his or her interest under the Sublease by assignment to a third party (the "**Purchaser**") subject to the consent of the Federal Crown, which in the ordinary course is regularly granted, and the Sublessor.

Consent of the Federal Crown is subject to various conditions which include, but are not limited to, the Sublessee having paid all amounts due to the sublessor under the Sublease and the Purchaser signing the Sublessor's standard form assumption agreement in favour of the sublessor with respect to its obligations under the Sublease. The assignment of a Sublease interest is, as at the date of this Information Statement not subject to the provincial Property Transfer Tax. An administration fee equal to one (1%) percent of the greater of the selling price for the assignment of Sublease or the most recent assessed value of the Residential Unit is payable to the Sublessor as a condition of the Assignment.

(b) Subleasing (Renting of the Residential Unit)

A Sublessee of a Residential Unit may sub-sublease their Residential Unit to a residential tenant subject to the prior consent of the sublessor and the Federal Crown, which will not be unreasonably withheld.

### 3.8 **Occupancy Charges**

Attached as Exhibit “D” is the estimated operating budget for the common operating and maintenance costs of the Development and attached as Exhibit “E” is the estimated monthly maintenance fees for each Residential Unit. The proportionate share (the “**Proportionate Share**”) of each Residential Unit is a figure indicating its share in the Common Areas and Common Facilities and the assets of the Homeowners Corporation and by which a Sublessee’s contribution to the expenses of the Homeowners Corporation is determined. Pursuant to the Sublease, the owner(s) of each Residential Unit will be required to contribute their Proportionate Share of the common expenses based upon their Proportionate Share. This amount is payable as Additional Rent under the Sublease.

The estimated operating budget and estimated maintenance fees are based on current projections for the 2018/2019 year. Final operating budget and maintenance fees may vary due to unanticipated increases in the costs of services and/or utilities.

Owners of boat slips will be required to contribute their Proportionate Share of the cost of managing, operating and maintaining the boat slips.

### 3.9 **Taxes**

Each Sublessee of a Residential Unit is responsible for paying property taxes to the Osoyoos Indian Band (Band) and making an application, if applicable, for a home owner’s grant. The Band has enacted taxation and assessment laws as authorized by the *Indian Act*, which has been approved by the Minister of Indian Affairs and Northern Development. Property taxes will be collected by the Band. The Sublease requires each Sublessee to abide by the Band’s laws. At present, the tax rate charged by the Band is equal to the rate charged by the Town of Oliver. Property assessments are currently provided by B.C. Assessment.

Currently, no provincial property transfer tax is payable with respect to the purchase of a Residential Unit and the registration of the Sublease in the Registry or upon the subsequent sale of a Residential Unit and assignment of a Sublease by a Sublessee to a buyer.

### 3.10 **Management**

The Homeowners Corporation will be responsible for the management of the Development, including the enforcement of certain terms of the Subleases and the Rules. Each Sublessee of a Residential Unit will be entitled to be a shareholder of the Homeowners Corporation. A Sublessee of a Residential Unit will be entitled to one (1) vote at meetings of the Homeowners Corporation, including the annual general meeting

where directors are appointed and the annual budget is approved. If there is more than one (1) owner of the Residential Unit, only one (1) of the owners will be entitled to vote at meetings of the Homeowners Corporation.

### **3.11 Residential Tenancy Act**

The *Residential Tenancy Act* (British Columbia) does not apply to the Sublease of Residential Units within the Development. Individual buyers who lease their Residential Unit may be bound by certain provisions of the *Residential Tenancy Act*, and should consult a lawyer if they have any questions.

### **3.12 Common Areas and Common Facilities**

The Common Areas and Common Facilities of the Development are defined in the Subleases and generally consist of roads, parking areas, garden areas, boulevards, utilities outside of Residential Units, common areas of buildings, garbage enclosures, the Community Centre, pools, hot tubs, beach, water reservoir, utility storage areas and sewer and water treatment facilities. All Common Areas and Common Facilities within the Development are available for the use and enjoyment of all owners and occupants of the Residential Units and their invitees provided that the Developer may designate limited common areas and common facilities for the exclusive use of a Sublessee or group of Sublessees.

### **3.13 Furnishings and Equipment**

Each Residential Unit will include a 30" fridge, 30" electric range, 30" over the range microwave, 24" dishwasher, front loading stackable washer and dryer and white window blinds.

