



Ontario County Clerk Recording Page

Return To

Chicago Title Lyons-66 William St NY 14489
66 William St
Lyons, NY 14489-1545

Jean E. Chrisman, County Clerk
Ontario County Clerk
20 Ontario Street
Canandaigua, New York 14424
(585) 396-4200

Document Type: **DECLARATION**

Receipt Number: 753054

Grantor (Party 1)
VILLAS AT HATHAWAYS CORNERS HOMEOWNERS A

Grantee (Party 2)
MARRANO/MARC-EQUITY CORPORATION

Fees	
Recording Fee	\$20.00
Pages Fee	\$205.00
State Surcharge	\$20.00
Total Fees Paid:	\$245.00

Control #: 202407170103

Property located in **Town of Farmington**

State of New York
County of Ontario

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beginning at page **0865**, ending at page **0905**, with a
total page count of 41.

Ontario County Clerk

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

*Record and return to
Dorothy E. Theoria, Esq.
The Marrano/Marc Equity Corp.
2730 Transit Rd.
West Seneca, NY 14224*

41
245
CT

DECLARATION

OF

**PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS**

NAME: Villas at Hathaway's Corners Homeowners Association, Inc.

SPONSOR: The Marrano/Marc-Equity Corporation
2730 Transit Road
West Seneca, New York 14224

DATED: July 3, 2024

LANDS COVERED UNDER MAP NO. 038086 Filed on January 26, 2022

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EXHIBIT A

- 1. Declaration of Association Property
- 2. Declaration of Association of Units
- 3. Rights and Easements of Association
- 4. Rights and Easements of Owners
- 5. Easements Relating to Use of Common Areas

Warrant of Incorporation of Association of Owners of Villas at Hathaway's Corners Homeowners Association, Inc.

EXHIBIT B

- 1. Declaration of Association Property
- 2. Declaration of Association of Units

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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS, CHARGES AND LIENS**

(Villas at Hathaway's Corners Declaration)

THIS DECLARATION is made this _____ day of _____, 2022 by The Marrano/Marc-Equity Corporation, a Florida corporation with an address at 2730 Transit Road, West Seneca, New York 14224 (hereinafter referred to as "Sponsor").

W I T N E S S E T H :

WHEREAS, Sponsor is the owner of the real property described in Article II of this Declaration which the Sponsor desires to develop into a residential community known or to be known as "Villas at Hathaway's Corners" comprised of open spaces and other common facilities for the benefit of said community; and

WHEREAS, Sponsor desires to provide for the preservation of the values and amenities in said residential community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner of a Unit therein, and to provide for the future extension of this Declaration to any Additional Property as determined by Sponsor; and

WHEREAS, the Sponsor has deemed it desirable, for the efficient preservation of the values and amenities in said residential community to create an agency to which should be delegated and assigned the powers of maintaining, repairing, replacing and administering the Association Property and the Additional Property, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Sponsor has incorporated Villas at Hathaway's Corners Homeowners Association, Inc. under the Not-For-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions; and

WHEREAS, it is the intention of the Sponsor as of the date of this Declaration that Villas at Hathaway's Corners Homeowners Association, Inc. shall hold title to a portion of the real property described on Schedule A; and

WHEREAS, the function of Villas at Hathaway's Corners Homeowner Association, Inc. shall be to maintain and administer the Association Property and any other common areas on the real property described on said Schedule A attached to this Declaration;

NOW THEREFORE, the Sponsor, for itself, its successors and assigns, declares that the real property described in Section 2.1 hereof is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants, conditions and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1.1 The following words, phrases or terms when used in this Declaration or in any Supplemental Declaration shall, unless the context otherwise prohibits, have the following meanings:

- A. "ASSOCIATION" shall mean and refer to VILLAS AT HATHAWAY'S CORNERS HOMEOWNERS ASSOCIATION, INC.
- B. "ASSOCIATION PROPERTY" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by or in possession of the Association.
- C. "BUILDER" shall mean The Marrano/Marc-Equity Corporation, its successors or assigns.
- D. "DECLARATION" shall mean and refer to this Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens - VILLAS AT HATHAWAY'S CORNERS, as it may from time to time be supplemented, extended or amended in the manner provided for herein.
- E. "SPONSOR" shall mean and refer to The Marrano/Marc-Equity Corporation, its successors and assigns.
- F. "LOT" shall mean and refer to any portion of the real property identified as a separate parcel on the tax records of the Town of Farmington or shown as a separate lot upon any recorded or filed subdivision map, with the exception of Association Property as heretofore defined.
- G. "MAINTENANCE ASSESSMENT" shall mean the annual assessments or charges (payable in equal monthly installments unless the Board of Directors determines otherwise) for the maintenance and operation of the Association Property and Property for which the Association has maintenance responsibilities.
- H. "MEMBER" shall mean and refer to each holder of a membership interest in the Association, as such interests are set forth in Article III.
- I. "OWNER" shall mean and refer to the holder of record title, whether one, more than one person as joint tenants or tenants in common, or as a partnership, or other entities, of the fee interest in any Lot or Unit, whether or not such holder actually resides in such Unit or on such Lot.
- J. "PROJECTED UNIT" shall mean and refer to any units contemplated for construction on any parcel of land covered by this Declaration. At the time any parcel is added to this Declaration, there shall specifically be set forth in the instrument adding such parcel, the number of dwelling units projected for such parcel.
- K. "PROPERTY" shall mean and refer to all properties as are subject to this Declaration.
- L. "SPECIAL ASSESSMENTS" shall mean any special assessment made by the Board of Directors for capital improvements and repairs.

M. "UNIT" shall mean and refer to each completed residential dwelling unit.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 2.1 Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Farmington, County of Ontario and State of New York, and is more particularly described in Schedule A attached hereto and incorporated by reference herein, all of which property shall be hereinafter referred to as the "Property".

Section 2.2 Additional Property. Other lands ("Additional Property") may become subject to this Declaration in the following manner:

a. Lands added by Sponsor without consent of Owners: The Sponsor may, without the consent of the Unit Owners, within twenty (20) years of the date of recording of this Declaration, bring within the scope of this Declaration any other lands consisting of future phases or projects of the Villas at Hathaway's Corners development, to be determined at such later dates in Sponsor's discretion.

b. Lands added with consent of Owners: The owner of any adjacent lands who desires to add such adjacent lands to the scope of this Declaration and to subject them to the jurisdiction of the Association may do so upon (i) approval in writing of the Association pursuant to a vote of its Members as provided in its By-Laws and (ii) so long as Sponsor owns a Lot, the written approval of Sponsor, and (iii) an amendment to this Declaration.

Such additional lands shall be added to the Declaration by the recording in the Ontario County Clerk's Office of a supplemental extending declaration which shall extend the scope of the covenants and restrictions of this Declaration to such Additional Property and thereby subject such additions to assessment for their fair share of the expenses of the Association and may also contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added adjacent properties and as are not inconsistent with the provisions of this Declaration.

ARTICLE III

VILLAS AT HATHAWAY'S CORNERS HOMEOWNERS ASSOCIATION, INC.

STRUCTURE, MEMBERSHIP, VOTING RIGHTS AND DIRECTORS

Section 3.1 Formation of Villas at Hathaway's Corners Homeowners Association, Inc. Pursuant to the Not-for-Profit Corporation Law of New York, the Sponsor has formed Villas at Hathaway's Corners Homeowners Association, Inc. (the "Association") to own, operate, and maintain the Association Property, enforce the covenants, conditions and

restrictions set forth in this Declaration and to have such other rights, obligations, duties and functions as are set forth in this Declaration and in the Certificate of Incorporation and By-Laws of the Association, as the same may be amended from time to time. Subject to the additional limitations provided in this Declaration and the Certificate of Incorporation, the Association shall have all the rights and powers and be subject to the limitations of a not-for-profit corporation as contained in the New York State Not-for-Profit Corporation Law as the same may be amended from time to time.

Section 3.2 Membership. The Association shall have as members only Lot and Unit Owners within Villas at Hathaway's Corners and the Sponsor for so long as Sponsor holds title to a Lot or Unit. All Lot and Unit Owners shall, upon becoming such, be deemed automatically to have become members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from the ownership of any of the interests described in the definitions of the words "Owner" and "Sponsor" as found in Article I of this Declaration. In the case of any Lot or Unit owned by more than one person as joint tenants, tenants in common, partnership, or some similar combination, all of such persons as a group shall constitute one owner with respect to such Unit or Lot.

Section 3.3 Voting; Mortgagee's Control of Votes. Each Lot or Unit Owner, including the Sponsor, shall be entitled to one (1) vote for each Lot or Unit owned, except as otherwise provided in this Declaration.

