

**BY-LAWS  
OF  
THE POLO CLUB CONDOMINIUM**

**ARTICLE I. PLAN OF CONDOMINIUM OWNERSHIP**

**Section 1. Condominium Home Ownership**

The property located in the Village of Southampton, Town of Southampton, Suffolk County, New York, as specifically set forth in the Declaration and more commonly known as The Polo Club Condominium has been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York.

**Section 2. By-Laws Applicability.**

The provisions of these By-Laws are applicable to the Condominium. The term "Condominium" as used herein shall include the land and the buildings and improvements thereon including the Condominium Homes (hereinafter referred to as "Homes"), and the Common Elements and the use and occupancy thereof, the term "Building" as hereinafter used shall be defined as the exterior walls and roof of a Home or number of Homes all of which are constructed under a continuous roof or the entire interior and exterior of any building or structure which shall form a portion of the Condominium but which does not contain any of the Homes.

**Section 3. Personal Application.**

All present or future Home Owners, mortgagees and lessees, or their employees, guests or any other person that might use the facilities of the Condominium in any manner are subject to these By-Laws, the Declaration and any Rules and Regulations established by the Board of Managers. The mere acquisition or rental of any of the Homes or the mere act of occupancy of any of said Homes will signify that these By-Laws, the Declaration and the Rules and Regulations are accepted, ratified, and will be complied with.

**Section 4. Definitions.**

The definitions contained in the Declaration of Condominium shall be applicable to these By-Laws unless otherwise indicated.

**ARTICLE II. CONDOMINIUM, VOTING, QUORUM, PROXIES AND WAIVERS**

**Section 1. Condominium.**

The Condominium shall be limited to Home Owners. "Home Owner" as referred to herein shall mean all of the owners of each Home.

**Section 2. Voting.**

Each Home Owner (including the Sponsor and the Board of Managers, if the Sponsor or the Board of Managers shall then own or hold title to one or more Homes) shall be entitled to cast one vote at all Home Owners' meetings for each Home or Homes owned by such Home Owner, except for the election of Members to the Board of Managers as provided in Article III, Section 1 of these By-Laws but in the event the Board of Managers acquires a Home on behalf of the Condominium It shall not cast any of its votes appurtenant to said Home for the election of any Member to the Board. Any Home Owner in default of the payment of their Common Charges as described in Article VI of these By-Laws shall be prohibited from voting at any annual or special meeting of the Home Owners.

**Section 3. Quorum.**

So many Home Owners as shall represent at least fifty-one (51%) percent of the total authorized votes of all Home Owners present in person or represented by written proxy shall constitute a quorum at all meetings of the Home Owners for the transaction of business, except as otherwise provided by Statute, by the Declaration of Condominium, or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Homes Owners, the Home Owners entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting so many Home Owners as shall represent at least thirty-three and one-third (33 $\frac{1}{3}$ %) percent of the total authorized votes of all Home Owners shall constitute a quorum. Any business may be transacted which might have been transacted at the meeting originally called. If, however, such reduced quorum shall not be present or represented at such adjourned meeting of the Condominium, the Home Owners entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting, so many Home Owners as shall represent at least twenty-five (25%) percent of the total authorized votes of all Home Owners shall constitute a quorum. Any business may be transacted which might have been transacted at the meeting originally called.

**Section 4. Vote Required to Transact Business.**

When a quorum is present at any meeting, the vote of a majority of the Home Owners present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Home Owners, unless the question is one upon which, by express provisions of the Declaration, Statute, or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control the decision of such question.

**Section 5. Right to Vote.**

At any meeting of Home Owners, every Home Owner having the right to vote shall be entitled to vote in person, or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof. Any Home Owner in default of the payment of their Common Charges as described in Article VI of these By-Laws shall be prohibited from voting at any annual or special meeting of the Home Owners.

**Section 6. Proxies.**

All proxies shall be in writing and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

**Section 7. Walver and Consent.**

Whenever the vote of Home Owners at a meeting is required or permitted by any provision of the Declaration, Statutes or of these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Home Owners may be dispensed with if all Home Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

**Section 8. Place of Meetings.**

Meetings shall be held at such suitable place convenient to the Home Owners as may be designated by the Board of Managers.

**Section 9. Annual Meetings Control of Board of Managers by Sponsor.**

The initial Board of Managers will call for the first annual meeting of the Home Owners to elect a new Board of Managers within one (1) year of the closing of the first Home. At such meeting, Members of the Board of Managers shall be elected by the Home Owners, other than the Members of the Board the Sponsor shall have the right to designate, and the former Members of the Board shall thereupon resign. Thereafter annual meetings shall be held on the anniversary of such date each succeeding year or such other date as the Board of Managers determines within a reasonable time thereof. At such meetings there shall be elected by ballot of the Home Owners a Board of Managers in accordance with the requirements of Article III of these By-Laws. The Home Owners may also transact such other business of the Condominium as may properly come before them. The Sponsor will have voting control and may designate a majority of the Members of the Board of Managers until the last Home in the Condominium is sold and closed by the Sponsor. At such time as Sponsor no longer owns a Home in the Condominium, Sponsor may not hold a seat on the Board of Managers.

### **Section 10. Special Meetings.**

It shall be the duty of the President to call a special meeting of the Condominium, if so directed by the Board of Managers, or upon the presentation to the Secretary of a petition signed by a majority of the Home Owners. The secretary shall cause a notice of such special meeting stating the time, place and object thereof and the officer or other person or persons by whom the meeting is called, to be delivered personally or mailed as provided in Section 11 of this Article to each Home Owner of the Condominium entitled to vote at such meeting not less than ten (10) nor more than thirty (30) days before such meeting. The date of the special meeting shall be determined by the Board of Managers and shall be held no later than sixty (60) days from receipt of any written request pursuant to this Section 10 unless a later date is agreed to in writing by the Home Owners of the Condominium or the Board of Managers, requesting such meeting. No business other than that stated in such notice shall be transacted at such special meeting unless all Home Owners of the Condominium are present in person or by proxy. Any or all of the Board of Managers of the Condominium, other than those designated by the Sponsor, may be removed without cause by vote of two-thirds of the Home Owners present in person or by proxy at a special meeting called pursuant to this section if the meeting is called for such purpose.

### **Section 11. Notice of Meetings.**

It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Home Owner of record, at least ten (10) but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

### **Section 12. Order of Business.**

The order of business at all meetings shall be as follows:

- (a) Roll Call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Report of officers
- (e) Report of committees
- (f) Election of inspectors of election (in the event there is an election)
- (g) Election of Members of the Board of Managers (In the event there is an election)
- (h) Unfinished business
- (i) New business

### **ARTICLE III. BOARD OF MANAGERS**

#### **Section 1. Number and Term.**

The affairs of the Condominium shall be governed by a Board of Managers. The first Board of Managers shall consist of three (3) Members designated by the Sponsor who shall hold office and exercise all powers of the Board of Managers until the first annual meeting of the Home Owners. Until succeeded by the Members elected and designated at the first annual meeting of Home Owners, Members need not be Home Owners; thereafter, all Members, other than designees or nominees of the Sponsor, shall be Home Owners. The Members shall be elected or designated at the annual meeting of the Home Owners. No Home Owner in default of their Common Charges as provided for in Article VI of these By-Laws shall be eligible to be a Member of the Board of Managers. All Members of the Board of Managers other than the Sponsor designated representatives shall be nominated by the Home Owners at the annual meeting. After the first annual meeting the Board of Managers may request nominations to the Board of Managers prior to the annual meeting in addition to nominations from Home Owners at the annual meeting. Sponsor representatives to the Board of Managers shall be appointed by the Sponsor.

At the first annual meeting of Home Owners called pursuant to Section 9 of Article II a total of three (3) Members shall be elected or designated. All Members, other than those designated by the Sponsor, shall be elected by the Home Owners. The term of office of one (1) of the Members shall be fixed for three (3) years, the term of office of one (1) of the Members shall be fixed at two (2) years, and the term of office of one (1) of the Members shall be fixed at one (1) year. The one (1) Home Owner receiving the highest number shall be elected to the three (3) year term, the one (1) Home Owner receiving the next highest votes shall be elected to a two (2) year term and the one (1) Home Owner receiving the then next highest number of votes shall be elected to a one (1) year term. Each Home Owner shall be entitled to cast one vote for the total number of Members of the Board of Managers being elected on each ballot for each Home owned. At the expiration of the initial term of office of each respective Member, the Member's successor shall be elected to serve a term of three (3) years. The Members shall hold office until their successors have been elected and hold their first meeting.

Notwithstanding the foregoing, the Sponsor shall have the right to designate two (2) of the three (3) Members of the Board of Managers until the last Home in the Condominium is sold and closed by the Sponsor. At such time as the Sponsor no longer owns any Homes in the Condominium it will not be entitled to designate any Members to the Board of Managers.

In addition to the Members designated by the Sponsor, Sponsor may vote as Sponsor so determines for any other Members, so long as the Members are Home Owners and are not on Sponsor's slate of Members for the Board, Sponsor's payroll or

as long as they did not receive other financial backing from the Sponsor other than a mortgage held by the Sponsor or affiliated entity of the Sponsor, if applicable.

