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DECLARATION OF CONDOMINIUM  
ESTABLISHING  
DWELL ON JEFFERSON CONDOMINIUMS

Monroe County Clerk's Office Town of Perinton, County of Monroe, State of New York  
Pursuant to Article 9-B of the Real Property Law of  
the State of New York.

NAME: Dwell on Jefferson Condominiums

MADE BY: Haralamtown LLC  
339 Hogan Road  
Fairport, New York 14450

DATED: November 14, 2024

Prepared by:

Anthony M. Carello, Esq.  
Phillips Lytle LLP  
1400 First Federal Plaza  
Rochester, New York 14614

DECLARATION OF CONDOMINIUM  
ESTABLISHING  
DWELL ON JEFFERSON CONDOMINIUMS

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DECLARATION OF CONDOMINIUM  
ESTABLISHING  
DWELL ON JEFFERSON CONDOMINIUMS

THIS DECLARATION OF CONDOMINIUM (this "Declaration"), is made as of the 14th day of November, 2024, by Haralamtown LLC, a New York limited liability company, having an office at 339 Hogan Road, Fairport, New York 14450 (the "Sponsor").

For the premises described in Schedule A attached hereto in the Town of Perinton, New York, pursuant to Article 9-B of the Real Property Law of the State of New York, the Sponsor does hereby declare:

**ARTICLE I**  
SUBMISSION OF PROPERTY

Section 1.01. Submission. The Sponsor hereby submit the lands described on Schedule A hereto and made a part hereof, together with all improvements thereon erected to the provisions of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act").

**ARTICLE II**  
DEFINITIONS

Section 2.01. Definitions:

"Board of Managers" shall mean and refer to that body of individuals elected or appointed pursuant to the By-Laws to administer the operation and maintenance of the Property.

"Building" shall mean and refer to the dwelling structures described on Schedule B attached hereto and as more particularly described in Article III below.

"By-Laws" shall mean and refer to the framework and procedures pursuant to which the Condominium will be operated. The By-Laws are attached to this Declaration as Schedule E attached hereto.

"Common Elements" shall mean all of the Property, except for the Units, as more particularly described in Article V below.

"Condominium" shall mean and refer to Dwell on Jefferson.

"Consent of Eligible Mortgage Holders" shall mean and refer to actual written consent received from Eligible Mortgage Holders representing at least 51% in number and in common interest of all Units subject to mortgages held by Eligible Mortgage Holders, which consent may be implied for any particular Eligible Mortgage Holder who fails to object in writing to the giving of such consent within 60 days after receipt of the request for such consent.

“Declaration” shall mean and refer to this Declaration of Condominium which, by being recorded in the Recording Office, subjects the Property to the provisions of Article 9-B of the Real Property Law of the State of New York.

“Eligible Mortgage Holder” shall mean and refer to the holder of a first mortgage on a Unit.

“Institutional Mortgagee” shall mean and refer to a bank, savings and loan association, life insurance company, pension trust, trust company, the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or any lender approved by Fannie Mae or Freddie Mac which holds a first mortgage on a Unit.

“Property” shall mean and refer to the land described on Schedule A attached and all improvements thereon (including the “Units”, and the Common Elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.

“Recording Office” shall mean and refer to the Monroe County Clerk’s Office.

“Rules and Regulations” shall mean and refer to those guidelines relating to the use of the Property as may be adopted by the Board of Managers, as the same may be amended from time to time by the Board of Managers.

“Sponsor” shall refer to Haralamtown, LLC, its successors and assigns.

“Unit” shall mean and refer to a living unit, including any attached garage or designated garage, which living unit and garage are designated in this Declaration and intended for separate occupancy and use as a dwelling and as more particularly described in Article IV below.

“Unit Owner” shall mean and refer to the record owner of a Unit in the Condominium.

### ARTICLE III BUILDINGS

Section 3.01. Buildings. There will be two (2) buildings on the Property, each being a multi-family structure. There will be one (1) six-unit building and one (1) five-unit building. Each Unit will have an attached garage or a designated garage accessed through the lobby of the Building. Schedule B contains a description of the Buildings including the materials of which each Building is constructed. The Buildings and their location on the Property are shown on the site plan prepared by BME Associates to be filed in the Recording Office (the “Site Plan”), which Site Plan is attached hereto and made a part hereof as Schedule B.



## ARTICLE IV UNITS

Section 4.01. Number and Address of Units. There will be eleven (11) Units contained within the Buildings, each of which includes a garage. The Units are designated by their number address on Jefferson Avenue, which is a public street.

Section 4.02. Designations, Locations and Plans of Units. Schedule C attached hereto is a list of all Units in the Buildings, their Unit designations, tax lot numbers, approximate areas, number of rooms, percentage of interest in the Common Elements, defined below, and Common Elements to which each Unit has immediate access (all except the percentage interest in the Common Elements are as shown on the floor plans of the Buildings, certified by Hanlon Architects and filed or to be filed in the Recording Office (the "Floor Plans")). If such floor plans do not include a verified statement by such engineer that such plans fully and fairly depict the layout, location, Unit designations and approximate dimensions of any particular Unit or Units as built, there shall be recorded prior to each first conveyance of such particular Unit or Units an amendment to this Declaration to which shall be attached a verified statement of a registered architect or licensed professional engineer certifying that the plans theretofore filed, or filed simultaneously with such amendment, fully and fairly depict the layout, location, Unit designations and approximate dimensions of those particular Unit(s) as built. The Site Plan shows the designation and location of the Units within the Buildings.

Section 4.03. Dimensions of Units. Each Unit is measured horizontally from the exterior surface of the concrete foundation wall of all opposite walls to the exterior surface of the concrete foundation wall of all opposite walls; and from the exterior surfaces of the exterior walls of the Building to the opposite exterior surface of the exterior walls of the Buildings (except that if any such wall forming a Unit is a common wall dividing such Unit from other Units, then such measurement shall be from the centerline of such wall). Each Unit is measured vertically from the lower surface of the concrete forming the basement floor of the Unit and floor of the garage to the upper exterior surface of the shingles forming the roof of the Unit. Doors, windows, soffits, roof overhangs and walls are part of the Unit. All pipes, wires, sump pumps and conduits from the gas and electric meters to the Unit are part of the Unit. The garage door, including all mechanical parts and hardware, is part of the Unit.

