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FOR OFFICE USE ONLY

0149330

CERTIFICATE OF REGISTRATION
PRINCE EDWARD (47) PICTON

'99 MAY 5 PM 3 17

[Handwritten Signature]

LAND REGISTRAR

(1) Registry Land Titles (2) Page 1 of 8 pages

(3) Property Identifier(s) Block Property Additional See Schedule

(4) Nature of Document
COVENANTS AND RESTRICTIONS

(5) Consideration
Dollars \$

(6) Description
Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100, Block 101, and the Streets namely, Aletha Drive, Elmdale Drive, Maplehurst Crescent, Wexford Court, Claramount Court and Mount Grove Crescent, Registered Plan No. 119, Village of Wellington, now in the Municipality of the County of Prince Edward.

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch (b) Schedule for: Description Additional Parties Other

New Property Identifiers

Additional See Schedule

Executions

Additional See Schedule

(8) This Document provides as follows:
Covenants and Restrictions affecting Plan of Subdivision 119.

Continued on Schedule

(9) This Document relates to instrument number(s)
Transfer number 12252

(10) Party(ies) (Set out Status or Interest)
Name(s)

DAIMLER RETIREMENT PARKS LTD.

Signature(s) Date of Signature
Y M D
Per: *Lori Makarchuk* 1999 04 30
Lori Makarchuk, Controller
I have authority to bind the Corporation.

(11) Address for Service
620 Niagara Street, 2nd Floor, Welland, Ontario, L3C 1L8

(12) Party(ies) (Set out Status or Interest)
Name(s)

DAIMLER RETIREMENT PARKS LTD.

Signature(s) Date of Signature
Y M D
Per: *Lori Makarchuk* 1999 04 30
Lori Makarchuk, Controller
I have authority to bind the Corporation.

(13) Address for Service
620 Niagara Street, 2nd Floor, Welland, Ontario, L3C 1L8

(14) Municipal Address of Property
Multiple

(15) Document Prepared by:
**Anthony D'Amico
Flett, Beccario
190 Division Street
P.O. Box 340
Welland, Ontario
L3B 5P9**

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	<i>SD</i>
Total	<i>SD</i>

DAIMLER RETIREMENT PARKS LTD

Hereinafter called the "Developer"

COVENANTS AND RESTRICTIONS

WHEREAS the Developer is the registered owner of all of the Lots and Blocks on Plan 119 and has caused these covenants and restrictions to be made to place restrictions on all lots on Plan 119 (hereinafter called "Lots") for the benefit of the Developer and all future owners of Lots (hereinafter called "Lot Owners");

AND WHEREAS certain terms set forth herein shall have the following meanings:

"Certificate of Compliance" shall mean and refer to that written document issued and executed by the Developer which confirms that a certain improvement or dwelling unit constructed on a Lot has been completed in conformity with plans and specifications previously reviewed by and found acceptable to the Developer.

"Improvement" shall mean and refer to any thing or device (other than trees and shrubbery less than two (2) feet high); the placement of which would affect the exterior appearance, including, by way of illustration and not of limitation, any building, garage, porch, shed, greenhouse, coop, cage, covered or uncovered patio, swimming pool, clothes line, deck, radio or television antenna, satellite or direct television dish, fence, curbing, sidewalk, wall, tree or shrubbery higher than two (2) feet or sign.

"Property" shall mean and refer to Lots 1 through 100, Block 101 and the roadways on Plan 119, in the Land Registry Office of Prince Edward County.

"Registered Restrictions" shall mean the restrictions contained in this document and any other restrictions registered on title to the Property, or any part thereof, from time to time.

Recognizing that the following covenants and restrictions are for the benefit of the Developer and each Lot Owner, every purchaser/transferee of any of the Lots or any part thereof, by accepting and registering a deed or transfer, covenants and agrees on behalf of himself, his successors and assigns with the Developer and the other Lot Owners, and their successors and assigns, that the purchaser/transferee will observe and comply with each of the following covenants and restrictions and that no Improvement of any Lot will be constructed or installed in breach, violation or contrary to these covenants and restrictions.

A. ARCHITECTURAL CONTROL:

1. **Control of Developer.** Unless otherwise specifically provided in any other restriction to which the Developer is a party, the construction or installation of Improvements on a Lot shall be under the exclusive control of the Developer. The completion of the construction of an Improvement on such Lot to the satisfaction of the Developer shall be evidenced by issuance of a Certificate of Compliance by the Developer.
2. **Submission of Plans for Initial Improvements.** No Improvements shall be made to, installed or constructed on any Lot or other portion of the Lot unless and until plans for such Improvements, in such detail as the Developer may require, have been approved by the Developer as to their proposed use, external design and location. No construction of Improvements shall be commenced except in accordance with such approved plans or a modification thereof similarly approved. The Developer may impose such other requirements with respect to the installation or construction of such Improvements as the Developer deems appropriate, provided such requirements do not conflict with the provisions of any Registered Restriction, applicable zoning and building codes, or any other applicable laws, codes or ordinances. The reasons the Developer may disapprove of any plans include the following:

- (a) failure of such plans to comply with any Registered Restrictions which benefit or encumber the Lot or Property;
- (b) failure to include information in such plans as requested;
- (c) objection to the site plan, exterior design, appearance or materials of any proposed Improvements, including without limitation, colours, or colour scheme, finish, proportion, style of architecture, proposed parking, height, bulk or appropriateness of any proposed Improvements;
- (d) incompatibility of proposed Improvements or use of proposed Improvements with existing Improvements or uses in the vicinity;
- (e) the failure of proposed Improvements to comply with any zoning, building, health, or other governmental laws, codes, ordinances, rules and regulations;
- (f) any other matter which in the judgment and sole discretion of the Developer would render the proposed Improvements, use or uses, inharmonious or incompatible with the general plan of improvement with Improvements or uses in the vicinity.

3. **Approval of Plans by Developer.** Upon approval or qualified approval by the Developer of any plans submitted pursuant to No. 2 above, the Developer shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, and shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any), and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval. Approval of any such plans relating to any Lot shall be final as to such Lot and such approval may not be revoked or rescinded thereafter provided (i) that the Improvements or uses shown or described on or in such plans do not violate this document or any Registered Restrictions which benefit or encumber the Lot, (ii) the Improvement is completed within two (2) years of such approval, and (iii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable governmental law, rule or regulation, zoning, building, health or other code or ordinance.

Approval of any plans for use in connection with any Lot shall not be deemed a waiver of the right of the Developer to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use in connection with any other Lot.

