



# First Capital Realty Inc.

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## DISCLOSURE AND INSIDER TRADING POLICY

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# FIRST CAPITAL REALTY INC. ("First Capital Realty")

## DISCLOSURE AND INSIDER TRADING POLICY (the "Policy")

### A. GENERAL

#### 1. Definitions in this Policy

Capitalized terms that are used in this Policy have the meanings set forth in Appendix A or as otherwise defined in this Policy. Readers are encouraged to review Appendix A carefully when reviewing this Policy. All other capitalized terms used in this Policy (whether capitalized or not) have the meanings set forth in the *Securities Act* (Ontario) and applicable rules thereunder.

#### 2. Purpose of this Policy

Two principles are cornerstones of regulation of our capital markets. The first principle is that everyone who invests in Securities of First Capital Realty should have equal and timely access to Material Information. The second principle is that Insiders and others who are in a Special Relationship with First Capital Realty should not: (i) purchase or sell Securities of First Capital Realty or transact in a Related Financial Instrument ("**Insider Trading**") while in possession of Undisclosed Material Information; (ii) inform others of the Undisclosed Material Information except in the necessary course of business ("**Tipping**"); or (iii) recommend or encourage another person to purchase or sell Securities of First Capital Realty or transact in a Related Financial Instrument while in possession of Undisclosed Material Information.

As a general rule, this means that individuals who act as directors, officers or employees of First Capital Realty or any of its Affiliates, as well as directors, officers or employees of a company that owns 10% or more of First Capital Realty, together with their immediate families, holding or investment companies and other related entities and all persons and companies acting on behalf of or at the request of any of them, will be subject to these legal restrictions.

These principles are enshrined in various provisions of securities law and the Toronto Stock Exchange ("**TSX**") rules relating to the requirement to make continuous and timely disclosure, imposing liability for Misrepresentations in Documents, News Releases and Public Oral Statements and restricting trading by Insiders.

It is fundamental to the reputation and ongoing success of First Capital Realty to ensure that directors, officers and employees of First Capital Realty and its Affiliates as well as, to the extent practicable, those persons in a Special Relationship with First Capital Realty meet their obligations under these provisions of securities law and TSX rules. Accordingly, for this purpose, this Policy is intended to:

- (a) establish a process for the disclosure of all Material Information that will, among other things, ensure First Capital Realty and its Subsidiaries comply with timely disclosure obligations and prevent the selective disclosure of Material Information to analysts, institutional investors, market professionals and others;
- (b) establish a process for ensuring that Documents, including News Releases, issued by First Capital Realty, and Public Oral Statements by First Capital Realty, that contain Material Information, are accurate and do not contain a Misrepresentation;
- (c) ensure that directors, officers and employees of First Capital Realty and its Affiliates understand their obligations to preserve the confidentiality of Undisclosed Material Information; and
- (d) ensure that Designated Insiders of First Capital Realty and its Subsidiaries understand the prohibitions on illegal Insider Trading and Tipping under applicable securities law, stock exchange rules and this Policy.

The fact that this Policy contains lengthy and detailed provisions does not mean that it covers all circumstances that may arise. The subject matter of this Policy can raise difficult questions. Those questions can often be resolved satisfactorily only with experience and the making of informed judgments, often with the assistance of legal and other professional advice. This Policy should be interpreted and applied to achieve the purposes for which it was adopted.

### **3. Application of This Policy**

- (a) To the extent practicable, this Policy applies to anyone in a Special Relationship with First Capital Realty and each Associate of anyone in a Special Relationship with First Capital Realty.
- (b) Sections 13 to 32 of this Policy also apply to all other individuals authorized to speak on behalf of First Capital Realty, as contemplated by section 10 of this Policy.
- (c) Sections 36 and 38(d) of this Policy also apply to Designated Insiders of First Capital Realty and its Subsidiaries.

### **4. Communications Covered by this Policy**

This Policy applies to all methods and forms of communication by First Capital Realty, including disclosures that may reasonably be expected to be Generally Disclosed and/or contained in Documents that contain Material Information, statements in First Capital Realty's annual and quarterly reports, letters to shareholders, News Releases, Public Oral Statements (such as at shareholders' meetings, news conferences, analysts' conferences, private meetings with analysts, industry conferences or on-line conferences, etc.), information contained on First Capital Realty's web site, including supplemental information packages, and other electronic communications that contain Material Information.

**5. Distribution of this Policy**

- (a) The Vice President, People and Corporate Affairs of First Capital Realty will distribute a copy of this Policy or a summary of this Policy to each director, officer and employee of First Capital Realty and its Subsidiaries upon becoming a director, officer or employee, annually thereafter, and whenever significant changes are made.
- (b) The General Counsel and Corporate Secretary will also ensure that a copy of this Policy is posted on First Capital Realty's web site.

**6. Consequences of Non-Compliance With this Policy**

*Violations of this Policy can result in acute embarrassment to First Capital Realty and harm to First Capital Realty's reputation in the investment community. A violation of this Policy may also constitute a breach of securities law, including laws against Insider Trading and Tipping, and First Capital Realty may refer any such breach to the appropriate regulatory authorities. Accordingly, violation of this Policy could lead to fines, penalties, imprisonment and liability to investors and First Capital Realty for damages. The onus of complying with this Policy and the relevant rules is on each individual director, officer or employee of First Capital Realty and its Affiliates, each of whom is expected to be familiar with this Policy. A failure to comply with this Policy may result in the immediate suspension or dismissal of any officer or employee of First Capital Realty or any of its Subsidiaries or the immediate request for the resignation of any director of First Capital Realty.*

**B. DISCLOSURE COMMITTEE**

**7. Formation of the Disclosure Committee**

The Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the General Counsel, the Vice President, Accounting and Reporting, the Vice President, Business Process and Risk Management and the Assistant Corporate Secretary will be responsible for the implementation of this Policy and are referred to in this Policy as the "**Disclosure Committee**". In addition, outside legal counsel shall participate in meetings of the Disclosure Committee in an advisory capacity where deemed appropriate by the Disclosure Committee. Three members of the Disclosure Committee (not including Counsel) will constitute a quorum.

**8. Responsibilities of the Disclosure Committee**

The Disclosure Committee has the responsibility to:

- (a) review and approve, before they are Generally Disclosed, all written, electronic and oral statements (including all News Releases, Documents and Public Oral Statements) that may contain Material Information;
- (b) make determinations about whether:
  - (i) any information is Material Information;

- (ii) a Material Change has occurred;
- (iii) selective disclosure has been or might be made; or
- (iv) a Misrepresentation has been made;

and, in this regard, consult with legal counsel or other appropriate expert advisors as the Disclosure Committee may deem necessary;

- (c) make all other determinations under this Policy and grant any permitted exemptions from this Policy;
- (d) monitor the effectiveness of and compliance with this Policy, including the effectiveness of and compliance with policies and procedures governing the practical implementation of this Policy;
- (e) educate the directors, officers and employees of First Capital Realty and its Affiliates about the matters covered by this Policy;
- (f) liaise with Affiliates, as necessary, with respect to this Policy;
- (g) monitor First Capital Realty's web site;
- (h) regularly update this Policy to take account of new developments and best practices; and
- (i) report to the Board of Directors (the "**Board**"), the Audit Committee of First Capital Realty or another committee of the Board as contemplated by section 24 of this Policy and by the other provisions of this Policy.

