

CO-OPERATIVE CARSHARING AGREEMENT

This Agreement dated this 8th day of June, 2018, is made

BETWEEN:

Brian and Beverley Canfield

("the Developer")

OF THE FIRST PART

AND:

MODO CO-OPERATIVE,
a Cooperative Association incorporated pursuant to
the *Cooperative Association Act* of British Columbia

("Modo")

OF THE SECOND PART

WHEREAS:

- A. The Developer proposes to develop Town Houses with a total of eight (8) strata lots on the property known by its current civic address as:
3031 Jackson Street, Victoria B.C.,
and more particularly known and described as:
PID: 005-840-767
Legal lot description – Lot 3, Section 4 VD Plan 6385
(the "Development")
- B. Modo is a co-operative that facilitates carsharing for individuals and businesses as an alternative to privately-owned automobiles;
- C. Modo will, at its cost, operate, maintain, repair and insure carsharing vehicles and administer the carsharing program;



- D. The Developer and Modo wish to ensure that the occupiers of the Development, as Owners of the units or Tenant of the units, are able to become members of Modo by virtue of their ownership or lease of the units of the Development

WHEREFORE in consideration of the premises and the mutual covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

I. DEFINITIONS

"Agreement" means this agreement, the attached Schedule A referred to in this agreement, and every properly executed instrument which by its terms amends, modifies, supplements, or extends this agreement;

"Arbitrator" means a member in good standing of the Arbitrators Association of British Columbia;

"Building Permit" means the building permit issued by the City of Victoria, or applicable local government authority;

"Developer" means the parties of the first part to this agreement and any heirs, administrators, successors, assigns, subsidiaries or nominees of the parties of the first part who may assume the right, title or interest in the Development and/or this agreement from the parties of the first part, and expressly includes any party which may manage or operate the Development from time to time;

"Development" means the strata housing development referred to in Article A of the recitals herein, and includes the property and the building being developed during and after the development has been completed;

"Membership Obligations" means and includes any and all obligations or liabilities that a member of Modo or other person who participates in MODO's activities, including any Tenant, may have or incur to Modo or any other member of Modo or any other person as a result of or in connection with such membership in Modo, participation in the activities of Modo, use of Modo's vehicles, or otherwise associated with the ownership of shares of Modo including, without limiting the generality of the foregoing, the obligation to pay any fee, monthly administrative fee, charge, fine or other cost to Modo or any other person;

"Occupancy Date" means the date that the City of Victoria issues the first occupancy permit for the Development;

"Occupancy Permit" means the Occupancy Permit issued by the City of Victoria or applicable local government on completion of the construction of the Development;

"Owner" means the first and each subsequent registered owner or owners of a Strata Lot, from time to time;

"Participating Strata Lot" means one of 8 Strata Lots for which the Developer has assigned the Subject Shares;

"Rental Agreement" means any agreement between a party and an Owner for the occupancy of a Strata Lot in the Development for any length of time;

"Strata Corporation" means the strata corporation to be formed pursuant to the *Strata Property Act*, S.B.C. 1998, c. 43, upon deposit of the Strata Plan at the Victoria Land Title Office;

"Strata Lot" means a strata lot shown on the Strata Plan;

"Strata Plan" means the strata plan of the Development;

"Subject Shares" means the specific membership shares in Modo purchased by the Developer on behalf of the Strata Corporation, the beneficial interest in which attaches to the respective Strata Lots; and

"Tenant" means the first and each subsequent party renting a Strata Lot in the Development, from time to time;

II. OBLIGATIONS OF THE DEVELOPER

1. The Developer will be the developer of the Development, upon which there is to be built a development containing eight (8) Strata Lots, each one a Strata Lot.
2. On the issuance by the City of Victoria of the appropriate and approved Building Permit or Permits or similar purpose document for the Development, the Developer will forthwith tender payment of \$4,000.00 to Modo, representing the price to purchase eight (8) memberships at a cost of \$500 per membership. [There are Fifty (50) Modo Subject Shares on behalf of each membership and a Subject Share price of \$10, for a total price \$4,000.00].
3. The Developer will deposit the Strata Plan of the Development at the Victoria Land Title Office, thereby creating the Strata Corporation pursuant to the *Strata Property Act*, S.B.C. 1998, c. 43.
4. The Developer will cause the Strata Corporation to become party to this Agreement at its inception upon the deposit of the Strata Plan with the Victoria Land Title Office and the creation of the Strata Corporation.
5. Upon stratification as carried out under Articles 3 and 4, and on completion of the Developer's obligations under Article 2, the Developer will cause fifty (50) Subject Shares for each of the eight (8) Participating Strata Lots to be transferred to each Owner of a Participating Strata Lot by way of the Strata Corporation subject to Article 10 herein.