In the event Sponsor is entitled to designate two (2) of the three (3) Members of the Board of Managers at the first annual meeting one (1) of Sponsor Members shall be appointed for a one (1) year term and one (1) of the Sponsor Members shall be appointed for a two (2) year term. At the expiration of such term, Sponsor Members shall thereafter be appointed to the same length of term until such time as Sponsor is required to relinquish the seat or Sponsor voluntarily resigns. At such time as a Sponsor Member voluntarily resigns or is required to relinquish a position on the Board either (a) a special meeting of the Home Owners shall be held to elect a Home Owner to fulfill the balance of the term or (b) the remaining Members of the Board of Managers shall appoint a Home Owner to fulfill the balance of the term. At the expiration of the term an election shall be held to elect a Home Owner to the Board for a full three (3) year term.

This Section may not be amended without the written consent of Sponsor.

### **Section 2. Vacancy and Replacement.**

If the office of any Member or Members becomes vacant by reasons of death, resignation, retirements, disqualification, removal from office or otherwise, a majority of the remaining Members, though less than a quorum, at a special meeting of Members duly called for this purpose, shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred. In the event of the failure to hold any election of the Board of Managers at the time designated for the annual election of the Board of Managers or in the event that the Board of Managers shall not have filled any such vacancy, a special meeting of the Home Owners to elect a new Board of Managers or to fill such vacancy or vacancies may be called in the manner generally provided for the calling of special meetings of the Home Owners. If the vacancy occurs with respect to any Member of the first Board of Managers (see Section 4 of this Article III) or any other Member who has been designated by the Sponsor, the Sponsor shall have the sole right to designate such Member's successor to fill the unexpired portion of the term.

The Board of Managers shall also have the right to call for a special meeting in accordance with Article II, Section 10 to elect the Member's successor to fill the unexpired portion of the term of office.

### **Section 3. Removal.**

Members, other than Sponsor designees, may be removed for cause by an affirmative vote of a majority of the Home Owners. No Member, other than a Member of the first Board of Managers or a designee of the Sponsor, shall continue to serve on the Board if, during the Member's term of office, the Member shall cease to be a Home Owner. In the event a Sponsor designee is removed, the Sponsor shall have the sole

right to designate a replacement. Any Member of the Board of Managers in default of the payment of Common Charges shall be suspended from the Board until such time as all Common Charges, together with late charges, interest and expenses, if any, are paid in full to the Condominium.

**Section 4. Resignation.**

Any Member may resign at any time by written notice delivered in person or sent by certified registered mail to the President or Secretary of the Condominium. Such resignation shall take effect at the time specified therein. Acceptance of such resignation shall not be necessary to make it effective. Any Member of the Board in default of the payment of Common Charges, Special Assessments, together with late charges, interest and expenses shall be suspended from the Board until such time as all Common Charges, Special Assessments, together with late charges, interest and expenses, if any, are paid in full to the Condominium.

**Section 5. First Board of Managers.**

The first Board of Managers shall consist of Members designated by the Sponsor, who shall hold office and exercise all powers of the Board of Managers until the first annual meeting of Home Owners. Any or all of said Members shall be subject to replacement at the sole discretion of the Sponsor and/or in the event of resignation or death in the manner set forth in Section 2 of this Article.

**Section 6. Powers.**

(a) The property and business of the Condominium shall be managed by its Board of Managers, which may exercise all such powers of the Condominium and do all such lawful acts and things as are not by Statute or by the Declaration or by these By-Laws, directed or required to be exercised or done by the Home Owners personally. These powers shall specifically include, but not be limited to, the following items:

1. To determine and levy monthly assessments ("Common Charges") to cover the cost of Common Expenses, payable in advance. The Board of Managers may increase the monthly Common Charges or vote a special Common Charge in excess of the monthly amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Home Owners pro-rata according to their respective Common Interest;
2. To collect, use, and expend the assessments collected to maintain, care for and preserve the General Common Elements and any Limited Common Elements which the Condominium is responsible to repair, replace and maintain and any other Common Expenses of the Condominium;

3. To determine and impose penalties, late fees and interest against Home Owners delinquent in the payment of their Common Charges and to revise the amount of such fees as the Board so determines;
4. To make repairs, restore or alter any Homes or the Common Elements after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
5. To enter into and upon the Homes when necessary and at as little inconvenience to the Home Owners as possible in connection with the maintenance, care, and preservation of the property. No prior notice shall be required in the event the Board of Managers shall determine that action is immediately necessary for the preservation or safety of the Condominium or its property, or the Homes, or for the safety of Condominium residents or other persons, or required to avoid the suspension of any necessary service to the Condominium. Any repairs required as the result of negligence of a Home Owner will be at the expense of the Home Owner.
6. To open bank accounts on behalf of the Condominium and to designate the signatories to such bank accounts;
7. To insure and keep insured the Common Elements and Homes in accordance with Article VII of these By-Laws;
8. To collect delinquent Common Charges, Special Assessments, late fees, penalties and/or interest by suit or otherwise, to abate nuisances and to enjoin or seek damages from the Home Owners of the property for violations of the Rules and Regulations herein referred to;
9. To make reasonable Rules and Regulations and to amend the same from time to time, and such Rules and Regulations and amendments shall be binding upon the Home Owners when the Board has approved them in writing. A copy of such Rules and Regulations and all amendments shall be delivered to each Home Owner;
10. To employ and terminate the employment of employees and independent contractors and to purchase supplies and equipment, to enter into contracts, and generally to have the powers of a Member in connection with the matters herein above set forth;
11. To bring and defend actions by or against more than one Home Owner and pertinent to the operation of the Condominium and to levy Special Assessments to pay for the cost of such litigation;
12. To acquire Homes in foreclosure or as a result of abandonment and to take any or all steps necessary to repair or renovate any Home so acquired and



to vote as a Home Owner, offer such Home for sale or lease or take any other steps regarding such Home as shall be deemed proper by the Board of Managers;

13. To make additions, alterations, or improvements to the General Common Elements of the Condominium;

14. To borrow money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however, no lien to secure repayment of any sum borrowed may be created on any Home or its appurtenant interest in the Common Elements without the written consent of the Owners of said Home;

15. To act as an agent for one (1) or more Home Owners to file a single complaint and bring a special proceeding on behalf of Home Owners who wish to contest the real estate tax assessments of their Home pursuant to Section 339-y(4) of the New York Property Law. In such event, the Board could retain counsel on behalf of such Home Owners and charge each Home Owner for whom it is acting a pro rata share of expenses, disbursements and legal fees, the payment for which would be secured by a lien on each Home. During the period Sponsor retains control of the Board of Managers the Condominium shall utilize the services of the law firm of Certilman Balin Adler & Hyman, LLP to contest any real estate tax assessments. The Board of Managers is not obligated to perform such services and it is necessary to obtain the written authorization of the Home Owners; and

16. To grant utility or other easements over or to the Common Elements as may, at any time, be required for the benefit of the Condominium and the Home Owners without the necessity of the consent thereto, or joinder therein, by the Home Owners or any mortgagee (except that if the granting of such easement impairs the ability of one or more Home Owners who have the right to use such Common Elements to the exclusion of any other Home Owner, the consent of all such affected Home Owners shall be required in writing before such easement shall be granted).

(b) The Board of Managers may, by resolution or resolutions passed by a majority of the whole Board, designate one or more committees, each of such committees to include at least one (1) Member which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Managers in the management of the business affairs of the Condominium and may have power to sign all papers which may be required, provided the said resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board as required.

(c) Sponsor may not exercise veto power over expenses described in the proposed first year budget, as described in the Offering Plan, or over expenses required:

- (i) to comply with applicable laws or regulations; or
- (ii) to remedy any notice of violation; or
- (iii) to remedy any work order by an insurer; or
- (iv) necessary for the preservation or safety of a Building or for the safety of occupants of a Building or required to avoid the suspension of any necessary service to a Building.

(d) Sponsor may exercise veto power over expenses described herein, other than those described in (c) above, for a period ending not more than five (5) years after the Closing of the first Home or whenever the unsold Homes constitute less than twenty-five (25%) percent of the common interest, whichever is sooner. This would include the following:

- (i) make an addition, alteration or improvement to the Common Elements or to any Home, costing cumulatively more than \$5,000, the foregoing not to include necessary repairs and maintenance work, or
- (ii) assess any Common Charges for the creation of, addition to, or replacement of all or part of a reserve, contingency or surplus fund, in excess of the reserve for contingencies contained in the Condominium budget for the first year of operation,
- (iii) hire any employee in addition to the employees referred to in the Plan of Condominium ownership, or
- (iv) enter into any service or maintenance contract for work not covered by contracts in existence on the Date of Closing of the first Home, or (v) borrow money on behalf of the Condominium,
- (vi) reduce the services or maintenance set forth in the Condominium budget for the first year of operation, or
- (vii) charge any special Common Charge assessment for a non-budgeted item unless required by law, municipal agency, emergency or for the health and safety of the Condominium, or
- (viii) increase the Common Charges of the Condominium more than ten (10%) percent from the prior year's budget, unless documentation is provided to the Sponsor in the nature of a financial statement, bids from contractors or

verified increases in utility rates, evidencing the need for an increase greater than ten (10%) percent, or

- (ix) utilize Condominium funds or assess the Sponsor in order to commence a lawsuit against the Sponsor or any of its principals.