## **9. Meetings and Minutes**

It is not expected that the Disclosure Committee will have formal meetings and prepare minutes of meetings, although there may be circumstances where the Disclosure Committee considers it desirable to do so. Many decisions made by the Disclosure Committee will be made on a real time basis as a result of informal meetings and consultations among the members of the Disclosure Committee. In all cases, however, the Disclosure Committee should prepare and retain a written or electronic copy of all of its decisions (including any exemptions granted) even if that record consists only of a memorandum-to-file describing the decisions made. The Disclosure Committee shall prepare a quarterly report to be presented and reviewed at each quarterly meeting of the Board, which report may also constitute the record of the Disclosure Committee decisions.

**C. SPOKESPERSONS**

**10. Individuals Who Are Authorized to Speak on Behalf of First Capital Realty**

- (a) Only the following individuals (“**Spokespersons**”) are authorized to make Public Oral Statements, communicate with the media, or give presentations to analysts and investors:
  - (i) the Chairman;
  - (ii) the Chief Executive Officer; and
  - (iii) the Chief Financial Officer.
- (b) The names and telephone numbers of the Spokespersons must be provided to Market Surveillance.
- (c) No other individual has actual or implied authority to make any Public Oral Statement. A Spokesperson may, from time to time, expressly designate certain directors, officers or employees of First Capital Realty to make specific Public Oral Statements or to respond to specific inquiries.
- (d) Everyone to whom this Policy applies who is approached by a securities regulatory authority, a stock exchange, an analyst, the media, an investor, or any member of the public and asked to comment in any material manner on the business or affairs of First Capital Realty must not respond, except to refer all inquiries to the Chief Executive Officer or Chief Financial Officer. The person approached must immediately notify the other members of the Disclosure Committee that the approach was made.

**D. IDENTIFYING MATERIAL INFORMATION**

**11. Responsibility to Advise Disclosure Committee of Potential Material Information**

Anyone subject to this Policy who becomes aware of a new development, circumstance or information that may constitute Material Information must immediately advise at least one member of the Disclosure Committee. If there is any doubt whether any particular information is Material Information, a member of the Disclosure Committee must be consulted.<sup>1</sup>

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<sup>1</sup> Regardless of whether any information may be Material Information, directors, officers and other employees of First Capital Realty or any of its Subsidiaries must treat all information as confidential unless they are absolutely certain the information has been Generally Disclosed. See Section 29 of this Policy.



## **12. Determining Whether or Not Information is Material Information**

- (a) The Disclosure Committee is responsible for determining whether or not information is Material Information, in consultation with legal counsel or such other expert advisors as the Disclosure Committee may deem necessary or appropriate. The Disclosure Committee must consult with one member of the Audit Committee if it determines that information is not Material Information that must be Generally Disclosed.
- (b) In determining whether or not information is Material Information, the Disclosure Committee must, at a minimum, apply the following principles:
  - (i) The determination of whether or not information is Material Information often involves the exercise of difficult business judgment based on experience.
  - (ii) Regulators have provided examples of events and information that they believe may be material. See Appendix B for examples of information that the Canadian Securities Administrators and the TSX believe may be material.
  - (iii) Materiality of information is affected by factors such as First Capital Realty's existing disclosure record, the volatility and liquidity of First Capital Realty's Securities and prevailing market conditions.
  - (iv) If there is doubt about whether particular information is Material Information or has been Generally Disclosed, everyone subject to the Policy should act prudently and conservatively.
- (c) The Disclosure Committee should monitor the market's reaction to the release of information that is Generally Disclosed to assist it in making future judgments about the kinds of information that are likely to be Material Information.

## **E. APPROVALS**

### **13. Approval by Disclosure Committee Before Public Disclosure**

Documents that contain Material Information, including News Releases that are associated with Documents, and Public Oral Statements that contain Material Information, must be reviewed and approved by the Disclosure Committee before they are issued or made. In approving the disclosure, the Disclosure Committee must apply the following principles:

- (a) The Disclosure Committee must be satisfied that the issuance or making, timing of release and content of any Document (including a News Release that is associated with a Document) or Public Oral Statement complies with First Capital Realty's disclosure obligations under applicable law and this Policy.
- (b) Before the issuance of any Document (including a News Release that is associated with a Document) or the making of any Public Oral Statement, the Disclosure Committee must:

- (i) be satisfied that the directors, officers and employees of First Capital Realty (as applicable) have conducted or caused to be conducted, a reasonable investigation to satisfy themselves that a Document (including a News Release that is associated with a Document) or Public Oral Statement is not inaccurate, does not contain a Misrepresentation and is not, in a material respect, misleading or untrue; and
  - (ii) be satisfied that a Document (including a News Release that is associated with a Document) or Public Oral Statement is not inaccurate, does not contain a Misrepresentation and is not, in a material respect, misleading or untrue.
- (c) If any part of a News Release, Document or Public Oral Statement includes, summarizes or quotes from a report, statement or opinion made by an Expert, the Disclosure Committee must obtain the written consent of the Expert to the use of the report, statement or opinion and the Disclosure Committee must be satisfied that:
  - (i) there are no reasonable grounds to believe that there is a Misrepresentation in the part of the News Release, Document or Public Oral Statement made on the authority of the Expert; and
  - (ii) the part of the News Release, Document or Public Oral Statement fairly represents the report, statement or opinion made by the Expert.
- (d) If any part of a Document (including a News Release that is associated with a Document) or Public Oral Statement is based upon disclosure (“**Third Party Disclosure**”) contained in a document filed by a person other than First Capital Realty (a “**Third Party**”) with the Commission or any other securities regulatory authority in Canada or the United States or a stock exchange, the Disclosure Committee must:
  - (i) be satisfied that the Third Party Disclosure was not corrected in another document filed by the Third Party with the Commission or any other securities regulatory authority in Canada or the United States or a stock exchange before the issuance of a Document (including a News Release that is associated with a Document) or the making of the Public Oral Statement;
  - (ii) ensure that a Document (including a News Release that is associated with a Document) or Public Oral Statement contains a reference identifying the document containing the Third Party Disclosure; and
  - (iii) have no reasonable grounds to believe that a Document (including a News Release that is associated with a Document) or Public Oral Statement contained a Misrepresentation.
- (e) If any part of a Document (including a News Release that is associated with a Document) or Public Oral Statement contains Forward-looking Information, the Disclosure Committee must comply with section 28 of this Policy.

- (f) The Disclosure Committee should also consider and be satisfied that approval of the Board and/or the Audit Committee is not necessary or desirable prior to the issuance of a News Release or other Non-Core Document or the making of a Public Oral Statement. The Disclosure Committee must not, however, delay the issuance of a News Release which the Disclosure Committee considers to be required by applicable law or this Policy for the purpose of obtaining the approval of the Board.

#### **14. Approval of Financial Information by the Audit Committee**

In addition to approval by the Disclosure Committee, all News Releases disclosing financial information, including the results of operations for an interim or annual period and changes to any Earnings Guidance must be approved by the Audit Committee prior to approval by the Board. If not inconsistent with First Capital Realty's obligation under securities laws, where practicable, the financial statements should be filed with the securities regulatory authorities at the same time as or reasonably promptly after the earnings are announced in a News Release.

#### **15. Approval of Core Documents by Board**

Each Core Document must be reviewed and approved by the applicable committee of the Board and the Board before its issuance.