Section 4.04. Ownership of Units. Each Unit will be sold to one or more Unit Owners, with each Unit Owner obtaining fee ownership to the Unit acquired and the appurtenant undivided interest in the Common Elements, all as set forth in Schedule C of this Declaration. Upon acquiring title in such manner, such purchaser(s) shall become a Unit Owner(s) in the Condominium and will remain such so long as such Unit is owned by such Owner(s).

Section 4.05. No Partition of Units. No Unit (including the interest in the common elements appurtenant thereto) shall be subject to partition by the Unit Owner; provided, however, that the foregoing shall not be construed as prohibiting any division or combination of Units as provided in Section 6.01 of this Declaration or any structural alterations or changes in the number of rooms in a Unit upon approval of the Board of Managers as provided for in Article VI of this Declaration..

## ARTICLE V COMMON ELEMENTS

Section 5.01. Definition of Common Elements. The Common Elements consist of all the Property except the Units, including, but without limitation, the following: (i) the land (including the land under the Units) and improvements on the Property, except for the Units; (ii) all utility or other pipes, wires, conduits and other material which are not part of the Units and not owned by a municipality or public utility companies; (iii) the exterior of the Buildings; (iv) driveways, grass areas and sidewalks (if not owned by the Town of Perinton); (v) mailboxes; (vi) hallways, utility rooms, lobbies, stairways; and (vii) all other apparatus and installations on the Property for common use or which may be necessary or convenient to the existence, maintenance or safety of the Property.

Section 5.02. Interest in Common Elements. The Unit Owner(s) of a Unit shall (collectively, if more than one) have such percentage interest in the Common Elements as is set forth on Schedule C attached hereto and shall bear such percentage of the common charges of the Condominium.

The percentage of interest of each Unit in the Common Elements has been determined in accordance with Section 339-i-1(iii) of the New York Condominium Act, on the basis of equal percentages (or nearly equal so that percentage interests total 100%) as of the date of filing of this Declaration.

The interest in the Common Elements as expressed herein shall have a permanent character and shall not be altered without the consent of all Unit Owners affected, as well as their mortgagees, expressed in a duly recorded amendment hereto.

The undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the Common Elements will be void unless the Unit to which that interest is appurtenant is also transferred.

Section 5.03. Eminent Domain. Notwithstanding Section 5.02 above, if a Unit or Units, or the Common Elements, or any portion thereof is taken by eminent domain, the following shall apply:

(a) Notification. The Board of Managers shall give written notice to all Unit Owners of any notification received by the Board of Managers advising it of a pending or threatened condemnation of any portion of the Property.

(b) Action to Contest Condemnation. The Board of Managers shall have the exclusive right to contest any condemnation or eminent domain proceeding which is directed at taking any portion of the Common Elements or which touches upon, concerns or affects the use of the Common Elements. No Unit Owner or tenant of a Unit shall impair or prejudice the action of the Board of Managers in contesting such condemnation. Such restriction or prohibition shall not

preclude a Unit Owner or tenant of a Unit from contesting the taking in such condemnation or eminent domain proceeding of the Unit owned or rented by such Unit Owner or tenant. In any action contesting a taking by condemnation or eminent domain proceeding, the Board of Managers shall request the court to set forth the allocation of the condemnation award among the Unit Owners affected, taking into account the respective percentage interest in the Common Elements, the effect of the taking on each Unit affected thereby and any other relevant factors.

(c) Partition Action in Lieu of Continuation of Condominium After Partial Taking by Condemnation. If any condemnation or eminent domain proceeding results in a partial taking of the Property, then the Property or so much thereof as shall remain shall be subject to an action for partition as provided for by Section 399-t of the Real Property Law, as said Section may be amended from time to time, in which event the net proceeds of sale, together with the net proceeds of the award from the condemnation or eminent domain shall be considered one fund and shall be divided among all the Unit Owners in proportion to their respective common interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Unit Owner's share all liens on such Unit Owner's Unit.

(d) Distribution of Condemnation Awards for Taking of Common Elements. Except as provided in (c) above and except for any award obtained by a Unit Owner for the Unit as further provided in (b) above, in the event that all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to an insurance trustee (bank, trust company, law firm or attorney) selected by the Board of Managers if the award is more than \$100,000.00 and to the Board of Managers if the award is \$100,000.00 or less. (This \$100,000.00 limit shall automatically increase each calendar year by 5% over the limit of the previous year.) The Board of Managers or the insurance trustee, as the case may be, shall arrange for the repair, restoration or replacement of such Common Elements to the extent reasonably possible, and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments.

If there shall be a surplus of such proceeds or if the Board of Managers or insurance trustee cannot reasonably repair, restore or replace the Common Elements taken, the proceeds shall be distributed among the Unit Owners and the percentage interests in the Common Elements of the Condominium reallocated among the remaining Units (i) as the court shall have directed, or (ii) as provided in (e) below, (i.e., if there was no direction by the court), taking into account the respective percentage interests in the Common Elements of the Units affected thereby, the effect of the taking on each Unit affected thereby after the completion of any repair, restoration or replacement by the Board of Managers or insurance trustee and any other relevant factors. Any court direction as to such distribution shall be final. Any Unit Owner or tenant who wishes to contest a determination by the Board of Managers may do so by submitting the matter to the American Arbitration Association for a determination of a fair and proper distribution, or reallocation of percentage interests in the Common Elements, as the case may be, which shall be binding on the Board of Managers, and on all Unit Owners and tenants. The cost of such arbitration shall be borne solely by the Unit Owner or tenant submitting the matter for arbitration.

After any determination for reallocation of percentage interests in the Common Elements, the Unit Owners shall promptly prepare, execute and record an amendment to the

Condominium Declaration reflecting such reallocation, which said Amendment need only be executed by Unit Owners affected and by a majority of the Board of Managers.

(e) Partial or Total Taking of Units. Subject to the direction of any court as described in (d) above, if an entire Unit is so taken, or if part of a Unit is taken such that the remaining portion may not be practically or lawfully used for any purpose permitted by this Declaration, that Unit's entire interest in the Common Elements shall be automatically reallocated to the remaining Units in proportion to the respective common element interests of those Units before the taking. If part of a Unit is so taken, such that the remaining portion may be practically and lawfully used for a purpose permitted by this Declaration, that Unit's interest in the Common Elements shall be reduced in proportion to the reduction and size of the Unit in a manner consistent with the manner in which common element interests were originally determined under Section 5.02 above; the portion of the interest in the Common Elements so divested shall be automatically reallocated to that Unit and to the remaining Units in proportion to the respective common element interests of those Units before the taking, with the partially-taken Unit participating in the reallocation on the basis of its reduced interest in the Common Elements.