Section 3.4 Units Owned or Held by More Than One Person or by Corporation. When any Unit is owned or held by more than one person as tenants by the entirety, in joint or common ownership or interest, such Owners shall collectively be entitled to only one (1) vote and if such Owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed.

In the case of a corporate Owner, votes may be cast by any duly authorized officer of such corporation.

Section 3.5 Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Lot or Unit merely as security for the performance of an obligation of an Owner shall not be a Member.

Section 3.6 Meeting and Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of this Declaration and the Certificate of Incorporation and By-Laws of the Association and the Not-for-Profit Corporation Law of the State of New York as it may deem advisable for any meeting of its Members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures, and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.7 Selection, Powers and Duties of Directors. The nomination, election, powers and duties of the Board of Directors and filling of vacancies shall be governed as set forth in the By-Laws of the Association.

Section 3.8 Indemnification of Officers and Directors. Every director and officer of the Association shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, judgments, decrees, fees, penalties or amounts paid in settlement, reasonably incurred by or imposed upon such director or officer in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which such officer or director may be a party, or in which such officer or director may become involved, by reason of being or having been a director or officer of the Association,

whether or not such person is a director or officer at the time such expenses are incurred, except that no such indemnification shall be made if a judgment or other final adjudication adverse to such director or officer establishes that (i) the acts of the director or officer 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 (ii) such director or officer (or a member of such director's or officer's family) personally gained a financial profit or other advantage to which such beneficiary was not legally entitled; provided, that in the event of a settlement or other non-adjudicated disposition, the indemnification herein shall apply only when the Board of Directors of the Association approves such settlement as being in the best interests of the Association. Funds to cover the above expenses, including fees of counsel, may be advanced by the Association, prior to the final disposition of the matter, upon receipt of an undertaking by or on behalf of the recipient to repay such amounts if it shall ultimately be determined that (i) the recipient is not entitled to indemnification or (ii) where indemnification is granted, the expenses so advanced exceed the amount to which such officer or director is entitled.

Section 3.9 Sponsor's Written Consent Necessary for Certain Actions Taken by Board of Directors. Notwithstanding anything to the contrary contained in this Declaration, so long as the Sponsor holds title to any Lot or Unit or portion of the Property, the Board of Directors may not, without the Sponsor's written consent, which consent may not be unreasonably withheld, (i) make any addition, alteration, or improvement to the Association Property, *except for* necessary repairs or any repairs required by law, (ii) assess any amount for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund in excess of an amount equal to the proportion of the then existing budget which the amount of reserves in the initial budget of estimated expenses for the Association bears to the total amount of such initial budget of estimated expenses for the Association; or (iii) hire any employee in addition to the employees, if any, provided for in the initial budget of the Association, except as may be necessary to maintain the quantity or quality of services or maintenance; or (iv) enter into any service or maintenance contract for work not provided for in the initial budget of the Association, except for service or maintenance to facilities not in existence or not owned by the Association at the time of the first conveyance of a Lot; or (v) reduce the quantity or quality of services or maintenance of the Association Property; or (vi) borrow money on behalf of the Association or (vii) make any change which adversely affects a substantial interest or right of the Sponsor. So long as the Sponsor holds title to any Lot or Unit or portion of the Property, this Section shall not be amended without the written consent of the Sponsor.

The Sponsor shall not, so long as the Sponsor is in control of the Board of Directors of the Association, use its position of control to (i) reduce the level of services described in the CPS-7 filing with the New York State Department of Law pursuant to which the Sponsor offered Units for sale together with interests in the Association, (ii) prevent capital repairs to the Association Property or (iii) prevent expenditures required to comply with applicable laws or regulations.

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.1 Dedication of Association Property. The Sponsor intends to convey to the Association, subsequent to the recordation of this Declaration, and subject to the provisions of this Declaration, certain tracts of land within the Property for the use and enjoyment of the Members. Said tracts of land conveyed to the Association shall hereinafter be referred to as "Association Property" and shall consist mainly of common green areas. The Association must accept any such conveyance made by the Sponsor provided such conveyance is made without consideration.

Section 4.2 Rights and Easements of Owners. Subject to the rights and easements of the general public and certain other adjacent owners as set forth herein and subject to the rights and easements of the Association as set forth in Section 4.3 herein, and the rights and easements of the Sponsor as set forth in Section 4.4 herein, each Unit Owner (and such Unit Owner's guests, licensees, tenants and invitees) shall have the following rights and easements, provided no such easement shall interfere with the use of any Unit as a dwelling:

(a) Use - the right to use and enjoy all Association Property in accordance with the Declaration and the rules and regulations promulgated by the Association;

(b) Ingress and Egress - a vehicular or pedestrian easement for ingress and egress in common with other Unit Owners and the Sponsor over all walkways, driveways and roadways located within the Property or on Association Property;

(c) Utility Lines - an easement for the installation, use, repair, maintenance and replacement of utility lines including water, electric, cable television, sanitary sewer, storm sewer and drainage servicing the Lot or Unit of such Owner.

These easements will be subject to the rights and easements of the Association as set forth in Section 4.3 herein, provided, however, that any conveyance or encumbrance referred to in Section 4.3(c) below shall be subject to the easements of the Owners as provided in the section above.

Section 4.3 Rights and Easements of Association. With respect to the Association Property owned, and in accordance with the Certificate of Incorporation and By-Laws of the Association, the Association shall have the right:

(a) to promulgate rules and regulations relating to the use, operation and maintenance of the Property and Association Property for the safety and convenience of the users thereof or to enhance the preservation of and maintain the value, aesthetic appearance, quality, character, and structural integrity of the Units in such manner as, in the discretion of the Association, shall serve to promote the best interests of the Lot or Unit Owners;

(b) to grant easements or rights-of-way, with or without consideration, to any public or private utility corporation, cable television company, governmental agency or political subdivision; provided no such easement or right of way shall interfere with the occupancy of any Unit as a dwelling;

(c) to dedicate, sell, transfer, abandon, partition, or encumber (except for any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of the Members) all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the consent of two-thirds (2/3) of all Unit Owners other than the Sponsor, and Sponsor for so long as Sponsor shall own a Lot or Unit.

(d) to contract with any person, corporation, firm, trust company, bank or other entity for the performance of its various duties and functions.

(e) to enter into agreements for the performance of its various duties and functions including agreements with other homeowners' associations and condominiums for common maintenance, management and other services, materials and supplies;

Section 4.4 Rights and Easements of Sponsor. With respect to the Property and Association Property, so long as the Sponsor holds title to any Lot or Unit on lands described in any Schedules to this Declaration (whether or not subject to this Declaration), the Sponsor shall have the right to:

(a) grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of utility lines, wires, coaxial cables, pipes and conduits, including, but not necessarily limited to, water, gas, electric, cable television, telephone and sewer to service the Property;

(b) connect with and make use of utility lines, wires, pipes, conduits and related facilities located on the Property and/or Association Property for the benefit of the Property;

(c) use the Property and Association Property for ingress and egress to the Property;

(d) operate a sales center, install and maintain signs, and to have prospective purchasers and others visit such sales center and use certain portions of the Property and Association Property, including, but not necessarily limited to, the parking spaces; and

(e) grant to itself or to others such other easements and rights-of-way as may be reasonably needed for the orderly construction and development of the Property.

(f) Sponsor shall have a continuing easement as necessary and/or required for access to the Property and Association Property as shown on the Map Cover to complete all work.

The easements, rights-of-way and other rights reserved herein shall run with the land and shall be binding upon and for the benefit of the Association, the Sponsor, and their successors and assigns. So long as the Sponsor holds title to any portion of the Property, this Section shall not be amended without the written consent of the Sponsor, which consent shall not be unreasonably withheld.

Section 4.5 Damage Resulting from Use of Easement. Subject to rights of recovery under law or pursuant to other provisions of this Declaration, any damage to any Unit or other portion of the Property or to any improvements thereon as a result of any act or work performed pursuant to the authority granted in this Article IV, or as a result of the use of any easement granted or reserved herein, shall be promptly repaired, replaced or corrected as necessary by the person or entity performing the act or work and/or by the grantee or holder of the easement being exercised, to the condition in which it existed immediately prior to the damage.

Section 4.6 Notice of Condemnation of Association Property and Resolution of Dispute as to Allocation of Award. The Board of Directors shall promptly send written notice of any pending condemnation or eminent domain proceedings affecting Association Property to all Lot and Unit Owners and to those lending institution first mortgagees of Lots or Units whose names appear on the books or records of the Association.

In the event of any dispute with respect to the allocation of the award, the matter shall be submitted to arbitration in accordance with the arbitration statutes of the State of New York.