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6. Subject to Article 17 herein and concurrent with stratification, the Developer will ensure that a bylaw in the form attached hereto as Schedule A will be included with the bylaws filed with the stratification documents or will be added as an addition to the Standard Bylaws provided by the *Strata Property Act*.
7. The Developer warrants and agrees the Developer will cause its subsidiaries and any successors or assigns or any successors or assigns of the Developer or its interests to continue to be bound by the terms of this Agreement.
8. The Developer agrees that Modo will not be under any obligation whatsoever to provide share equity for use at the Development if Modo has not received full payment from the Developer by the required deadlines of the sums owing in Article 2 of this Agreement.

III. OBLIGATIONS OF THE STRATA CORPORATION

9. The fifty (50) Subject Shares allotted for each of the eight (8) Participating Strata Lots will be registered in the name of the Strata Corporation. The Strata Corporation will hold fifty (50) Subject Shares each for the benefit of the Owner of each of the eight (8) Participating Strata Lots in accordance with this Agreement.
10. The Developer will cause the Strata Corporation to have bylaws registered in the Victoria Land Title Office dealing with its ownership of the Subject Shares. For greater clarity, and notwithstanding those bylaws listed in Schedule A, the bylaws of the Strata Corporation will include, *inter alia*, provisions to the following effect:
 - (a) each of the Subject Shares will have a notation indicating that it is issued and to be held by the Strata Corporation pursuant to this Agreement;
 - (b) an Owner of a Strata Lot who wishes to participate in the benefits of membership in Modo must apply to Modo, satisfy Modo's requirement for membership and enter into such agreements that Modo may require from its members generally;
 - (c) an Owner of a Participating Strata Lot may only have the benefit of membership in Modo attached to the fifty (50) Subject Shares held by the Strata Corporation for the benefit of such Owner for as long as the Owner is the registered owner of the Participating Strata Lot;
 - (d) no Owner of a Participating Strata Lot has any right to require Modo to redeem the fifty (50) Subject Shares held by the Strata Corporation for the benefit of such Owner or to receive any amount that may be payable upon the redemption thereof;
 - (e) on a Record Date the Strata Corporation will be entitled to receive any dividend on the fifty (50) Subject Shares held by the Strata Corporation for the benefit of each Owner of a Participating Strata Lot, such dividends which may be declared by Modo as being payable to the owners of its shares on such Record Date; and

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- (f) each Owner of a Participating Strata Lot will be responsible for and will save the Strata Corporation harmless from any and all Membership Obligations incurred by such Owner and any and all actions, causes of action, costs or claims of whatsoever type or nature levied or made by Modo or by any other person as a result of or in connection with such Owner's participation in the activities of Modo, use of Modo vehicles or otherwise associated with the fifty (50) Subject Shares of Modo held by the Strata Corporation for the benefit of such Owner.
11. Once the Strata Corporation becomes a party to this Agreement, the Strata Corporation covenants and agrees with Modo that the Strata Corporation will cause the Owners of the Strata Corporation, including their tenants, heirs, administrators and assigns, to comply with Modo Co-operative Subject Shares Bylaw, attached hereto as Schedule A and to be incorporated into the Bylaws of the Strata Corporation.
12. Every three (3) calendar months from Occupancy Date, Modo will provide the Strata Corporation with a written list of the names of all Owners and Tenants who exercise the benefits of Modo membership. Upon receipt of this information, the Strata Corporation will immediately inform Modo in writing which Owners and Tenants have ceased to be Owners and Tenants respectively, and unless otherwise advised, Modo will cancel the outgoing Owners and Tenants' beneficial ownership in the Subject Shares.

IV. OBLIGATIONS OF MODO CO-OPERATIVE

13. Modo will provide the Developer with marketing materials to promote active carshare membership to potential Owners and Tenants. Modo personnel will also be available for promotions to realtors and other interested parties.
14. Modo will provide orientation and membership activation services to all Owners and Tenants wishing to use Modo vehicles.
15. Modo will indemnify and save harmless the Developer, its subsidiaries, successors and assigns from any and all liability arising out of Modo's authorized use, operation or maintenance of its vehicles.

V. TERMINATION AND MODIFICATION

16. The Developer and Modo agree that, if after execution of this Agreement, through no fault of their own, the Developer does not receive the Occupancy Permit from the City of Victoria and/or appropriate public body then this Agreement shall be terminated and both parties will be relieved of their obligations hereunder.
17. Modo reserves the right to modify its rules governing membership and the usage and deployment of its vehicles, as set out in the bylaws of Schedule A. Upon any modification, Modo shall immediately notify the Strata Corporation in writing.