(f) Condemnation Provisions Subject to Existing Law. All provisions of this Section 5.03 are subject to interpretation in accordance with the law in effect at the time of any condemnation or eminent domain proceeding. Should all or any portion of the provisions of this Section 5.03 be deemed illegal at such time, the distribution of proceeds, rights with respect to partition and allocation of percentage interests in the Common Elements after a partial taking, shall be as a court of law shall determine.

Section 5.04. Common Elements to Remain Undivided. The Common Elements shall remain undivided and no Unit Owner shall bring any action for partition or division unless otherwise provided by law and unless consented to by Eligible Mortgage Holders.

Section 5.05. Abandonment, Encumbrance, Conveyance or Transfer of Common Elements. The Common Elements shall not be abandoned, encumbered, conveyed, or transferred without the consent of all the Unit Owners, who shall vote upon written ballot which shall be sent to every Unit Owner not less than 30 days nor more than 50 days in advance of the date or initial date of the canvass for voting on the proposed abandonment, encumbrance, conveyance or transfer. Any such abandonment, encumbrance, conveyance or transfer shall require the Consent of Eligible Mortgage Holders.

Notwithstanding the foregoing, the Board of Managers shall have the power to grant easements, rights of way or licenses for utilities or other similar services (e.g., cable television) across the Common Elements, with or without consideration.

Section 5.06. Restricted or Limited Common Elements. Subject to the right of the Board of Managers to enter upon any restricted area for maintenance, repair or improvement of a Unit or Common Element and subject to the rules of the Board of Managers (see Article VI of this Declaration) the following portions of the Common Elements are restricted in use as specified below:

(g) The land which is located directly beneath each Unit or portion of a Unit, as well as the driveway servicing such Unit, are restricted or limited in use to the Unit Owner of the Unit located above it, or contiguous to it.

(h) Each mailbox on the Property is restricted or limited in use to the Unit Owner of the Unit to which such mailbox is assigned from time to time by the Board of Managers.

(i) The ground area on which is located, or at any time in the future is located, any air conditioning condenser, heat pump or natural gas powered generator, is restricted or limited in use to the Unit Owner(s) of the Unit which is serviced by such natural gas powered generator, air conditioning condenser or heat pump.

(j) A porch, patio or deck, if any, abutting a Unit are restricted or limited in use to the Unit Owner(s) of the Unit that abuts the porch, patio or deck.

## ARTICLE VI THE CONDOMINIUM PROPERTY - USE, OPERATION, PRESERVATION, MAINTENANCE AND REPAIR

Section 6.01. Repairs and Maintenance Which Are the Responsibility of the Board of Managers. Except as otherwise provided in this Article VI, all maintenance and repair of and replacements to the improvements on the Property, including, without limitation, the maintenance, repair and replacement of (i) lawn and landscaped areas; and to shrubbery and other plantings installed by the Sponsor or the Board of Managers on the Common Elements; but not for shrubbery, flower beds or other plantings installed by or at the direction of any Unit Owner or Unit occupant; (ii) the sidewalk from the driveway to the front entrance; (iii) water and sanitary sewer laterals servicing the Buildings from the Building to the point where it connects to the main (which mains are owned and serviced by the Monroe County Water Authority and Perinton Consolidated Sewer District, respectively); (iv) ponds, culverts and drainage of storm water; (v) the entrance monument and sign at the entrance of the Property; (vi) the exteriors of the Buildings including: trim, siding, roof and gutters; (vii) the driveway(s); and (viii) fire hydrants, wires, conduits and public utility lines servicing the Buildings and for which a utility company or other entity is not responsible (whether or not such lines and facilities are on Common Elements). Gutters on the roofs of the Buildings will be connected to downspouts which will drain to splash blocks and then to the surface of the Common Elements.

Buildings and Units. With respect to the Building and the Units, the Board of Managers shall: (i) repair and replace the exterior siding, gutters, and roofs; (ii) paint exterior trim and doors which open from a Common Element or lobby; and (iii) caulk the windows; but the Board of Managers shall not (i) repair or replace window glass or panes; or (ii) maintain, repair or replace doors entering the Unit; or (iii) maintain, repair or replace garage doors, garage door hardware, tracks or openers; or (iv) maintain, repair or replace any balcony or patio (including railings, columns, and any Unit specific porch or deck lighting) attached to Units.

Other Improvements. With respect to the other improvements on the Common Elements, the Board of Managers shall repair and replace the wood chip access pathway from the Property to the Erie Canal.

The Board of Managers may increase (or decrease) its maintenance responsibilities, provided (i) such increase or decrease is approved in writing by the Unit Owners of 67% of all Units owned independently of the Sponsor, and (ii) if such increase or decrease is proposed while the Sponsor holds title to any portion of the Property, the written consent of the Sponsor will be required, which consent shall not be unreasonably withheld.

Any responsibility for maintenance, repair or replacement with respect to the Property and Units which is not the responsibility of the Board of Managers is the responsibility of and shall be made at the cost and expense of, the respective Unit Owner(s) of such Units.

Subject to the provisions of Section 6.02 below, the cost of all maintenance performed by the Board of Managers shall be allocated to the Unit Owners as common expenses as set forth in Article X below or the By-Laws.

The Board of Managers shall have an easement and right of access for maintenance and repairs as set forth in Section 8.02 of this Declaration.

Section 6.02. Repairs and Maintenance Which Are the Responsibility of the Unit Owners. Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 above but which is occasioned by a negligent or willful act or omission of a Unit Owner (including: (i) any family member, tenant, guest or invitee of such Unit Owner, (ii) any family member, guest or invitee of the tenant of such Unit Owner, and (iii) any guest or invitee of (a) any member of such Unit Owner's family, or (b) any family member of the tenant of such Unit Owner) or the Sponsor shall be made at the cost and expense of such Unit Owner or the Sponsor, as the case may be. If such maintenance, repair or replacement is performed by the Board of Managers, it shall not be regarded as a common expense, but shall be deemed an assessment against the Unit of such Unit Owner and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as common charges and special assessments under this Declaration or under the By-Laws.