The provisions of this paragraph may not be amended without the written consent of Sponsor.

### **Section 7. Repairs and Maintenance.**

All maintenance, repairs and replacements to the Common Elements including but not limited to exterior walls of all the Homes and Buildings, roof, roof trusses and all other parts of the roof of all Homes and Buildings, as well as all maintenance, repairs and replacements to any pipes, wires, conduits and public utility lines, any portion of which is located in one Home and services two (2) or more Homes or so much of any pipes (including sewer and water pipes), wires, conduits and public utility lines as are located in the Common Elements shall be made by the Condominium and the cost thereof shall be a Common Charge payable by all Home Owners. The Condominium shall be responsible to repair all plumbing stoppages and electrical repairs occurring in the General Common Elements.

All maintenance, repairs and replacements to the interior portion of Homes, whether structural or nonstructural, ordinary or extraordinary, other than to the Common Elements contained therein, are the responsibility of the respective Home Owners at their sole expense. All structural changes shall comply with the provisions of Article VIII, Section 1(h) of these By-Laws.

All maintenance (including electrical and plumbing repairs in the Homes and painting and decorating of the inside of the Homes), repairs and replacements to the Homes including doors which open from a Home (except painting and maintenance of the exterior surface which is performed by the Condominium), shall be made by the respective Home Owners at their own expense.

General repair and replacement of the exterior portion of all windows shall be a Common Expense of the Condominium. Notwithstanding said fact all interior repair and maintenance of the windows and any glass breakage caused by the negligence or fault of a Home Owner, occupant, tenant, guest or any other person residing in, visiting or doing work in the Home shall be the responsibility of the Home Owner of such Home.

The Condominium will be responsible for snow removal to common roadways, on-site parking areas, entrances, exits, walkways, driveways and walks in and through the entire Condominium.

All repairs, maintenance, replacement and snow removal of all driveways that are Limited Common Elements of a Home Owner will be the responsibility of the Condominium and a Common Expense of the Condominium.

All repairs, maintenance and any replacement of any heating, cooling or other mechanical system servicing an individual Home that is located in or on the Common Elements and/or all apparatus, installations, systems equipment and facilities in the Common Elements (including pipes, wire, ducts, vents, cables, conduits and lines) which serve or benefit a Home exclusively shall be the responsibility of the respective Home Owner at their own expense.

Any repairs and replacement to a Limited Common Element done by a Home Owner, if permitted, shall conform to the requirements contained in Article Eighteenth (c) of the Declaration of Condominium.

The Board of Managers on behalf of the Condominium shall repair and replace any public utility lines located underground or overhead of any Limited Common Element except where such repair or replacement is necessitated because of the negligence or misuse or neglect of the Home Owner to which the Common Element is restricted in use, in which event such Home Owner shall make such repairs or replacements at their own expense.

The Board of Managers and their agents, employees and contractors shall have the right of access to any Home for the purpose of making any repairs or replacements to any of the General Common Elements and Limited Common Elements contained therein or elsewhere in the Condominium or to remedy any condition which would result in damage to any other Home or the General Common Elements or Limited Common Elements, or which would violate the provisions of any mortgage covering another Home or for the purpose of complying with any laws, orders, rules or regulations of any governmental body having jurisdiction thereof or for the purpose of carrying out any of its obligations under the By-Laws or the Declaration of the Condominium. Such right of access shall be exercised in such manner as will not unreasonably interfere with the use of the Homes but no prior notice shall be required in the event the Board of Managers shall determine that action is immediately necessary for the preservation or safety of the Condominium or its property, or the Homes, or for the safety of Condominium residents or other persons, or required to avoid the suspension of any necessary service to the Condominium.

All replacements, repairs, painting or maintenance, whether made by the Home Owner or by the Board of Managers to the doors, windows, or the exterior surface of a Home, including roofs, or to any generally visible portion of the Common Elements shall be carried out in such a manner so as to conform to the materials, style and color initially provided by the Sponsor and shall comply with the requirements of Article Eighteenth(c) of the Declaration of Condominium.

In the event that a Home Owner fails to maintain or repair their Home or any Limited Common Element that is the responsibility of the Home Owner to maintain or repair and such maintenance or repair is necessary to protect any of the Common Elements or any other Home, the Board of Managers shall have the right to make such maintenance or repair (after the failure of the Home Owner to do so after 10 days written notice, or written or oral notice of a shorter duration in the event of any emergency situation) and to charge the Home Owner for the cost of all such repairs and/or maintenance. In the event that the Board of Managers charges a Home Owner for repairs or maintenance to Home Owner's Home or for repairs to any Limited Common Element restricted in use to such Home Owner that is the Home Owner's responsibility to maintain and repair and the Home Owner fails to make prompt payment, the Board of Managers shall be entitled to bring suit thereon and, in such event, the Home Owner shall be liable for reasonable Attorneys' fees and costs of such suit or proceeding together with interest on all sums due.

### **Section 8. Compensation.**

Members of the Board and Officers, as such, shall receive no compensation for their services.

### **Section 9. Meetings.**

- (a) The first meeting of each Board newly elected by the Home Owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Managers shall be held at the same place as the Home Owners meetings, and immediately after the adjournment of same, at which time the dates, places and times of regularly scheduled meetings of the Board shall take place.
- (b) Regularly scheduled meetings of the Board may be held without special notice.
- (c) Special meetings of the Board may be called by the President on two (2) days notice to each Member either personally or by mail or electronic mail. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least three (3) Members.
- (d) At all meetings of the Board, a majority of the Members shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of the majority of the Members present at any meeting at which there is a quorum shall be the act of the Board of Managers, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meetings of the

Board of Managers, the Members present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

- (e) Before or at any meeting of the Board of Managers, any Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Board shall be a waiver of notice by the Member of the time and place thereof. If all the Members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.
- (f) Members of the Board may participate in a meeting by means of a conference telephone call or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting.

#### **Section 10. Annual Statement.**

The Board of Managers shall furnish to all Home Owners and shall present annually (at the annual meeting, but in no event later than four (4) months after the close of the fiscal year) and when called for by a vote of the Home Owners at any special meeting of the Home Owners, a full and clear statement of the business conditions and affairs of the Condominium, including a balance sheet and profit and loss statement prepared by an independent public accountant and a statement regarding any taxable income attributable to the Home Owner and a notice of the holding of the annual Home Owners meeting.

#### **Section 11. Fidelity Bonds.**

The Board of Managers shall require that all officers and employees of the Condominium handling or responsible for Condominium funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a Common Expense.

#### **Section 12. Management Agent.**

The Board of Managers may employ for the Condominium a management agent under a term contract or otherwise at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, all of the delegable duties of the Board listed in this Article.

#### **Section 13. Liability of the Board of Managers, Officers and Home Owners.**

No Member of the Board of Managers or officer of the Condominium shall have any personal liability to the Condominium or to any Home Owner for damages for any

breach of duty in his or her capacity as a Member of the Board or officer, provided that this provision does not eliminate or limit the liability of a Member of the Board or officer if a judgment or other final adjudication adverse to him or her establishes (a) that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law, or (b) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

The Condominium, through the Home Owners, shall indemnify to the fullest extent permitted by law any person made, or threatened to be made, a party to an action or proceeding, whether civil or criminal, including an action by or in the right of the Condominium to procure a judgment in its favor or an action other than one by or in the right of the Condominium and including an action by or in the right of any corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any Member of the Board or officer of the Condominium served in any capacity at the request of the Condominium, by reason of the fact that the Board Member, their testator or intestate, was a Member of the Board or officer of the joint venture, trust, employee benefit plan or other enterprise in any capacity; provided that no indemnification may be made to or on behalf of any Member of the Board or officer if a judgment establishes that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or the advantage to which he or she was not legally entitled.

The Home Owners shall indemnify and hold harmless each of the Members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provision of the Declaration or of these By-Laws. It is intended that the Members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium (except as Home Owners). It is understood and permissible for the original Board of Managers, who may be Members of or be employed by the Sponsor, to contract with the Sponsor and affiliated corporations and entities without incurring any liability for self-dealing. It is also intended that the liability of any Home Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the Member of the Board of Managers shall be limited to such proportion of the total liability thereunder as his or her interest in the Common Elements bears to the interest of all the Home Owners in the Common Elements. Every agreement made by the Board of Managers or by the managing agent or by the Member on behalf of the Condominium shall provide that the Members of the Board of Managers, or the managing agent or the Member, as the case may be, are acting only as agent for the Home Owners and shall have no personal liability thereunder (except as Home Owners).