The Disclosure Committee or the members of Senior Management who are responsible for the oversight and/or preparation of the applicable document (the "Responsible Persons") must report to the Board that:

- (a) the Disclosure Committee or Responsible Persons have reviewed the Core Document and approved its issuance;
- (b) after reasonable inquiry:
  - (i) it is or they are satisfied that the Core Document is not inaccurate, does not contain a Misrepresentation and is not, in any material respect, misleading or untrue;
  - (ii) if any part of a Core Document includes summaries or quotes from a report, statement or opinion made by an Expert, the Disclosure Committee has obtained the written consent of the Expert to the use of the report, statement or opinion and the Disclosure Committee or Responsible Persons are satisfied that:
    - (A) there are no reasonable grounds to believe that there is a Misrepresentation in the part of the Core Document made on the authority of the Expert; and
    - (B) the part of the Core Document made on the authority of the Expert, fairly represents the report, statement or opinion made by the Expert;

- (iii) if any part of a Core Document is based upon Third Party Disclosure, the Disclosure Committee or Responsible Persons are satisfied that:
  - (A) the Third Party Disclosure was not corrected in another document filed by the Third Party with the Commission or any other securities regulatory authority in Canada or the United States or a stock exchange before the issuance of the Core Document by First Capital Realty;
  - (B) the Core Document contains a reference identifying the document containing the Third Party Disclosure; and
  - (C) the Core Document does not contain a Misrepresentation; and
- (iv) First Capital Realty's disclosure control system would in the ordinary course have given the Disclosure Committee or Responsible Persons knowledge of all the facts relevant to be disclosed in the Core Document.

**F. DISCLOSURE OF MATERIAL INFORMATION**

**16. Disclosure of Material Changes**

The Disclosure Committee must ensure that:

- (a) subject to section 19, all Material Changes are Generally Disclosed forthwith upon the occurrence of the Material Change; and
- (b) all Material Changes are reported in a material change report that is filed with securities regulatory authorities in Canada as soon as practical and in any event no later than ten days after the Material Change occurs.

**17. Disclosure of Material Information that Does Not Constitute a Material Change**

Subject to section 19, Material Information that does not constitute a Material Change must be Generally Disclosed forthwith upon becoming known to the directors, officers and employees of First Capital Realty and its Subsidiaries, or in the case of information previously known, upon discovering that the information is Material Information.

**18. Procedures When Material Information is Being Generally Disclosed**

- (a) The following procedure should be followed when Material Information is being Generally Disclosed:
  - (i) Market Surveillance should be contacted before:
    - (A) the issuance of a News Release, if the TSX will be open at the time the News Release is to be issued, and be advised of the Material

Information, the timing of the disclosure and whether a trading halt is requested, and be sent a copy of the proposed News Release by fax or email; or

- (B) trading opens on the next Trading Day if the TSX was closed at the time the News Release was issued, and be advised of the News Release.
- (ii) a full-text News Release should be issued through a full-text news service providing wide dissemination to the Canadian financial press and daily newspapers in the areas where First Capital Realty has operations and to all TSX participating organizations and securities regulatory authorities.
- (b) Everyone to whom this Policy applies must treat the Material Information as Undisclosed Material Information until it has been Generally Disclosed.
- (c) If circumstances permit, where the Material Information being Generally Disclosed is a planned disclosure (such as a scheduled earnings release) which is to be followed by a media conference call, First Capital Realty should:
  - (i) include in the News Release the date and time of the conference call, the subjects to be discussed and the means for accessing the conference call;
  - (ii) hold the conference call in an open manner, permitting investors and others to listen either by telephone or through the Internet; and
  - (iii) provide dial-in and/or web replay of the conference call or make transcripts available for some reasonable period after the conference call.
- (d) A copy of every News Release issued by First Capital Realty and of every material change report filed by First Capital Realty must be promptly distributed to the Board.

**19. Where Disclosure of Material Information Would Be Detrimental**

- (a) If the Disclosure Committee, after consultation with legal counsel and such other expert advisors as it deems necessary or appropriate, is of the opinion, and if that opinion is arrived at in a reasonable manner, that the issuance of a News Release announcing Material Information would be unduly detrimental to First Capital Realty's interests, the Disclosure Committee may:
  - (i) authorize and approve the filing of a confidential material change report in accordance with applicable securities law; and
  - (ii) follow the confidentiality procedures set out in paragraph (b) of this section.
- (b) When Material Information has not been Generally Disclosed in the circumstances described in paragraph (a) of this section, the Disclosure Committee must:

- (i) take steps to ensure that all persons with knowledge of the Material Information are aware of their obligation to keep the information confidential until such time as it is disclosed in a News Release and to refrain from purchasing or selling Securities of First Capital Realty or Related Financial Instruments, and Securities and related financial instruments of any other issuer that is affected by the Material Information, until such time as the information has been Generally Disclosed;
  - (ii) take reasonable steps to ensure that First Capital Realty does not release a Document or make a Public Oral Statement that, due to the Undisclosed Material Information, may contain a Misrepresentation;
  - (iii) promptly Generally Disclose the Material Information when in the reasonable opinion of the Disclosure Committee:
    - (A) the reasonable basis for confidentiality ceases to exist;
    - (B) the Material Information has become publicly known in a manner other than required under applicable securities law; or
    - (C) First Capital Realty has become aware or has reasonable grounds to believe that persons are purchasing or selling Securities of First Capital Realty or Related Financial Instruments, or Securities or related financial instruments of any other issuer that is affected by the Material Information, with knowledge of the Material Information;
  - (iv) monitor market trading activity in First Capital Realty's Securities, and in the Securities of any other issuer that is affected by the Material Information, in order to be able to make the determinations referred to in clauses (iii)(B) or (C) above; and
  - (v) review the circumstances at least every ten days and either renew the confidential filing of the material change report or ensure that the Material Information is promptly Generally Disclosed.
- (c) When a confidential material change report is filed or renewed, the Disclosure Committee must promptly advise the Board of:
- (i) the fact that a confidential material change report was filed or renewed and distribute a copy of the confidential material change report to them; and
  - (ii) the reasons for concluding that it would be unduly detrimental to First Capital Realty's interests for the Material Information to be Generally Disclosed.

## **20. News Releases**

- (a) A News Release must generally comply with the following requirements:
  - (i) The information in a News Release must be factual and balanced and must include any information the omission of which would make the News Release misleading.
  - (ii) Unfavourable information must be disclosed as promptly and completely as favourable information.
  - (iii) The News Release must contain sufficient detail to enable the media and investors to understand the substance and importance of the information being disclosed.
  - (iv) The News Release must contain the name and contact information of Spokespersons from whom further information may be obtained.
  - (v) Disclosure should not be made of an intention to proceed with a transaction or action unless First Capital Realty has the ability to carry out the intention.
- (b) The Disclosure Committee must obtain the approval of the Board or Audit Committee before issuing a News Release containing:
  - (i) Earnings Guidance; or
  - (ii) financial information that is based on or derived from First Capital Realty's financial statements.

## **21. Correcting Errors**

If the Disclosure Committee determines that a News Release, Document or a Public Oral Statement issued or made contains a Misrepresentation or is in any material respect misleading or untrue, or there has been a failure by First Capital Realty to make timely disclosure of a Material Change, the Disclosure Committee must:

- (a) take immediate steps to Generally Disclose correcting information or the Material Change; and
- (b) immediately advise the Board.

## **22. Quiet Period**

- (a) In order to avoid the potential for selective disclosure or even the perception or appearance of selective disclosure, First Capital Realty and its directors, officers and other employees will observe a "Quiet Period" commencing two weeks

prior to the date when the earnings for a quarter or year are scheduled to be publicly disclosed by way of a News Release and ending when such News Release has been Generally Disclosed.