ARTICLE V

ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.1 Imposition, Personal Obligation, Lien. Each Lot or Unit Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

(a) annual assessments or charges for the maintenance and operation of Association Property, or other property which the Association is obligated to maintain, which are to be paid in equal monthly installments, unless otherwise specified by the Board of Directors ("Maintenance Assessments"); and

(b) special assessments for capital improvements to Association Property, or property which the Association is obligated to maintain, and unbudgeted or extraordinary expenses of the Association ("Special Assessments");

together hereinafter being referred to as "Assessments".

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot and Unit against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot and Unit at the time the Assessment falls due.

Unless otherwise agreed upon between the parties to the transfer, upon the transfer of a Lot or Unit, Maintenance Assessments and any Special Assessments which (i) may be payable in installments or (ii) are specifically applicable to a defined period of time which has not expired, shall be adjusted between the grantor and grantee, with the grantor being entitled to reimbursement from the grantee for the portion of any payment made by the grantor which is applicable to the remainder of the period in which the transfer occurred or to a subsequent period, and the grantee being entitled to a credit from the grantor for the portion of any unpaid payment assumed by the grantee which is applicable to the expired portion of the period in which the transfer occurred or to any prior period. Unless otherwise provided by the Board of Directors of the Association in its adoption, (i) a Special Assessment payable in installments shall be adjusted as if the installment payments apply to a period following the date due, the length of which shall be equal to the interim period between installation due dates and (ii) a Special Assessment payable in a single installment shall be the sole responsibility of the Owner of the Unit on the date which such Assessment is initially due.

Section 5.2 Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation and improvement of the Association Property and the promotion of the recreation, safety and welfare of the Lot or Unit Owners, including but not limited to (i) the payment of any taxes on the Association Property, all liability and other insurance obtained pursuant to Article IX of this Declaration; (ii) the maintenance, repair and replacement and improvement of any Property which the Association is obligated to maintain; and (iii) such other needs as may arise. Any material increase or decrease in the maintenance responsibilities of the Association shall require the consent of the Owners of not less than 67% of all Lots or Units other than the Sponsor, as well as the Sponsor, if the Sponsor holds title to 10% or more of the Units at the time such increase or decrease is voted upon. The amount of any reserves shall be not less than the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages on the Units.

Section 5.3 Date of Commencement and Notice of Assessments. The Assessments provided for herein shall commence on the day on which the first Unit is conveyed or on such date thereafter as determined by the Sponsor. The first Assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors and such Assessments shall thereafter be on a full year basis. The Board of Directors of the Association shall fix the amount of the Assessment against each Unit at least thirty (30) days in advance of each annual Assessment period. The Assessments shall be due and payable monthly unless the Board of Directors establishes other periods for payment. Written notice of the annual Assessments shall be sent to every Owner subject thereto.

Should the Board of Directors determine at any time that the Maintenance Assessments are insufficient to fully fund the then current year's expenditures, the Board may assess additional amounts on a pro rata basis to all Unit Owners.

Section 5.4 Assessments for Specific Units. Once Assessments have commenced pursuant to Section 5.3 above, the Owner of each Lot or Unit subject to this Declaration shall be liable for the payment of full Maintenance Assessments, and Special Assessments, if any, except that the Sponsor will only be obligated for the lesser of (i) the difference between the actual Association expenses (including budgeted amounts for reserves, if any) and the aggregate amount of assessments levied on Owners who have closed title to their Lot or Unit; or (ii) Maintenance Assessments and Special Assessments on all unsold Units.

Section 5.5 Basis for Maintenance Assessment. Subject to a lesser amount payable by the Sponsor as permitted by Section 5.4 above, the annual Maintenance Assessment shall be the same for all Units subject to this Declaration so that the number of assessed Units divided into the total amount which the Board of Directors shall deem to be necessary to fully fund the current budget of estimated expenses and reserves (and any operating deficits previously sustained) shall determine the annual Maintenance Assessment for each Unit.

Section 5.6 Change in Basis of Assessments. The Association may change the basis of determining the Maintenance Assessment by obtaining the written consent of not less than two-thirds (2/3) of the total votes of all Unit Owners, excluding the Sponsor, voting in person or by proxy, written notice of which change shall be sent to all Unit Owners and lending institution first mortgagees of Lots whose names appear on the records of the Association at least forty (40) days in advance of the date or the initial date set for voting thereon, except that: (i) so long as the Sponsor holds title to any portion of the Property, any change in the basis of Assessments which adversely affects a substantial interest or right of the Sponsor with respect to unsold Lots or Units shall require the specific consent of the Sponsor in writing, and (ii) no such change shall be made if lending institutions which together are first mortgagees of 51% or more of the Units advise the Association in writing, prior to the date or initial date set for voting on the proposed change, that they are opposed to such change, which opposition must not be unreasonable. A written certification of any such change shall be executed by the Board of Directors and recorded in the Ontario County Clerk's Office.

Any change in the basis of Assessments shall be equitable and non-discriminatory.

Section 5.7 Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, the cost of (i) any construction, reconstruction or replacement of, or repair of the Association Property, and (ii) any unbudgeted, unanticipated or extraordinary expense, claim against or liability of the Association. Before levying such a Special Assessment the Board of Directors shall hold a Special Meeting on said proposed Special Assessment in

accordance with the Special Meeting procedure set forth in the By-Laws. Not less than 10 nor more than 45 days after such Hearing, the Board of Directors shall (i) for any Special Assessment for the construction of any capital improvement, (rather than the reconstruction, replacement or repair) obtain the consent of the Owners of 67% or more of all Lots or Units who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all voting Unit Owners at least 30 days in advance, setting forth the purpose of the meeting.

Section 5.8 Non-Payment of Assessment. If an Assessment, or installment thereof, is not paid on the due date established pursuant to Section 5.3 hereof, then such assessment payment shall be deemed delinquent. Any delinquent assessment payment, together with such late charges and interest thereon, accelerated installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such assessment shall remain such Owner's personal obligation notwithstanding a disposition by such Owner of his interest.

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

If the Assessment or any installment thereof, is not paid within thirty (30) days after the due date, (i) the Assessment shall bear interest from the due date at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate of interest then permitted by law, (ii) the Board of Directors may accelerate the remaining installments, if any, of such Assessment upon notice thereof to the Owner and (iii) the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against the Lot or Unit of such Owner, and the cost of such proceedings, including reasonable attorneys' fees shall be added to the amount of such Assessments, accelerated installments, if any, late charges and interest.

Once an Assessment is deemed delinquent as described above, any payments received from the Owner shall be applied in the following order: attorneys' fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period.

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

Section 5.9 Notice of Default. The Association when giving notice to a Lot or Unit Owner of a default in paying Assessments, may, if its officers so determine, or shall, at the request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Unit whose name and address appears on the Association's records. The mortgagee shall have the right to cure the Unit Owner's default with respect to the payment of said Assessments.

Section 5.10 Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Maintenance Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be

desirable for the greater financial security and the effectuation of the purposes of the Association.

Section 5.11 Assessment Certificates. Upon written demand of an Owner, mortgagee or lessee with respect to a Unit which he or she owns or leases, (or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot), the Association shall, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer or designee of the Association setting forth with respect to such Lot as of the date of such certificate, (i) whether the Assessments, if any, have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g. for the cost of extinguishing a violation of this Declaration. A reasonable charge, as determined by the Board of Directors may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser, lessee or title insurer of, or mortgagee of the Lot or Unit on which such certificate has been furnished.

Section 5.12 Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage of record now or hereafter placed upon any Lot subject to such Assessments; provided, however, that such subordination shall apply only to the Assessments which shall have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the Owner of such Lot from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 5.13 Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution, and in conjunction therewith mortgage its properties. The amount, terms, rate or rates of all borrowing and the provisions of all agreements with lenders shall be subject solely to the discretion of the Board of Directors, except that (i) any member of the Board of Directors of the Association who has been elected or appointed by the Sponsor shall not be permitted to vote affirmatively for any borrowing and the quorum of the Board of Directors in any such vote shall be a majority of those Directors not elected or appointed by the Sponsor, and (ii) any consent of the Sponsor as required by Section 3.9 of this Declaration must be obtained.

Section 5.14 Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power:

- (a) to assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the Maintenance Assessments and Special Assessments hereunder;
- (b) to enter into agreements with lenders with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein the Association covenants to:
 - (i) assess the Maintenance Assessments on a given day in each year and, subject to the limitation on amount specified in Section 5.04 hereunder, to assess the same at a particular rate or rates;
 - (ii) establish sinking funds and/or other security deposits;

(iii) apply all funds received by it first to the payment of all principal and interest on such loans, when due, or in the Board's discretion to apply the same to such purpose after providing for costs of collection;

(iv) establish such collection, payment and lien enforcement procedures as may be required by the lenders;

(v) provide for the custody and safeguarding of all funds received by it.