### **3.14 Developer's Rights**

The Developer may rent any Residential Units in the Development that the Developer does not sublease to buyers.

The Developer may retain one or more Residential Units for use as display suites as part of the Developer's marketing activities in the Development, together with those areas described in Section 2.1(e) above. While Marketing and sales activities are under way, the Developer shall have unrestricted access to the Development.

### **3.15 Parking**

Parking for the Residential Units will be provided for in areas of the Development designated by the Developer. The Developer anticipates the following parking arrangements for the following classes of Residential Units:

- (a) Meadow Homes without a Garage: two surface parking space located in a designated common parking area near such homes;

- (b) Meadow Homes with a Garage: one or more parking spaces located in the garage of such homes (some Meadow Homes have an additional parking space on their lot);
- (c) Lakeside Homes: two parking spaces located in the garage of such homes (some Lakeside homes have an additional parking space on their lot); and
- (d) Hillside Homes: one or two parking spaces in the garage attached to such homes. There may be additional exterior parking spaces available in front of or beside the garage. Please refer to Section 3.1(c)(vii). Meritage Homes may have additional parking in the garage as well.

In addition, there will be approximately 75 visitor parking spaces distributed throughout the Development and approximately 35 visitor parking spaces located near the entrance to the Development. Some of the visitor parking spaces near the entrance to the Development may be needed as an infiltration basin in the future, which would then reduce the number of visitor parking spaces. The Developer, in its sole discretion, will determine the location, size and allocation of parking stalls.

Sublessees may only park vehicles on their designated space and must abide by all Rules regarding parking of vehicles and trailers. Golf carts and or ATVs owned by Sublessees may be parked in a designated parking space.

A designated parking area for boats, trailers and Recreational Vehicles is not part of the Development, nor is a boat launch included. The developer can provide information on storage and boat launch facilities in the area.

### 3.16 Utilities and Services

The Development will be provided with the following services:

- (a) Water: The Developer has constructed a private water supply and distribution system that draws potable water from two wells on the Development Lands. The system is designed and built to meet all Provincial Requirements. The system includes a water reservoir (the “**Water Reservoir**”) that is located outside of the Development Lands. A permit under subsection 28(2) of the *Indian Act* (Canada) has been issued to the Homeowners Corporation granting it the right to locate, maintain and access the Water Reservoir on that portion of the Band’s land identified as Permit Area C on the plan attached to the Permit. The cost of operating, maintaining and replacing this facility will be paid by the Homeowners Corporation. The Developer and Homeowners Corporation have agreed to provide potable water to the neighbouring property located at 2490 Radio Tower Road, Oliver, British Columbia at no cost to them;
- (b) Electricity: FortisBC will provide electricity to the Development;
- (c) Sewerage: The Development will construct a private sewage treatment facility to meet all Provincial Requirements. The cost of operating and maintaining this facility will be paid by the Homeowners Corporation. The Developer and

Homeowners Corporation have agreed to provide sewage treatment to the neighbouring property located at 2490 Radio Tower Road, Oliver, British Columbia at no cost to them;

- (d) Natural gas: The Development will not be serviced by natural gas;
- (e) Telephone: The Developer has arranged with Telus to provide telephone, internet and cable services, via a fiber optic cable, to the Development. Only one provider will be available to the Development;
- (f) Access: Access to the Development and homes thereon will be by way of a paved road (the “**Access Road**”), which will connect to Radio Tower Road. The Access Road does not form part of the Development Lands. A Permit under section 28(2) of the *Indian Act* (Canada) (the “**Access Permit**”) has been issued to the Homeowners Corporation granting to the lessees, sublessees and lawful occupants of the Development Lands and their invitees the right to use the Access Road for the purposes of access to and from the Development Lands; and
- (g) Fire Protection: Fire protection will be provided by the Town of Osoyoos.