- (b) During this time, neither First Capital Realty nor any of its directors, officers or other employees will initiate or respond to requests for any meetings (including public speaking engagements and investor presentations) or telephone or other communications with analysts, the media, market professionals, investors and the public relating to a review of or comment on analysts' financial models or reports, earnings, Earnings Guidance or other forward-looking information.
- (c) For greater certainty, during a Quiet Period, First Capital Realty and its directors, officers and other employees may nevertheless respond to requests for any meetings (including public speaking engagements and investor presentations) or telephone or other communications with analysts, the media, market professionals, investors or the public relating to non-earnings information, non-Earnings Guidance or other non-forward-looking information, or relating to non-Material Information or Material Information that has previously been Generally Disclosed.
- (d) Should inquiries be made during a Quiet Period concerning analysts' financial models or reports, earnings information, Earnings Guidance or other forward-looking information, First Capital Realty and its directors, officers and other employees will clearly state to participants that it is First Capital Realty's policy not to discuss such matters.

### **23. Disclosure Record**

First Capital Realty must retain an up-to-date paper or electronic file containing copies of all News Releases, Documents that contain Material Information, Public Oral Statements that contain Material Information (to the extent that there is a paper or electronic file containing such statements) and transcripts, recordings, minutes or presentation materials (as applicable) of all shareholders' meetings, news conferences, analysts' conferences, private meetings with analysts, industry conferences and on-line conferences for at least five years. First Capital Realty must also retain (to the extent practicable) a record of participants in analysts' conferences, private meetings with analysts, industry conferences and on-line conferences.

### **24. Reporting to the Board**

- (a) The Disclosure Committee should keep the Board informed of all significant corporate developments and Material Information that has been Generally Disclosed.
- (b) In addition to the other reporting to the Board contemplated by this Policy, the Disclosure Committee must report promptly to the Audit Committee and the Board from time to time any significant issues arising under this Policy (such report to be made at the time such issues arise), including any circumstances where:



- (i) there may have been a Misrepresentation in a New Release, Document or Public Oral Statement;
  - (ii) there may have been a failure to make disclosure of Material Changes when required under applicable securities law,
  - (iii) there has been a material breach of this Policy;
  - (iv) there is a serious occurrence of selective disclosure, or
  - (v) securities regulatory authorities or the TSX have asked questions about or inquired into First Capital Realty's disclosure practices or whether any News Release, Document or Public Oral Statement may have contained a Misrepresentation or was, in any material respect, misleading or untrue or whether First Capital Realty has failed to make disclosure of a Material Change when required.
- (c) The Disclosure Committee must report to the Audit Committee and to the Board at least quarterly as to the effectiveness of and compliance with this Policy.

**G. AVOIDING SELECTIVE DISCLOSURE**

**25. Shareholders' Meetings, News Conferences, Analysts' Conferences, Industry Conferences and On-Line Conferences**

- (a) Selective disclosure occurs when Undisclosed Material Information is communicated to particular persons such as analysts, institutional investors, investment dealers or other third parties, other than in the necessary course of First Capital Realty's business. ***No selective disclosure of Undisclosed Material Information, including Earnings Guidance, is permitted.***
- (b) When participating in shareholders' meetings, news conferences, analysts' conferences, private meetings with analysts, industry conferences and on-line conferences and in any other circumstances where a Public Oral Statement may be made, First Capital Realty Spokespersons must take care to disclose only information that is not Material Information or that is Material Information that has previously been Generally Disclosed. For greater certainty, acceptable topics of discussion may, depending on the circumstances, include First Capital Realty's general prospects, the business environment, management's philosophy and long-term strategy.
- (c) To protect against selective disclosure, the following procedures must be followed where practical:
  - (i) First Capital Realty Spokespersons who are participating in meetings or conferences of the nature referred to in paragraph (b) above, should script their

comments when considered appropriate and consider answers to anticipated questions in advance of the meeting or conference;

- (ii) scripts (if any) must be reviewed and approved by the Disclosure Committee (or by at least one member of the Disclosure Committee other than the member who has prepared the scripts or is proposing to make the statements contemplated for the scripts) before the meeting or conference and any Undisclosed Material Information that is contained in the scripts must be Generally Disclosed before the meetings or conferences or deleted from the scripts if it is premature for the information to be Generally Disclosed; and
  - (iii) meeting and conference transcripts, records, minutes or presentation materials (as applicable) must be retained.
- (d) The Disclosure Committee will be responsible for scheduling all conference calls with analysts, investors, shareholders and related groups and for the preparation and delivery of related communications to them. When access to conference calls with analysts is made available to the public, the public will be notified of the date, time and subject matter of the call, and the access telephone number or webcast access information by way of a News Release issued and posted on the First Capital Realty website prior to each call/webcast.

## **26. Identifying and Rectifying Selective Disclosure**

- (a) Immediately after each shareholders' meeting, news conference, analysts' conference, private meeting with analysts, industry conference or on-line conference or following the making of any other Public Oral Statement, First Capital Realty Spokespersons and other participants must review the disclosures made during the course of the meeting or conference or in the Public Oral Statement to determine if any Undisclosed Material Information was disclosed.
- (b) If Undisclosed Material Information was disclosed, First Capital Realty must take immediate steps to ensure that the information is Generally Disclosed and must immediately report the circumstances to the Board.
- (c) Pending the Material Information being Generally Disclosed, First Capital Realty must, promptly and using reasonable means, contact the parties to whom the information was disclosed and inform them:
  - (i) that the relevant information is Undisclosed Material Information; and
  - (ii) that they have a legal obligation to not disclose the information to others or to trade in Securities of First Capital Realty or Related Financial Instruments, or the Securities or related financial instruments of any other issuer that is affected by the Material Information.

## **H. FORWARD-LOOKING INFORMATION**

### **27. First Capital Realty's Practice Regarding Analysts' Reports**

- (a) When reviewing analysts' reports, the review should be limited to identifying factual information which has been Generally Disclosed that may affect an analyst's model and pointing out factual inaccuracies or omissions with respect to information that has been Generally Disclosed. Any comments (preferably made in writing) must include a disclaimer that the report was reviewed for factual accuracy only. No comfort or guidance should be expressed on the analysts' earnings models or earnings estimates and no attempt should be made to influence an analyst's opinion or conclusion.
- (b) It is the policy of First Capital Realty to communicate or provide to analysts only information that is not Undisclosed Material Information and Material Information that has been Generally Disclosed.
- (c) Analysts' reports must not be circulated to any third party nor should they be posted on First Capital Realty's web site.

### **28. First Capital Realty's Practice Regarding Earnings Guidance and Other Forward-Looking Information**

- (a) First Capital Realty may from time to time give Earnings Guidance or provide other Forward-looking Information through voluntary disclosure if the cautionary language described in paragraphs (c) and (d) of this section accompanies the information.
- (b) If Forward-looking Information is proposed to be disclosed, whether in writing or orally:
  - (i) the Disclosure Committee must be satisfied that there is a reasonable basis for drawing a conclusion or making any forecast or projection contained in the Forward-looking Information;
  - (ii) the Disclosure Committee must approve the disclosure of the Forward-looking Information; and
  - (iii) the Forward-looking Information must be accompanied by a statement that First Capital Realty does not commit to update Forward-looking Information except as required by applicable law. As a practical matter, if Forward-looking Information becomes misleading as a result of subsequent events, then the information that would correct that Forward-looking Information may itself constitute Material Information that must be immediately disclosed. In addition, First Capital Realty may voluntarily choose to update Forward-looking information so analysts and other interested parties may process it.
- (c) If the Forward-looking Information is contained in a Document, the Document must contain, proximate to the Forward-looking Information:

- (i) reasonable cautionary language identifying the information as Forward-looking Information;
  - (ii) the material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the Forward-looking Information; and
  - (iii) the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the Forward-looking Information);
- (d) If the Forward-looking Information is contained in a Public Oral Statement, the person making the Public Oral Statement must be instructed to:
- (i) make a cautionary statement that his or her comments contain Forward-looking Information;
  - (ii) state that the actual results could differ materially from a conclusion, forecast or projection in the Forward-looking Information;
  - (iii) state that certain material factors or assumptions were applied in drawing a conclusion or making a forecast or projection reflected in the Forward-looking Information; and
  - (iv) identify a readily-available Document (or portion of a readily-available Document) where additional information can be found about the material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the Forward-looking Information, and the material factors or assumptions that were applied in drawing the conclusion or making a forecast or projection as reflected in the Forward-looking Information.