ARTICLE VI

MAINTENANCE BY THE ASSOCIATION

Section 6.1 Maintenance and Repair by the Association. Maintenance of the Association Property and the private roadway shall be the responsibility of, and at the cost and expense of the Association. The Association shall also be responsible for lawn cutting and snow removal from all Lots and snow removal from the roadway, driveways, walkways and sidewalks as necessary. Such cost shall be funded from the Maintenance Assessments. Owners shall be responsible for all maintenance and repairs to their homes.

Section 6.2 The Association shall have an easement and right of access for maintenance and repairs as set forth in Section 4.3 of this Declaration and for all maintenance required pursuant to Section 6.1 herein.

Section 6.3 Repairs and Maintenance which are not the responsibility of the Association. Any maintenance, repair or replacement necessary to preserve the appearance, aesthetic quality, character, structural integrity and value of the Property or any improvement thereon made pursuant to this Section 6 but which is occasioned by a negligent or willful or intentional act or omission of an Owner (including (a) any family member, tenant, guest or invitee of such Owner; (b) any family member, guest or invitee of the tenant of such Owner; and (c) any guest or invitee of (i) any member of such Owner's family, or (ii) any family member of the tenant of such Owner), or the Sponsor shall be made at the cost and expense of such Owner or the Sponsor as the case may be. If such maintenance, repair or replacement is performed by the Association, it shall not be regarded as a common expense, but shall rather be considered a special expense allocable to the specific Unit and such cost shall be added to that Owner's Maintenance Assessment and, as part of that Assessment, shall constitute a lien on the Unit, as the case may be, to secure the payment thereof.

ARTICLE VII

INSURANCE AND RECONSTRUCTION

Section 7.1 Insurance to be Carried. The Board of Directors of the Association shall, at its option, obtain and maintain, to the extent obtainable, the following insurance:

(1) comprehensive general liability insurance for occurrences on the Association Property, (2) directors' and officers' liability insurance covering negligent or wrongful acts or omissions of officers and directors of the Association, (3) fidelity bond covering those who handle association funds, (4) worker's compensation insurance covering Association employees, and (5) "umbrella" catastrophe coverage, if deemed necessary or appropriate.

No Liability for Failure to Obtain Above Coverages. The Board of Directors shall not be liable for failure to obtain any of the coverages required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at unreasonable

cost.

Deductible. The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a common expense, provided, however, that the Board of Directors of the Association may assess any deductible amount necessitated by the negligent, malicious or wrongful act or omission of an Owner against such Owner. The Association may pay the deductible portion for which such Owner is responsible, and the amount so paid, together with interest and costs of collection (including attorney's fees), shall be a charge and continuing lien upon the Unit involved, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as assessments under Article V of this Declaration.

Each Owner of a Lot or Unit shall be responsible for and shall obtain their own fire and casualty insurance covering such Unit in an amount necessary and sufficient to assure the full replacement and reconstruction of the damaged Unit. Such Unit Owners shall also maintain comprehensive general liability insurance coverage on their Unit and Lot in an amount not less than \$500,000 per occurrence. All Unit and Lot Owners shall be responsible individually for insurance coverage for their contents and personal property.

In the event of damage to or destruction of any Association Property, insured through insurance obtained by the Board of Directors, as a result of fire or other casualty, the Board of Directors shall (i) promptly send written notice of such damage or destruction to all mortgagees whose names appear on the records of the Association, and the Board of Directors shall (ii) arrange for the prompt repair and restoration of the damaged property and (iii) disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Section 7.2 Insurance Carried by Unit Owners. Each Owner has the right, at such Owner's expense, to obtain insurance for such Owner's benefit, including (1) fire, casualty and theft coverage for Owner's personal property, (2) coverage for such Owner's personal liability within the Owner's Unit and on such Owner's Lot and (3) fire and casualty insurance coverage for "improvements and betterments" to such Owner's Unit or Lot.

ARTICLE VIII

GENERAL COVENANTS AND RESTRICTIONS

Section 8.1 Advertising and Signs. Except for signs erected by or with the permission of the Sponsor in connection with the initial development, lease or sale of Lots or Units, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Lot or Unit or other portion of Property including rights-of-way (including temporary signs advertising property for sale or rent). This section shall not be amended or modified without the written consent of Sponsor, so long as Sponsor holds title to any Lot, Unit or other portion of the Property or Additional Property.

Section 8.2 Dwelling in Other Than Residential Units. No temporary building, trailer, basement, tent, shack, barn, outbuilding, garage, or building in the course of construction or other temporary structure shall be erected or transported onto any portion of the Property except with the consent of the Board of Directors. This restriction shall not apply to the Sponsor during the course of construction.

Section 8.3 Residential Use Only. Except as provided herein, the Property shall be used only for residential purposes and purposes incidental and accessory thereto except

that, prior to transfer of title by the Sponsor to all of the Property, the Sponsor may use one or more Lots or other portions of the Property for model homes and/or real estate office.

Owners may lease or rent a unit provided the term of the lease is not less than twelve (12) months.

In addition:

(i) No fences or walls (other than invisible underground fencing for pets), other than those installed by Sponsor during construction, shall be permitted anywhere within or on the Property. No fence shall be erected on any lot or portion of the Property without the prior written consent of Sponsor as long as either shall continue to own a Lot, and thereafter the consent of the Association shall be required.

(ii) No mobile homes, recreational vehicles, boats, jet skis or unregistered vehicles shall be parked on the streets or in driveways for a period in excess of 24 hours.

ARTICLE IX

ENFORCEMENT, AMENDMENT AND DURATION OF DECLARATION

Section 9.1 Declaration Runs With the Land. Each person or entity acquiring an interest in a Lot, Unit or other portion of the Property or otherwise occupying any portion of the Property [whether or not the deed, lease or any other instrument incorporates or refers to this Declaration] covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration including personal responsibility for the payment of all charges that may become liens against his, her or its property and which become due while he, she or it is the Owner or occupant thereof, and also covenants to incorporate this Declaration by reference in any deed, lease or other instrument transferring an interest in such Unit or other portion of the Property.

Section 9.2 Enforceability.

(a) **Actions at Law or Suits in Equity.** The provisions of this Declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Sponsor and the Association (being hereby deemed the agent for all of its Members), and by any Member or Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. Before an individual Owner may take any action to enforce this Declaration, written demand must be made on the Board of Directors of the Association to take such action as contemplated by the Owner. The Board of Directors shall have thirty (30) days in which to proceed or permit the Owner to proceed. As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

(b) **Penalties and Fines.** In addition or as an alternative to an action at law or suit in equity, the Board of Directors of the Association may, with respect to any violation of this Declaration or of the By-Laws or rules and regulations of the Association or any committee of the Association, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any

other person. Monetary penalties imposed against a Lot or Unit Owner or Unit occupant shall be deemed a Special Assessment against the Unit and Lot of such Owner or on which the Unit occupied by such occupant is located and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner and such occupant if other than the Owner, and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 9.3 No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or any other violation occurring prior or subsequent thereto. No liability shall attach to the Sponsor, the Association (or any officer, director, employee, Member, agent, committee or committee member) or to any other person or organization for failure to enforce the provisions of this Declaration.

Section 9.4 Obligation and Lien for Cost of Enforcement by Association. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, or the rules and regulations promulgated pursuant hereto, the costs of such action, including legal fees, shall become a binding, Personal obligation of the violator. If such violator is (1) the Owner, or (2) any family member, tenant, guest or invitee of the Owner, or (3) a family member or guest or invitee of the tenant of the Owner, or (4) a guest or invitee of (i) any member of such Owner's family or (ii) any family member of the tenant of such Owner, such costs shall also be a lien upon the Unit or other portion of the Property owned by such Owner.

Section 9.5 Inspection and Entry Rights. Any agent of the Association may at any reasonable time or times, upon not less than 24 hours' notice to the Owner or occupant, enter upon a Lot or Unit or other portion of the Property to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with this Declaration, or with the rules and regulations issued pursuant hereto. Neither the Association nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

In addition to the above, if the Board of Directors determines that it is necessary to trim, cut or prune any tree, hedge or other planting because its location or the height to which or the manner in which it has been permitted to grow is unsightly, detrimental or potentially detrimental to persons or property, or obscures the view of street traffic or is otherwise in violation of this Declaration, or of any rules or regulations of the Association, the Board of Directors shall notify the Owner of the Lot or other portion of the Property who shall be obliged to remedy the violation. If the Owner fails to remedy the violation within thirty (30) days after such notice is given, then the Board of Directors may take such remedial action at the expense of the Owner.