4. **Written Notification of Disapproval.** In any case where the Developer disapproves any plans submitted to it pursuant to No. 2 above, the Developer shall so notify the applicant in writing together with a statement of the grounds upon which such decision was based as set forth, in part, in No. 2 above. In any such case, the Developer shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.
5. **Certificate of Compliance.** Upon completion of the Improvements on a Lot to the satisfaction of the Developer, in accordance with the approved plans, Registered Restrictions and such other requirements as the Developer may have imposed, the Developer shall issue a Certificate of Compliance identifying such Improvements, and stating generally that such Improvements have been satisfactorily completed. Any Certificate of Compliance issued in accordance with the provisions of this No. 5 shall be *prima facie* evidence of the facts stated therein as of the date thereof and, as to any purchaser, lessee, or mortgagee or other encumbrancer in good faith and for value, such Certificate shall be conclusive evidence that all Improvements on the Lot as of the date thereof, and the use or uses described therein, comply with the requirements of this document, unless otherwise provided herein. Prior to actual completion of certain Improvements, the Developer may issue Conditional Certificates of Compliance under such circumstances and on such terms and conditions as it deems appropriate.

6. **Liability of the Developer.** Except to the extent specifically provided in No. 5 above with respect to issuance of a Certificate of Compliance, no action taken by the Developer or any officer, employee or agent of the Developer pursuant to this document shall entitle any person to rely thereon with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of the Lot or any Improvement thereon. All claims, demands or other causes of actions arising out of any action (including issuance of a Certificate of Compliance) by the Developer in controlling the Improvements on and use of a Lot shall be deemed to be hereby waived. The Developer shall not be liable for any damages to anyone submitting plans to it for approval or to any Lot Owner or to any other person by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval of such plans. Every person or other entity which submits plans to the Developer for approval, agrees, by submission of such plans, that no action or suit will be brought against the Developer in connection with the submission.
7. **Failure of Developer to Act.** If any applicant has not received notice of the Developer approving or disapproving any plans within 35 days after submission thereof, said applicant may notify the Developer in writing of that fact. The plans shall be deemed approved by the Developer not later than the later of:
 - (a) 15 days after the date of receipt of such notice, if such notice is given;
 - (b) 90 days after the date the plans were originally submitted.
8. **Right of Developer to Promulgate Rules and Regulations.** The Developer may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, additions or modifications to Improvements, or uses, provided, however, that no such rule or regulation shall be deemed to bind the Developer to approve or disapprove any plans submitted for approval, or to waive the exercise of the Developer's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of this document or any applicable governmental law, code, ordinance, rule or regulation.

B. RULES AND REGULATIONS:

9. **Lot Owners to Properly Maintain Lot and Improvements.** Each Lot Owner shall keep his Lot and all Improvements thereon in good order and repair and in compliance with all applicable laws and ordinances, the Developer's rules and regulations and the applicable provisions of any Registered Restrictions. Such responsibility shall include, but not be limited to, (i) seeding, watering and mowing of lawns, (ii) pruning, cutting and removal of trees and shrubbery, as necessary, and (iii) painting or other appropriate external care of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management.
10. **Advertising and Signs** - Except for temporary signs erected by or with the permission of the Developer in connection with the initial development, lease or sale of Lots or dwelling units on the Lots or Blocks; no sign or other advertising device of any nature shall be placed for display to the public view on any Lot or Block (including temporary signs advertising property for sale or rent) except (i) with the consent of the Developer or (ii) to indicate any open house or inspection and only during the actual time of such open house or inspection, which open house or inspection for any Lot shall be limited to not more than eight (8) hours per week.
11. **Animals, Birds and Insects.** No animals or birds shall be kept or maintained on any Lot other than for domestic purposes, except birds in a cage, fish and not more than two (2) dogs or cats unless otherwise consented to by the Developer who may, from time to time, (i) impose reasonable rules and regulations setting forth the type and number of animals, birds and insects and the conduct and manner of care for such animals, birds and insects, and (ii)

prohibit certain types of animals, birds and insects entirely. The Developer shall have the right to require any Lot Owner (or any tenant of any Lot Owner, or any family member or guest of any Lot Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Developer, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, for example, the Lot Owner does not clean up after the animal, the animal is too noisy or the animal is not properly controlled.

12. **Protective Screening and Fences.** Any screen planting, fence enclosures or walls initially developed on a Lot shall be maintained by the Owner of the Lot and shall not be removed or replaced with anything other than a similar type of planting, fence or wall except with the permission of the Developer. Except for the foregoing, no fence, wall, or screen planting of any kind shall be planted, installed or erected upon any Lot unless approved by the Developer. Notwithstanding the foregoing, no fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.
13. **Garbage and Refuse Disposal.** Except for building materials during the reasonable course of construction or repair of any approved Improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate outdoors on any Lot or Block except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick-up, at such place on the Lot as to provide access to persons making such pick-up. The Developer, with respect to Lots for which Certificates of Compliance have been issued, may, in its discretion, adopt and promulgate reasonable rules and regulations relating to the size, shape, colour and type of containers permitted and the manner of storage of the same. All incinerators or other facilities for the storage or disposal of Trash, shall be kept in a clean and sanitary condition.
14. **Above Surface Utilities.** No facilities, including without limitation, poles and wires for the transmission of electricity or telephone messages, and water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground without the prior approval of the Developer.
15. **Noxious or Offensive Activities.** No noxious or offensive activity shall be carried out, nor shall anything be done on any Lot or Block that may be or become a nuisance or annoyance in the area or to the Lot Owners or occupants. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electromagnetic radiation disturbances, shall be controlled so as not to (i) be detrimental to or endanger the public health, safety, comfort or welfare, (ii) be injurious to property, vegetation or animals, (iii) adversely affect property values or otherwise produce a public nuisance or hazard or (iv) violate any applicable zoning regulation or other governmental law, ordinance or code.
16. **Oil and Mining Operations.** No Lot or Block shall be used for the purposes of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth (except soil boring in connection with the Improvements of such Lot or Block) and no derrick or other structure designed for use in boring for oil or natural gas or any other mineral shall be erected, maintained or permitted, except with the consent of the Developer.
17. **Dwelling in Other than Residential Units.** No trailer, basement, tent, shack, barn, outbuilding, shed, garage, temporary building or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a dwelling on any Lot or Block except with the consent of the Developer.
18. **Television and Radio Antennas.** No television, radio, "C.B.", satellite dish, or other communication antenna shall be erected on any Lot or Block (i) outside or (ii) inside, if it emanates or creates radio, television, or other communication system interference with a communication system being used on any other Lot or Block, except with the consent of the Developer.