## I. MAINTAINING CONFIDENTIALITY

### 29. Confidentiality

- (a) Directors, officers and employees of First Capital Realty and its Affiliates must keep all Material Information about First Capital Realty confidential until it has been Generally Disclosed. ***Disclosure of Undisclosed Material Information, other than in the necessary course of business, may constitute illegal Tipping under applicable securities law and may subject the individual making the disclosure to severe penalties, including possible jail term.*** Accordingly, directors, officers and employees of First Capital Realty and its Affiliates must assume that all information about First Capital Realty is confidential unless they are absolutely certain that the information has been Generally Disclosed or they have first consulted with a member of the Disclosure Committee and have been advised that the information has been Generally Disclosed.
- (b) To prevent the inadvertent disclosure of Undisclosed Material Information, the following procedures must be followed:

- (i) documents and files containing Undisclosed Material Information must be kept in a secure place with access restricted to those individuals for whom access is necessary in the course of business;
- (ii) access to electronic documents must be restricted through the use of passwords;
- (iii) code names must be used when it is prudent to do so;
- (iv) Undisclosed Material Information must not be discussed in places where the discussion may be overheard, such as elevators, hallways, restaurants, public transit, airplanes or taxis;
- (v) documents containing Undisclosed Material Information must not be read or displayed in public places and must not be discarded where others can retrieve them;
- (vi) directors, officers and employees of First Capital Realty and its Affiliates must ensure that they maintain the confidentiality of information in their possession outside of the office as well as inside the office;
- (vii) transmission of documents containing Undisclosed Material Information by electronic means may only be made only where it is reasonable to believe that the transmission can be made and received securely; and
- (viii) unnecessary copying of documents containing Undisclosed Material Information must be avoided and extra copies of documents must be promptly removed from meeting rooms and work areas at the conclusion of a meeting and must be destroyed.

**30. Disclosure Permitted if Necessary in the Course of Business**

- (a) Undisclosed Material Information may be disclosed to those subject to this Policy if it is in the necessary course of First Capital Realty's business. ***Communication of Undisclosed Material Information other than in the necessary course of business may be illegal Tipping, even if a confidentiality agreement has been entered into.*** Appendix C lists circumstances where securities regulatory authorities believe disclosure may be in the necessary course of business. Individuals should consult with a member of the Disclosure Committee to determine whether disclosure in a particular circumstance is in the necessary course of business.
- (b) For greater certainty, disclosure of Undisclosed Material Information to credit rating agencies will generally be considered to be in the necessary course of business (any such disclosure must, however, be approved by a member of the Disclosure Committee), but disclosure to analysts, institutional investors, other market professionals and members

of the press and other media is not considered to be in the necessary course of business.

- (c) If Undisclosed Material Information is disclosed in the necessary course of business, the recipient should be advised that the information is Material Information that has not been Generally Disclosed. In appropriate circumstances, a confidentiality agreement should be entered into between First Capital Realty and the recipient.
- (d) Where any Undisclosed Material Information communicated in the necessary course of business becomes publicly known on a selective basis, there are rumours in the market with respect to such information or there are reasonable grounds to believe that persons are purchasing or selling Securities of First Capital Realty or Related Financial Instruments with knowledge of such information, the Material Information must be promptly Generally Disclosed by News Release.

### **31. Confidentiality Agreements**

When Undisclosed Material Information is disclosed to a third party in the necessary course of business, it is prudent for First Capital Realty to obtain, in appropriate circumstances, a written agreement from such third party that it will not divulge the information to anyone (other than to officers or other employees of the third party who need to know the information for the purposes for which the Undisclosed Material Information was communicated to them) without written authorization from First Capital Realty and that the third party understands the restrictions under applicable law not to purchase or sell Securities of First Capital Realty or Related Financial Instruments, or Securities or related financial instruments of any other entity to which the information relates, until the transaction, development or event has been Generally Disclosed or has been abandoned.

### **32. Rumours**

- (a) When asked to comment on market rumours, Spokespersons must consistently respond by stating that “it is First Capital Realty’s policy not to comment on market rumours or speculation”. Inconsistent commenting on rumours may constitute selective disclosure.
- (b) When requested by Market Surveillance, or other regulators to make a clarifying statement, First Capital Realty should, if in the opinion of the Disclosure Committee it is appropriate to do so, promptly issue a News Release:
  - (i) denying the rumour, if the rumour is false; or
  - (ii) disclosing the relevant Material Information, if the rumour is correct in whole or in part.
- (c) If Undisclosed Material Information has leaked or become known and appears to be affecting trading activity in First Capital Realty’s Securities, immediate steps must be taken to Generally Disclose the information.

**J. ELECTRONIC COMMUNICATIONS**

**33. Web site**

- (a) The Disclosure Committee is responsible for creating and maintaining an investor relations page on First Capital Realty's web site. The purpose of the investor relations page is to improve investor access to corporate information. First Capital Realty's web site must be maintained in accordance with the following requirements:
- (i) investor relations information must be placed on a separate page on the web site and must not be commingled with any sales and marketing or promotional material regarding First Capital Realty;
  - (ii) only information that is not Material Information, or that is Material Information that has been Generally Disclosed, may be placed on the investor relations page or the web site;
  - (iii) the following information must be posted on the investor relations page:
    - (A) Material Information that has previously been Generally Disclosed;
    - (B) information that is not Material Information that is regularly given to analysts, institutional investors and other market professionals (such as fact sheets, fact books, slides of investor presentations, materials distributed at analyst and industry conferences); and
    - (C) transcripts or web replays (to the extent any are created for this purpose) of shareholders' meetings, earnings conference calls, or presentations given by First Capital Realty at industry conferences or on-line conferences;
  - (iv) the investor relations page or the web site should contain an e-mail link to facilitate communication with investors;
  - (v) all information posted to the investor relations page must indicate the date on which it was last reviewed and include a notice (or a link thereto) that advises the reader that the information may be superseded by subsequent disclosures;
  - (vi) inaccurate information must be promptly removed from the investor relations page and a correction posted;
  - (vii) information contained on the investor relations page must be archived when it is no longer current;
  - (viii) a list of all (and not less than all) analysts known to follow First Capital Realty may be posted on the investor relations page, but analysts' reports and other

information authored by third parties must not be posted on the investor relations page or First Capital Realty's web site;

- (ix) all links from the investor relations page or First Capital Realty's web site to external web sites must be approved by the Disclosure Committee. First Capital Realty's web site must contain a disclaimer advising readers that First Capital Realty is not responsible for external content/media that is embedded within the First Capital Realty web site or for content/media that is linked from the First Capital Realty web site; and
  - (x) no links may be created from the investor relations page or First Capital Realty's web site to chat rooms, newsgroups or bulletin boards.
- (b) The following minimum retention periods must be observed for information on the investor relations page of First Capital Realty web site:
- (i) news releases must be retained for a period of one year from the date of issue;
  - (ii) quarterly financial statements must be retained for two years;
  - (iii) annual financial statements must be retained for five years; and
  - (iv) other information must be retained while current.
- (c) If First Capital Realty is considering a public distribution of its Securities, the content of the web site must be reviewed with legal counsel before and during the offering to ensure compliance with Canadian and, if applicable, foreign securities laws.