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18. If the Development is destroyed and not rebuilt in a form substantially similar to the original buildings, then Modo may cancel all membership shares held by the Strata Corporation for the benefit of the Owners of the Participating Strata Lots in the Development, and neither the Developer nor the Strata Corporation will be entitled to a refund of the share purchase price.
19. Either party shall have the right to terminate this Agreement forthwith on the dissolution, winding up or bankruptcy of the other party.
20. Neither party shall transfer or assign this Agreement to any other party without the prior written consent of the parties to this Agreement, which consent shall not be unreasonably withheld.

VI. DEFAULT

21. A party claiming default under the terms of this Agreement must provide defaulting party with thirty (30) days written notice of the default. If the defaulting party fails to correct the default within 30 days of receipt of the written notice, the party claiming default may proceed with the dispute resolution procedures provided for herein.

VII. DISPUTE RESOLUTION

22. Dispute resolution and claims of default under this Agreement may be mediated by agreement between the parties and under rules imposed by a mutually agreed upon mediator.
23. Unless there is a mutual agreement to the contrary, the parties covenant and agree that all disputes and claims of default between parties to the Agreement herein arising under or from the terms of this Agreement must be submitted to an accredited British Columbia arbitration facilitator or centre for arbitration for resolution.
24. Unless there is a mutual agreement to the contrary, the provisions of the *British Columbia Commercial Arbitration Act*, R.S.B.C. 1996 c. 55 and amendments thereto shall be followed with regard to all arbitration procedures commenced under this section.
25. All arbitrations under this section shall be before a single arbitrator chosen by mutual agreement of the parties. If the parties are not able to agree to the arbitrator, then the arbitrator will be chosen at random by the arbitration facilitator or centre from a roster of arbitrators kept by the arbitration facilitator or centre.
26. The parties covenant and agree that an arbitrator appointed hereunder has the power, among other things, to specifically declare that a party to this Agreement is in default of the terms of the Agreement and, in appropriate circumstances,

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declare that the Agreement is terminated and award damages for breach of contract or otherwise.

VIII. NOTICES

27. Notices under this Agreement shall be provided in writing to the following the addresses or electronic mail addresses set out below:

Brian and Beverley Canfield
420 – 6880 Wallace Drive
Brentwood Bay, B.C., V8M 1N8

Email: Brian_Canfield@telus.net

MODO CO-OPERATIVE
200 – 470 Granville Street
Vancouver, BC, V6C 1V5

Email: info@Modo.coop

28. All notices are deemed to have been delivered on the next business day following its posting or emailing.
29. Addresses for notice may be amended by written notice from one party to the other.

IX. ASSIGNMENT

30. Modo may not assign its interest in this Agreement without the prior written consent of Developer.

X. SEVERABILITY

31. If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

XI. INDEMNITY

32. Modo agrees to indemnify and save harmless Developer from and against all losses, costs, damages, suits, actions, causes of action, claims or demands in any way resulting from, connected with or arising out of this Agreement.

XII. ENTIRE AGREEMENT

33. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior



understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein.

XIII. AMENDMENT

34. No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the parties hereto.

XIV. BINDING EFFECT

35. This Agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, legal and personal representatives, successors and permitted assigns of the parties, as applicable.

XV. NO WAIVER

36. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

XVI. EXECUTION BY COUNTERPARTS

37. This Agreement and any amendment, supplement or termination of any provision herein, may be executed and delivered in counterparts by facsimile or other electronic means, each of which so executed and delivered counterpart is an original, and such counterparts together, will constitute one and the same agreement.

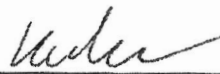
IN WITNESS WHEREOF:

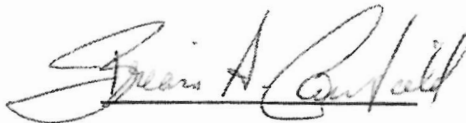
The parties have executed this Agreement on the 8th day of June, 2010.