The Unit Owners shall be responsible for the maintenance, repair and replacement of any patios or balconies attached to or adjacent to the Units and located on the Common Elements but adjacent to a Unit and used by a Unit Owner. The Unit Owners shall also be responsible for maintenance, repair and replacement of windows, Unit doors, garage doors, exterior lights outside Unit patio or balcony or patio doors, doorbells, and screens.

Section 6.03. Quality and Frequency of Maintenance and Repairs. All maintenance, repair and replacement, whether or not performed by the Board of Managers, shall be of a quality and appearance consistent with the enhancement and preservation of the appearance and value of the Property. The Board of Managers may establish reasonable schedules and regulations for maintenance, repair and replacement of the property which it is obligated to maintain, repair or replace pursuant to Section 6.01, which schedules and regulations shall take into account the useful life of any painting and exterior materials and the enhancement and preservation of the appearance and value of such property.

Section 6.04. Restrictions on Use of Units and Common Elements. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be in accordance with the following:

(a) Occupancy shall be limited to residential purposes only and subject to such limitations as set forth in the Declaration (See Article XII).

(b) The Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and capable and which are incident to the use and occupancy of the Units.

(c) No portion of a Unit (other than the entire Unit) may be rented, and no transient tenants (i.e. tenants occupying the premises under an initial lease term of less than twelve (12) months) may be accommodated therein, except for leases for Units owned by the Sponsor, which shall have no minimum terms.

(d) No wholesale or retail business including any salon, studio, laboratory, home industry, or medical or dental office, shall be conducted in any Unit or other portion of the Property, except for the conducting of business by electronic devices. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above or preclude the Sponsor from using a Unit as a model home or sales office.

(e) Except as provided herein, no portion of the Property or a Unit may be improved with a swing set, playground, hot tub, pool, or fence of any kind without the express written permission of the Board of Managers.

Section 6.05. No Obstruction of Common Elements and Facilities. A Unit Owner shall not obstruct the Common Elements. The Common Elements and facilities shall be used only for those purposes for which they are reasonably suited and capable.

Section 6.06. Rules of Conduct. Rules and Regulations concerning the use of the Units and the Common Elements may be promulgated and amended by the Board of Managers. Copies of the Rules and Regulations shall be furnished by the Board of Managers to each Unit Owner prior to the time when the same shall become effective.

Section 6.07. Abatement and Enjoinment of Violations. The violation of the Rules or Regulations adopted by the Board of Managers, or the breach of any provision of this Declaration or of the By-Laws, shall give the Board of Managers (and each aggrieved Unit Owner with respect to any violation or breach by any other Unit Owner or by the Board of Managers) the right, in addition to any other rights set forth in this Declaration or in the By-Laws: (a) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity and at the expense of the defaulting party, the continuance of any such breach; or (b) give the Board of Managers the right to establish a penalty in accordance with Section 6.09 below. Prior to exercising such right, the Board of Managers or Unit Owner or Unit Owners, as the case may be, shall, if reasonably possible, notify the Unit Owner and mortgagee (if known) of the Unit or Units involved and provide a reasonable amount of time for the cure of such violation or breach. In any case of flagrant or repeated violation by a Unit Owner (or one for whom such Unit Owner is responsible), such

Unit Owner may be required by the Board of Managers to give sufficient surety for future compliance.

All rights, remedies and privileges granted to the Board of Managers and to aggrieved Unit Owners herein shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising such right or rights from exercising such other and additional rights, remedies or privileges as may be granted by this Declaration, or by the By-Laws or the Rules and Regulations of the Condominium at law or in equity.

Section 6.08. **Obligation and Lien for Cost of Enforcement.** If an action or other means of enforcement are brought to extinguish a violation of Rules or Regulations adopted by the Board of Managers or to enforce the provisions of this Declaration or of the By-Laws, the cost of such action or enforcement, including legal fees, shall become a binding personal obligation of the violator. If such violator is (i) the Unit Owner, or (ii) any family member, tenant or guest or invitee of such Unit Owner, or (iii) a family member, guest or invitee of a tenant of such Unit Owner, or (iv) a guest or invitee of (a) any member of such Unit Owner's family or (b) any family member of the tenant of such Unit Owner; such cost shall also be a lien upon the Unit or Units of such Unit Owner.

Section 6.09. **Penalties and Fines.** In addition or as an alternative to an action at law or suit in equity, the Board of Managers may, with respect to any violation of this Declaration or of the By-Laws or of any Rules and Regulations of the Condominium or of any committee of the Condominium, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and 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 Unit Owner or occupant shall be deemed an assessment against the Unit of such Unit Owner and, as such, shall be a charge and continuing lien upon such Unit, shall constitute a personal obligation of the Unit Owner, and shall be collectible in the same manner as common charges and special assessments under this Declaration or under the By-Laws.

Section 6.10. **Unit Owner Responsible for Tenants.** Any lease of a Unit shall be for a term of not less twelve (12) months, except for leases for Units owned by the Sponsor, which shall have no minimum term, and shall be in such format and on such lease form, if any, as supplied and approved from time to time by the Board of Managers. Any such lease shall provide for full compliance by the tenant with this Declaration and with the By-Laws and the Rules and Regulations.

## ARTICLE VII

### ALTERATION OF UNITS OR COMMON ELEMENTS

Section 7.01. **Increases and Decreases in Size and Number of Units.** Units may not be divided or the number of Units in the Condominium changed.

Section 7.02. **Exterior Alterations to Units Require Approval of Board of Managers.** No exterior addition, alteration or improvement, including change in color, shall be



made to a Unit or Building without the written approval of the Board of Managers, obtained as provided in Sections 7.04 through 7.08 of this Declaration.