19. **Residential Use Only.** Except as provided in No. 20 below, no Lot or Block designed by the Developer for residential use shall be used for other than residential purposes and purposes incidental and accessory thereto except (i) with the consent of the Developer or (ii) if used by the Developer or by a Builder for a model home and/or real estate office during the time of development, sale or lease of Lots or dwelling units.
20. **Commercial and Professional Activity on Property.** No manufacturing, assembly, wholesale or retail business, including any salon, studio, laboratory, home industry, medical or dental or other professional office shall be conducted in or on any Lot or Block without the consent of the Developer, except (i) by the Developer in conjunction with the development and sale of Lots or the construction and sale of dwelling units thereon, (ii) home-based service businesses that are conducted primarily by telephone. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above.
21. **Outside Storage or Parking of Commercial or Recreational Vehicles, Camper Bodies, Boats or Trailers.** After issuance of a Certificate of Compliance with respect to a Lot or Block, there shall be no outside storage or parking of commercial or recreational vehicles, camper bodies, boats and trailers for more than seven (7) days in any 30 day period, except (i) as may be otherwise permitted by the Developer and (ii) in areas designated for such purpose by the Developer.
22. **Maintenance and Repair Work.** Except with the written consent of the Developer or in conjunction with the initial construction of Improvements, or in conjunction with emergency repairs, (i) no extensive work on any motor vehicles, commercial or recreational vehicles or machines of any kind shall be permitted outdoors on any Lot or Block, (ii) no maintenance or repair work shall be done on any Lot which unreasonably disturbs the occupants of other Lots.
23. **Oversized, Commercial, Recreational and Unlicensed Vehicles**
- Unless used in connection with the construction or sale of Lots or dwelling units by the Developer or by any builder or with the maintenance, repair or replacement of the Property, or unless otherwise consented to by the Developer, the following shall not be permitted to remain outdoors overnight on the Property more than seven (7) days in any 30 day period:
- (a) oversized vehicles, i.e., unable to fit within a normal-sized vehicle parking space;
 - (b) commercial vehicles, i.e., having a commercial vehicle license plate or commercial signage thereon;
 - (c) recreational vehicles, commonly referred to as "R.V.s";
 - (d) unlicensed motor vehicles of any type;
 - (e) camper bodies;
 - (f) boats or trailers.
- Any vehicle which contravenes this paragraph and No. 21 above, may be removed by the Developer at the Owner's cost and risk.
24. **No Clotheslines.** No outdoor drying or airing of any clothing or bedding shall be permitted on any Lot or Block unless authorized by the Developer.
25. **Trees and Other Natural Features.** prior to issuance of a Certificate of Compliance, no trees shall be removed from any Lot or portion of the Property except with the permission of the Developer. After issuance of a Certificate of Compliance with respect to a Lot or Block, (except as provided below, and except in the event of an emergency), no tree having a diameter of four (4) inches or more, as measured from a point two (2) feet above the

ground level, nor any other tree or shrub planted in compliance with the plans approved by the Developer, shall be removed from such Lot or Block without the permission of the Developer. The Developer in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife. The Developer may designate certain trees, regardless of size, as not removable without written authorization.

26. **Snowmobiles, Motorcycles, All Terrain Vehicles.** No snowmobile, motorcycle, all terrain vehicle or similar motor vehicle shall be operated on any Lot or Block, except with the consent of the Developer.
27. **Minimum Living Area of Single-Family Detached Dwellings.** No Lot shall be used for the construction of a single-family dwelling unit containing a living area, exclusive of garage, porch, deck, basement and breezeway area, of less than 1000 square feet.
28. **Roadway and Lot to be Kept Clear of Mud and Debris During Construction.** No Lot Owner shall allow any unreasonable accumulation on his Lot or on the roadway on which such Lot abuts of mud or debris occasioned by any construction undertaken on such Lot. The Developer shall have the right, if such accumulation has not been removed after three (3) days' notice to the Lot Owner, to remove said mud or debris and to recover the cost of such removal thereof from the Lot Owner including, if necessary, the cleaning and flushing of sewers, flush basins and catch basins. In addition to being the personal obligation of the Lot Owner, any such costs, if expended by the Developer, shall be a charge and continuing lien on such Lot.
29. **No Outdoor Hot Tub or Spa.** No outdoor hot tub or spa shall be constructed or placed, temporarily or otherwise, upon any Lot, unless (i) authorized by the Developer and (ii) such hot tub or spa, if approved, is installed within 24 months.
30. **No Open Fire Pit.** No open fire pit shall be constructed or placed, temporarily or otherwise, upon any Lot, unless (i) authorized by the Developer and (ii) such open fire pit, if approved, is installed within 24 months.
31. **Grading and Seeding of Lots.** Each Lot Owner shall, no later than the earlier of (i) July 1 or October 1 next following 120 days from the date of acquisition of the Lot, or (ii) such later time as is permitted in writing by the Developer, grade and plant grass seed on the Lot, to such specifications as the Developer shall determine to be appropriate from time to time. In considering a postponement of such obligation, the Developer shall take into account the proposed timetable of the Lot Owner with respect to construction of a dwelling unit on the Lot.
32. **Binding Effect.** The covenants, easements, restrictions, rights of way and other rights reserved herein shall run with the lands described herein and shall be binding upon and for the benefit of the Developer and Lot Owners and their respective successors and assigns. The Developer or Lot Owner(s) from time to time may move to enforce said covenants, easements, restrictions, rights of way and other rights reserved herein, before any court of competent jurisdiction as against any person, individual and/or Lot Owner who is in breach thereof and shall be entitled to all remedies for the purpose of enforcing the same and any person and/or Lot Owner found to be in breach of said covenants, easements, restrictions, rights of way and other rights reserved herein, shall, in addition to any order of the court remedying the breach, be liable for costs of the action on a solicitor and client basis.
33. **Amendments to this Document.** The covenants and restrictions contained herein for the benefit of the Lot Owners may be amended with the consent of 80% of the Lot Owners, provided that any easement, right of way, covenant or restriction given or benefiting the Developer, so long as the Developer owns any lands forming part of Plan 119, shall not be amended without the consent of the Developer. No amendment(s) shall be effective unless registered on title to the Lot or Lots to which they apply.

34. **Severability.** If any section herein, part of a section, easement, restriction, right of way, term, covenant or condition of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such section, part of a section, easement, restriction, right of way, term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each section, part of a section, easement, restriction, right of way, term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
35. **Interpretation.** This Agreement shall be read with all changes of gender or number required by the context.
36. **Headings.** The headings in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement or the intent of any provision herein.