Section 9.6 Notification to Association of Mortgagees and Default Notice to be Sent to Mortgagees. The Association shall be notified by each Unit Owner or such Unit Owner's mortgagee of the name and address of the mortgagee of any mortgage on such Owner's Lot. Upon receipt of such notice, the Association shall thereafter provide such mortgagee with a duplicate copy of any notice of default sent to such Owner with regard to the violation, by such Owner, of any provision of this Declaration.

Section 9.7 Amending or Rescinding. The Sponsor, during the time it shall own any portion of the Property described in Schedule A to this Declaration, may make amendments to this Declaration to correct omissions or errors or make ministerial changes provided such amendments shall not substantially or adversely modify rights of any Owner, without such Owner's written consent.

Except as otherwise specifically provided for in this Declaration, including Sections 3.9, 4.4, 5.6, and the above portion of this Section 9.7, the Board of Directors on its own initiative, or pursuant to a written petition signed by Owners of not less than 50 percent of the Lots or Units owned by persons independent of the Sponsor, may propose an amendment to the Declaration.

The Board of Directors shall hold a Lot and Unit Owners meeting for the purpose of considering such proposed amendment. Notice shall be given as required herein.

The date or initial date for the canvass of the vote on the proposed amendment shall be not less than 30 nor more than 45 days after the meeting. Notice of such vote, containing the date, time and place of the canvass thereof and a copy of the proposed amendment, with such changes as the Board of Directors shall have made as a result of the written and oral comments received at the meeting, and a form of ballot shall be mailed or delivered by the Board of Directors to all Owners not less than 14 days prior to the date or initial date set for the canvass thereof.

The affirmative vote of Owners of 67% or more of the total number of Lots and Units shall be required for approval of a proposed amendment, except that (i) an amendment to shorten the duration of this Declaration or to terminate this Declaration shall require the affirmative vote of Owners of not less than 80% of the total number of Units, and (ii) so long as the Sponsor holds title to any portion of the Property, the written consent of the Sponsor will be required for any amendment which adversely affects a substantial interest or right of the Sponsor, which consent must not be unreasonably withheld; and (iii) no amendment which substantially affects the interest of any lending institution shall be effective if lending institutions which together are first mortgagees on 51% or more of the Units advise the Association in writing, prior to the date or initial date set for voting on the proposed amendment, that they are opposed to such amendment, which opposition must not be unreasonable. Written notice of any proposed amendment which substantially affects the interest of any lending institution first mortgagee shall be sent to all such lending institution first mortgagees whose names appear on the records of the Association at least 30 days prior to the date or initial date set for voting on the proposed amendment.

No amendment shall terminate, extinguish or adversely modify any easement granted in this Declaration which benefits Lots or Units except with respect to those Units or Units whose Owners specifically consent in writing to such termination, extinguishment or modification, except as provided in Section 9.11 of this Declaration.

Section 9.8 Owner Responsible for Tenants. Any lease of a Unit shall provide and specify in writing that the tenant shall comply in all respects with the terms of this Declaration, and the By-Laws, rules and regulations, if any, of the Association. If a tenant or guest of a Lot Owner or tenant is in violation of such Declaration, By-Laws or rules and regulations, the Board of Directors shall so notify the Owner of the Unit which such tenant occupies in writing by certified mail, return receipt requested. If the violation is not cured or eviction proceedings commenced against the tenant within fourteen (14) days after the Owner has received notice of such violation, and diligently pursued thereafter, the Board of Directors may pursue any remedies which it may have pursuant to 9.2 of this Declaration.

Section 9.9 When Amendment or Rescission Becomes Effective. Any amendment or rescission to this Declaration shall not become effective until the instrument evidencing such change has been duly recorded in the Ontario County Clerk's Office. Such instrument need not contain the written consent of the required number of Owners but shall contain a certification by the Board of Directors of the Association that the consents required for such amendment have been given in writing or by vote duly taken at a meeting of the Association, unless such consent is not required.

Section 9.10 Duration. The provisions of this Declaration shall, unless amended or rescinded as hereinbefore provided, continue with full force and effect against both the Property and the Owners thereof perpetually, unless terminated or its duration shortened by affirmative vote of not less than 80% of Lot and Unit Owners after a meeting is held to discuss same.

Section 9.11 Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefitted or bound by the provisions hereof.

Section 9.12 Conflict with Municipal Laws. The Protective covenants, conditions and restrictions set forth herein shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease.

Section 9.13 Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, and the same may be amended only in the manner provided herein.

Section 9.14 Invalidity of Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

ARTICLE X

GENERAL

Section 10.1 Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 10.2 Right Reserved to Sponsor to Impose Additional Protective Covenants. The Sponsor reserves the right to record additional protective covenants and restrictions prior to the conveyance of any lands encumbered by this Declaration.

Section 10.3 Notice. Any notice required to be sent to the Sponsor or to any Owner or mortgagee under the provisions of this Declaration shall be deemed to have been Properly sent when mailed, postage prepaid, to the last known address of the person who appears as the Sponsor, Owner or mortgagee on the records of the Association at the time of such mailing.

The Marrano/Marc-Equity Corporation

By: James P. Marrano
James P. Marrano, EVP

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

On the 3rd day of July, in the year 2024, before me, the undersigned, a Notary Public in and for the State, personally appeared James P. Marrano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Deborah E. Nicosia
Notary Public

Deborah E. Nicosia
Notary Public, State of New York
Qualified in Erie County
No. 02NI4829855
My Commission Expires 2.28.2026

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Phelps and Gorham Purchase, Township 11, Range 3, Town Lots 14 & 35, Town of Farmington, County of Ontario, and State of New York, being more particularly bounded and described as follows:

Phase 1C as shown on the drawing entitled "Hathaway's Corners, Final Subdivision Plat," prepared by BME Associates, as filed in the Ontario County Clerk's Office at Map Number 36924.

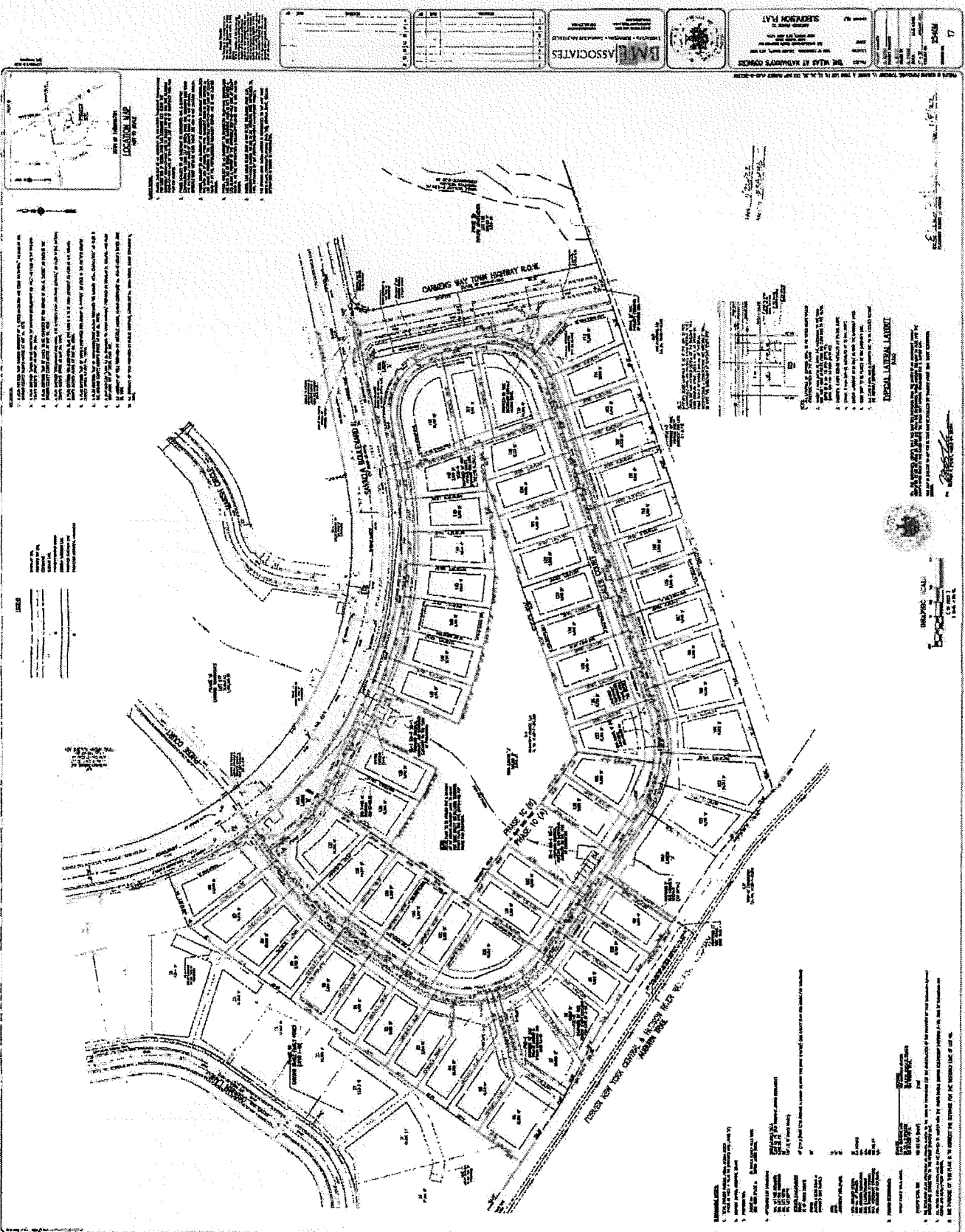
The above-described premises is more currently and accurately described as follows:

