

SCHEDULE "A"

DISTRIBUTION PLAN

INTERPRETATION

1. The following definitions apply for the purposes of this Distribution Plan:

- (a) "3650 Kingston Road" means the Units located at 3640-3650 Kingston Road, in Toronto, Ontario which include, but is not limited to, the following:

Description of Units	Number of Units
studio	19
one bedroom	38
one bedroom + den	78
two bedroom	58
two bedroom + den	33
three bedroom townhouses	31
four bedroom townhouses	6
TOTAL	263

- (b) "Action" means the action *Charmley et al. v. Deltera Construction Limited*, court file no. 09-375391-00CP;
- (c) "Administrator" means Marsh Risk Consulting Canada or its successor appointed from time to time by the Court;
- (d) "Arbitrator" means Reva Devins or her successor appointed, from time to time, by the Court;
- (e) "Claim Form" means the claim form approved by the Court for use under this Distribution Plan attached to the Judgment as Schedule "B";
- (f) "Claims Bar Date" means November 25, 2013;
- (g) "Class" or "Class Members" means those persons, excluding Deltera who, on Thursday, March 19, 2009:
- (i) rented a Unit; or
 - (ii) ordinarily resided in a Unit; or
 - (iii) was present in a Unit but was not ordinarily resident in that Unit; or
 - (iv) owned or had an interest in property located in or on a Unit; or
 - (v) owned some or all of the Units;
- (h) "Class Counsel" means Sutts, Strosberg LLP and Charney Lawyers;

- (i) **“Class Counsel’s Fees”** means the award for fees, disbursements and taxes to Class Counsel awarded in the **Judgment** in this **Action**;
- (j) **“Condo Corporation”** means Toronto Standards Condominium Corporation No. 1806;
- (k) **“Cost of Administration”** means a fixed fee of \$425,000 for notice, fees, disbursements and taxes for the **Administrator** and **Arbitrator**;
- (l) **“CPA”** means *Class Proceedings Act, 1992*;
- (m) **“Court”** means the Ontario Superior Court of Justice;
- (n) **“Distribution Plan”** means this plan and the procedures set out herein for distributing the **Settlement Amount** less **Class Counsel’s Fees** and the **Costs of Administration**;
- (o) **“Deltera”** means Deltera Construction Limited and its employees, officers, directors, servants and agents;
- (p) **“DSM-5”** means American Psychiatric Association Diagnostic and Statistical Manual, 5th edition;
- (q) **“Insurer”** means any insurance company of any of the Class Member(s) who did not opt out of the Action.
- (r) **“Judgment”** means the judgment of Justice Belobaba approving the settlement of this **Action** and the **Distribution Plan**;
- (s) **“Ministry of Health”** means the Ministry of Health and Long-Term Care;
- (t) **“Notice”** means a notice of the **Settlement** of this **Action** substantially in the form of the **Notice** attached to the **Judgment** as Schedule “C”;
- (u) **“Notice Program”** means the method of giving **Notice** to the **Class Members** particularized in paragraph 5 of the **Judgment**;
- (v) **“Settlement Amount”** means maximum of \$6,000,000, or the minimum of \$5,500,000; and
- (w) **“Unit”** means the apartments, townhouses, lockers or other utilizable space particularized in paragraph 1(a).

RECEIPT OF THE MINIMUM OF THE SETTLEMENT AMOUNT AND DISTRIBUTION OF THE SETTLEMENT AMOUNT

2. The insurer of Deltera will pay to Sutts, Strosberg LLP, before the approval hearing, the amount of \$5,500,000, subject to a top-up described in paragraphs 81 to 84 with respect to personal injury claims. Sutts, Strosberg LLP will pay and reserve the following amounts:

Minimum Settlement Amount	\$5,500,000
Reserve and pay the fixed fee for Notice, Administration & Arbitration other than the Personal Injury Arbitrations	(425,000)
Reserve and pay for Class Counsel fees, disbursements and taxes	(1,575,000)
Balance	3,500,000
Reserve and pay to the Ministry of Health up to	50,000
Reserve for Class Members who were Ordinarily Resident and Lost the Use of a Unit and Guests	1,600,000
Reserve for Subrogated Losses	550,000
Reserve for Deductibles	50,000
Reserve for Reduction in Value of the Units	300,000
Reserve for Additional Living Expenses that Were Incurred and Were Not Paid by an Insurance Company	300,000
Reserve for Loss of Income and Loss of Rental Income	200,000
Physical Injuries and Psychiatric Injuries: minimum \$450,000 to a maximum of \$950,000	450,000

PAYMENT TO THE MINISTRY OF HEALTH

3. Sutts, Strosberg LLP will pay the Ministry of Health the sum of \$50,000 in full settlement of Class Members' claim for medical and hospital services in the Action.