Section 7.03. Alteration and Improvement of Common Elements. The Board of Managers shall have the right, at its option, to make or cause to be made such alterations and improvements to the Common Elements as, in its opinion, may be beneficial or necessary or which are requested in writing by a Unit Owner(s) and the Eligible Mortgage Holder thereon, subject however to the requirement that, if the alteration or improvement shall cost more than 5% of the then current estimated annual budget of the Condominium, such alteration or improvement shall be approved by 67% in number and in common interest of the Unit Owners, voting at a meeting duly called pursuant to the By-Laws. Such expenses shall constitute common expenses. Alterations or improvements costing less than 5% of the Condominium's then current estimated annual budget may be made by the Board of Managers and the cost thereof shall constitute a part of the common expenses. Before undertaking such work, the Board of Managers may require the consent in writing of such Unit Owners and the Consent of Eligible Mortgage Holders whose rights, in the sole opinion of the Board, may be prejudiced by such alteration or improvement. In all cases of alteration or improvement, the Board of Managers shall comply fully with all governmental codes, laws, ordinances, and regulations, including the terms and provisions of the Real Property Law of the State of New York in effect at the time of the proposed alteration or improvement.

Section 7.04. Submission of Plans to Board of Managers; Approval. Any exterior addition, alteration or improvement to the Units or Common Elements proposed by a Unit Owner pursuant to Sections 7.02 through 7.03 above shall require that a plan or plans therefor, in such form as the Board of Managers may require, be submitted to, reviewed and approved by the Board of Managers. The Board of Managers may charge and collect a reasonable fee for the examination of plans submitted for approval, including any fees which may be charged by architects, engineers or attorneys retained by the Board of Managers in connection with the review of such plans. The Sponsor is exempt from this Section, as well as all of Article VII.

The Board of Managers may adopt simplified review procedures for any such additions, alterations or improvements which it shall deem minor or for which the submission of plans is not necessary.

The Board of Managers may disapprove such plans for any of the following reasons:

- (a) failure of such plans to comply with any protective covenants, conditions and restrictions contained in this Declaration, the By-Laws, or the Rules or Regulations;
- (b) failure to include information in such plans as requested;
- (c) objection to the site plan, exterior design, appearance or materials of any proposed improvements, including without limitation, colors or color scheme, finish, proportion, style of architecture, proposed parking, height, bulk or appropriateness;
- (d) incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses in the vicinity;

(e) failure of proposed improvements to comply with any zoning, building, health, or other governmental laws, codes, ordinances, rules and regulations, including the Real Property Law of the State of New York;

(f) any other matter which in the judgment and sole discretion of the Board of Managers would render the proposed improvements, use or uses inharmonious or incompatible with the general plan of improvement of the Condominium, including any possible adverse impact on the use and enjoyment of the Property by any other Unit Owner(s).

Upon approval or qualified approval by the Board of Managers of any plans submitted pursuant to this Section, the Board of Managers shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any), and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing a notation of such approval or qualified approval. Approval of any such plans relating to the Common Elements or to any Unit shall be final as to such alterations, modifications or improvements and such approval may not be revoked or rescinded thereafter provided (i) that the improvements or uses shown or described on or in such plans do not violate any protective covenants, conditions or restrictions set forth in the Declaration, By-Laws or Rules and Regulations, (ii) that such plans and any qualifications or conditions attached to such approval of the plans do not violate any applicable governmental law, rule or regulation, zoning, building, health or other code or ordinance, including the Real Property Law of the State of New York and (iii) that the improvement is completed within six (6) months. Approval of any such plans shall not be deemed a waiver of the right of the Board of Managers to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use by other Unit Owner(s).

Section 7.05. Written Notice of Disapproval. In any case where the Board of Managers disapproves any plans submitted hereunder, the Board of Managers shall so notify the applicant in writing, together with a statement of the grounds upon which such action was based. In any such case, the Board of Managers shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 7.06. Failure of Board of Managers to Act. If any applicant has not received notice of the Board of Managers approving or disapproving any plans within 35 days after submission thereof; said applicant may notify the Board of Managers in writing of that fact. Such notice shall be sent by certified mail, return receipt requested. The plans shall be deemed approved by the Board of Managers not later than the later of:

- a. 15 days after the date of receipt of such second notice, if such second notice is given;
- b. 70 days after the date the plans were originally submitted.

Section 7.07. Board of Managers' Right to Promulgate Rules and Regulations. The Board of Managers may from time to time promulgate rules and regulations governing the

form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, modifications, or improvements to the Common Elements or Units; provided, however, that no such rule or regulation shall be deemed to bind the Board of Managers to approve or disapprove any plans submitted for approval, or to waive the exercise of the Board of Manager's discretion as to such plans; and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration, the By-Laws, or any applicable governmental law, code, ordinance, rule or regulation.

Section 7.08. Applications for Permits; Indemnification and Insurance. Any application to any governmental authority to make an installation, addition, alteration or improvement to the Common Elements or any Unit shall be approved by the Board of Managers only; provided, however, that applications for any such installation, addition, alteration or improvement proposed by a Unit Owner pursuant to Sections 7.02 through 7.03 above shall be at the sole cost and expense of such Unit Owner; and provided further that this Article VII shall in no case be construed to result in the Board of Managers incurring any liability whatsoever to any Unit Owner, contractor, subcontractor, supplier of material, architect or engineer on account of such installation, addition, alteration or improvement proposed by a Unit Owner, or to any person having any claim for injury to person or property arising therefrom, and such Unit Owner agrees to indemnify and forever hold the Board of Managers and the Condominium harmless for any liability or expenses incurred by the Board of Managers in connection therewith, including reasonable attorney's fees.

In connection with any installation or work done by a Unit Owner, the Board of Managers may require that the Unit Owner obtain such insurance coverages and/or completion bonds, and in such amounts, as the Board of Managers deems proper. In the event that the Board of Managers deems it is necessary to expend funds either to complete work previously commenced by a Unit Owner or to otherwise protect the appearance, value or structural integrity of the Condominium, such amounts shall become a binding personal obligation of the Unit Owner involved and a lien against the Unit.

Section 7.09. Interior Alterations to Units. Interior renovations or improvements to a Unit shall only be permitted if, prior to the commencement of work, the Unit Owner has provided to the Board of Managers copies of: (i) any permits or governmental approvals required for such work by any local zoning, building, health, or other codes; (ii) proof that any contractors, subcontractors or third parties performing the work in the Unit have liability and workers compensation insurance in place and in an amount satisfactory to the Board of Managers. If any such work shall cause any noise or vibrations or other disturbance to emanate from the Unit to the other Units or the Common Elements, it shall only be permitted during the hours of 8:00 a.m. to 4:30 p.m. on Mondays through Fridays and 9:00 a.m. to 1:00 p.m. on Saturdays. Notwithstanding the foregoing, no such work shall be permitted if it creates a nuisance to the other Unit Owners.