Each Home Owner's liability pursuant to this Section shall be limited to such proportion of the total liability thereunder as his or her interest in the Common Elements bears to the interest of all Home Owners in the Common Elements.

## **ARTICLE IV. OFFICERS**

### **Section 1. Elective Officers.**

The officers of the Condominium shall be chosen by the Board of Managers and shall be a President, a Vice President, a Secretary and a Treasurer. The Board of Managers may also choose one (1) or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be Home Owners, Members of the first Board of Managers or designated Members of the Board of Managers of the Sponsor. Two (2) or more offices may be held by the same person, except that the President may only hold the office of President.

### **Section 2. Election.**

The Board of Managers at its first meeting after each annual Home Owners Meeting shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a Member of the Board.

### **Section 3. Appointive Officers.**

The Board may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

### **Section 4. Term.**

The officers shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Managers may be removed with or without cause, at any time, by the affirmative vote of a majority of the whole Board of Managers. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Managers.

### **Section 5. The President.**

The President shall be the chief executive officer of the Condominium; the President shall preside at all meetings of the Home Owners and the Board of Managers, the President shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Condominium, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a stock corporation



organized under the Business Corporation of the State of New York. The President may delegate obligations and responsibilities to other Officers.

**Section 6. The Vice President.**

The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a stock corporation organized under the Business Corporation Law of the State of New York.

**Section 7. The Secretary.**

The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all Home Owners meetings and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all Home Owners meetings and special meetings of the Board of Managers, and shall perform such other duties as may be prescribed by the Board of Managers or by the President, under whose supervision the Secretary shall be.

**Section 8. The Treasurer.**

The Treasurer shall have the custody of the Condominium funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Condominium including the vouchers for such disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the Condominium in such depositories as may be designated by the Board of Managers.

The Treasurer shall disburse the funds of the Condominium as may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Members, at the regular meeting of the Board or whenever they may require it, an account of all transactions as Treasurer and of the financial condition of the Condominium.

The Treasurer shall keep detailed financial records and books of account of the Condominium, including a separate account for each Home which, among other things, shall contain the amount of each assessment of common charges against such Home, the date when due, the amounts paid thereon and the balance remaining unpaid.

**Section 9. Agreements, etc.**

All agreements and other instruments shall be executed by the President or such other person as may be designated by the Board of Managers.

## **ARTICLE V. NOTICES**

### **Section 1. Definition.**

Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Managers, any Member or Home Owner, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Managers, such Member or Home Owner at such address as appears on the books of the Condominium.

### **Section 2. Service of Notice-Walver.**

Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

## **ARTICLE VI. FINANCES**

### **Section 1. Checks.**

All checks or demands for money and notes of the Condominium shall be signed by the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Managers may from time to time designate.

### **Section 2. Assessments.**

The Board of Managers shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of the budget and supplement to the budget to every Home Owner and shall advise all Home Owners promptly, in writing, of the amount of Common Charges and Expenses payable by each of them. They shall determine the total amount required, including the operational items such as insurance, repairs, reserves, betterments, maintenance of the Common Elements and other operating expenses as well as charges to cover any deficits from prior years.

The total annual requirements shall be assessed as a single sum against all Homes and prorated against each of said Homes according to the respective common interest appurtenant to such Homes. This proration of assessments shall remain constant regardless of the percentage of the building square footage included in each Home or the Common Elements restricted to the use of the Home Owner of said Home.

Said assessments shall be payable monthly or such other manner as determined by the Board of Managers and shall be referred to as Common Charges. Special

Assessments, should such be required, shall be levied and paid in the same manner as herein above provided for regular Common Charges.

The Board of Managers may also charge additional assessments in excess of the Common Charges for expenses not contemplated, foreseen or which exceed the amount budgeted. Said assessments shall be known as Special Assessments. The Board of Managers shall be entitled to charge a Special Assessment as a single sum or over a period of time as it may determine. Home Owners shall pay their portion of any Special Assessments in proportion to their Percentage of Common Interest.

The Common Expenses of the Condominium shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Managers pursuant to the provisions of Article VIII and the fees and disbursements of the Insurance Trustee. The Common Expenses will also include such amounts as the Board of Managers may deem proper for the operation and maintenance of the General Common Elements, including the drainage, septic/sewer, water and/or storm systems (including septic/sewers, storm sewer and/or water pipes, drywells, detention tanks or other facilities servicing the drainage, septic/sewer water and/or storm systems as applicable), and other Building wide obligations of the Condominium contained herein, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year. The Common Expenses may also include such amounts as may be required for the purchase or lease by the Board of Managers or its designee, corporate or otherwise, on behalf of all Home Owners, of any Home whose Owner has elected to sell or lease such Home or of any Home which is to be sold at a foreclosure or other judicial sale.

The Home Owner agrees to pay promptly when due the monthly Common Charges and all Special Assessments assessed against the Home Owner's own Home. In the event any Home Owner fails to make payment of the Home Owner's Common Charge or Special Assessment payment, the Home Owner who owns such Home shall be obligated to pay (a) a "late charge" of \$.15 for each \$1.00 of such amounts which remain unpaid for more than ten (10) days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid) and (b) interest at the rate of two (2%) percent per month (but in no event in excess of the maximum rate legally permitted theretofore collected on such amounts) computed from the due date thereof, and (c) all expenses, including, without limitation, attorneys' fees paid or incurred by the Board or by any Managing Agent in any proceeding brought to collect such unpaid Common Charges or Special Assessments or in an action to foreclose the lien on such Home Owner's Home arising from said unpaid Common Charges or Special Assessments in the manner permitted by applicable law. All such "late charges," interest and expenses shall be added to and shall constitute Common Charges or Special Assessments payable by such Home Owner.

The Board of Managers may place a lien and take action to collect any past due Common Charges from any Home Owner which remains unpaid as provided in Article IX of these By-Laws from its due date.

No Home Owner shall be liable for any Common Charges which accrue against his or her Home subsequent to a sale, transfer or other conveyance by him of his Home in accordance with these By-Laws and the Declaration. A purchaser of a Home (other than a mortgagee or a purchaser at a foreclosure sale) shall be liable for the payment of all Common Charges assessed against the Home and unpaid at the time of the purchase.

Notwithstanding any other provision in the Declaration or these By-Laws any mortgagee of an Institutional Mortgage as defined herein who obtains title to a Home pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Home's unpaid Common Charges accrued before acquisition of the title to the Home by the mortgagee. If the Condominium's lien priority includes costs of collecting unpaid Common Charges, the mortgagee of the Institutional Mortgage will be liable for any fees or costs related to the collection of unpaid Common Charges. The unpaid balance of such Common Charges and/or Special Assessments that may be waived will be charged to all other Home Owners as a Common Expense. Upon acquiring title to a Home such holder of an Institutional Mortgage; its successors and assigns shall be liable for all Common Charges and Special Assessments due and payable thereafter. The term "Institutional Mortgage" herein used shall mean a first mortgage granted by a bank, savings and loan association, life insurance company, pension fund, trust company or other institutional lender or a mortgage granted by the Sponsor, its successor, designee or assignee to a purchaser of a Home or in which the Sponsor, its successor, designee or assignee participates with one of the above.

**Section 3. Purchase of a Home Upon Foreclosure of Liens for Unpaid Common Charges.**

The Board shall have the power to purchase any Home at a foreclosure sale resulting from any action brought by the Board to foreclose a lien on the Home because of unpaid Common Charges. In the event of such purchase, the Board shall have the power to hold, lease, mortgage, vote, sell or otherwise deal with the Home. A suit to recover a money judgment for unpaid Common Charges shall also be obtainable separately without waiving the lien on the Home.

**Section 4. Statement of Common Charges.**

Upon the written request of any Home Owner or the Home Owner's mortgagee, the Board shall promptly furnish such Home Owner or the Home Owner's mortgagee with a written statement of the unpaid Common Charges due from such Home Owner.

**Section 5. Liability for Utilities.**

Any utility, including gas and electricity that is consumed in the Homes and separately metered shall be an expense of each individual Home Owner.

**Section 6. Operating Account.**

There shall be established and maintained a cash deposit account to be known as the "Operating Account," into which shall be deposited the operating portion of all monthly and special assessments as fixed and determined for all Homes. Disbursements from said account shall be for the general need of the operation including, but not limited to, wages, repairs, betterments, maintenance and other operating expenses of the common elements and for the purchase, lease, sale or other expenses resulting from the purchase or lease of Homes.

**Section 7. Other Accounts.**

The Board shall maintain any other accounts it shall deem necessary to carry out its purpose including without limitation a reserve fund account and a working capital account.