ALL THAT TRACT OR PARCEL OF LAND containing 18.395 acres more or less, situate in the Phelps and Gorham Purchase, Township 11, Range 3, Town Lots 14 & 35, Town of Farmington, County of Ontario, and State of New York, as shown on the drawing entitled "Hathaway's Corners, Conveyance Plan," prepared by BME Associates, having drawing number 2540A-02, dated October 2018, being more particularly bounded and described as follows:

Beginning at a point, said point being the intersection of the northeasterly boundary line of lands now or formerly of the Town of Farmington (Formerly New York Central & Hudson River Railroad) with the northwesterly boundary line of lands now or formerly of PDZ Partners, LLC (T.A. No. 41.00-1-6.240); thence

(The following four (4) courses are along said northeasterly boundary line of the Town of Farmington)

1. N 48°59'09" W, a distance of 150.62 feet to a point; thence
2. N 55°18'04" W, a distance of 350.00 feet to a point; thence
3. N 61°33'04" W, a distance of 151.56 feet to a point; thence
4. N 55°18'04" W, a distance of 112.34 feet to a point; thence
5. N 34°41'56" E, a distance of 694.90 feet to a point; thence
6. N 68°30'37" E, and radial, a distance of 94.13 feet to a point; thence
7. Southeasterly, along a curve to the left, having a radius of 610.00 feet, a distance of 855.55 feet to a point; thence
8. N 78°09'03" E, a distance of 158.63 feet to a point; thence
9. Southeasterly, along a curve to the right, having a radius of 35.00 feet, a distance of 54.98 feet to a point; thence
10. S 11°50'57" E, a distance of 399.81 feet to a point on the aforementioned northwesterly boundary line of PDZ Partners, LLC; thence
11. S 71°16'04" W, along said northwesterly boundary line of PDZ Partners, LLC, a distance of 874.08 feet to the Point of Beginning.



BY-LAWS

OF

**VILLAS AT HATHAWAY'S CORNERS HOMEOWNERS
ASSOCIATION, INC**

NAME: Villas at Hathaway's Corners Homeowners Association, Inc.

Sponsor: The Marrano/Marc-Equity Corporation
2730 Transit Road
West Seneca, New York 14224

DATED: July 3, 2024

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BY-LAWS OF
VILLAS AT HATHAWAY'S CORNERS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

Section 1.1 The name of the corporation is Villas at Hathaway's Corners Homeowners Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located in the Town of Farmington, County of Ontario and State of New York.

ARTICLE II

DEFINITIONS

Section 2.1 As used in these By-Laws, the following words, phrases or terms shall be defined as:

- A. "ASSOCIATION" shall mean and refer to VILLAS AT HATHAWAY'S CORNERS HOMEOWNERS ASSOCIATION, INC.
- B. "ASSOCIATION PROPERTY" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by or in possession of the Association.
- C. "BUILDER" shall mean The Marrano/Marc-Equity Corporation, its successors or assigns.
- D. "DECLARATION" shall mean and refer to this Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens - VILLAS AT HATHAWAY'S CORNERS, as it may from time to time be supplemented, extended or amended in the manner provided for herein.
- E. "SPONSOR" shall mean and refer to The Marrano/Marc-Equity Corporation, its successors and assigns.
- F. "LOT" shall mean and refer to any portion of the real property identified as a separate parcel on the tax records of the Town of Farmington or shown as a separate lot upon any recorded or filed subdivision map, with the exception of Association Property as heretofore defined.
- G. "MAINTENANCE ASSESSMENT" shall mean the annual assessments or charges (payable in equal monthly installments unless the Board of Directors determines otherwise) for the maintenance and operation of Association Property.
- H. "MEMBER" shall mean and refer to each holder of a membership interest in the Association, as such interests are set forth in Article III.

- I. "OWNER" shall mean and refer to the holder of record title, whether one, more than one person as joint tenants or tenants in common, or as a partnership, or other entities, of the fee interest in any Lot or Unit, whether or not such holder actually resides in such Unit or on such Lot.
- J. "PROJECTED UNIT" shall mean and refer to any units contemplated for construction on any parcel of land covered by this Declaration. At the time any parcel is added to this Declaration, there shall specifically be set forth in the instrument adding such parcel, the number of dwelling units projected for such parcel.
- K. "PROPERTY" shall mean and refer to all properties as are subject to this Declaration.
- L. "SPECIAL ASSESSMENTS" shall mean any special assessment made by the Board of Directors for capital improvements and repairs.
- M. "UNIT" shall mean and refer to each completed residential dwelling unit.

ARTICLE III

MEMBERS

Section 3.1 Membership in the Association. The Members of the Association shall be the Owners of all Lots and Units on the Property, provided that any person or entity holding such interest merely as security for the performance of an obligation shall not be a Member. Sponsor and Builder shall be a member so long as either or both shall hold title to any Lot or Unit on the Property or any Additional Property as defined in the Declaration.

Section 3.2 Right of Sponsor to Assign. The Sponsor may assign its membership in the Association to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such membership may make successive like assignments. Memberships in the Association shall not otherwise be transferable or assignable.

Section 3.3 Voting Rights. Owners shall be entitled to one (1) vote for each Lot or Unit owned. When any Lot or Unit is owned or held by more than one person as tenants by the entirety, in joint or common ownership or interest, such Owners shall collectively be entitled to only one (1) vote and if such Owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed. Any Member who is in violation of the Declaration, as determined by the Board of Directors of the Association, shall not be entitled to vote during any period in which such violation continues provided that in no event may an Owner's voting rights be suspended for nonpayment of Assessments to the Association. Every Owner having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall be valid for such meeting or subsequent adjourned meetings thereof.

Section 3.4 Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of the Declaration, the Certificate of Incorporation, these By-Laws, and the Not-for-Profit Corporation Law of the State of New York, as it deems advisable for any meeting of the Members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.5 Corporate Members. Any votes of a corporate member may be cast by duly authorized officer of such corporation.

Section 3.6 Absentee Ballots. On any matter submitted to the Members for vote, other than the election of Directors of the Association, any Member entitled to vote may cast a vote without attending the meeting in question by filing a written statement with the Board of Directors prior to the meeting in question, specifying the issue on which the Member intends to vote and that the Member votes for or against the same. Members unable to attend a meeting at which Directors of the Association are to be elected shall be entitled to file an absentee ballot if so provided by the Board of Directors or may vote by a proxy which shall be in writing and shall be filed with the secretary of the Association.

Section 3.7 Proxies. All proxies shall be in writing and shall be filed with the Secretary of the Board of Directors prior to the meeting at which the proxies are to be used. A notation of such proxies shall be made in the minutes of the meeting.

ARTICLE IV

MEETINGS OF MEMBERS

Section 4.1 First and Annual Meetings. The Sponsor will have control of the Board of Directors for five (5) years from the date of recording of the Declaration or until the transfer of title to 75% of the Lots and Units, whichever shall first occur. After the transfer of title to 75% of the Lots and Units or the termination of said five (5) year period, the Sponsor shall notify all Lot and Unit Owners that the first annual meeting of Owners shall be held within 30 days thereafter. At such meeting all Owners, including the Sponsor, shall elect a new Board of Directors which shall consist of three (3) members. Annual meetings of the Owners shall be held on the anniversary of such meeting of the Owners as provided herein or on such other date and at such time convenient to the Owners as shall be designated by the Board of Directors. At such meetings the Board of Directors shall be elected by ballot of the Lot and Unit Owners in accordance with the requirements of these By-Laws. Notwithstanding any contrary provision of these By-Laws and/or the Declaration, at said first election after five (5) years from the date of recording of the Declaration or transfer of title to 75% of the Units, and at each election thereafter, so long as the Sponsor shall continue to own one (1) or more of the Lots, Units or Additional Property, the Sponsor shall have the right to appoint one (1) member of the Board of Directors. Members of the Board of Directors appointed by the Sponsor shall serve for a term of one year. All other members of the Board of Directors shall be elected by the Owners and shall serve for the terms prescribed by these By-Laws. The Owners may transact such other business at such meeting as may properly come before them.