FOR OFFICE USE ONLY

0149323

CERTIFICATE OF REGISTRATION
PRINCE EDWARD (47) PICTON

'99 MAY 5 PM 3 17

LAND REGISTRAR

(1) Registry Land Titles (2) Page 1 of 17 pages

(3) Property Identifier(s) Block Property Additional: See Schedule

(4) Nature of Document
AGREEMENT

(5) Consideration Dollars \$

(6) Description
FIRSTLY: Lots 1 to 100, Block 101, and the Streets namely, Aletha Drive, Elmdale Drive, Maplehurst Crescent, Wexford Court, Claramount Court and Mount Grove Crescent, Registered Plan No. 119.
SECONDLY: Part of Lot 1, Registrar's Complied Plan 35, designated as Parts 74 & 76 on Reference Plan 47R5020.
all of the Village of Wellington, now in the Municipality of the County of Prince Edward. THIRDLY: See Page 2 for description AND AS MORE PARTICULARLY DESCRIBED ON SCHEDULE ATTACHED.

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch (b) Schedule for: Description Additional Parties Other

New Property Identifiers

Additional: See Schedule

Executions

MICROFILMED

Additional: See Schedule

(8) This Document provides as follows:

Agreement between Lot Owners and the Developer.

(9) This Document relates to instrument number(s)
Transfer number 122552

Continued on Schedule

(10) Party(ies) (Set out Status or Interest)
Name(s)

DAIMLER RETIREMENT PARKS LTD.

Signature(s)

Per: *Lori Makarchuk*
Lori Makarchuk, Controller

Date of Signature
Y M D
1999 04 30

I have authority to bind the Corporation.

(11) Address for Service

620 Niagara Street, 2nd Floor, Welland, Ontario, L3C 1L8

(12) Party(ies) (Set out Status or Interest)
Name(s)

DAIMLER RETIREMENT PARKS LTD.

Signature(s)

Per: *Lori Makarchuk*
Lori Makarchuk, Controller

Date of Signature
Y M D
1999 04 30

I have authority to bind the Corporation.

(13) Address for Service

620 Niagara Street, 2nd Floor, Welland, Ontario, L3C 1L8

(14) Municipal Address of Property

Multiple

(15) Document Prepared by:

**Anthony D'Amico
Flett, Beccario
190 Division Street
P.O. Box 340
Welland, Ontario
L3B 5P9**

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	50
Total	50

party Identifier(s) and/or Other Information

DESCRIPTION:

FIRSTLY: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100, Block 101, and the Streets namely, Aletha Drive, Elmdale Drive, Maplehurst Crescent, Wexford Court, Claramount Court, and Mount Grove Crescent, Registered Plan No. 119.

SECONDLY: Part of Lot 1, Registrar's Compiled Plan 35, designated as Parts 74 & 76 on Reference Plan 47R5020. all of the Village of Wellington, now in the Municipality of the County of Prince Edward.

THIRDLY:

Firstly:

In the Village of Wellington, in the Municipality of the County of Prince Edward being composed of part of Lots 201 and 202, Compiled Plan 8, designated as Parts 1, 2 & 3 on Reference Plan 47R-6734. Subject to an easement in favour of Bell Canada for telecommunications equipment over that Part of Lot 202, Compiled Plan 8, designated as Part 2, on said Reference Plan 47R-6734, as set out in Instrument Number 109057. Subject to a Right-of-Way for ingress and egress over part of Lot 201, Compiled Plan 8, designated as Part 3, on said Reference Plan 47R-6734, as set out in Instrument Number 122551.

Secondly:

In the Village of Wellington, in the Municipality of the County of Prince Edward being composed of all of Lot 1, Land Registrar's Compiled Plan No. 35, and part of Lot 11, Land Registrar's Compiled Plan No. 10, and part of Lot 203, Compiled Plan No. 8, being Parts 1,2,3,4,5,6 and 8 on Reference Plan 47R-6752. Subject to an Easement in favour of The Corporation of the Village of Wellington, over part of Lot 1, Land Registrar's Compiled Plan No. 35, designated as Part 8 on Reference Plan 47R-6752, as set out in Instrument Number 121243. Subject to an Easement in favour of the Hydro-Electric Power Commission of Ontario, over part of Lot 203, Compiled Plan No. 8, designated as Part 5 on Reference Plan 47R-6752, as set out in Instrument Number 4291. Together with a right-of-way over part of Lot 203, Compiled Plan No. 8, designated as Part 7 on Reference Plan 47R-6752, as set out in Instrument Number 42428.

DAIMLER RETIREMENT PARKS LTD.

Hereinafter called the "Developer"

- and -

LOT OWNERS (as that term is defined herein)

Hereinafter called the "Lot Owners"

WHEREAS the Developer is the registered owner of all of the lots, roadways and Blocks on Plan 119;

AND WHEREAS the Developer will sell lots on said Plan to interested persons;

AND WHEREAS the Developer is entering into this Agreement to provide:

- (a) rights in favour of the Developer and to place restrictions on all future owners of lots (hereinafter called "Lot Owners") on Plan 119;
- (b) for the mutual use, maintenance, cost sharing and other matters relating to the Common Facilities (as that term is hereinafter defined) on the express understanding that this agreement shall constitute an agreement between each Lot Owner individually;

AND WHEREAS the term **Lot Property** as hereinafter used shall mean and include the individual lots referred to in **Schedule "A"** hereto.

THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein (the receipt and sufficiency of which are hereby each acknowledged) the parties covenant and agree with the other respectively as follows:

1. (a) The Developer will own and maintain **Common Areas** (hereinafter called "**Common Facilities**") consisting of the lands described in **Schedule "B"** hereto, being the roadways and Block 101 on Plan 119, the private roadway and recreational centre designated as Parts 74 and 76 on Reference Plan 47R5020 and all other areas designated by the Developer as Common Areas within the Daimler Development as described in **Schedule "E"**.
 - (b) All Lot Owners and their tenants, family, guests, invitees and licensees from time to time are entitled, on a non-exclusive basis, to use and enjoy the Common Facilities subject to the Developer's rules, regulations and restrictions as same exist from time to time.
 - (c) All Lot Owners shall have the right of ingress and egress over Maplehurst Crescent, Wexford Court, Claramount Court, Mount Grove Crescent, Aletha Drive and Elmdale Drive on Plan 119 and the private roadway designated as Part 74 on Reference Plan 47R5020.
2. The Lot Owners abutting the Common Facilities shall not alter the grades of their lot in a manner which might adversely affect the drainage of the Common Facilities, in default of which, the Developer may enter on such lot and rectify such grading at the Lot Owners Expense.
 3. **Maintenance Assessments.** The Developer (and its employees, contractors and agents) shall, upon reasonable notice to the Lot Owner(s) directly involved, if any, have a licence and right of access to any portion of the Lot Property, including the lot and any