Section 7.10. Liability of Board of Managers. No action taken by the Board of Managers or any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Property. Neither the Condominium, nor the Board of Managers, nor any member, subcommittee, employee or agent

thereof shall be liable to anyone submitting plans to them for approval or to any Unit Owner, or any other person, in connection with any submission of plans, or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Board of Managers agrees, by submission of such plans, that no action or suit will be brought against the Condominium or the Board of Managers (or any member, subcommittee, employee or agent thereof) in connection with such submission.

## **ARTICLE VIII EASEMENTS**

Section 8.01. Easements to Unit Owner's. Each Unit Owner (and such Unit Owner's guests, licensees, tenants and invitees) shall have the following rights and easements:

(a) Enjoyment - to enjoy all Common Elements, except as restricted or limited by Section 5.06;

(b) Access - an easement for vehicular or pedestrian ingress and egress in common with other Unit Owners and the Sponsor over all walkways, driveways and roadways located on the Property, except as restricted or limited by Section 5.06;

(c) Utilities, Pipes and Conduits - Each Unit Owner shall have such easement of access to other Units and to the Common Elements, and each Unit shall be subject to such easements, as is reasonably necessary for such Unit Owner to maintain, repair and replace, as necessary, such Unit Owner's Unit including, if any, pipes, wires, water or sewer lines and conduits running from the meters or equipment servicing such Unit to the Unit. Each Unit Owner shall also have an easement in common with the Unit Owners of all other Units to use, in accordance with present use and present available facilities, all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving the Unit or Units of such Unit Owner. Each Unit shall be subject to an easement in favor of the Unit Owners of all other Units to use in accordance with present use and present available facilities, the pipes, wires, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit;

Section 8.02. Access of Board of Managers. The Board of Managers shall have a right of access to all Common Elements (irrespective of the restricted nature of such Common Elements) to remove violations and for inspection, maintenance, repair or improvement of the Property and as otherwise necessary for to carry out its duties and obligations pursuant to this Declaration and the By-Laws.

Section 8.03. Easement for Encroachments. If any portion of a Unit or the Common Elements (whether restricted in use to an individual Unit Owner or not) encroaches or shall hereinafter encroach upon another Unit or the Common Elements as a result of: (i) the original construction or settling or shifting of the Buildings, including, without limitation, any soffits, roof overhangs or bay windows; or (ii) any repair or restoration by the Board of Managers; or (iii) any construction after a partial or total destruction as a result of a fire or other casualty or as a result of condemnation or eminent domain proceedings, a valid easement for the encroachment and the

maintenance of the same shall and does exist. Such easements as provided in this Section shall exist so long as the Building in which any such encroachment exists shall stand.

Section 8.04. Easements of Necessity. Each Unit shall have and each Unit shall be subject to all easements of necessity in favor of such Unit or in favor of other Units and the Common Elements.

Section 8.05. Sponsor's Easement. An easement is hereby reserved to Sponsor to enter the Common Elements (irrespective of the restricted nature of such Common Elements) during the period of construction and sale of the Property or Units to maintain the Common Elements and to perform such operations as in the sole opinion of Sponsor may be reasonably required, convenient or incidental to the construction and sale of Units, including, without limitation, a business office, sales office, storage area, construction yard, signs and model units, provided that this does not unreasonably obstruct access by the Unit Owners.

Section 8.06. Sponsor's Easement for Marketing, Development and Improvement Purposes; Other Rights of Sponsor. The Sponsor reserves the right, in conjunction with the construction, development and/or marketing of dwelling units on the Property:

(a) to grant and reserve easements and rights of way over any lands covered by this Declaration, for the installation, maintenance, repair, replacement and inspection of utility lines, wires, pipes, and conduits, including, but not necessarily limited to, water, gas, electric, telephone, sewer, storm water drainage, and cable television to service the dwelling units constructed on the Property;

(b) to use the Common Elements to the extent they were designed for such use, for the ingress and egress of itself, its agents and employees, and prospective purchasers, including the right of such parties to park in parking spaces;

(c) to connect with and make use of any storm water management ponds and culverts, utility lines, wires, pipes, conduits and related facilities located on the Property;

(d) to grant and reserve easements and rights of way over any lands covered by this Declaration for use of drainage ponds and improvements, if any, located on any lands covered by this Declaration as may be reasonably needed for the orderly development of the Property; and

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

With respect to its exercise of the above rights, the Sponsor agrees: (i) to repair within a reasonable time any damage resulting and (ii) to hold the Condominium harmless from all liabilities resulting solely from the Sponsor's acts or omissions. This section cannot be amended without the consent of the Sponsor or its successors or assigns as long as the Sponsor owns any Units.

## ARTICLE IX VOTING RIGHTS

Section 9.01. Voting Rights. For all voting purposes except for amendment or termination of this Declaration as provided in Article XIII below, at any meeting of the Unit Owners, the Unit Owners of an individual Unit shall collectively have one (1) vote for each such Unit owned, as more particularly described in the Bylaws.

## ARTICLE X COMMON CHARGES - ALLOCATION, LIEN AND LIABILITY

Section 10.01. Allocation and Commencement of Common Charges. Except as otherwise permitted in this Article or the By-Laws, common expenses shall be charged by the Board of Managers to the Unit Owners according to their respective percentage interests in the Common Elements, and all charges shall be equal. The common profits of the Property, after offsetting the common expenses relating to the Common Elements and making due allowance for the retention of funds to cover future common expenses, shall be distributed among the Unit Owners in the same manner. Common charges shall commence on the date of recording this Declaration.

Section 10.02. Common Charges - Personal Obligation of Unit Owner and Lien on Unit. The common charges shall be paid when due. All sums assessed as common charges by the Board of Managers, but unpaid, together with any accelerated installments, late charges as may be established by the By-Laws, interest thereon at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law, and reasonable attorneys' fees and other costs and expenses incurred in efforts to collect such past due assessments, shall be the personal obligation of the Unit Owner and, to the extent permitted by law, shall constitute a lien upon the Unit prior to all other liens except: (i) tax or assessment liens on the Unit by the taxing subdivision of any governmental authority, including but not limited to State, County, Town and School District taxing agencies and (ii) all sums unpaid on any first mortgage of record encumbering the Unit and which is held by an Institutional Mortgagee as defined in Section 2.01 of this Declaration.