Section 4.2 Place of Meetings. Meetings of the Owners shall be held at a suitable place convenient to the Lot and Unit Owners as may be designated by the Board of Directors.

Section 4.3 Special Meetings. Special Meetings of the Members may be called at any time by the President or the Board of Directors, or at the request in writing of Members of the Association holding not less than one-half (1/2) of the votes entitled to be cast at the meeting.

Section 4.4 Notice of Meetings. Not less than ten (10) days or more than thirty (30) days before the date of any Annual or Special Meeting of Members, the Association shall give to each Member entitled to vote at such meeting, written or printed notice stating the time and place of the meeting, and, in the case of a Special Meeting, indicating that it is being issued by or at the

direction of the person or persons calling the meeting and the purpose or purposes for which the meeting is called. Such notice shall be delivered either by mail, electronic mail or by presenting it to the Member personally, or by leaving it at such Member's residence as shown on the records of the Association. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, addressed to the Member at his or her post office address as it appears on the records of the Association. Notwithstanding the foregoing provision, a waiver of notice in writing, signed by the person or persons entitled to such notice, whether before or after such meeting is held, or actual attendance at the meeting in person, shall be deemed equivalent to the giving of such notice to such persons. The waiver may be signed by any reasonable means, including facsimile signature. All such waivers, consents, and approvals shall be filed with the secretary of the Association or made a part of the minutes of the meetings. Waivers may be written or electronic. If electronic, the transmission of the waiver must be sent by electronic mail and set forth or be submitted with information from which it can reasonably be determined that the transmission was authorized by the person granting the waiver. Any meeting of Members, Annual or Special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 4.5 Quorum. Members holding not less than one-half (1/2) of the total votes of the membership shall constitute a quorum at any meeting. If a quorum is not present at any meeting of Members, a majority of the Members present may adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present or be represented. The act of a majority of the Members present in person or by proxy at a meeting at which a quorum was present shall be the act of the Members unless the act of a greater or lesser number is required by law, or by the Certificate of Incorporation of the Association, the Declaration, or these By-Laws.

Section 4.6 Waiver and Consent. Wherever the vote of the membership is required by law, or by the Certificate of Incorporation of the Association, the Declaration or these By-Laws, to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken. Whenever the vote of the Owners at a meeting is required or permitted by any provision of the Declaration, Statutes or these By-Laws to be taken in connection with any action of the Association, the meeting and vote of Owners may be dispensed with if all Lot and Unit 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 4.7 Majority Vote. The vote of a majority of Owners at a meeting at which a quorum shall be present shall be binding upon all Owners for all purposes except where in the Declaration or these By-Laws or by law, a higher percentage vote is required. The term "majority of Owners" shall mean those Lot or Unit Owners having more than 50% of the total authorized votes of all Lot and Unit Owners present in person or by proxy and voting at any meeting of the Owners, determined in accordance with the provisions of Section 2.3 of these By-Laws.

Section 4.8 Inspectors of Election. The Board of Directors in advance of any meeting of Owners, may appoint two (2) or more persons, who need not be Lot or Unit Owners, to act as inspectors of election at such meeting or any adjournment thereof. If inspectors of election are not so appointed prior to the meeting, the person presiding at such meeting may, and on the request of any Owner, entitled to vote thereat shall, appoint two (2) or more inspectors of election. In case any person appointed fails to appear or act, the vacancy may be filled in advance of the meeting by the Board of Directors or at the meeting by the person presiding thereat.

The inspectors of election shall (1) determine the Lot and Unit Owners entitled to vote at the meeting; (2) determine the existence of a quorum and the validity and effect of proxies; (3) receive ballots or determine votes or consents; (4) hear and determine any challenges or questions arising in connection with any Lot or Unit Owner's right to vote; (5) count and tabulate all votes, ballots or consents and determine the result thereof, and (6) do such other acts as may be proper to conduct an election or vote with fairness to all Owners.

Section 4.9 Order of Business at Meeting. The order of business at all regular meetings of members of the Association shall be as follows:

- (1) Call meeting to order;
- (2) Proof of Notice of meeting or waiver of notice;
- (3) Reading of minutes of preceding meeting;
- (4) Reports of officers;
- (5) Reports of committees;
- (6) Appointment of inspectors of election;
- (7) Election of Directors, if any;
- (8) Unfinished/old business;
- (9) New business;
- (10) Adjournment.

ARTICLE V

BOARD OF DIRECTORS

Section 5.1 Number of Directors. The business and affairs of the Association shall be managed by the Board of Directors. The number of Directors of the Association shall initially be three (3) designated by the Sponsor to serve until the first annual meeting of the Owners. At such annual meeting, Owners shall elect a new Board of Directors consisting of three (3) members. So long as the Sponsor continues to own one (1) or more Lots or Units it shall be entitled to appoint one (1) member of the Board of Directors. If such member is appointed, the Sponsor will not cast its votes to elect the remaining two (2) members of the Board.

Section 5.2 Nominations. Nominations for election to the Board of Directors at the first annual meeting and thereafter shall be made by a nominating committee which shall consist of a chairman, who may or not be a member of the Board of Directors, and two (2) or more Members of the Association. Nominations may also be made in writing at least ten (10) days prior to the annual meeting to be included on the ballot or from the floor at the annual meeting of the Association to be considered as a write-in vote.

The members of the Nominating Committee shall be appointed by the Board of Directors at least thirty (30) days prior to each Annual Meeting of the Members and shall serve only to make the nominations for Directors to be elected at that meeting.

The Nominating Committee shall make as many nominations for election of the Board of Directors as it shall in its sole discretion, determine, but not less than the number of vacancies that are to be filled.

Section 5.3 Election. Voting shall take place at the annual meetings of the Association by secret written ballot which shall:

- (a) set forth the number of vacancies to be filled;

- (b) set forth the names of those nominated to fill such vacancies; and
- (c) contain space for a write-in for each vacancy.

The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5.4 Term. Each member of the Board of Directors, except for members designated by the Sponsor and those elected at the first annual meeting of the Association, shall serve two (2) years or until such time their successor is elected.

At the first annual meeting of the Association, Members shall elect two (2) Directors to serve a term of two (2) years and one (1) Director for a term of one (1) year. At each subsequent annual meeting, Members shall replace each Director whose term has expired and elect their successors for a term of two (2) years. So long as Sponsor holds title to at least one (1) Lot or Unit, it shall have the right to appoint one (1) member of the Board of Directors. Sponsor shall not be permitted to vote if it exercises its right to appoint a member of the Board of Directors.

Section 5.5 Vacancies. Any vacancy occurring in the Board of Directors may be filled at any meeting of the Board of Directors by the affirmative vote of a majority of the remaining Directors or by a sole remaining Director and, if not previously filled, shall be filled at the next succeeding meeting of the Members of the Association. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose vacancy such person was elected to fill. Any vacancy occurring by reason of an increase in the number of Directors may be filled by action of a majority of the entire Board of Directors and any Director so elected shall hold office until the next meeting of Members or until a successor is elected and qualifies.

Section 5.6 Removal. At any regular or special meeting of the Owners, duly called at which a quorum is present, any member of the Board elected by the Owners may be removed (i) without cause, by the affirmative vote of not less than two-thirds (2/3) of all Owners other than the Sponsor, and (ii) with cause, by the affirmative vote of not less than a majority of all Owners, other than the Sponsor, and a successor may then and there or thereafter be elected to fill the vacancy thus created.

Any member of the Board of Directors whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Directors appointed by the Sponsor may be removed without cause only by the Sponsor, but may be removed for cause in the same manner as any other member of the Board of Directors may be removed for cause. The successor to such removed member shall be appointed by the Sponsor.

In addition the other Directors may, by the affirmative vote of not less than two-thirds (2/3) of the other Directors, declare the position of the Director vacant in the event the person filling such position shall be absent from three (3) consecutive meetings.

Section 5.7 Compensation. Directors shall not receive any compensation or salary for their services. Any Director may be reimbursed for his actual expenses incurred in the performance of his duties. A Director who serves the Association in any capacity other than as a Director or officer, however, may receive compensation therefor.