**ARTICLE VII. INSURANCE AND INSURANCE TRUSTEE**

**Section 1. Insurance to be Carried by the Board.**

The Board of Managers on behalf of the Condominium shall be required to obtain and maintain, to the extent obtainable from generally acceptable insurance carriers, the following insurance: blanket property insurance, liability insurance as provided below, flood insurance (if applicable), fidelity bond coverage and worker's compensation, insuring all of the Common Elements, Limited Common Elements and the Homes in the Buildings of the Condominium (except land, foundations, excavation and other items normally excluded from coverage) including fixtures, to the extent they are part of the Common Elements of the Condominium, building service equipment and supplies, and other common personal property belonging to the Condominium. In addition, any fixtures, equipment or other property within the Homes which are to be financed by a mortgagee (regardless of whether or not such property is part of the Common Elements, but not including wall, ceiling or floor decoration, furniture, furnishings or other personal property supplied or installed by the Home Owners), contained therein, covering the interest of the Condominium, the Board of Managers and all Home Owners and their mortgagees, as their interest may appear, in an amount equal to the full replacement value of the Buildings, exclusive of land, foundation, excavation and other items normally excluded from coverage. Each of such policies shall be in favor of the Condominium, and shall contain a New York standard mortgagee clause in favor of each mortgagee of a Home which shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss

payment provisions in favor of the Board of Managers and the Insurance Trustee as defined below, hereinafter set forth; and such other insurance as the Board of Managers may determine. All such policies shall provide that adjustment of loss shall be made by the Board of Managers with the approval of the Insurance Trustee and that the net proceeds thereof, if \$40,000 or less, shall be payable to the Board of Managers, and if more than \$40,000 shall be payable to the Insurance Trustee. Each Home Owner and each Home Owner's mortgagee, if any, shall be beneficiaries of the policy in the percentage of common ownership applicable to said Home.

The fire insurance will commence with the Closing of Title to the first Home in an amount as required by the mortgagee of such Home and such amount will be increased upon the Closing of Title to all Homes. Until the first meeting of the Board of Managers following the first Home Owners meeting, such amount shall be at least in the sum as provided for in the estimated first year budget contained in the Offering Plan upon completion of the Buildings.

All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Home Owners or of the invalidity arising from any acts of the insured or any Home Owners, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insured, including all mortgagees of a Home. Duplicate originals of all policies of physical damage insurance and of all renewals thereof together with proof of payment of premiums, shall be delivered to all mortgagees of a Home at least ten (10) days prior to expiration of then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Managers shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Buildings, including all of the Common Elements appurtenant thereto for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

All policies must also provide for the following: recognition of any, Insurance Trust Agreement; a waiver of the right of subrogation against Home Owners individually; that the insurance is not prejudiced by any act or neglect of individual Home Owners which is not in the control of such Home Owners collectively; and that the policy is primary in the event the Home Owner has other insurance covering the same loss. All policies shall include the standard form of a "Special Condominium Endorsement" or its equivalent. All policies shall include an "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement".

The Board of Managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Managers may from time to time determine, covering the Common Elements, each Member and Officer of the Board of Managers, the managing agent and each Home Owner. Such public liability coverage shall also cover cross liability claims of one insured against another. Until the first meeting of the Board of Managers following the first annual Home Owners meeting, such public liability insurance shall be a minimum of \$1,000,000 covering all claims for bodily injury, deaths and property damage arising out of one occurrence in

connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Condominium. Such policies must provide that they may not be cancelled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Condominium and to each holder of a first mortgage on any Home in the Condominium which is listed as a scheduled holder of a first mortgage in the insurance policy. Such coverage may also include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location and use, including, but not limited to, host liquor liability, employers liability insurance, contractual and all-written contract insurance, and comprehensive automobile liability insurance. Such public liability insurance shall commence on the closing of title to the first Home.

In addition to the above, blanket fidelity bonds shall be required to be maintained by the Condominium for all officers, directors and employees of the Condominium and all other persons handling or responsible for, funds of or administered by the Condominium. In the event a management agent has the responsibility for handling or administering funds of the Condominium, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of the Condominium. Such fidelity bonds shall name the Condominium as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Condominium or the management agent, as the case may be, at any given time during the term of each bond. In no event may the aggregate amount of such bonds be less than a sum equal to 3 months aggregate assessments on all Homes plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Condominium as a Common Expense. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Condominium or Insurance Trustee. Such bonds shall also provide that, if applicable, the Federal National Mortgage Association, ("Fannie Mae") Servicers on behalf of Fannie Mae, also receive such notice of cancellation or modification.

Home Owners shall not be prohibited from carrying other insurance for their own benefit.

## **Section 2. The Insurance Trustee.**

The Board of Managers on behalf of the Condominium, shall name an authorized representative, including any trustee with whom the Condominium may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose subject to the adjustment of loss provision contained in the first paragraph of



this Section 1 of Article VII. The Insurance Trustee shall be a bank or trust company located in the State of New York, designated by the Board of Managers and costs associated with the Insurance Trustee shall constitute a Common Expense of the Condominium. In the event the Insurance Trustee resigns or fails to qualify, the Board of Managers shall designate a new Insurance Trustee which shall be a bank or trust company located in the State of New York. The Insurance Trustee shall have a capital, surplus and undivided profits of \$50,000 or more.

**Section 3. Restoration or Reconstruction After Fire or Other Casualty.**

In the event of damage to or destruction of a Building as a result of fire or other casualty (unless seventy-five [75%] percent or more of the Homes are destroyed or substantially damaged and seventy-five [75%] percent or more of the Home Owners do not duly and promptly resolve to proceed with repair or restoration), the Board of Managers shall arrange for the prompt repair and restoration of a Building (including any damaged Home, and any kitchen or bathroom fixtures initially installed therein by the Sponsor, any heating, air conditioning or other service machinery which is covered by insurance but not including any wall, ceiling or door decorations or coverings or other furniture, furnishings, fixtures or equipment installed by Home Owners in the Homes), and the Board of Managers or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense and the Board of Managers may assess all the Home Owners for such deficit as part of the Common Charges.

If seventy-five (75%) percent or more of the Homes are destroyed or substantially damaged and seventy-five (75%) percent or more of the Home Owners do not duly and promptly resolve to proceed with repair or restoration, the Property shall be subject to an action for partition at the suit of any Home Owner or lienor, as if owned in common in which event the net proceeds of sale, together with the net proceed of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds) shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Home Owners in proportion to the respective common interests, after first paying out of the share of each Home Owner the amount of any unpaid liens on his or her Home, in the order of the priority of such liens.

**ARTICLE VIII. RULES AND REGULATIONS**

**Section 1. General.**

In addition to the other provisions of these By-Laws, the following Rules and Regulations together with such additional Rules and Regulations as may hereafter be adopted by the Board of Managers shall govern the use of the Homes and the conduct of all residents thereof:



- (a) All Homes shall be used for residential purposes only. All rentals, other than rentals by the Sponsor, must be subject to local zoning ordinances and must comply with the requirements contained in these By-Laws under Article XI Section 2.
- (b) Home Owners of a Home, members of their families, any lessees, their employees, guests and their pets shall not use or permit the use of the premises in any manner which would be illegal or disturbing or a nuisance to other Home Owners, or in such a way as to be injurious to the reputation of the Condominium.
- (c) The Common Elements shall not be obstructed, littered, defaced or misused in any manner.
- (d) Every Home Owner shall be liable for any and all damage to the Common Elements and the property of the Condominium, which shall be caused by said Home Owner or such other person for whose conduct the Home Owner is legally responsible.
- (e) Every Home Owner must perform promptly all maintenance and repair work to the Home Owner's own Home and Limited Common Elements, which, if omitted, would affect the Condominium in its entirety or in a part belonging to other Home Owners, or the Building of which the Home forms a part, the Home Owner being expressly responsible for the damages and liabilities that the Home Owner's failure to do so may engender.
- (f) All the repairs to internal installations of the Home located in and servicing that Home exclusively, such as telephones and sanitary installations shall be at the Home Owner's expense.
- (g) All screen storm doors must conform to models installed by the builder and may not be installed without the approval of the Board of Managers.
- (h) Structural and other changes to Home and Common Elements are subject to the following:
  - (i) No Home Owner may make any alterations to any part of the Common Elements nor may any structure or other improvement (including landscaping) be built or placed on any portion of the Common Elements or Limited Common Elements nor may any Home Owner make any structural addition, alteration or improvement in or to their Home without the written consent of the Board of Managers as detailed in Article Eighteenth (b) of the Declaration of Condominium, which provides as follows:
 

No alteration, addition, change or decoration to any part of the Common Elements (General or Limited) may be made and no structure or other improvement (including landscaping) may be built or placed on any portion of the Common Elements, including

without limitation any exterior decorations, exterior extensions, decks, patios, fences, gates, signs, statuary, or other structure or change without the written consent of the Board of Managers. The provisions of this paragraph shall not apply to Sponsor.