**34. Social Media**

- (a) Directors, officers and employees of First Capital Realty and its Subsidiaries must not discuss or post any material undisclosed information relating to First Capital Realty or any First Capital Realty proprietary information in any social media or similar communication or information sharing media. Directors, officers and employees of First Capital Realty and its Subsidiaries must also adhere to First Capital Realty's Internet Acceptable Use Policy.

**K. PURCHASE AND SALE OF FIRST CAPITAL REALTY SECURITIES**

**35. Trading Officer**

For the purposes of this Policy, "Trading Officer" will mean any one of the Chief Financial Officer and the General Counsel.



**36. Pre-approval of Trades**

- (a) Each Designated Insider and each Associate of a Designated Insider must obtain the approval of a Trading Officer before purchasing or selling any Securities of First Capital Realty or Related Financial Instruments.
- (b) A Trading Officer must obtain the approval of the Chief Executive Officer before purchasing or selling any Securities of First Capital Realty or Related Financial Instruments.

**37. Prohibitions on Trading First Capital Realty Securities**

- (a) No one subject to this Policy may purchase or sell Securities of First Capital Realty or Related Financial Instrument while they possess Undisclosed Material Information. Doing so would constitute a breach of this Policy and illegal Insider Trading.
- (b) No one subject to this Policy may purchase or sell Securities of First Capital Realty or Related Financial Instrument during a Black-out Period.
- (c) The prohibitions in (a) and (b) above apply to grants of options, restricted share units and deferred share units under First Capital Realty's equity-based compensation plans.
- (d) No Reporting Insider may sell common shares of First Capital Realty during an Offering Restricted Trading Period.

**38. Exceptions**

- (a) Despite (x) section 37(b), anyone subject to this Policy may purchase or sell Securities (or Related Financial Instruments) during a Black-out Period, and (y) section 37(d), anyone subject to the restriction in such section may sell common shares of First Capital Realty, in each case, with the prior consent of:
  - (i) any three disinterested directors of First Capital Realty (which approval may be confirmed with each of them individually), in the case of:
    - First Capital Realty itself or any of its Subsidiaries;
    - the President and Chief Executive Officer of First Capital Realty or any one of his or her direct reports;
    - any director of First Capital Realty;
    - any Significant Shareholder of First Capital Realty;

- any director, the Chief Executive Officer, the Chief Financial Officer or the Chief Operating Officer of any Significant Shareholder of First Capital Realty;
  - any Associate of any one of the foregoing persons or entities.
- (ii) the Disclosure Committee (based on a unanimous decision of the disinterested members of the Disclosure Committee present (being at least three disinterested members) at a meeting called for this purpose), in the case of any other person or entity subject to this Policy.

Pursuant to this section 38(a), permission to purchase or sell Securities (or Related Financial Instruments) during a Black-out Period and permission to sell common shares of First Capital Realty during an Offering Restricted Trading Period, as the case may be, may be granted only in special circumstances.

- (b) The trading prohibitions in section 37 do not apply to the acquisition of Securities through the exercise of stock options, warrants or convertible debentures but do apply to the subsequent sale of the Securities received on such exercise.
- (c) The trading prohibitions in section 37 do not apply to the acquisition of Securities through First Capital Realty's Dividend Reinvestment Plan and Directors Deferred Share Unit Plan. However, any Designated Insider and each Associate of a Designated Insider must provide a Trading Officer with six months' prior written notice of any intention to enroll in such plans or any proposed variation, suspension or termination of his, her or its participation in such plans.
- (d) The trading prohibitions in section 37 do not apply to the acquisition of Securities through an Automatic Share Purchase Plan. However, the enrollment in such plan by any Person in a Special Relationship with First Capital Realty and each Associate of anyone in a Special Relationship with First Capital Realty or any variation, suspension or termination of his, her or its participation in such plan is subject to the trading prohibitions in section 37.

### **39. Other Issuers**

Illegal Insider Trading in Securities of another public issuer and illegal Tipping of undisclosed material information relating to another issuer can bring First Capital Realty into disrepute. Accordingly, neither First Capital Realty nor anyone subject to this Policy who possesses undisclosed material information relating to that other issuer may:

- (a) purchase or sell Securities or related financial instruments of the other issuer while they possess the undisclosed material information;
- (b) engage in Tipping of the undisclosed material information relating to the other issuer; or

- (c) recommend or encourage another person to purchase or sell Securities of the other issuer or transact in a related financial instrument while they possess undisclosed material information.

**40. Speculation, Hedging and Short Sales**

- (a) No one subject to this Policy may purchase or sell Securities of First Capital Realty with the intention of reselling or repurchasing in a relatively short period of time in the expectation of a short-term rise or fall in the market price of the Securities of First Capital Realty. Speculating in Securities of First Capital Realty for short term profit is distinguished from purchasing and selling Securities of First Capital Realty as part of a long term investment program.
- (b) No one subject to this Policy may, at any time, purchase financial instruments, including, for greater certainty, prepaid variable forward contracts, instruments for the short sale or purchase or sale of call or put options, equity swaps, collars, or units of exchangeable funds, that are designed to or that may reasonably be expected to have the effect of hedging or offsetting a decrease in the market value of any Securities of First Capital Realty.

**41. Insider Reports**

- (a) It is the personal responsibility of each Insider that is a Reporting Insider to comply with his, her or its obligation to report purchases and sales of Securities of First Capital Realty or Related Financial Instruments in accordance with applicable law.
- (b) In order to ensure that purchases and sales of Securities of First Capital Realty or Related Financial Instruments (which, in this context, includes restricted share units, deferred share units, stock appreciation rights and other similar instruments issued under First Capital Realty's equity compensation plans) are reported on a timely basis, each Insider that is a Reporting Insider must promptly inform a Trading Officer after a purchase or sale of Securities of First Capital Realty or Related Financial Instruments has been completed. A Trading Officer will file an insider report in respect of such purchase or sale on behalf of such Reporting Insider with the applicable securities regulatory authorities not later than the time such report is required to be filed under applicable law. If an Insider that is a Reporting Insider wishes to file insider reports directly, he, she or it must submit a copy of any such report to a Trading Officer at the time of filing or otherwise advise a Trading Officer of same.

## APPENDIX A

### DEFINITIONS

**“Affiliate”** of First Capital Realty means an entity that directly or indirectly Controls or is Controlled by First Capital Realty or an entity that is directly or indirectly Controlled by the same entity that Controls First Capital Realty and includes each Subsidiary of First Capital Realty.

**“Associate”** of a person or entity subject to this Policy means:

- (a) an entity of which the person or entity beneficially owns, directly or indirectly, voting Securities carrying more than 10% of the voting rights attached to all voting Securities;
- (b) any business partner of the person or entity;
- (c) any trust or estate in which the person or entity has a substantial beneficial interest or as to which the person or entity serves as a trustee;
- (d) the spouse or common law spouse of the person, whether or not of the opposite sex, who resides in the same home as such person; and
- (e) any relative of the person or his or her spouse or common law spouse referred to in (d) who resides in the same home as the person.

**“Automatic Share Purchase Plan”** means a plan to facilitate the acquisition of Securities of First Capital Realty if the timing of acquisitions of Securities, the number of Securities which may be acquired under the plan and the price payable for the Securities under the plan are established by written formula or criteria set out in a plan document at the time of establishment of the plan and the ability to vary, suspend or terminate the plan is meaningfully restricted; provided, however, that the plan was entered into, varied, amended or terminated prior to the acquisition of knowledge of a Material Fact or Material Change that had not been Generally Disclosed.