A purchaser of a Unit shall be liable for the payment of unpaid common charges assessed against such Unit prior to such purchaser's acquisition, except that a mortgagee or other purchaser who acquires title at a foreclosure sale, or an Institutional Mortgagee who acquires title to a Unit by a deed in lieu of foreclosure, shall not be liable for, and such Unit shall not be subject to, a lien for the payment of common charges against such Unit, and which became due prior to such acquisition of title. In such event, the unpaid balance of common charges shall be charged to all other Unit Owners as a common expense.

Except as provided above, in the case of any conveyance of a Unit either by voluntary instrument, operation of law or judicial proceeding in accordance with this Declaration or the By-Laws, the grantee of the Unit shall be jointly and severally liable with the former Unit Owner for any unpaid common charges against the Unit assessed and due up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the former Unit Owner the amounts paid by the grantee therefor. "Grantee" as used herein shall not include either an

Institutional Mortgagee or a purchaser of a Unit at a foreclosure sale of a mortgage held by an Institutional Mortgagee. No Unit Owner shall be liable for the payment of any common charges accruing subsequent to a sale, transfer or other conveyance by such Unit Owner of the Unit made in accordance with applicable laws or the provisions of this Declaration and the By-Laws of the Condominium.

No Unit Owner may be exempt from liability for payment of common charges assessed against such Unit Owner's Unit by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of the Unit. Dissatisfaction with the quantity or quality of maintenance furnished to the Property shall not be grounds for the withholding or failure to pay any common charge or special assessment.

## ARTICLE XI BOARD OF MANAGERS

Section 11.01. Board of Managers. The affairs of the Condominium shall be governed and controlled pursuant to the By-Laws (attached hereto as Schedule E and made a part hereof) by a Board of Managers who shall be elected and serve and shall have the duties and powers as provided in the By-Laws.

Section 11.02. Administration. The administration of the Property, including the Buildings and land, as described herein shall be in accordance with the provisions of this Declaration and with the provisions of the By-Laws.

Section 11.03. Power of Attorney to Board of Managers. Each Unit Owner shall grant to the persons who shall from time to time constitute the Board of Managers, an irrevocable power of attorney, coupled with an interest, to acquire title to or lease any Unit whose Unit Owner desires to surrender, sell or lease the same, or which may be the subject of a foreclosure or other judicial sale, or any other Unit, in the name of the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto or otherwise deal with any such Unit so acquired or to sublease any Unit so leased by the Board of Managers.

Section 11.04. Acquisition of Units by Board of Managers. In the event (a) any Unit Owner shall surrender such Owner's Unit, together with (i) the undivided interest in the Common Elements appurtenant thereto; (ii) the interest of such Unit Owner in any other Units acquired by the Board of Managers or its designee on behalf of all Unit Owners or the proceeds of the sale, or lease thereof, if any; and (iii) the interest of such Unit Owner in any other assets of the Condominium (hereafter collectively called the "Appurtenant Interests") pursuant to the provisions of Section 339-x of the Real Property Law of the State of New York, or (b) the Board of Managers shall purchase at a foreclosure or other judicial sale, or in any other manner acquire, a Unit together with the Appurtenant Interests, title to any such Unit, together with the Appurtenant Interests shall be held by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective common interests. The lease covering any Unit leased by the Board of Managers, or its designees, on behalf of all Unit Owners, shall be held by the Board, or its designee, on behalf of all Unit Owners in proportion to their respective common interests.

Section 11.05. Right to Grant Permits, Licenses and Easements. Notwithstanding anything to the contrary which may be contained in this Declaration, the Board of Managers shall have the right to grant permits, licenses and easements over the common element areas for utilities, roads, and other purposes necessary for the proper operation of the Property.

**ARTICLE XII**  
**OBLIGATIONS, RESPONSIBILITIES**  
**COVENANTS, AND RESTRICTIONS**

Section 12.01. All Unit Owners, Tenants and Occupants Subject to Condominium Documents Which Run With the Land. All present or future Unit Owners, tenants, occupants, or any other person that might use the Units or the Property in any manner, are subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease, or the entering into of occupancy of any Unit shall signify that the provisions of this Declaration and the By-Laws and the Rules and Regulations are accepted and ratified by such Unit Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Units, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

Section 12.02. Units to be Properly Maintained. Unit Owners shall maintain their Units in good repair and overall appearance.

Section 12.03. Mortgages on Units. Any Unit Owner who mortgages such Unit Owner's Unit shall promptly provide the Board of Managers with the name and address of the mortgagee.

Section 12.04. Notice to Mortgagees. The Board of Managers shall give such written notice to the holders of mortgages encumbering Units as is required by various provisions of this Declaration or of the By-Laws.

Section 12.05. No Nuisances. No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents.

Section 12.06. No Immoral or Unlawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 12.07. Advertising and Signs. Except for signs erected by or with the permission of the Sponsor in connection with the initial lease or sale of Units, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Unit or other portion of Property (including temporary signs advertising property for sale or rent), except with the consent of the Board of Managers.



Section 12.08. No Animals, Birds and Insects. Except for two (2) animals total per Unit, including dogs not identified as an “aggressive breed,” or that would cause an increase in the Condominium liability insurance premium, in the sole discretion of the Board of Managers, cats, fish or birds kept in a cage, to be owned by a Unit Owner, no animals, birds or insects shall be kept or maintained in a Unit or other portion of the Property, except with the consent of the Board of Managers which may, from time to time, (i) impose reasonable rules and regulations setting forth the type and number of animals, birds and insects and (ii) prohibit certain types of animals, birds or insects entirely. In any event, pets may be allowed outdoors only when accompanied by a responsible person and leashed. The Board of Managers shall have the right to require any Unit Owner (or any tenant of any Unit Owner, or any family member or guest of any Unit Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Board of Managers, acting in its sole discretion, such animal, bird or insect is creating a nuisance because, e.g., the Unit Owner does not clean up after the animal, the animal is too noisy, or the animal is not properly controlled. All dogs must be leashed when on the Property.

Section 12.09. Protective Screening and Fences. Any screen, planting, fence enclosures or walls initially placed on a Unit or other portion of the Property by the Sponsor shall not be removed or replaced with other than a similar type of planting, fence or wall except with the permission of the Board of Managers. Except for the foregoing, no fence, wall, or screen planting of any kind shall be planted, installed or erected upon said Unit or other portion of the Property unless approved by the Board of Managers.