- (ii) No Home Owner shall make any structural addition, alteration or improvement (of either a temporary or permanent nature) in or to their Home, or any Limited Common Element, without the prior written approval of the Board of Managers.
- (iii) The Board of Managers shall have the obligation to answer any written request by a Home Owner for approval of a proposed structural addition, alteration or improvement in such Home Owner's Home within sixty (60) days after such request is received, and failure to do so within the stipulated time shall constitute a denial by the Board of Managers of the proposed structural addition, alteration or improvement.
- (iv) No Home Owner shall make any structural addition, alteration or improvement in or to any Home or any Limited Common Element without first (1) obtaining and maintaining during the course of such work such insurance as the Board of Managers may reasonably prescribe and providing the Board with a certificate of insurance prior to the commencement of the work, (2) executing and delivering to the Board of Managers an agreement, in form and substance reasonably satisfactory to the Board, setting forth the reasonable terms and conditions under which such alteration, addition or improvement may be made, including, without limitation, the days and hours during which any such work may be done, (3) executing and delivering to the Board of Managers an agreement indemnifying and holding harmless the Board, its Members and officers, and all Home Owners of the Condominium from and against any liability, cost or expense arising out of or connected to such work and (4) obtaining all approvals, as necessary, from the Village and/or Town of Southampton, Suffolk County or any other governmental agency or municipality.
- (v) In the event the Board of Managers chooses to have the proposed structural addition, alteration or improvement reviewed by an independent architect or engineer, the Home Owner shall pay the charges of such architect or engineer.
- (vi) The Home Owner shall bear the cost of any increased taxes or insurance premiums resulting from the structural alterations, additions or improvements.
- (vii) Any application to any department of the Village and/or Town of Southampton, Suffolk County or any other governmental authority

for a permit to make a structural addition, alteration or improvement in or to any Home shall be completed by the Home Owner and executed by the Board of Managers only, without however, incurring any liability on the part of the Board of Managers or any of them to any contractor, subcontractor or material men on account of such structural addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

The above provisions (i) through (iv) shall not apply to Homes owned by the Sponsor or its designee until such Homes shall have been initially conveyed by the Sponsor or such designee.

The Board of Managers of the Condominium shall not use the above provisions in any way that would violate any rights a Unit Owner may have pursuant to the Federal Fair Housing Act or New York State Human Rights Law.

- (i) No resident of the Condominium shall post any signs, advertisement, or posters of any kind in or on the Condominium or their Homes including "For Sale" and "For Rent" signs except as authorized and approved by the Board of Managers.
- (j) No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out of a Home or exposed on any part of the Common Elements. The Common Elements and Limited Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials. No rugs or mops shall be shaken or hung from or on any of the windows or doors, nor shall a Home Owner sweep or throw or permit to be swept or thrown therefrom any dirt or other substance.
- (k) No Home Owner shall paint the exterior surfaces of the windows, walls or doors opening out of his or her Home.
- (l) Commercial license plate vehicles may not be parked in the Condominium for a period in excess of twenty-four (24) hours nor may any boat, trailer, off-track vehicle, camper, bus, truck, snow mobile or other commercial or recreational vehicle be stored or kept in any area of the Condominium including any garage or driveway without the written consent of the Board of Managers.
- (m) No person shall park an automobile on any Common Elements of the Condominium except in designated parking spaces or obstruct any Home Owner's use of ingress or egress to any parking space. Automobiles shall include SUV's, station wagons or other similar types of automobiles. Any person parking an automobile illegally shall be subject to their automobile being towed and/or the Condominium imposing a fine. In the event an automobile is towed, all costs associated with the removal of the automobile shall be paid for by the owner of the automobile and the

Condominium shall not be held responsible for any damage to the automobile.

- (n) No repair of an automobile as referred to in (m) above shall be made in any of the roadways, driveways or parking areas of the Condominium.
- (o) All Home Owners will be required to register each of their vehicles with the Board of Managers.
- (p) No tents are permitted on any portion of the Common Elements.
- (q) No vehicle of any kind is permitted to be ridden, driven or parked on any portion of the Common Elements which is outside the border of the road and/or driveways.
- (r) No animals or reptiles of any kind shall be raised, bred, or kept in any Home or in the Common Elements or Limited Common Elements, except that dogs, cats or other common household pets may be kept in Homes, subject to the Rules and Regulations adopted by the Board of Managers, including those prohibiting any animals being kept or maintained for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days written notice from the Board of Managers. All dogs, cats, and other pets must be leashed and shall not be permitted to run loose. Home Owners shall be responsible for picking up and disposing of their pet's waste and for any damage caused by their pets to the Common Elements. No cages or "runs" shall be constructed on the Common Elements.
- (s) No television or radio antenna or any other type of receiving or transmitting antenna or structure shall be erected on the exterior Home without the prior written consent of the Board of Managers. The Board of Managers may adopt such rules and regulations pertaining to antenna so as to comply with the Federal Communications Commission rules adopted on October 14, 1996.
- (t) No Home Owner shall do anything to his or her Home or the Common Elements to alter the drainage.
- (u) Any Home Owner who sells their Home shall notify the Board of Managers, providing the name and address of the new Home Owner, at least thirty (30) days prior to the Closing of Title of said Home.
- (v) Any Home Owners who mortgage or refinance their Home shall be required to provide the Board of Managers with the name and address of the mortgagee within thirty (30) days of the issuance of the mortgage.
- (w) Any Home Owner who rents or leases their Home must comply with all of the provisions contained in Article XI of these By-Laws.

- (x) The Board of Managers shall, at the request of the mortgagee of the Home, report any delinquent assessments due from the Owner of such Home.
- (y) No Home Owner shall install or permit to be installed any window mounted or through the wall mounted air conditioning unit in his or her Home.
- (z) Every Home Owner shall be liable for any and all damage to the Common Elements, which shall be caused by said Home Owner, the Home Owner's lessees and occupants of Homes, their respective family members and guests and such other person for whose conduct the Home Owner is legally responsible.
- (aa) No Home Owner shall make, cause, or permit any unusual disturbing, or objectionable noises or odors to be produced upon or to emanate from their Home or the Limited Common Elements that are designated for the exclusive use of an individual Home or permit anything to be done therein that will interfere with the rights, comforts, or conveniences of the other Home Owners. No Home Owner shall play upon or suffer to be played upon any musical instrument, or shall operate or permit to be operated an iPod, CD player, computer radio, television set, or other similar type of electronic equipment in an excessively loud manner in such Home Owner's Home, if the same shall disturb or annoy other occupants of the Condominium.
- (bb) Each Home Owner shall keep his or her Home in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors, or windows thereof, any dirt or other substance.
- (cc) No Home Owner or any of his or her agents, servants, employees, licensees, or visitors shall at any time bring into or keep in his or her Home any flammable, combustible or explosive fluid, material, chemical or substance, except for normal household use.
- (dd) Planting of fruits or vegetables is absolutely prohibited in or on any Common Element, General or Limited.
- (ee) No construction or repair work or other installation involving noise is permitted to be conducted in any Home except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency or unless such work is performed by the Sponsor.
- (ff) Water closets and other water apparatus and utility closets are not permitted to be used for any purpose other than those for which they were designed, nor are any sweepings, rubbish, rags or any other article permitted to be thrown into the same. Any damage resulting from misuse

of any water closets or other apparatus in a Home will be repaired and paid for by the Home Owner of such Home.

- (gg) No Home Owner is permitted to send any employee of the Condominium or of the managing agent thereof out of any Building on any private business.
- (hh) The Board of Managers shall have the right to institute specific rules and regulations regarding any recreational facilities located in the Condominium. All Home Owners, tenants, their families and guests shall faithfully observe the rules and regulations applicable to the recreational facilities.
- (ii) Home Owners will faithfully observe the procedures established from time to time by the Board of Managers or the Managing Agent with respect to services provided and the management of the Condominium.

**Section 2. Violations of Rules and Regulations.**

- (a) Upon receipt, by the President of the Board of Managers or by the Managing Agent, of a signed written complaint alleging violation of any of the Rules and Regulations or other provisions of the Declaration and/or By-Laws as herein established or hereafter established or adopted by the Board of Managers on behalf of the Condominium, the President of the Board, or in the President's absence, the Vice President together with a minimum of two (2) other Members of the Board, without a formal meeting of the Board, shall make a determination as to the validity of the complaint. Any Home Owner accused of a violation of the Rules and Regulations shall be entitled to receive written notice by registered mail of such accusation. The written notice shall contain the following statements:
  - i) A copy of the applicable Rule and Regulation the Home Owner has violated and a description of the manner in which the Home Owner violated the Rule and Regulation.
  - ii) A time and place at which the Home Owner shall be given the opportunity to present a defense before final action is taken.
- (b) If, after said notice and hearing it is determined that the complaint is valid and justified the Managing Agent, if any, or the Board of Managers if no Managing Agent, shall be directed to send written notice to the violator levying a fine or up to one hundred and fifty (\$150) dollars upon the violator and instructing the violator to stop, curtail, correct or eliminate the violation, if applicable, within a period of three (3) days from the date of receipt of such notice. Such fine is to be considered as an additional Common Charge obligation to the account of the violator and shall be treated as such regarding late penalties and a lien upon the property as

elsewhere provided for in the Declaration of Condominium or By-Laws. If the violation is not stopped, curtailed, corrected or eliminated, the Board of Managers may assess additional fines of up to one hundred and fifty (\$150) dollars each after serving written notice upon the violator as provided for above and may continue to levy additional fines of up to one hundred and fifty (\$150) dollars every 30 days thereafter. The initial fine and any additional fines shall be cumulative. If the violation results in loss of or damage to property classified as a Common Element, the Board of Managers shall itself or direct the Managing Agent, if employed, to have said loss or damage repaired or replaced and the actual cost of said repair or replacement shall be assessed to the violator as an additional Common Charge.