improvements on any such lot including dwelling units (hereinafter called "Units"), to permit the maintenance, repair or replacement of any property or facilities, including (i) any pipes, wires, coaxial cables, security system lines, conduits, drainage areas or common utility lines servicing two (2) or more lots (ii) any privacy wall (iii) landscaped areas of Common Facilities (iv) the landscaped areas and Unit exteriors on any lot which the Owner thereof has neglected to maintain, except that in an emergency, the Developer shall have the right, without notice, to enter upon any portion of the Lot Property, including the lot and Units, to make necessary repairs or to prevent damage to any portion of the Common Facilities or any other property which the Developer has the responsibility to maintain, repair or replace. The repair of any damage caused in gaining access in an emergency shall be at the expense of the Developer. The cost of such repair, maintenance or replacement shall be a common expense funded from the "Maintenance Assessments", hereinafter referred to except that, if occasioned by a negligent or wilful act or omission of a specific Lot Owner or Owners, it shall be considered a special expense allocable to the Lot Owner or Lot Owners responsible and such cost shall be added to the Maintenance Assessment of such Lot Owner or Lot Owners and, as part of that Assessment, shall constitute a lien on the lot, or lots of such Owner or Owners to secure the payment thereof.

4. **Common Expenses.** All Developer expenses relating to the Common Facilities including the Maintenance Assessments and Special Assessments ("Common Expenses") are to be apportioned amongst the Lot Owners and paid in accordance with the rules and regulations of the Developer, part of which rules are reproduced in **Schedule "C"** hereto and which shall form part of this Agreement. In addition, the Developer shall have a lien against the lot for the unpaid Common Expenses and the Developer may register a Notice of Lien against title to any such lot, all subject to the rules and regulations of the Developer. The Notice of Lien shall be enforceable as if it were a charge against the lot in the principal amount of the lien together with any interest chargeable thereon.
5. **Enforcement of Lien.** The Notice of Lien shall be enforceable by the Developer in the same manner, and to the same extent, as a real property mortgage or charge, and with all the powers, rights and remedies inherent in, or available to, a mortgagee or chargee when a mortgage or charge of real estate is in default pursuant to the provisions of *The Mortgages Act, R.S.O. 1990*, as amended, and/or any other applicable statutory provision or common law principle applicable thereto.

In the event that the Land Registrar requires the Developer, as a prerequisite to the registration and/or enforcement of the lien, to apply to a court of competent jurisdiction for any order, direction, advice or authorization, then the Developer shall be entitled to forthwith apply to such court for same, and the delinquent Lot Owner shall, for all purposes, be deemed to have consented to any such application by the Developer and concomitantly, the delinquent Lot Owner shall be forever barred and estopped from bringing or instituting any action, suit, claim or other proceeding to defend, defeat, hinder or delay any such application by the Developer, or the maintenance and enforcement of the lien by the Developer.

The Notice of Lien need not be registered against the title to the delinquent Lot Owner's lot, assets or appurtenant interests (nor registered elsewhere) in order to enable or entitle the Developer to maintain or pursue a civil action against the delinquent Lot Owner for breach of this Agreement.

Notwithstanding anything contained in this Agreement to the contrary it is expressly understood and agreed that the lien shall not have any priority claim whatsoever over (or in respect of) the interest of the delinquent Lot Owner's lot unless and until the Notice of Lien (caution or certificate of pending litigation with respect thereto) has been registered against the title to same, and once such registration occurs, the Notice of Lien shall then be deemed to be fully postponed and subordinate to all liens, mortgages, charges, interests and any other encumbrances (including any extensions thereof made from time to time) which are registered against the delinquent Lot Owner's lot in priority to the registration of the Notice of Lien (all hereinafter collectively referred to as the "Prior Charges") and shall also be deemed to be fully postponed and subordinate to all

monies advanced under the Prior Charges before the registration of the Notice of Lien or any certificate or caution in respect thereof.

Any registered mortgagee, or any purchaser or prospective mortgagee of the delinquent Lot Owner's lot shall, upon payment of the full amount secured by the Notice of Lien, have the right to receive a full and complete discharge or an absolute assignment of the said lien or charge, provided that such party must first deliver written notice to the Developer requesting such discharge or assignment and setting forth a date and time for the delivery of such discharge or assignment (which date shall not be less than five (5) days, nor more than thirty (30) days following the delivery of such notice), and with the exchange of such discharge or assignment for the monies owing under the Notice of Lien therefor to take place in the Land Registry Office for the Land Titles Division of Prince Edward or at such other place and time as may be agreed upon by said parties. On the date scheduled for the delivery of the said discharge or assignment, and upon receipt of the full amount secured by the Notice of Lien, the Developer shall execute and deliver to said party, the discharge or assignment of said Notice of Lien, in registrable form.

6. **Restriction on Disposition of Lots.** On lot acquisition, each Lot Owner shall automatically become bound by the rules and regulations of the Developer as applicable from time to time. No Lot Owner, from time to time, shall sell, transfer, assign or lease a lot in Plan 119, unless such Lot Owner has first provided the Developer with a written acknowledgment/covenant from the purchaser, transferee, assignee or lessee, in the form attached hereto as **Schedule "D"**, to be bound by the provisions of the Developer's rules and regulations as are applicable, from time to time. No such sale, transfer, assignment or lease shall be effective and no such purchaser, transferee, assignee or lessee shall have the right to use and enjoy any part of the Common Facilities unless and until such written covenant has been provided to the Developer.
7. **Rules and Regulations.** The Developer may make such rules and regulations from time to time to enhance the use and enjoyment of the Lot Property by its members including rules relating to: parking; the use and enjoyment of the Common Facilities; advertising and signs; animals, birds and insects; protective screening and fences; garbage and refuse disposal; above surface utilities; noxious or offensive activities; oil and mining operations; dwelling in other than residential units; television and radio antennas; permitted uses; commercial and professional activity on Lot Property; outside storage of commercial or recreational vehicles, camper bodies, boats or trailers; maintenance and repair work; oversized, commercial, recreation and unlicensed vehicles; preservation of trees and other natural features; use of snowmobiles, motorcycles and all terrain vehicles; minimum living area of single-family detached dwellings; roadways and lots being kept clear of mud and debris during construction; outdoor hot tubs or spas; grading and seeding of lots. The list of categories of permissible rules and regulations shall not be exhaustive. Any rule or regulation affecting a Lot Owner's use of his own lot shall require the approval of two-thirds (2/3) of all Lot Owners in Plan 119 voting at a meeting called specifically for that purpose. All such rules and regulations properly enacted by the Developer shall bind that portion of Lot Property and/or Common Facilities to which they relate.
8. **Lot Owners to Properly Maintain Lot and Improvements.** Each Lot Owner shall keep his Lot and all Improvements thereon in good order and repair and in compliance with all applicable laws and ordinances, the Developer's rules and regulations and the applicable provisions of any Registered Restrictions. Such responsibility shall include, but not be limited to, (i) seeding, watering and mowing of lawns, (ii) pruning, cutting and removal of trees and shrubbery, as necessary, and (iii) painting or other appropriate external care of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management.
9. **Grading and Seeding of Lots.** Each Lot Owner shall, no later than the earlier of (i) July 1 or October 1 next following 120 days from the date of acquisition of the Lot, or (ii) such later time as is permitted in writing by the Developer, grade and plant grass seed on the Lot, to such specifications as the Developer shall determine to be appropriate from time to time. In considering a postponement of such obligation, the Developer shall take into account the proposed timetable of the Lot Owner with respect to construction of a

dwelling unit on the Lot.