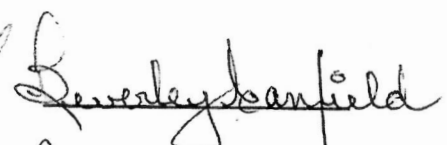
MODO CO-OPERATIVE
doing business as Modo
by its authorized signatory

Brian Canfield

Beverley Canfield







Karen New
Print Name

BRIAN CANFIELD
Print Name

BEVERLEY CANFIELD
Print Name



SCHEDULE A

MODO CO-OPERATIVE SUBJECT SHARES BYLAW TO BE INCORPORATED INTO THE BYLAWS OF THE STRATA CORPORATION

1. The Strata Corporation has entered into an Agreement with Modo Co-operative ("Modo") whereby Modo has issued fifty (50) shares for the benefit of the current Owner of each Participating Strata Lot in the Strata Corporation (the "Agreement").
2. Each Owner of a Participating Strata Lot is entitled to the benefit of fifty (50) shares of Modo without payment, the legal ownership of which vests with the Strata Corporation. If there is more than one Owner of a strata lot, the shares will be beneficially held jointly.
3. In order for an Owner to make use of Modo vehicles, the Owner must apply to use them, such application including but not limited to the following:
 - (a) The Owner must prove current ownership of a Participating Strata Lot by providing Modo with a copy of an official land title document indicating the Owner is the owner of the Participating Strata Lot; and
 - (b) The Owner must provide contact information and any other information required by Modo regarding the Owner that would allow Modo to determine if the Owner qualifies to exercise the rights and benefits of membership as provided herein and by the Rules and policies of Modo as posted on its website and updated from time-to-time.
4. Tenant of an Owner of a Participating Strata Lot may make use of Modo vehicles as if the Tenant was a member of Modo, pursuant to the Policies and Rules of membership in Modo and subject to the limitations set out herein.
5. In order for a Tenant to make use of Modo vehicles, the Tenant must apply to use them, such application including but not limited to the following:
 - a) The Owner of a Participating Strata Lot or Strata Corporation must provide written notice to Modo of the name of the Tenant or Tenants that are to exercise the benefits of Modo membership; and
 - b) The Tenant must prove current residency at a Participating Strata Lot by providing Modo with a copy of its tenancy agreement or a copy of its driver's records indicating the address of the Participating Strata Lot; and
 - c) The Tenant must provide contact information and any other information required by Modo regarding the Tenant that would allow Modo to determine if the Tenant qualifies to exercise the rights and benefits of

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membership as provided herein and by the Rules and policies of Modo as posted on its website and updated from time-to-time.

6. The Owner of a Participating Strata Lot shall not enjoy benefits of the shares where a Tenant of the Owner has successfully applied to make use of Modo vehicles as defined by Bylaw 5 herein.
7. Each Owner and Tenant entitled to a beneficial interest in the shares may only exercise the rights and benefits of shareholding if the person or persons would otherwise qualify and /or meet the requirements for those rights and benefits as posted on Modo's website and updated from time-to-time.
8. If at any time an Owner or Tenant does not meet the criteria for the rights and benefits of membership, then the Owner or Tenant may not exercise any Modo membership rights and benefits until such time that the Owner or Tenant may again qualify for the rights and benefits of membership according to the rules for such membership as set out herein and in the Rules and policies of Modo.
9. Each Owner and Tenant entitled to a beneficial interest in the shares may exercise all rights and remedies available to shareholders of Modo, excluding voting rights, subject to the Rules of Modo.
10. Except as provided under this bylaw, the benefits of Modo membership may only be exercised by the Owners of Strata Lots, and the beneficial interest in such shares and may not under any circumstances be assigned, transferred or sold by the shareholder or shareholders except as provided herein.
11. Subject Shares in Modo attach to the Participating Strata Lot and are legally owned by the Strata Corporation, the benefit of which is enjoyed by the current Owner of the Participating Strata Lot. Any sale of a Participating Strata Lot by an Owner will also include, as a benefit of that sale, a transfer of the beneficial interest in the Subject Shares in Modo to the new Owner.
12. Every three (3) calendar months, Modo will provide the Strata Corporation with the names of all Owners and Tenants who exercise the benefits of Modo membership. Upon receipt of this information, the Strata Corporation will immediately inform Modo in writing which Owners and Tenants have respectively ceased to be Owners and Tenants, and unless otherwise advised, Modo will cancel the outgoing Owners' and Tenants' beneficial ownership in the Subject Shares.
13. No Owner or Tenant is entitled to compensation or a refund of shares purchase price upon the transfer of any shares or benefit as provided herein, and no Owner or Tenant may demand or otherwise require Modo to refund or redeem the shares issued by Modo.



14. Owners and Tenants may decide to cease exercise the benefits of Modo membership, but the shares remain in the name of the Strata Corporation and attach to the Participating Strata Lot.
15. Upon the destruction of a Participating Strata Lot, and if there is a decision not to rebuild the Participating Strata Lot, then the share and share purchase price of the Strata Corporation and the Owners is absolutely forfeited to Modo without right of compensation of any kind.
16. If this bylaw is repealed or replaced, then the share and share purchase price of each of the shares of the Strata Corporation and any beneficial interest accruing to the Owner is absolutely forfeited to Modo without right of compensation of any kind.