The above shall in no way limit any other action the Board of Managers may have against a Home Owner in equity or law for any violation of these Rules and Regulations.

### **Section 3. Costs.**

Any costs incurred by the Board of Managers to remedy or cure any violation of the Rules and Regulations, By-Laws or Declaration of Condominium as herein or hereafter established, shall be an additional Common Charge charged to the violator in addition to the fine(s) levied upon the violator as described in Article VIII, Section 2 of the By-Laws. In the event a Home Owner's tenant violates the provisions of any Rule and Regulation or any other provision of the By-Laws, fines may be levied against a Home Owner's tenant, and the Home Owner shall be jointly and severally liable with the Home Owner's tenant for the payment of same.

In the event the Board of Managers institutes legal action for the collection of any fines for the enforcement of any of the provisions of the Declaration, By-Laws and/or Rules and Regulations of the Condominium, then the Defendant shall be responsible for payment of reasonable attorney's fees of the Board of Managers on behalf of the Condominium, plus interest and costs of suit.

### **Section 4. Board of Managers Right to Change Rules and Regulations.**

- (a) Any consent or approval given under these Rules and Regulations may be amended, modified, added to, or repealed at any time by resolution of the Board. Further, any such consent or approval may, in the discretion of the Board or the Managing Agent, be conditional in nature.
- (b) Further, the Board of Managers reserves the right to rescind, alter, waive or add, as to one or more or all Home Owners, occupants, lessees, guests and any other person residing in a Building, any Rule or Regulation at any time prescribed for the Condominium when, in the reasonable judgment of the Board of Managers, the Board of Managers deems it necessary or desirable for the reputation, safety, character, security, care, appearance

or interests of the Condominium, or the preservation of good order therein, or for the operation or maintenance of the Condominium or the equipment thereof, or the comfort of Home Owners, occupants or others in the Condominium. No rescission, alteration, waiver or addition of any Rule or Regulation in respect of one Home Owner or other occupant will operate as a rescission, alteration or waiver in respect of any other Home Owner or other occupant.

- (c) The Board shall have the right to increase the maximum amount of a fine imposed on the Home Owners. If the Board increases the maximum amount of a fine as it applies to all Home Owners it shall do so only after a notice has been sent to the Home Owners advising them of the increase.

**Section 5. Sponsor.**

The above provisions shall not apply to the Sponsor unless required: (a) to comply with applicable laws or regulations, or (b) to remedy any notice of violation.

**Section 6. Complaints.**

Complaints regarding the service of the Condominium shall be made in writing to the Board or to the Managing Agent.

**ARTICLE IX. DEFAULT**

In the event a Home Owner does not pay any Common Charges, Special Assessments, fines, late fees or any other sums, charges or assessments required to be paid when due, as determined by the Board of Managers, the Board of Managers, acting on behalf of the Condominium shall notify the Home Owner and the mortgagee, if any, of such Home and may place a lien on such Home pursuant to the provisions of Section 339-z of the Real Property Law of the State of New York.

The Board may take action to foreclose any lien for past due Common Charges in accordance with Section 339-aa of the Real Property Law or otherwise. In any such foreclosure the Home Owner shall be required to pay a reasonable rental for the Home for any period prior to sale pursuant to judgment of foreclosure and sale and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same.

During the period of time the Sponsor retains a majority of the seats of the Board of Managers, the Sponsor will cause the Board of Managers to file a lien as provided for in Section 339-aa of the Real Property Law on Homes in which Sponsor is more than thirty (30) days in arrears of Common Charges.

The Board of Managers (on behalf of the Home Owners) shall have the right to bring suit to recover a money judgment for unpaid Common Charges Special Assessments, fines, late fees or any other sums, charges or assessments determined



by the Board of Mangers at the option of the Board of Managers, without foreclosing or waiving the lien securing such charges. In such an event the Home Owner shall be liable for the reasonable costs and reasonable attorney's fee incurred by it incident to the collection of the delinquent Common Charges.

Notwithstanding the above any foreclosure by a holder of an Institutional Mortgage shall be subject to the provisions of Article VI, Section 2 of these By-Laws.

## **ARTICLE X. AMENDMENTS**

These By-Laws may be altered, amended or added to at any duly called Home Owners meeting; provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment; (2) that the amendment shall be approved by sixty-six and two-thirds (66 $\frac{2}{3}$ %) percent of the Home Owners in number and common interest and (3) said amendment shall be set forth in a duly recorded amendment to the Declaration. Notwithstanding the above, the following shall be applicable to amendments to the By-Laws:

- (i) No amendment shall be passed which will affect or impair the validity of the Home Owners' interest in a Home.
- (ii) No amendment, modification, addition or deletion of, to or from the By-Laws or any Rules and Regulations shall impair, prejudice or be effective in any way against Sponsor or its successor, assignee or designee or any Unsold Home, as long as the Sponsor owns an Unsold Home in the Condominium unless Sponsor has given its prior written consent thereto. This provision is not subject to amendment.
- (iii) The Sponsor shall have the right to amend the By-Laws without the consent of the Home Owners or the Board of Managers to (a) make corrections that are patent errors, inconsistencies, scrivener's errors, technical errors, to conform to other documents, or (b) to make changes or revisions to comply with the requests, guidelines and/or requirements of any major participant in the secondary market for mortgages, including but not limited to the Federal National Mortgage Association ("Fannie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal Housing Association ("FHA") of the Housing and Urban Development ("HUD"), the Veterans Administration ("VA") and/or any State or Local Funding Agencies or (c) to comply with any Federal, State or local law or regulation.
- (iv) The Board of Managers shall have the right to amend these By-Laws without the consent of the Home Owners to make corrections to the By-Laws that are patent errors, inconsistencies, scrivener's errors and/or technical errors.

- (v) No amendment to the By-Laws shall be passed which shall impair or prejudice the validity, interest, rights and priorities of a mortgagee.
- (vi) In addition, in the case of material changes, approval must be obtained from first mortgage holders representing at least 51% of the votes of Homes that are subject to first mortgages. A change to any of the following would be considered as material: voting rights; assessments, assessment liens, or subordination of assessment liens; reserves for maintenance, repair and replacement of common elements ; responsibility for maintenance and repairs; reallocation of interests in the general or limited common elements, or rights to their use; boundaries of any Home; convertibility of Homes into Common Elements or vice versa; expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project; insurance or fidelity bonds; revisions to the leasing provisions of Homes contained in Article XI; imposition of any restrictions on a Home Owner' s right to sell or transfer his or her Home; a decision by the Condominium to establish self management when professional management had been required previously by an eligible mortgage holder; restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents; any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or any provisions that expressly benefit mortgage holders, insurers or guarantors. An addition or amendment to these By-Laws shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any eligible mortgage holder who received a written request by certified or registered mail, return receipt requested, to approve amendments who does not deliver to the Condominium a negative written response within sixty (60) days of the receipt of the request shall be deemed to have approved such amendment.

## **ARTICLE XI. SELLING, MORTGAGING AND LEASING HOMES**

### **Section 1. Selling and Leasing Homes.**

Any Home may be conveyed, subject to local zoning ordinances by its Home Owner free of any restrictions except that no Home Owner shall convey, mortgage, pledge, hypothecate, sell their Home unless and until all unpaid Common Charges assessed against the Home Owner's Home shall have been paid to the Board of Managers. However, such unpaid Common Charges can be paid out of the proceeds of the sale of a Home, or by the Grantee.

All Home Owners who enter into a lease for the Home Owner's Home shall be required to provide the Board of Managers of the Condominium with a copy of the lease at least thirty (30) days prior to a tenant occupying the Home. All leases will be required to comply with all the requirements contained in Sections 2, 3, 4 and 5 below. Failure to comply will be deemed an automatic violation of the By-Laws of the Condominium.

A Home Owner may convey the Home Owner's Home and common interest appurtenant thereto, to the Board of Managers on behalf of all Home Owners free of any cost to the Board or the Home Owners and upon such conveyance such Home Owner shall not be liable for any Common Charges thereafter accruing against such Home. Any sale or lease of any Home in violation of this section shall be voidable at the election of the Board of Managers.

The provisions of this section regarding sales shall not apply to the acquisition or sale of a Home by a mortgagee who shall acquire title to such Home by foreclosure or by deed in lieu of foreclosure.

Whenever the term "Home" is referred to in this section, it shall include the Home, the Home Owners undivided interest in the Common Elements and the Home Owners interest in any Homes acquired by the Board of Managers.