Section 5.8 Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice at such places and at such times convenient to the Directors as may be designated from time to time by resolution of the Board of Directors. Should such meeting date fall on a legal holiday, that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 5.9 Special Meetings. Special Meetings of the Board of Directors may be called at any time at the request of the President or any two (2) Directors after not less than two (2) days' notice to each Director. The person or persons authorized to call such Special Meeting of the Board may fix any place convenient to the Directors as a place for holding such Special Meeting. Any Director may, in writing, signed by such Director, before or after the time of the Special Meeting stated therein, waive notice of any Special Meeting. The attendance of a Director at any Special Meeting shall constitute a waiver of notice of such Special Meeting. Neither the business to be transacted at, nor the purpose of, any Special Meeting, need be specified in the notice or waiver of notice of such meeting, unless specifically required by law, by the Certificate of Incorporation of the Association or by these By-Laws.

Section 5.10 Quorum and Voting. At all meetings of the Board of Directors, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which it is provided otherwise by statute, by the Certificate of Incorporation, or by the By-Laws, a vote of a majority of such quorum at a duly constituted meeting shall be sufficient to elect and pass any measure. In the absence of a quorum, the Directors present may adjourn the meeting from time to time by majority vote and without further notice, until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted as originally called.

Section 5.11 Informal Action by Directors. Any action required or permitted to be taken at a meeting of the Board of Directors or of any committee thereof may be taken without a meeting, provided a written consent to such action is signed by all members of the Board of Directors or of such committee, as the case may be, and provided further such written consent is filed with the minutes of proceedings of the Board or committee.

Section 5.12 Powers and Duties. The Board of Directors may exercise all the powers of the Association, except such as are conferred upon or reserved to the Members by statute or by the Certificate of Incorporation or the By-Laws. The powers, duties and authority of the Board of Directors shall specifically include, but shall not be limited to the following:

- (a) To determine, levy and collect the assessments and common charges as provided for in the Declaration.
- (b) To collect, use and expend the assessments and charges collected for the maintenance, care and preservation and operation of the property of the Association.
- (c) To procure and maintain adequate liability insurance covering the Association, its Directors, Officers, agents and employees and to procure and maintain adequate hazard insurance on such of the Association's real and personal properties and the Units as it deems appropriate.
- (d) To repair, restore or alter the properties of the Association after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
- (e) To adopt and publish rules and regulations governing the use of Association Property and facilities, and the personal conduct of the members and other guests thereon, and establish penalties for infractions thereof.
- (f) To collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from Members for violations of the provisions of the Declaration or of any rules or regulations of the Association.
- (g) To pay all taxes owing by the Association.

(h) Maintain, repair and replace, as necessary, all properties and facilities owned by the Association or for which the Association has maintenance responsibilities under the Declaration.

(i) To declare the office of a member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive meetings of the Board of Directors.

(j) To keep a complete record of the actions of the Board of Directors and the corporate affairs of the Association and to present a statement thereof to the Members at the annual meeting of Members, or at any special meeting of Members when such a statement is requested in writing by not less than one-fourth (1/4) of the Members entitled to vote.

(k) To issue, or cause to be issued, upon demand by any person an "Assessment Certificate" as provided in the Declaration, setting forth the status of payment of assessment for any Unit.

(l) To exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these By-Laws, the Certificate of Incorporation or the Declaration.

ARTICLE VI

OFFICERS

Section 6.1 Officers. The officers of the Association shall be the President (who shall be a Member of the Board of Directors), the Secretary and the Treasurer. The Board of Directors may elect such other officers as it shall deem desirable, such officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors. Two or more offices may not be held by the same person.

Section 6.2 Election. The election of officers shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

Section 6.3 Term and Vacancies. The officers of the Association shall be elected annually by the Board of Directors and each shall hold office until his or her successor shall have been duly elected, unless he or she shall sooner resign, or shall be removed or otherwise be disqualified to serve. The vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 6.4 Resignation and Removal. Any officer may be removed by the Board of Directors, with or without cause, whenever, in the judgment of the Board, the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.5 President. The President shall be the chief executive officer, shall supervise the work of other officers, shall preside at all meetings of Members, and if there is no Chairman of the Board, shall preside at all meetings of Directors, and shall perform such other duties and functions as may be assigned him or her. He or she may sign, in the name

of the Association, any and all contracts or other instruments authorized by the Board of these By-Laws.

Section 6.6 Vice President. Any Vice President shall be capable of performing all of the duties of the President. He or she may sign, in the name of the Association, any and all contracts or other instruments authorized by the Board, and shall perform such other duties and functions as may be assigned to him or her by the President or the Board.

Section 6.7 Secretary. The Secretary shall cause notices of all meetings to be served as prescribed in these By-Laws, shall record the votes and keep the minutes of all meetings, shall have charge of the seal and corporate records of the Association, shall keep records of the members of the Association and the mortgagees of dwelling Units on the Property, and shall perform such other duties as are assigned to him or her by the President or the Board. Any Assistant Secretary shall be capable of performing all of the duties of the Secretary.

Section 6.8 Treasurer. The Treasurer shall have the custody of all moneys and securities of the Association and shall keep or cause to be kept regular books and records. He or she will account to the President and the Board, whenever they may require it, with respect to all of his or her transactions as Treasurer and of the financial condition of the Association, and shall perform all other duties that are assigned to him or her by the President, the Board or these By-Laws.

Section 6.9 Other Officers. Such other officers as the Board may appoint shall perform such duties and have such authority as the Board may determine.

ARTICLE VII

COMMITTEES

Section 7.1 Committees of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall be comprised solely of Directors, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association provided, however, that no such committee shall have the authority of the Board of Directors to approve an amendment to the Certificate of Incorporation of the Association or to the By-Laws or a plan or merger or consolidation.

All actions by any such committee shall be reported to the Board of Directors at its meeting next succeeding such actions. Such actions shall be subject to control, revision, alteration, and approval by the entire Board of Directors.

Section 7.2 Committees of Members. The Association shall have such committees as the Board of Directors shall deem desirable. Each committee shall consist of a chairman and two (2) or more members and shall include a member of the Board of Directors. Such committees of the Association shall not have the authority to bind the Association.

Section 7.3 Rules. Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. Each committee shall keep regular minutes of its proceedings and shall report such proceedings to the Board of Directors as required by the Board.

ARTICLE VIII

FINANCE

Section 8.1 Checks. All checks, drafts and orders for the payment of money, notes and other evidences of indebtedness, issued in the name of the Association shall, unless otherwise provided by resolution of the Board of Directors, be signed by the President or Treasurer and countersigned by one Director of the Association, provided that the President or Treasurer and Director so signing are not the same person.

Section 8.2 Fiscal Year. The fiscal year of the Association shall be the twelve (12) calendar months, ending December 31st of each year, unless otherwise provided by the Board of Directors.

Section 8.3 Annual Reports. There shall be a full and correct statement of the financial affairs of the Association including an annual review of operation for the preceding fiscal year prepared by a certified public accountant in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein. Such report shall be submitted at the Annual Meeting of the Members and filed within twenty (20) days thereafter at the principal office of the Association.

ARTICLE IX

BOOKS AND RECORDS

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, Lot Owner, title insurer and mortgagee. The Declaration, Certificate of Incorporation and the By-Laws of the Association shall be available for inspection by any of the foregoing parties at the principal office of the Association.

ARTICLE X

AMENDMENTS

Section 10.1 Alteration, Repeal or Amendment. These By-Laws may be altered, repealed or amended and new By-Laws may be adopted at any regular or special meeting of the Members, by vote of two thirds majority of all Members of the Association, so long as the Association has received in writing the consent of at least 51% of mortgage holders of record.

Section 10.2 Conflict with Certificate of Incorporation or with Declaration. In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 10.3 Conflict of Interest. The Association shall comply with the terms of the Conflict of Interest Policy for all related party transactions, as therein defined.



CONSENT OF LENDER/MORTGAGEE

FIVE STAR BANK, as holder of a Mortgage dated September 21, 2021 and recorded in the Ontario County Clerk's Office on September 21, 2021 in Liber 03100 of Mortgages at page 0558 and covering the premises described on attached Schedule A ("Mortgage"), hereby consents to the filing of this Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens ("Declaration") and agrees that the Mortgage is hereby made subordinate and subject to the Declaration.

Five Star Bank

By: Maria E. Barth
Name: Maria E. Barth
Title: SVP

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 9 day of JULY, 2024, before me, the undersigned, a notary public in and for said state, personally appeared Maria Barth, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Instrument and acknowledged to me that s/he executed the same in his/her capacity and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Marytherese Hayes
Notary Public

MARYTHERESE HAYES
No. 01HA5073927
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 3/10/2027