POWERS AND RESPONSIBILITIES OF THE ADMINISTRATOR

4. The Administrator is appointed to fulfill the duties and responsibilities set out in the Judgment and this Distribution Plan including but not limited to the following:

- (a) give notice of the settlement of this action in accordance with paragraph 5 of the Judgment;
- (b) establish an electronic, secure, private system for communicating with the Administrator, Arbitrator, Class Counsel, counsel for the defendant, the Public Trustee, the Children's Lawyer and Class Members;
- (c) forward all documents electronically to all authorized persons.
- (d) receive all notices of appeal;
- (e) distribute all decisions for the Arbitrator;
- (f) establish a toll-free (or local 416 or 647 phone number) which will be designated as a help line for Class Members with questions about the Claim Forms and the claims process;
- (g) draft the Claim Forms with the input of Class Counsel;
- (h) receive and process Claim Forms and other documentation as provided in the Judgment and this Distribution Plan;
- (i) decide whether persons are eligible Class Members and communicate those decisions;
- (j) determine what level of compensation Class Members are entitled to receive and communicate those decisions;
- (k) maintain all necessary records;
- (l) make any calculations;
- (m) perform all necessary accounting functions;
- (n) make any decisions necessary for the orderly administration of this settlement;
and
- (o) report to the Court when required.

POWERS AND RESPONSIBILITY OF THE ARBITRATOR

5. The Arbitrator is appointed to fulfill the duties and responsibilities set out in the Judgment and this Distribution Plan including but not limited to the following:
- (a) deal with all disputes requiring a determination including, without limitation, question of fact, law or mixed fact and law;
 - (b) establish a summary procedure to determine each dispute;
 - (c) enter into mediation and/or arbitration proceedings as she establishes; and
 - (d) deliver all decisions in writing to the Administrator for distribution within 30 days of completion of the hearing or process.
6. The decisions of the Arbitrator shall be final and conclusive and there shall be no appeal from her decisions whatsoever.

INFORMATION ABOUT THE CLASS MEMBERS

7. Class Counsel have information for about 332 Class Members who resided in 201 Units. The Distribution Plan is based on the following formula:

$$\frac{332 \text{ persons}}{201 \text{ Units}} = 1.65 \text{ persons/Unit} \times 264 \text{ Units} = 436 \text{ Class Members} - 3 \text{ opt outs} = 433 \text{ Class Members}$$

8. Class Counsel will deliver this information about Class Members, including the individuals who opted out, to the Administrator.

THE CLAIMS PROCESS

9. Each Class Member, who did not opt out of the Action, must submit a Claim Form electronically by the internet, unless the Administrator agrees in advance to receive the Claim Form, by fax or mail, on or before the Claims Bar Date, to claim compensation under this Distribution Plan.
10. If a Class Member is:
- (a) deceased, the Claim Form must be submitted electronically by the estate trustee or by the spouse or by any other of his or her Family Class Members; or
 - (b) a mentally incapable person, the Claim Form must be submitted electronically by the Guardian of Property or the Attorney for Property or by the Public Trustee or by the spouse or by any other of his or her Family Class Members.
11. If a Class Member is:
- (a) under the age of 18, he or she must be represented by her/his parent(s) or person(s) with custody and any award to a Class Member who is a minor shall be paid to the Accountant of the Superior Court of Justice to the credit of the minor, until the minor attains the age of 18 years, at which time the Accountant shall pay the amount to the minor without any further order of the Superior Court of Justice; or
 - (b) a mentally incapable person, she/he must be represented by her/his Guardian of Property or the Attorney for Property or by the Public Trustee or by a spouse.
12. The Claimant must establish, on the balance of probabilities to the Administrator, that he or she or it was a Class Member and he or she or it is entitled to receive payment(s) under the Distribution Plan.
13. The Administrator must make its decision within 30 days of receipt of all claims.

14. The Claimant or the Class Member has the right within 30 days of receiving the Administrator's decision to appeal to the Arbitrator by delivering an appeal to the Administrator electronically.

15. The Arbitrator will establish a summary procedure given the nature of the heads of damage.

16. The Arbitrator, within 30 days, will communicate each of her decisions in writing, electronically, or by mail if requested, to all authorized persons, including the Administrator.