### 3.17 Insurance

- (a) The Developer will obtain course of construction insurance at least equal to the costs of improvements (for homes without subleases only) and general liability insurance on the Development Lands in the amount of \$5,000,000.
- (b) The Developer will cause the Homeowners Corporation to arrange insurance coverage to replace the insurance coverage set out above with an all risk, all property insurance for full replacement value of Common Areas and Common Facilities, including general liability of at least \$2,000,000.
- (c) The Sublessee will be responsible for insuring his or her Residential Unit, with:
  - (i) an “All Risks” policy covering the buildings including costs of excavations and foundations and improvements on the Residential Unit as would be insured against by a prudent owner, including coverage for earthquake and such other perils as the Federal Government may reasonably require to be insured against, in an amount not less than the Replacement Cost, as defined in the Subleases, of such buildings and replacements; and
  - (ii) a comprehensive personal general liability policy or Commercial General Liability Policy against claims for personal injury, sickness, illness, disease or disability, death or property damage or loss (including liability coverage for pollution, to the extent such coverage is available) arising out of the ownership, occupation, maintenance and use of the Residential Unit

by the Sublessee, in an amount not less than One Million Dollars (\$1,000,000) in respect of any one accident or occurrence, or such higher amount as the Federal Crown may require from time to time.

- (d) Each Sublessee will be required to obtain the insurance from a broker selected by the Homeowners Corporation. Currently, the broker is HUB International Canada West dba Hub International Barton Insurance Brokers. All insurance policies will have a common expiration date. The Homeowners Corporation, with the approval of not less than seventy-five (75%) percent of the shareholders entitled to vote at a meeting, may change the broker from time to time. The process of using one broker simplifies the administration of insurance and compliance with the insurance requirements of subleases and the Head Leases.

#### **4. Title and Legal Matters**

##### **4.1 Legal Description**

The lands upon which the Development is located are situate within Osoyoos Indian Reserve IR#1 and are presently comprised of two parcels of land more particularly known and described as:

Lot 39-1-1, in Osoyoos Indian Reserve IR #1, Province of British Columbia, as shown on Plan of Survey RSBC 2012 deposited in the Canada Lands Survey Records at Ottawa, Ontario (“**Lot 39-1-1**”);

Lot 39-2, in Osoyoos Indian Reserve IR #1, Province of British Columbia, as shown on Plan of Survey RSBC 1935 (“**Lot 39-2**”),

(Lot 39-1-1 and Lot 39-2 are together the “**Development Lands**”).

Lot 39-1-1 is approximately 28.5 hectares (70.4 Acres), and Lot 39-2 is approximately 0.556 hectares (1.4 Acres). Total area is approximately 29.05 hectares (71.8 Acres).

As described in Section 2.1 above, the Developer, as Lessee, holds a ninety-nine (99) year prepaid lease for each of Lot 39-1-1 and Lot 39-2, that both commenced on December 1, 2010 and expire on November 30, 2109. The Lessor under the Head Leases is the Federal Crown. As described in Section 7.4(b), the Developer, at its cost, has made arrangements for the issuance of a title insurance policy for the benefit of each buyer of a Residential Unit and, as applicable, their mortgagee.

##### **4.2 Ownership**

The Development Lands are held by the Federal Crown for the use and benefit of the Band. Stelkia, at the time of the execution of the Lot 39-1-1 Head Lease, was in lawful possession of Lot 39-1-1 as evidenced by a certificate of possession issued pursuant to subsection 20(2) of the *Indian Act* (Canada). Betterton at the time of the Lot 39-2 Head Lease was in lawful possession of Lot 39-2 as evidenced by a certificate of possession issued pursuant to subsection 20(2) of the *Indian Act* (Canada). The Developer, pursuant

to the terms of the Head Leases, is the current Lessee of the Lands. Pursuant to the terms of the Head Leases, the Developer may develop and market the Development Lands for the Uses and, with the consent of the Federal Crown, sublease the Residential Units.

#### **4.3 Existing Encumbrances and Legal Notations**

- (a) A permit between Her Majesty and British Columbia Telephone Company, granted under subsection 28(2) of the *Indian Act* (Canada), is registered against title to the Development Lands. The purpose of this permit is to permit the delivery of telecommunication services to the Lands.
- (b) The Head Leases reserve to the Federal Crown the right to extract minerals from the Development Lands.

#### **4.4 Proposed Encumbrances**

The following additional encumbrances may be registered against the title to the Development Lands:

- (a) easements, restrictive covenants, dedications and rights-of-way and other rights or restrictions in favour of FortisBC, TELUS and other utilities and communications suppliers with respect to access to the Development Lands and the right to install, repair and maintain utility and communication infrastructure for the benefit of the Development;
- (b) easements, permits, restrictive covenants, dedications and rights-of-way and other rights or restrictions in favour the Band, the Managing Partner, the Homeowners Corporation, public authorities, municipalities or any other applicable government authority in connection with the approval of the Development or the construction, use or occupation of the Development Lands or as is reasonably required for the Development; and
- (c) mortgage and assignment of rents (collectively, the “**Construction Mortgage**”) in favour of one or more than one third party lenders, securing the construction financing required by the Developer to complete the Development (see Section 6.2 Construction Financing).