10. **Development Control.** Each Lot Owner upon acquisition shall become subject to the rights and easements and limited by the restrictions hereinafter set forth, all granted in favour of the Developer and for the benefit of the Developer and the Lot Owners:

(a) With respect to the Lot Property and the Common Facilities, so long as the Developer holds title to any lands forming part of Plan 119, the Developer shall have the following rights:

- (i) **Control of Developer.** The construction of any Improvements on a lot within the Lot Property (hereinafter called a "Lot") or on any part of the Common Area Blocks and the use of any such Lot or part of a Common Area Block shall be under the exclusive control of the Developer. The completion of the construction on a Lot or a designated part of the Common Area Blocks, to the satisfaction of the Developer shall be evidenced by issuance of a Certificate of Compliance pursuant to subsection 10(a)(iv) hereof. Control of all development or construction on Lots and Common Area Blocks and the use thereof shall be the responsibility of the Developer until such time that the Developer relinquishes control;
- (ii) **Developer to Approve Contractor.** In an effort to assure high standards of construction until such time as a Certificate of Compliance has been issued pursuant to subsection 10(a)(iv) below, no construction shall be undertaken on any Lot or Common Area Block except by a contractor approved, in writing, by the Developer.
- (iii) **Submission of Plans for Initial Development.** No Improvements shall be made to, or constructed on, any Lot or on any part of the Common Area Blocks unless and until plans for such Improvements, in such detail as the Developer may require, have been approved by the Developer as to their proposed use, external design and location of the Improvements. In addition, all plans and proposed Improvements shall comply with the applicable zoning, building, health and other laws, codes and ordinances and all permits and approvals, if any, required by governmental agencies for such development shall be obtained. No such construction shall be commenced except (i) in accordance with such approved plans or a modification thereof similarly approved and (ii) by a contractor approved in writing by the Developer in accordance with subsection 10(a)(ii) above. The Developer may impose such other requirements with respect to the construction of such Improvements or such other development of such Lot or Common Area Block as the Developer deems appropriate, provided such requirements do not conflict with applicable zoning and building codes, or any other applicable laws, codes or ordinances;
- (iv) **Certificate of Compliance.** Upon completion of the Improvements on a Lot or a designated portion of Common Area Blocks to the satisfaction of the Developer, in accordance with the approved plans, and such other requirements as the Developer may have imposed, the Developer shall issue a Certificate of Compliance identifying such Improvements and stating generally that such Improvements or development have been satisfactorily completed. Any Certificate of Compliance issued in accordance with the provisions of this subsection 10(a)(iv) shall be *prima facie* evidence of the facts stated therein as of the date thereof and, as to any purchaser, lessee, or mortgagee or other encumbrancer in good faith and for value, such Certificate shall be conclusive evidence that all Improvements on the Lot as of the date thereof, and the use or uses described therein, comply with all the requirements of this Agreement. Prior to actual completion of certain Improvements, the Developer may issue temporary Certificates of Compliance under such circumstances and

such terms and conditions as it deems appropriate;


- (v) **Liability of the Developer.** Except to the extent specifically provided in subsection 10(a)(iv) above with respect to issuance of a Certificate of Compliance, no action taken by the Developer or any officer, employee or agent of the Developer pursuant to this Agreement shall entitle any person to rely thereon with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of the Common Area Blocks or any Lot or other portion thereof. All claims, demands, or other causes of actions arising out of any action (including issuance of a Certificate of Compliance) by the Developer in controlling the Improvements on and use of a Lot or portion of the Common Area Block shall be deemed to be hereby waived. The Developer shall not be liable for any damages to anyone submitting plans to it for approval or to any Owner or any other person by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of such plans. Every person or other entity which submits plans to the Developer for approval, agrees, by submission of such plans that no action or suit will be brought against the Developer in connection with the submissions;
- (b) In the event of a conflict between the provisions of Section 10 of this Agreement and the rules and regulations of the Developer, the provisions of this Section 10 shall prevail.
11. **Damages.** Any damage to any Lot or other portion of the Lot Property or to any improvements thereon as a result of any act or work performed pursuant to the authority granted in this Agreement or as a result of the use of any easement granted or reserved herein, shall be promptly repaired, replaced or corrected as necessary by the person or entity performing the act or work and/or by the grantee or holder of the easement being exercised, at the cost and expense of such person or entity except as provided in Section 3 herein, so that any such damage will be restored or replaced to the condition in which it existed immediately prior to the damage.
12. **Binding Effect.** The covenants, easements, restrictions, rights of way and other rights reserved herein shall run with the lands described herein and shall be binding upon and for the benefit of the Developer and Lot Owners and their respective successors and assigns. The Developer or Lot Owner(s) from time to time may move to enforce said covenants, easements, restrictions, rights of way and other rights reserved herein, before any court of competent jurisdiction as against any person, individual and/or Lot Owner who is in breach thereof and shall be entitled to all remedies for the purpose of enforcing the same and any person and/or Lot Owner found to be in breach of said covenants, easements, restrictions, rights of way and other rights reserved herein, shall, in addition to any order of the court remedying the breach, be liable for costs of the action on a solicitor and client basis.
13. **Amendments to this Agreement.** The covenants and restrictions contained herein for the benefit of the Lot Owners may be amended with the consent of 80% of the Lot Owners, provided that any easement, right of way, covenant or restriction given or benefiting the Developer, so long as the Developer owns any lands forming part of Plan 119, shall not be amended without the consent of the Developer. No amendment(s) shall be effective unless registered on title to the Lot or Lots to which they apply.
14. **Further Assurances.** The Lot Owners shall from time to time and at all times hereafter, at every request of the Developer, make, do, execute and deliver, or cause to be made, done, executed and delivered, at the sole cost and expense of the Developer, all such further acts, deeds, assurances and things as may be necessary or desirable in the opinion of the Developer to more effectually implement the true intent and meaning of this Agreement.
15. **Reciprocal Benefit and Burden.** The Lot Owners hereby expressly declare their mutual

intention that the principles of reciprocal benefit and burden shall apply to their relationship, and as such, it is hereby acknowledged and agreed that each of the rights, privileges, restrictions and covenants hereinbefore set forth establishes a basis for the mutual/reciprocal use and enjoyment of certain parts of the Common Facilities which are intended to be used and enjoyed by the Lot Owners. As an integral and material consideration for the continuing right to the use and enjoyment by the Lot Owners of such rights and privileges, each of the parties hereto and their respective successors and assigns hereby accepts and agrees to assume the burdens and obligations imposed upon them by virtue of this Agreement.