17. The decisions of the Arbitrator are final.

CATEGORY 1: CLASS MEMBERS WHO WERE ORDINARILY RESIDENT AND LOST THE USE OF A UNIT AND GUESTS

18. Under this category, the amount of \$1,600,000 is reserved.

19. The Administrator will award \$4,500 per Class Member (being \$1,500 per month) to each Class Member who was ordinarily resident in a Unit on March 19, 2009 and lost the use of a Unit. For greater certainty, the Administrator will not be required to do a pro-rata calculation of the amounts owing to Class Members in this category based on the number of days they were displaced from their Units.

20. If a Class Member was present, but not ordinarily resident in the Unit (a Guest) on March 19, 2009, he or she will receive \$200.

21. Paragraphs 13 to 17 will apply to the Class Member's claim in this category.

22. If the Class Members' total claims in this Category exceeds \$1,600,000, the Class Members will be paid pro rata subject to paragraph 87.

CATEGORY 2: SUBROGATED LOSSES

23. Under this category, the amount of \$550,000 is reserved.

24. Each Insurer of a Class Member must submit a Claim Form and supporting documents, including the Class Members' proofs of loss, particulars of replacement cost items and their actual cash value, and particulars of the deductible(s) for each Class Member.

25. Each Insurer of a Class Member and the insured Class Member must submit separate Claim Forms.

26. Paragraphs 13 to 17 will apply to Subrogated Losses.

27. If the Insurers' total claims in this Category exceeds \$550,000, the insurers will be paid pro rata subject to paragraph 87.

CATEGORY 3: DEDUCTIBLES

28. Under this Category, the amount of \$50,000 is reserved. Each Deductible is in the amount that each insurer deducted from each Class Member's insurance claim which was paid.

29. If the insurer does not submit appropriate documentation to the satisfaction of the Administrator, the Class Member must demonstrate that she or he was charged a Deductible.

30. Paragraphs 13 to 17 will apply to the Class Members claim in this category.

31. If the Class Members' total claims in this Category exceeds \$50,000, the Class Member will be paid pro rata subject to paragraph 87.

CATEGORY 4: REDUCTION IN VALUE OF THE UNIT

32. Under this category, the amount of \$300,000 is reserved.

33. The "grid" for the devaluation of the Units follows:

Description of Units	Number of Units	Per Unit	Total
studio	19	\$400	\$7,600
one bedroom	38	\$600	22,800
one bedroom + den	78	\$800	62,400
two bedroom	58	\$1,000	\$58,000
two bedroom + den	33	\$1,200	39,600
three bedroom townhouses	31	\$1,400	43,400
four bedroom townhouses	6	\$1,600	9,600
TOTAL	263 units		\$243,400

34. The Condo Corporation or Class Counsel will deliver the list of owners of Units as of March 19, 2009 to the Administrator. If the name of the Class Member appears on the list, the Class Member will not be required to take any further steps to prove that they were an owner of a Unit on March 19, 2009. If the Class Member does not appear on the list, the Class Member must prove that he, she and/or it was the owner of a Unit on March 19, 2009.

35. Paragraphs 13 to 17 apply to Devaluation of the Units.

36. If the Class Members' total claims in this Category exceed \$300,000, the Class Members will be paid pro rata subject to paragraph 87.

CATEGORY 5: ADDITIONAL LIVING EXPENSES THAT WERE INCURRED AND WERE NOT PAID BY AN INSURANCE COMPANY

37. Under this category, the amount of \$300,000 is reserved. Receipts are required for this Category.

38. Class members will not be compensated for manual work that he and/or she did personally to repair and/or clean the Unit and/or repair or clean chattels.

39. Paragraphs 13 to 17 will apply to the Class Member's claim in this category.

40. If the Class Members' total claims in this Category exceed \$300,000, the Class Members will be paid pro rata subject to paragraph 87.

CATEGORY 6: LOSS OF INCOME AND LOSS OF RENTAL INCOME

41. Under this Category, the amount of \$200,000 is reserved. The Category does not apply to Class Members who advance a Level 4 Physical Injury claim or a Level 6 Psychiatric Injury claim.

42. Class Members must submit reliable documentation as proof of loss of income and loss of rental income.

43. Paragraphs 13 to 17 will apply to Loss of Income.

44. If the Class Members' total in this Category exceeds \$200,000, the Class Members will be paid pro rata subject to paragraph 87.