The Construction Mortgage will provide that the mortgagee’s interest claimed under the Construction Mortgage in a Residential Unit will be discharged by the mortgagee after the Residential Unit is transferred to a Sublessee. The construction loan secured by the Construction Mortgage will be paid out post-closing from the sale proceeds the Developer receives from the sale of the leasehold interest in the Development Units.

#### **4.5 Outstanding or Contingent Litigation or Liabilities**

There is no outstanding or, to the best of the Developer’s knowledge, anticipated litigation or liability in respect of the Development or against the Developer or against the General Partners that may affect the Development.

## **4.6 Environmental Matters**

### **(a) Flooding Dangers**

Except as disclosed below, to the best of the Developer's knowledge, the Development Lands do not lie within an area that may be subject to flooding. Part of the Development Lands were below the flood construction level. The Developer has filled this area so that it is above the flood construction level as established by Provincial Authorities and all Residential Units will be above the flood construction level.

### **(b) Condition of Soil and Subsoil**

Based on geotechnical investigations, the Developer is not aware of any dangers connected with the Development Lands in respect of the condition of the soil or subsoil.

## **5. Construction and Warranties**

### **5.1 Construction Dates**

Construction of four (4) show homes commenced December 15, 2011. Other Residential Units will be constructed at times determined by the Developer.

### **5.2 Warranties**

Sublessees of Residential Units will be provided with a "2/5/10" home warranty insurance coverage by WBI Home Warranty Ltd. or other approved insurer. The home warranty insurance will be for a period of two (2) years on defects in labour and materials, five (5) years on defects in the building envelope and ten (10) years for structural defects. Details of the home warranty insurance coverage may be obtained from the Developer or by visiting: <http://www.hpo.bc.ca/homeowners>.

### **5.3 Previously Occupied Building**

Not applicable.

## **6. Approvals and Finances**

### **6.1 Development Approval**

The Development construction is subject to two sets of approvals. The Head Lease requires the Development to be constructed in accordance with the standards set out therein (Provincial and Federal) and for such construction to be reviewed by the Federal Government's representatives. In addition, the Developer intends to have the construction inspected by an inspector approved by AANDC and retained by the Developer or if an AANDC approved inspector is not available, then a licensed home



inspector retained by the Developer. The Common Areas and Common Facilities will be inspected by registered professionals such as architects and engineers.

The Development will comply with all requirements of the Head Lease. Inspection certificates for substantially completed homes will be obtained from professionals or inspectors designated by the Developer.

All buildings will be constructed in compliance with the 2006 edition of the BC Building Code.

## **6.2 Construction Financing**

The Developer currently uses its own financial resources to finance the construction costs of the Development. In future, the Developer may obtain third party financing to finance the balance of the Development construction costs. The construction lender(s) will register a mortgage and assignment of rents of the Developer's interest under the Head Leases to secure the construction financing. The Developer will arrange for the discharge of the lender's security from each Residential Unit after the leasehold interest in the Residential Unit is subleased by the Developer to the Sublessee.

## **7. Miscellaneous**

### **7.1 Deposits**

All deposits and other monies received from buyers of Residential Units will be held in trust by the Developer's lawyer, as stakeholder pursuant to the terms of the *Real Estate Services Act* (British Columbia).

### **7.2 Purchase Agreement**

#### **(a) Copy of the Purchase Agreement**

Attached as Exhibit "F" is the form of Purchase Agreement the Developer intends to use in connection with the sale of the leasehold interests in the Residential Units unless otherwise agreed between the Developer and any buyer. The Developer reserves the right, in its sole discretion, to revise the Purchase Agreement from time to time.

#### **(b) Buyer Cancellation Right and Buyer Termination Right**

The buyer of a Residential Unit will have the right to cancel the Purchase Agreement within seven (7) days of the Developer delivering notice to the buyer of acceptance of the Purchase Agreement (see the Acknowledgement of Receipt of Documents Addendum). Under paragraph 7 of the Purchase Agreement, the buyer may cancel the Purchase Agreement if major loss or damage occurs to the Residential Unit and such damage is not repaired before the Closing Date. Under paragraph 11(c), the buyer may cancel the Purchase Agreement if the as built Residential Unit is more than ten (10%) percent smaller than indicated in the plan

type attached to the Purchase Agreement. The buyer's cancellation rights and termination rights must be exercised by providing written notice to the Developer in accordance with the Purchase Agreement.