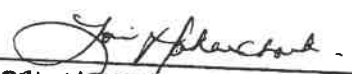
- 16. **Severability.** If any section herein, part of a section, easement, restriction, right of way, term, covenant or condition of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such section, part of a section, easement, restriction, right of way, term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each section, part of a section, easement, restriction, right of way, term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 17. **Interpretation.** This Agreement shall be read with all changes of gender or number required by the context.
- 18. **Headings.** The headings in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement or the intent of any provision herein.

IN WITNESS WHEREOF the undersigned has hereunto affixed its corporate seal and executed this Agreement through its officer(s) duly authorized to do so as of this 30th day of April, 1999.

DAIMLER RETIREMENT PARKS LTD.


 Name: LORI MAKARCHUK
 Title: CONTROLLER
 I have authority to bind the Corporation

DAIMLER RETIREMENT PARKS LTD.
on behalf of all future Lot Owners


 Name: LORI MAKARCHUK
 Title: CONTROLLER
 I have authority to bind the Corporation

SCHEDULE "A"

Lots 1 through 100, Plan 119, registered in the Land Registry Office of Prince Edward, at Picton.

SCHEDULE "B"

Common Facilities

- (a) The private road network in the Registered Plan of Subdivision 119, namely Aletha Drive, Elmdale Drive, Maplehurst Crescent, Wexford Court, Claramount Court, and Mount Grove Crescent and Block 101.
- (b) The private road being composed of Part of Lot 1, Registrar's Compiled Plan 35, designated as Part 74 on Reference Plan 47R5020..
- (c) The recreational centre and all amenities used and enjoyed in conjunction therewith and beginning composed of Part of Lot 1, Registrar's Compiled Plan 35 designated as Part 76 on Reference Plan 47R5020.

received by the Owners and occupants of the other Lots which are improved with only one Unit. Increases in the Annual Maintenance Assessment chargeable to each Lot shall be restricted to 3% over the preceding year's Annual Maintenance Assessment.

- (ii) Notwithstanding any provisions in this Agreement to the contrary, the Developer, in calculating any amount(s) payable by a Lot Owner pursuant to this Agreement, shall be entitled, on a reasonable and equitable basis, to allocate Common Expenses among the Lot Owners and the tenants and other property owners within the Daimler Development. The lands comprising the Daimler Development including the lands within Plan 119 are set out in Schedule "E".

(d) **Special Assessments for Capital Improvements**

In addition to the annual Maintenance Assessment, the Developer may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction, repair or replacement of any of the systems, improvements existing or to be built upon Common Facilities, which the Developer has the responsibility to maintain, including the necessary fixtures and personal property related thereto. Before levying such a Special Assessment the Developer shall hold a Special Meeting of Lot Owners on said proposed Special Assessment and (i) for any Special Assessment amounting to more than 20% of the then current amount of annual Maintenance Assessments, obtain the consent of two-thirds (2/3) of the total votes of Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Lot Owners at least 30 days in advance, setting forth the purpose of the meeting; and (ii) for any other Special Assessment obtain the approval of not less than one-half (1/2) plus one of the total votes of Lot Owners who are voting in person or by proxy at such a meeting. The Developer shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Lot Owner thereof in writing at least thirty (30) days prior to the first such due date.

(e) **Date of Commencement and Notice of Assessments**

The Assessments provided for herein shall commence on the date as determined by the Developer except that until Assessments commence the Developer will be responsible for all expenses incurred in the operation and maintenance of Common Facilities and such other property which the Developer has the obligation to maintain. The first Assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Developer and such Assessments shall thereafter be on a full year basis. The Developer shall fix the amount of the Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. The Assessments shall be due and payable monthly, in advance, unless the Developer establishes other instalments for payment, which instalments may or may not be equal. Separate due dates may be established by the Developer for partial annual Assessments as long as said Assessments are established at least thirty (30) days before due. Written notice of the annual Assessments shall be sent to every Lot Owner. Should the Developer determine at any time that the Assessments for any reason, including non-payment thereof by Lot Owners, are insufficient to fully fund the then current year's expenditures, the Developer may assess additional amounts on a pro rata basis to all Lot Owners.

(f) Assessment Obligations of Developer

Once Lot Assessments have commenced, the Developer will only be obligated for the lesser of (i) the differences between the actual Developer expenses (excluding budgeted amounts for reserves) and the Developer charges levied on Lot Owners who have closed title to their Lots and any other sources of revenue to the Developer; or (ii) Maintenance Assessments on all unsold Lots excluding the reserve portion.

(g) Change in Basis of Assessments

The Developer may change the basis of determining the Maintenance Assessment by obtaining the written consent of not less than two-thirds (2/3) of the total votes of all Lot Owners excluding the Developer, voting in person or by proxy, written notice of which change shall be sent at least forty (40) days in advance of the date or initial date set for voting thereon to all Lot Owners and lending institution first mortgagees of Lots whose names appear on the records of the Developer except that: (i) so long as the Developer holds title to any Lot, any change in the basis of Assessments which adversely affects a substantial interest or right of the Developer with respect to unsold Lots or dwelling units shall require the specific consent of the Developer in writing and (ii) no such change shall be made if lending institutions which together are first mortgagees on 33⅓% or more of the Lots advise the Developer in writing, prior to the date or initial date set for voting on the proposed change, that they are opposed to such change, which opposition must not be unreasonable. A written certification of any such change shall be executed by the Developer and registered as an amendment to this Agreement in the Land Titles Division for the Land Registry Office of Prince Edward, at Picton.