CATEGORY 7: PHYSICAL INJURIES

LEVEL 1: \$500

45. Symptoms: Minor injuries sustained during explosion/evacuation which are completely healed. Sprains, cuts, bruises. No contemporaneous visit to a doctor or medical records required.

46. Sworn statement from the Class Member describing their injuries and their duration.

LEVEL 2: \$2,500 plus medical expenses and costs of records not covered by insurance

47. Symptoms: Musculo-skeletal (soft tissue) injuries sustained during explosion/evacuation which lasted up to 6 months.

48. Sworn statement from the Class Member with contemporaneous medical records.

LEVEL 3: \$25,000 plus medical expenses and costs of records not covered by insurance

49. Orthopedic injuries such as broken bones, fracture, muscle tears, ligament damage sustained during explosion/evacuation which healed with no serious, ongoing impairments.

50. Injuries must be documented by contemporaneous medical records and any imaging which was done. Claims for medical expenses not covered by insurance must be supported by a letter from a doctor or health practitioner qualified to recommend the medical expenses for which payment is sought.

LEVEL 4: \$50,000 plus all pecuniary damages, not covered by insurance or such amount assessed by an Arbitrator

51. Permanent, serious impairment of an important bodily function caused by physical injuries sustained during the explosion/evacuation.

52. Injuries must be documented by the Class Member's contemporaneous medical records and any imaging which was done, plus a letter from a specialist identifying the nature of the injury and expressing an opinion on how the Class Member's injury meets the grid criteria.

53. Level 4 Class Members may elect to have their claim assessed by an arbitrator. Class Members making this request must submit a report from a doctor which provides an opinion that the injuries meet the level four criteria. The arbitrator can award disbursements associated with the Class Member's Level 4 claim.

CATEGORY 8: PSYCHIATRIC INJURIES

LEVEL 1: \$500.00

54. Anxiety, fearfulness, nightmares, sleeplessness, irritability, emotional distress or the temporary exacerbation of other physical or emotional issues or problems of a person including such diverse conditions as heart condition, asthma, depressions, substance abuse, paranoia or other psychiatric conditions as a result of the explosion/evacuation/displacement.

55. Sworn statement describing the psychiatric injury and its duration.

56. Contemporaneous medical records are not required.

LEVEL 2: \$2500.00 plus medical expenses and costs of records not covered by insurance

57. Psychiatric disorder as defined in DSM-5 with resolution of symptoms within 90 days.

58. Letter from a psychiatrist or psychologist or physician identifying a psychiatric disorder and expressing the opinion the disorder was sustained as a result of the explosion / evacuation / displacement, with resolution of symptoms within 90 days.

59. Contemporaneous records are not required.

LEVEL 3: \$10,000 plus medical expenses and costs of records not covered by insurance

60. Psychiatric disorder as defined in DSM-5 where the duration of the symptoms was more than 90 days with resolution of the symptoms within one year.

61. Letter from a psychiatrist or psychologist identifying a psychiatric disorder sustained and expressing the opinion the disorder was sustained as a result of the explosion / evacuation / displacement where the duration of the symptoms was more than 90 days with resolution within one year. If a claim for medical expenses not covered by insurance is made, the letter from the psychiatrist or psychologist must support the need for the medical expenses not covered by insurance.

62. Contemporaneous records are required.

LEVEL 4: \$15,000 plus medical expenses and cost of records not covered by insurance

63. Psychiatric disorder as defined in DSM-5 where the duration of the symptoms exceeded one year with resolution of the symptoms by December 31, 2012.

64. Letter from a psychiatrist or psychologist identifying a psychiatric disorder sustained and expressing the opinion the disorder was sustained as a result of the explosion / evacuation / displacement with symptoms exceeding one year and resolution by December 31, 2012. If a claim for medical expenses not covered by insurance is made, the letter from the psychiatrist or psychologist must support the need for the medical expenses not covered by insurance.

65. Contemporaneous records are required.

LEVEL 5: \$25,000 plus medical expenses and cost of records not covered by insurance.

66. Psychiatric disorder as defined in DSM-5 with no resolution of symptoms.

67. Letter from a psychiatrist or psychologist identifying a psychiatric disorder and expressing the opinion the disorder was sustained as a result of the explosion / evacuation / displacement with ongoing symptoms. If a claim for medical expenses not covered by insurance is made, the letter from the psychiatrist or psychologist must support the need for the medical expenses not covered by insurance.