(c) Extension of Time to Complete

Except for delays beyond the control of the Developer (a force majeure event) and a one-time right of the Developer to extend the Outside Date by one hundred eighty (180) days, there are no rights under the Purchase Agreement that allow for additional time to complete the sale of the Residential Units. Delays beyond the Developer's control and the Developer's right to extend the Outside Date are set out in paragraph 12 of the Purchase Agreement.

(d) Restrictions on Assignment

There are restrictions on a buyer selling, assigning or disposing of their interest under the Purchase Agreement or interest to the Residential Unit. The restrictions are set out in paragraph 10 of the Purchase Agreement. The buyer is not permitted to sell, assign or dispose of the buyer's interest until:

- (i) the buyer has paid all of the deposits due under the Purchase Agreement; and
- (ii) twelve (12) months have passed from the date of the Purchase Agreement.

In addition, an assignment fee equal to one (1%) percent of the Purchase Price is payable to the Developer at the time of sale, assignment or disposition. Prior to the issuance of a sublease interest under a Purchase Agreement, the assignment fee will be reduced to three hundred dollars (\$300) if a buyer wishes to exercise a one-time right to assign the buyer's interest under the Purchase Agreement to the buyer's spouse, parent, child, grandparent or grandchild.

(e) Buyer Default

If the buyer fails to complete the purchase of the Residential Unit in accordance with the terms of the Purchase Agreement, the deposit will be paid to the Developer without prejudice to the Developer's other rights and remedies under the Purchase Agreement or at law generally.

### **7.3 Developer's Commitments**

All the amenities planned for the Development were completed as of Sep 2016.

#### **7.4 Other Material Facts**

(a) Construction Activities

During construction of the Development, normal construction activities will take place on the Development, and will result in certain levels of noise, dust and disturbance. The Developer will follow prudent construction practices in carrying out its work but shall have no liability for any claims relating to noise, dust, disturbance, inconvenience or other disruptions during construction. The Developer's construction guidelines will restrict the Developer's construction working hours to 7:00 a.m. to 5:30 p.m. weekdays, 8:00 a.m. to 4:00 p.m. Saturdays and no work on Sundays or statutory holidays except in exceptional circumstances.

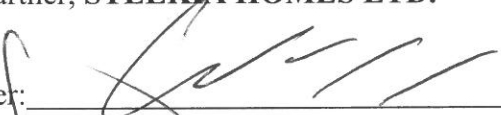
(b) Title Insurance

The Developer, at its cost, has entered into a Title Insurance Master Agreement with FCT Insurance company Ltd. ("FCT") under which FCT has agreed to issue a title insurance policy for the benefit of the buyer of a Residential Unit and, as applicable, the buyer's mortgagee. Each buyer is responsible for obtaining from FCT the buyer's and, as applicable, the buyer's mortgagee's FCT insurance policy, as more particularly described in the Developer's information package given to the buyer's lawyer or notary public.

**DECLARATION**

**To the best of the Developer's knowledge, the foregoing statements disclose, without misrepresentation, all material facts relating to the Development referred to above, as of Jan 15, 2019.**

**OSOYOOS COTTAGES LIMITED**  
**PARTNERSHIP** by its Managing General  
Partner, **STELKIA HOMES LTD.**

Per:   
Eric Van Maren

Per: \_\_\_\_\_  
Bernie Van Maren

## **EXHIBITS**

### **LIST OF EXHIBITS TO INFORMATION MATERIALS**

#### **EXHIBITS**

- A Preliminary Site Plan (Note: Building Plans are posted at <http://osoyooscottages.com/project/floorplans-2/>)
- B Proposed Schedule of Unit Entitlement
- C Building Rules (Including Community Centre and Pools, and boat slips)
- D Stelkia Homeowners Corporation 2016/2017 Financial Statements & 2017/2018 Budget
- E Proposed Maintenance Fee Schedule
- F Purchase Agreement
- G Memorandum from Developer's Tax Advisor (Thorsteinssons) on GST matters