(h) Non-Payment of Assessment

If an Assessment, or instalment payment thereof, is not paid on the due date, established pursuant to Section 5 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated instalments, if any, and costs of collection thereof as herein provided, shall thereupon become a continuing lien on the Lot which shall bind the Lot in the hands of the then Owner and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to such lien, the then Owner of the Lot may be held personally liable for the payment thereof (including interest, penalties and costs of collection). Subject to the conclusive and binding effect of an Assessment Certificate issued as provided in Section 11 below, the grantee of a voluntary conveyance of a Lot shall be jointly and severally liable with the grantor for all unpaid Assessments against such Lot prior to the time of conveyance without prejudice to the grantee's right of recovery therefore from the grantor.

If the Assessment or any instalment thereof is not paid within ten (10) days after the due date, the Developer may impose a late charge or charges in such amount or amounts as the Developer deems reasonable, not to exceed 10% of the amount of such overdue Assessment or instalment thereof, provided such late charges are equitably and uniformly applied.

If the Assessment or any instalment thereof, is not paid within thirty (30) days after the due date, (i) the Assessment shall bear interest from the due date, at such rate as may be fixed by the Developer from time to time, such rate not to exceed the maximum rate of interest then permitted by law, (ii) the Developer may accelerate the remaining instalments, if any, of such Assessment upon notice thereof to the Owner, (iii) the Developer may bring legal action against the Owner at the time the arrears were incurred or any future grantee of a voluntary conveyance, or both, and the commencement of an action or obtaining a judgment against any Owner from time to time shall not preclude an action against any other Owner (who was or becomes an Owner of the Lot on or after the time the

arrears of Assessment were incurred) and the cost of such proceedings, including reasonable solicitor's fees, shall be added to the amount of such Assessments, accelerated instalments, if any, late charges and interest, and (iv) the Developer may preclude the delinquent Owner or occupant (and any subsequent Owner) of the Lot from using Common Facilities.

Any person shall, if registered as an owner of the Lot at the Land Titles Office of Prince Edward, be considered to have received the conveyance voluntarily unless the said person immediately upon demand by the Developer, conveys title to the Lot to the Developer or as the Developer may direct.

Once an Assessment is deemed delinquent as described above, any payments received from the Lot Owner shall be applied in the following order: (i) solicitor's fees, (ii) other costs of collection, (iii) late charges, (iv) interest, and then (v) the delinquent Assessment or instalments thereof beginning with the amounts past due for the longest period.

Dissatisfaction with the quantity or quality of maintenance or other services furnished by the Developer shall, under no circumstances, entitle any Lot Owner to withhold or fail to pay the Assessments due to the Developer for the Lot or Lots owned by such Owner.

(i) **Notice of Default**

The Developer, when giving notice to a Lot Owner of a default in paying Assessments, may, at its option, or shall, at the request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Lot whose name and address appears on the Developer's records. The mortgagee shall have the right to cure the Lot Owner's default with respect to the payment of said Assessment.

(j) **Right to Maintain Surplus**

The Developer shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Developer be obligated to apply any such surpluses to the reduction of the amount of the Maintenance Assessments in the succeeding year, but may carry forward from year to year such surplus as the Developer, in its absolute discretion, may determine to be desirable for greater financial security.

(k) **Assessment Certificates**

Upon written demand of the Owner or Lessee of a Lot, (or any prospective purchaser, lessee, occupant, mortgagee of a Lot), accompanied by payment of a reasonable fee as determined by the Developer, the Developer shall, within thirty (30) days, issue and furnish a certificate in writing signed by an officer or designee of the Developer ("Assessment Certificate") setting forth with respect to such Lot as of the date of such certificate:

- (i) whether the Assessments, if any, have been paid;
- (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date;
- (iii) whether any other amounts or charges are owing to the Developer, e.g., for the cost of remedying a violation of this Agreement;
- (iv) whether this Agreement has been modified and if so, the nature of such modifications, and confirming that it is in full force and effect;

- (v) whether or not the terms and provisions of this Agreement have been complied with to date, and whether or not there is any outstanding default alleged (or complained of) by or against the subject Lot Owner and/or the Developer as well as the nature and extent of the default so alleged.

Any such Assessment Certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Developer and any bona fide purchaser, lessee or mortgagee, of the Lot on which such Assessment Certificate has been furnished.

If the Developer fails to provide the Assessment Certificate within thirty (30) days after receiving the written request for same and the accompanying fee, then the Developer shall be deemed to have certified to the requesting party that:

- (i) is no outstanding default by the subject Lot Owner and/or the Developer under this Agreement; and
- (ii) there are no arrears of Assessments, including interest and costs, owing with respect to such Lot.

SCHEDULE "D"

ACKNOWLEDGMENT/COVENANT

The undersigned acknowledges that title to the lands described in Box (5) hereof is subject to the terms and provisions of a common areas agreement registered on the _____ day of May, 1999, as instrument no. _____ (the "Common Areas Agreement"). The Transferee(s) set out herein hereby covenant and agree(s) that he/she/they are bound by and will correspondingly abide and comply with the terms and provisions of the Common Areas Agreement as if he/she/they were original signatories and parties to the Common Areas Agreement.

DATED at the City of Picton, this ____ day of _____, 19__.

Purchaser

Purchaser

SCHEDULE "E"

Land's Comprising the Daimler Development

Firstly:

In the Village of Wellington, in the Municipality of the County of Prince Edward

being composed of part of Lots 201 and 202, Compiled Plan 8, designated as Parts 1, 2 & 3 on Reference Plan 47R-6734.

Subject to an easement in favour of Bell Canada for telecommunications equipment over that Part of Lot 202, Compiled Plan 8, designated as Part 2, on said Reference Plan 47R-6734, as set out in Instrument Number 109057.

Subject to a Right-of-Way for ingress and egress over part of Lot 201, Compiled Plan 8, designated as Part 3, on said Reference Plan 47R-6734, as set out in Instrument Number 122551.

Secondly:

In the Village of Wellington, in the Municipality of the County of Prince Edward

being composed of all of Lot 1, Land Registrar's Compiled Plan No. 35, and part of Lot 11, Land Registrar's Compiled Plan No. 10, and part of Lot 203, Compiled Plan No. 8, being Parts 1,2,3,4,5,6 and 8 on Reference Plan 47R-6752.

Subject to an Easement in favour of The Corporation of the Village of Wellington, over part of Lot 1, Land Registrar's Compiled Plan No. 35, designated as Part 8 on Reference Plan 47R-6752, as set out in Instrument Number 121243.

Subject to an Easement in favour of the Hydro-Electric Power Commission of Ontario, over part of Lot 203, Compiled Plan No. 8, designated as Part 5 on Reference Plan 47R-6752, as set out in Instrument Number 4291.

Together with a right-of-way over part of Lot 203, Compiled Plan No. 8, designated as Part 7 on Reference Plan 47R-6752, as set out in Instrument Number 42428.