68. Contemporaneous medical records are required.

LEVEL 6: \$50,000 plus all pecuniary damages not covered by insurance or such amount to be assessed by an Arbitrator.

69. A chronic psychiatric disorder as defined in DSM-5 causing a level of impairment that significantly impedes useful functioning in at least one of four aspects: limitations in activities of

daily living; social functioning; concentration, persistence, and pace; and deterioration or decompensation in work or work-like settings as described in chapter 14 of the American Medical Association Guides to the Evaluation of Permanent Impairment fourth edition.

70. Letter from a psychiatrist identifying a chronic psychiatric disorder and explaining why there exists a marked impairment caused by the disorder and expressing the opinion that the marked impairment and disorder was caused by the explosion.

71. The Class Member must submit medical records evidencing that he or she underwent some medical treatment since the explosion consistent with this type of diagnosis.

72. Level 6 Class Members may ask the Claims Administrator to have their claim assessed by an arbitrator. Claimants making this request must submit a report from a psychiatrist which provides an opinion that the alleged psychiatric disorder meets the level six criteria. The arbitrator can award disbursements associated with the Class Member's Level 6 claim.

MISCELLANEOUS PROVISIONS APPLICABLE TO PHYSICAL INJURIES AND PSYCHIATRIC INJURIES

73. The Class Member must describe his or her physical injuries in his or her Claim Form.

74. The Administrator must make its decision in writing in 30 days and deliver the decision to the Class Member, Deltera and Class Counsel.

75. The Class Member, or Deltera, or the Class Counsel may deliver a notice of appeal to the Arbitrator within 30 days.

76. The Arbitrator will establish a summary procedure consistent with the nature of physical and/or psychiatric injuries being alleged in the claims.

77. The Arbitrator will make her decision within 30 days of the hearing.

78. There is no right of appeal from the Arbitrator's decision.

79. Sworn statements in paragraphs 46 and 48 means that the Claim Form contains the following words: "I swear the contents of this application is true".

80. Deltera does not have the right to participate in the Distribution Plan except as in Category 7: Physical Injuries and Category 8: Psychiatric Injuries, but not in paragraphs 45, 47, 54 and 57.

TOP-UP OF THE SETTLEMENT AMOUNT

81. The Administrator must calculate the total amount of accepted Claims in Category 7: Physical Injury and Category 8: Psychiatric Injury and the cost of the Arbitrator to arbitrate the costs of these claims ("Total Cost of Claims").

82. If the Total Cost of Claims is less than \$450,000, Deltera will not pay any further amounts to increase the minimum Settlement Amount.

83. If the Total Cost of Claims is more than \$450,000, Deltera must increase the minimum Settlement Amount by the difference between the Total Cost of Claims and \$450,000, to a maximum of \$950,000, an additional \$500,000.

84. Within 15 days of receiving this accounting from the Administrator, Deltera must pay the top-up amount, if any, to Sutts, Strosberg LLP or move to the Court for direction about the top-up of the Settlement Amount.

EXCESS FUNDS OR INSUFFICIENT FUNDS

85. After all the eligibility challenges, awards and appeals are final, the Administrator must total all awards in each Category separately.

86. If the total amount awarded to each Class Member, in each Category, is more than the allocated money in each Category, the payment to each Class Member shall be reduced pro rata in each Category, and the amount of insufficiency in each Category must be calculated.

87. If the total amount awarded to each Class Member in some Categories are paid in full and a surplus calculated, then the surplus must be used pro rata from any insufficiently funded Categories.

88. If after these reallocations are calculated and each Class Member receives all of the awards, and if any surplus is calculated, the surplus will be paid to the Condo Corporation.

REPORTING TO THE COURT AND DISTRIBUTION OF SETTLEMENT FUNDS

89. After all eligibility challenges, awards and appeals are final, the Administrator shall report to the Court, Class Counsel, counsel for the Deltera, the Children's Lawyer and the Public Trustee, listing each Class Member and the amount that he or she will receive under this plan.

90. If the Court is satisfied with the Administrator's report, the Court shall approve the distribution and/or make any other order that the Court deems appropriate.

91. The Administrator shall deliver the report Class Counsel, Deltera's counsel, the Children's Lawyer, the Public Trustee and any other person that the Court orders. The Court will decide whether or not this report will be sealed in whole or in part.

92. After distributing the cheques to the Class Members, inevitably there will be some cheques that will not be cashed. After 3 months, the residue will be paid to the Condo Corporation.