## **Section 2. Leasing Requirements.**

Except as noted in Sections 4, 5 and 6, every lease on a Home in the Condominium that is eligible to be leased, will be subject to the following rules and regulations, regardless of whether stated in the lease:

- (a) a copy of the lease must be provided to the Board of Managers at least thirty (30) days prior to occupancy of a tenant;
- (b) the form of the lease and any renewal lease is subject to the review and approval of the Board of Managers and must contain a provision that the tenant agrees to be subject to the Declaration, the By-Laws and Rules and Regulations of the Condominium and agrees to accept the power of attorney of the Condominium to evict the tenant for any violation by the tenant of the Declaration, the By-Laws and the Rules and Regulations of the Condominium.
- (c) the lease must be in writing;
- (d) the lease must be for the entire Home;
- (e) the minimum lease term and any renewal term shall be determined by the Board of Managers;
- (f) the use of the premises is subject to the Declaration and the By-Laws and Rules and Regulations of the Condominium;
- (g) within thirty (30) days of occupancy by the tenant, the name and telephone number of the tenant, together with a clear and complete copy of the signed lease, must be furnished to the Managing Agent or if no

- Managing Agent to a Member of the Board of Managers of the Condominium;
- (h) within thirty (30) days of any renewal of a lease of a tenant, the name and telephone number of the tenant, together with a clear and complete copy of the renewal lease, must be furnished to the Managing Agent or if no Managing Agent to the Board of Managers of the Condominium; and
- (i) if any Home Owner (landlord) or tenant is in violation of any of the provisions of the Declaration, By-Laws or Rules and Regulations, the Board of Managers of the Condominium may bring an action in its own name or in the name of the Home Owner, or both, to have the tenant evicted or to recover damages, or both.

If the court finds that the tenant is or has violated any of the provisions of the Declaration, the By-Laws or the Rules and Regulations of the Condominium, the Court may find the tenant guilty of forcible detainer despite the facts that the Home Owner is not a party to the action and/or that the tenant is not otherwise in violation of tenant's lease or other rental agreements with the Home Owner. For purposes of granting the forcible detainer against the tenant, the court may consider the Home Owner a person in whose name a contract (the lease or rental agreement) was made for the benefit of another (the Condominium). The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies available to the Condominium. If permitted by present or future law, the Condominium may recover all of its costs, including court costs and reasonable attorney's fees, and these costs shall be a continuing lien on the Home that shall bind the home in the hands of the then Home Owner and the Home Owner's successors and assigns. The Board of Managers shall give the tenant and the Home Owner written notice of the nature of the violation of the rules, and thirty (30) days from the mailing of the notice in which to cure the violation before the Board of Managers may file for eviction.

### **Section 3. Tenant Bound by Declaration.**

By becoming a tenant, each tenant agrees to be bound by the Declaration, By-Laws and the other rules and regulations of the Condominium and recognizes and accepts the right and the power of the Condominium to evict the tenant for any violation by the tenant of the above, and the other rules and regulations of the Condominium.

### **Section 4. Lenders.**

To protect first mortgage lenders and to encourage first mortgage lenders to make loans on Homes in the Condominium, only subsection (d), (e), (f), (g), (h) and (i) of Section 2 of this Article XI shall apply to a first mortgage lender who has title to the Home through (a) foreclosure of its first mortgage on the Home; or (b) a deed in lieu of foreclosure of its first mortgage on the Home. Any subsequent purchaser from the first mortgage lender is subject to all the terms of Article XI.

**Section 5. Sponsor.**

The terms of Sections 2 and 3 of this Article XI shall not be applicable to the Sponsor.

**Section 6. Waiver of Partition Rights.**

The Home Owners waive all of their voting rights concerning partition respecting any Home acquired by the Board of Managers in accordance with this Article.

**Section 7. Gifts, etc.**

Any Home Owner may convey or transfer his or her Home by gift during his or her lifetime or devise his or her Home by will or pass the same by Intestacy, without restriction.

**Section 8. Section 339-kk of the Real Property Law.**

In the event the aforesaid Declarations are revised to permit rentals the provisions of Section 339-kk of the Real Property Law of the State of New York would become applicable. Pursuant to Section 339-kk of the Real Property Law, any non-occupying Home Owner who rents any Home in the Condominium to a rental tenant and then fails to make payments due for Common Charges, assessments or late fees for such Unit within sixty (60) days of the expiration of any grace period after they are due is subject to the following: Upon notice in accordance with the statute, all rental payments from the tenants shall thereafter be directly payable to the condominium association.

**ARTICLE XII. CONDEMNATION**

In the event all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Insurance Trustee if the award is more than \$40,000 and to the Board of Managers if the award is \$40,000 or less, to be distributed in accordance with Article VII but in the following amounts:

- (a) so much of the award as is applicable to unrestricted Common Elements, to the Home Owners pro rata according to the respective common interest appurtenant to the Homes owned by such Home Owners.
- (b) So much of the award as is applicable to irrevocably restricted (limited) Common Elements to the Home Owner having general use of such common element.

In such eminent domain or condemnation proceeding the Board shall request that the award shall set forth the amount allocated to unrestricted Common Elements and to each irrevocably restricted Common Element. In the event the award does not set forth such allocation then the question of such allocation shall be submitted to the arbitration in accordance with the Arbitration Statutes of the State of New York. Any

condemnation or eminent domain award shall require that any proceeds applicable to a Home be applied first to a first mortgagee of a Home as its interest may appear.

## **ARTICLE XIII. SPONSOR RIGHTS**

### **Section 1. Sales.**

The Sponsor, its nominees and agents, shall have the right and privilege to maintain general and local sales offices in and about the Condominium, including any model Homes located within the Condominium Buildings or elsewhere throughout the project, and shall have the right and privilege to have their representatives, employees and agents present on the Condominium premises to show the Homes to prospective purchasers, to utilize the Common Elements, and without limitation, to do any and all things necessary incident to the sale of the Homes, without charge or contribution other than in the form of Common Charge payments as otherwise provided for herein.

### **Section 2. Signs.**

The Sponsor shall have the right to continue to employ signs of its choice upon the Condominium premises in its efforts to construct and sell the Homes herein or any other community or development the Sponsor chooses for as long as the Condominium is in existence. Incident to the rights and privileges provided for herein, the officers, employees, agents, contractors, guests and invitees of the Sponsor, its successors and assigns, shall have the right of ingress and egress to and throughout the Common Elements of the Condominium. This Article XIII may not be modified or amended without the written consent of the Sponsor so long as the Sponsor continues to own one (1) or more unsold Homes.

### **Section 3. Additional Rights.**

The Sponsor, its nominees and agents shall, in addition to the above, have all the rights afforded the Declarant in the Declaration of Condominium.

## **ARTICLE XIV. MISCELLANEOUS**

### **Section 1. Insurance.**

Under no circumstances shall a Home Owner permit or suffer anything to be done or left in his or her Home which will increase the insurance rates on his or her Home or any other Home or on the Common Elements.

### **Section 2. Severability.**

Should any of the covenants, terms or provisions herein imposed be void or be or become unenforceable at law in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.

**Section 3. Notice to Condominium.**

A Home Owner who mortgages a Home, shall notify the Condominium through the management agent, if any, or the President of the Board of Managers of the Condominium in the event there is no management agent, of the name and address of his mortgagee; and the Board of Managers shall maintain such information in a book entitled "Mortgagees of Homes".

**Section 4. Notice of Unpaid Assessments.**

The Board of Managers shall at the request of a mortgagee of a Home, report any unpaid assessments due from the Home Owners of such Home.

**Section 5. Examination of Books and Records.**

Home Owners shall have the right to examine the books and records of the Condominium at convenient hours on weekdays (except legal holidays). Said hours are to be determined by the Board of Managers or Managing Agent.

**Section 6. Costs of Legal Action**

In the event the Board of Managers institutes any legal action for the enforcement of any of the provisions of the Declaration of the Condominium, By-Laws and/or Rules and Regulations of the Condominium, then the Defendant shall be responsible for payment of reasonable attorney's fees of the Board of Managers on behalf of the Condominium, plus interest and costs of suit.

**Section 7. Reports to Home Owners.**

It is the obligation of the Board of Managers of the Condominium to give all Home Owners annually:

- (i) a financial statement of the Condominium prepared by a certified public accountant or public accountant by a specific date; such statement shall be certified while the Sponsor retains a majority of the Members of the Board of Managers and such statement shall be provided within four (4) months of the end of each fiscal year;
- (ii) prior notice of the annual Home Owners' meeting; and
- (iii) a copy of the proposed annual budget of the Condominium within thirty (30) days of the date set for adoption by the Board of Managers. While Sponsor is in control of the Board of Managers such budget will be certified in accordance with the regulations of the Department of Law.

During the period Sponsor retains control of the Board of Managers of the Condominium, the Sponsor shall be required to provide certified financial statements for the Condominium. The cost of such reports shall be a Condominium expense. In addition, during said period the Sponsor will be required to provide a Certification of Adequacy of the budget for the Condominium from a Managing Agent or other expert who is unaffiliated with the Sponsor.

**Section 8. Construction.**

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural; wherever the context so requires.

**Section 9. Compliance with Article 9-B.**

These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Laws of the State of New York. In case any of these By-Laws conflict with the provisions of said Statute or of the Declaration, the provisions of the Statute or of the Declaration, whichever the case may be, shall control.