**“Black-out Period”** means:

- (a) the period commencing on the date that is three weeks after the end of each quarter, or such earlier date as the Chief Financial Officer may determine, and ending when earnings for that quarter have been Generally Disclosed; and
- (b) any other period designated as such by the Disclosure Committee.

**“Commission”** means the Ontario Securities Commission.

**“Controlled”**: for the purposes of the definition of “Subsidiary”, an entity is considered to be controlled by First Capital Realty if

- (a) in the case of an entity that has directors, (i) First Capital Realty beneficially owns or exercises control or direction over voting Securities of the entity carrying more than 50

per cent of the votes for the election of directors and (ii) the votes carried by the Securities entitle First Capital Realty to elect a majority of the directors of the entity;

- (b) in the case of a partnership or other entity that does not have directors, other than a limited partnership, First Capital Realty beneficially owns or exercises control or direction over more than 50 per cent of the voting interests in the partnership or other entity; or
- (c) in the case of an entity that is a limited partnership, First Capital Realty is the general partner or controls the general partner within the meaning of paragraph (a) or (b).

**“Core Document”** means a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a rights offering circular, MD&A, an annual information form, an information circular, annual and interim financial statements and material change reports.

**“Designated Insider”** includes, with respect to First Capital Realty, a person who is:

- (a) a director or officer of First Capital Realty or any of its Subsidiaries;
- (b) an employee of First Capital Realty or any of its Subsidiaries who holds the title of Vice President or a higher designation;
- (c) any other employee as determined by the Disclosure Committee;
- (d) any person or company who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the outstanding voting Securities of First Capital Realty or any of its Subsidiaries and any director or officer of such person or company; and
- (e) any person who receives Material Undisclosed Information from a person who the recipient of such Material Undisclosed Information knows is a person listed in (a) through (c) above.

**“Dividend Reinvestment Plan”** means First Capital Realty’s Dividend Reinvestment Plan.

**“Document”** means any written communication, including a communication prepared and transmitted only in electronic form, by First Capital Realty disclosing information with respect to the business, operations, capital, financial performance or prospects of First Capital Realty and includes any communication:

- (a) that is required to be filed with the Commission;
- (b) that is filed with the Commission;
- (c) that is filed or required to be filed with any stock exchange or quotation and trade reporting system; or

- (d) the content of which would reasonably be expected to affect the market price or value of the Securities of First Capital Realty.

**“Earnings Guidance”** means information about expected revenues, net income or profit, earnings per unit, expenditure levels, and other financial information of First Capital Realty commonly referred to as earnings guidance.

**“Expert”** means a person or trust whose profession gives authority to a statement made by the person or trust in a professional capacity, including an accountant, an actuary, an appraiser, an auditor, an engineer, a financial analyst, and a lawyer.

**“Forward-looking Information”** means Earnings Guidance and other disclosure about First Capital Realty regarding possible events, conditions or results of operations that is based on assumptions about future economic conditions and courses of action and includes future-oriented financial information with respect to prospective results of operations, financial position or cash flows that is presented either as a forecast or a projection.

**“Generally Disclosed”** means the public disclosure of information in a manner reasonably intended to result in broad dissemination to the marketplace and the passage of sufficient time to permit adequate dissemination in the market and to give investors reasonable time to analyze the information, and to **“Generally Disclose”** means to disseminate information in that manner. For purposes of the preceding sentence, “sufficient time” will generally mean 24 hours, but may vary depending on factors such as the nature and complexity of the information disclosed, the manner of dissemination, how broadly First Capital Realty is followed by analysts and various other factors; for instance, in the case of quarterly and annual earnings releases it will generally mean the earlier of (i) two Trading Days or (ii) three calendar days.

**“Insider”** includes:

- (a) directors and senior officers of First Capital Realty;
- (b) directors and senior officers of First Capital Realty’s Affiliates; and
- (c) any person or company who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the outstanding voting Securities of First Capital Realty or any of its Subsidiaries and any director or senior officer of such person or company.

**“Major Subsidiary”** means a subsidiary of First Capital Realty if

- (a) the assets of the subsidiary, as included in First Capital Realty’s most recent annual audited or interim balance sheet, or, for a period relating to a financial year beginning on or after January 1, 2011, a statement of financial position, are 30 per cent or more of the consolidated assets of First Capital Realty reported on that balance sheet or statement of financial position, as the case may be, or

- (b) the revenue of the subsidiary, as included in First Capital Realty's most recent annual audited or interim income statement, or, for a period relating to a financial year beginning on or after January 1, 2011, a statement of comprehensive income, is 30 per cent or more of the consolidated revenue of First Capital Realty reported on that statement.

**"Market Surveillance"** means the Market Surveillance division of Market Regulation Services Inc.

**"Material Change"** means a change in the business, operations or capital of First Capital Realty that would reasonably be expected to have a significant effect on the market price or value of any of the Securities of First Capital Realty and includes a decision by the Board or by senior management (where management believes that Board confirmation of the decision is probable) to implement such a change.

**"Material Fact"** means any fact that would reasonably be expected to have a significant effect on the market price or value of any of the Securities of First Capital Realty.

**"Material Information"** means Material Changes and Material Facts.

**"MD&A"** means management's discussion and analysis of financial condition and results of operations prepared in accordance with applicable securities law.

**"Misrepresentation"** means an untrue statement of Material Fact or an omission to state a Material Fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

**"News Release"** means a news release that is to be or has been Generally Disclosed.

**"Non-Core Document"** means a Document other than a Core Document.

**"Offering"** means an offering to the public, including a secondary offering to the public, of common shares of First Capital Realty in respect of which First Capital Realty has filed a prospectus.

**"Offering Restricted Trading Period"** means the period:

- (a) commencing on the day of the announcement of the Offering or such other date as may be determined by the Disclosure Committee; and
- (b) ending on the day following the completion of the "issuer-restricted period" as defined in Ontario Securities Commission Rule 48-501, or such other date as may be determined by the Disclosure Committee.

**"Public Oral Statement"** means an oral statement relating to the business or affairs of First Capital Realty, that is made by or on behalf of First Capital Realty in circumstances in which a reasonable person would believe that information will be disclosed to the public.

**“Related Financial Instrument”** means:

- (a) an instrument, agreement or security where the value, market price or payment obligations are derived from, referenced to or based on the value, market price or payment obligations of a Security of First Capital Realty; and
- (b) any other instrument, agreement or understanding that affects, directly or indirectly:
  - (i) a person’s economic interest in a Security of First Capital Realty; or
  - (ii) economic exposure to First Capital Realty, or another reporting issuer.

**“Reporting Insider”** means an Insider of First Capital Realty if the Insider is:

- (a) the Chief Executive Officer, Chief Financial Officer or Chief Operating Officer of First Capital Realty, of a Significant Shareholder of First Capital Realty or of a Major Subsidiary of First Capital Realty;
- (b) a director of First Capital Realty, of a Significant Shareholder of First Capital Realty or of a Major Subsidiary of First Capital Realty;
- (c) a person or company responsible for a principal business unit, division or function of First Capital Realty;
- (d) a Significant Shareholder of First Capital Realty;
- (e) a Significant Shareholder based on post-conversion beneficial ownership of First Capital Realty’s Securities and the Chief Executive Officer, Chief Financial Officer or Chief Operating Officer and every director of the Significant Shareholder based on post-conversion beneficial ownership (a person or company is considered to have, as of a given date, post-conversion beneficial ownership of a Security, including an unissued Security, if the person or company is the beneficial owner of a Security convertible into the Security within 60 days following that date or has a right or obligation permitting or requiring the person or company, whether or not on conditions, to acquire beneficial ownership of the Security within 60 days, by a single transaction or a series of linked transactions);
- (f) a management company that provides significant management or administrative services to First Capital Realty or a Major Subsidiary of First Capital Realty, every director of the management company, every Chief Executive Officer, Chief Financial Officer or Chief Operating Officer of the management company, and every Significant Shareholder of the management company;
- (g) an individual performing functions similar to the functions performed by any of the Insiders described in paragraphs (a) to (f);



- (h) First Capital Realty itself, if it has purchased, redeemed or otherwise acquired a Security of its own issue, for so long as it continues to hold that Security; or
- (i) any other Insider that
  - (i) in the ordinary course receives or has access to information as to Material Facts or Material Changes concerning First Capital Realty before the Material Facts or Material Changes are Generally Disclosed; and
  - (ii) directly or indirectly exercises, or has the ability to exercise, significant power or influence over the business, operations, capital or development of First Capital Realty,

but does not include a director or officer of a Significant Shareholder, or a director or officer of a subsidiary of a Significant Shareholder, in respect of Securities of First Capital Realty or a Related Financial Instrument involving a Security of First Capital Realty if the director or officer

- (i) does not in the ordinary course receive or have access to information as to Material Facts or Material Changes concerning First Capital Realty before the Material Facts or Material Changes are Generally Disclosed; and
- (ii) is not a Reporting Insider of First Capital Realty in any capacity other than as a director or officer of the Significant Shareholder or a subsidiary of the Significant Shareholder.

**“Security” or “Securities”** means a security or securities as defined under applicable securities law (including units, options, warrants, rights and other instruments and interests).

**“Significant Shareholder”** means a person or company that has beneficial ownership of, or control or direction over, whether direct or indirect, or a combination of beneficial ownership of, and control or direction over, whether direct or indirect, Securities of First Capital Realty carrying more than 10 per cent of the voting rights attached to all First Capital Realty’s outstanding voting Securities, excluding, for the purpose of the calculation of the percentage held, any Securities held by the person or company as underwriter in the course of a distribution (a person or company is a Significant Shareholder based on post-conversion beneficial ownership if the person or company is not a Significant Shareholder but the person or company has beneficial ownership of, post-conversion beneficial ownership of, control or direction over, whether direct or indirect, or any combination of beneficial ownership of, post-conversion beneficial ownership of, or control or direction over, whether direct or indirect, securities of First Capital Realty carrying more than 10 per cent of the voting rights attached to all First Capital Realty’s outstanding voting Securities, calculated as follows: (i) First Capital Realty’s outstanding voting Securities include Securities in respect of which a person or company has post-conversion beneficial ownership, and (ii) a person or company may exclude any Securities held by the person or company as underwriter in the course of a distribution).

**“Special Relationship”** includes, with respect to First Capital Realty, a person who is:

- (a) a director, officer or employee of First Capital Realty or any of its Affiliates;
- (b) any person or company that is engaging in or proposes to engage in any business or professional activity with or on behalf of First Capital Realty and any director, officer or employee of such person or company;
- (c) any person or company who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the outstanding voting Securities of First Capital Realty or any of its Affiliates and any director, officer or employee of such person or company; and
- (d) any person who receives Material Undisclosed Information from a person who the recipient of such Material Undisclosed Information knows is a person listed in (a) through (d) above.

**“Subsidiary”**: A person or company is considered to be the subsidiary of another person or company if it is Controlled by: (i) that other; (ii) that other and one or more persons or companies, each of which is controlled by that other; (iii) two or more persons or companies, each of which is Controlled by that other; or (iv) a Subsidiary of a person or company that is that other’s Subsidiary.

**“Trading Day”** means a complete trading session (from market open to market close) on a day on which the TSX is open for trading and on which the trading in First Capital Realty’s Securities is not halted or suspended.

**“TSX”** means the Toronto Stock Exchange.

**“Undisclosed Material Information”** means Material Information that has not been Generally Disclosed.

## **APPENDIX B**

### **EXAMPLES OF INFORMATION THAT MAY BE MATERIAL** (Based on National Policy 51-201)

#### **Changes in corporate structure**

- changes in share ownership that may affect control of First Capital Realty
- major reorganizations, amalgamations, or mergers
- take-over bids, issuer bids, or insider bids

#### **Changes in capital structure**

- the public or private sale of additional securities
- planned repurchases or redemptions of securities
- planned splits of shares or offerings of warrants or rights to buy shares
- any share consolidation, share exchange, or stock dividend
- changes in First Capital Realty's dividend payments or policies
- the possible initiation of a proxy fight
- material modifications to the rights of security holders

#### **Changes in financial results**

- a significant increase or decrease in near-term earnings prospects
- unexpected changes in the financial results for any period
- shifts in financial circumstances, such as cash flow reductions, major asset write-offs or write-downs
- changes in the value or composition of First Capital Realty's assets
- any material change in First Capital Realty's accounting policies

#### **Changes in business and operations**

- any development that affects First Capital Realty's assets, products or markets
- a significant change in capital investment plans or corporate objectives
- major labour disputes or disputes with major contractors or suppliers
- entering into or loss of significant contracts
- changes to the Board or executive management, including the departure of First Capital Realty's Chief Executive Officer, Chief Financial Officer or Chief Operating Officer
- the commencement of, or developments in, material legal proceedings or regulatory matters
- waivers of corporate ethics and conduct rules for directors, officers and other key employees
- any notice that reliance on a prior audit is no longer permissible
- de-listing of First Capital Realty's Securities or their movement from one quotation system or exchange to another

#### **Acquisitions and dispositions**

- significant acquisitions or dispositions of assets, property or joint venture interests
- acquisitions of other entities, including a take-over bid for, or merger with, another company

#### **Changes in credit arrangements**

- the borrowing or lending of a significant amount of money
- any mortgaging or encumbering of First Capital Realty's assets
- defaults under debt obligations, agreements to restructure debt, or planned enforcement procedures by a bank or any other creditors

- changes in rating agency decisions
- significant new credit arrangements

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**EXAMPLES OF INFORMATION THAT MAY BE MATERIAL**

(Based on Section 410 of the TSX Manual)

- changes in ownership that may affect control of First Capital Realty
- changes in First Capital Realty's corporate structure, such as reorganizations, amalgamations, etc.
- take-over bids or issuer bids
- major acquisitions or dispositions
- changes in capital structure
- borrowing of a significant amount of funds
- public or private sale of additional securities
- entering into or loss of significant contracts
- firm evidence of significant increases or decreases in near-term earnings prospects
- changes in capital investment plans or corporate objectives
- significant changes in management
- significant litigation
- major labour disputes or disputes with major contractors or suppliers
- events of default under financing or other arrangements
- any other developments relating to the business and affairs of First Capital Realty that would reasonably be expected to significantly affect the market price or value of any of First Capital Realty's Securities or that would reasonably be expected to have a significant influence on a reasonable investor's investment decisions

## APPENDIX C

### EXAMPLES OF DISCLOSURES THAT MAY BE NECESSARY IN THE COURSE OF BUSINESS

(Based on National Policy 51-201)

The necessary course of business exception to the Tipping prohibition would generally cover communications with:

- vendors, suppliers, or strategic partners on issues such as research and development, sales and marketing, and supply contracts
- directors, officers and employees
- lenders, including under operating lines and mortgages
- legal counsel, auditors, underwriters, and financial and other professional advisors to First Capital Realty or its Subsidiaries
- parties to negotiations
- government agencies and non-governmental regulators
- credit rating agencies (provided that the information is disclosed for the purpose of assisting the agency to formulate a credit rating and the agency's ratings generally are or will be publicly available)
- communications with placees in a private placement, in certain circumstances
- communications with controlling shareholders, in certain circumstances