Section 12.10. Garbage and Refuse Disposal. Except for building materials during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as “Trash”) shall be kept, stored, or allowed to accumulate, outdoors on any portion of the Property, except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick up, at such place in such Unit’s driveway or other portion of the Property designated by the Board of Managers, so as to provide access to persons making such pick up. The Board of Managers may, in its discretion, adopt and promulgate reasonable rules and regulations relating to size, shape, color and type of containers permitted and the manner of storage of the same on any portion of the Property. All facilities for the storage or disposal of trash, shall be kept in a clean and sanitary condition.

Section 12.11. No Above Surface Utilities Without Approval. No facilities, including without limitation, poles and wires for the transmission of electricity or telephone messages, and water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of the Property without the prior written approval of the Board of Managers.

Section 12.12. No Noxious or Offensive Activities. No noxious or offensive activity shall be carried out upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance in the area or to the residents or Unit Owners thereof. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electromagnetic radiation disturbances, shall be controlled so as not to (i) be detrimental to or endanger the public health, safety, comfort or welfare, (ii) be injurious to property, vegetation or animals, (iii) adversely affect property values

or otherwise produce a public nuisance or hazard, or (iv) violate any applicable zoning regulation or other governmental law, ordinance or code.

Section 12.13. Structures Other Than Residential Units. No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building in the course of construction or other temporary structure or structure outside of a Unit shall be; (i) used, temporarily or permanently, as a dwelling on the Property; except with the consent of the Board of Managers; and (ii) no such structure nor any patio, fence or deck shall be placed on the Property; except by the Sponsor in the course of construction of the Units or as part of the initial construction of a Unit; or if by a party not the Sponsor, with the consent of the Board of Managers.

Section 12.14. No Television and Communication Antennas. No outside television, radio, "C.B." or other communication antenna shall be erected on any Unit or other portion of the Property except for satellite dishes or video antennas specifically permitted under the Telecommunications Act of 1996, 47 C.F.R. 1.4000, as amended from time to time, with the prior consent of the Board of Managers.

Section 12.15. Trees and Other Natural Features. After the transfer of title by the Sponsor to a Unit or other portion of the Property no trees shall be removed from the Property except with the permission of the Board of Managers. The Board of Managers, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property.

Section 12.16. Residential Use Only. Except as provided in Section 12.17 below, 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 the Property, the Sponsor may use one or more Units or other portions of the Property for model homes or as a real estate sales office.

Section 12.17. No Commercial and Professional Activity on Property. No wholesale or retail business, including any salon, studio, laboratory, home industry shall be conducted on the Property without the consent of the Board of Managers, except (i) by the Sponsor in conjunction with the initial construction of Dwell on Jefferson, or the lease or sale of Lots and Units; (ii) the conducting of business by the Owner by telephone; or (iii) as approved by the Board of Managers. This restriction is not intended to preclude the operation of an in-home office for purposes other than those set forth above, to the extent approved by the Town of Perinton.

Section 12.18. No Outdoor Repair Work. With respect to a Lot or other portion of the Property to which title has been transferred by the Sponsor, no extensive work on any motor vehicles, boats or machines of any kind shall be permitted outdoors on such Lot or portion thereof, except with the consent of the Board of Managers.

Section 12.19. No Oversized, Commercial, Recreational, or Unlicensed Vehicles, Camper Bodies, Boats or Trailers. Unless used in connection with the construction or sale of Units and Buildings by the Sponsor, or maintenance of the Property, or unless garaged or otherwise consented to by the Board of Managers, the following shall not be permitted on the Property: (i) oversized vehicles (vehicles which will not fit into a Unit's garage); (ii) commercial vehicles (as

determined by the Board of Director's in its sole discretion); (iii) recreational vehicles; (iv) unlicensed motor vehicles of any type; (v) camper bodies; and (vi) boats or trailers.

Section 12.20. No Parking on Association Property. No parking shall be permitted outside of designated parking areas.

Section 12.21. No Clotheslines. No outdoor drying or airing of any clothing or bedding shall be permitted within the Property unless authorized by the Board of Managers.

Section 12.22. Lease of Entire Units Only. A Unit Owner shall not lease less than an entire Unit.

Section 12.23. Unit Lease Term. No lease of a Unit shall be for an initial term of less than twelve (12) months, except for leases for Units owned by Sponsor, which shall have no minimum term.

Section 12.24. No Operation of Snowmobiles, Motorcycles, All Terrain Vehicles or Similar Motor Vehicles. The operation of snowmobiles, motorcycles, all-terrain vehicles or similar vehicles is prohibited within the Property unless authorized by the Board of Managers.

Section 12.25. No Rock Salt. Unit Owners shall not use rock salt to deice patios, walks or stoops.

Section 12.26. Cooking Grills. Unit Owners shall not operate outdoor cooking grills on patios or balconies of the Units under any overhanging surface of the Unit.

### **ARTICLE XIII** **AMENDMENT AND TERMINATION**

Section 13.01. Amendment. Except as otherwise provided in this Declaration, this Declaration may be modified, altered, amended or added to at any duly called meeting of Unit Owners provided that:

(a) Notice of the meeting containing a full statement of the proposed modification, alteration, amendment or addition has been sent to all Unit Owners and to all Eligible Mortgage Holders at least 30 days and not more than 50 days prior to the date set for said meeting; and

(b) 67% or more in number and in common interest of all Unit Owners approve the change; and

(c) The Board of Managers does not, prior to the date established for voting on the proposed change, receive written notification of opposition to the change from Eligible Mortgage Holders of 51% or more of the number of Units subject to mortgages held by Eligible Mortgage Holders; and

(d) An instrument evidencing the change is duly recorded in the Recording Office. Such instrument need not contain the written consent of the required number of Unit

Owners, but shall contain a certification by the Board of Managers that the consents required by this Section for such change have been received and filed with the Board of Managers.

(e) Notwithstanding anything to the contrary in this Declaration, any modification, alteration, amendment or addition to this Declaration which is of a material adverse nature to Eligible Mortgage Holders shall not be permitted unless the Consent of Eligible Mortgage Holders is obtained.

Section 13.02. Termination. The Condominium shall not be terminated or abandoned except as provided for by law. In addition to any requirement by law, termination shall require the consent of at least 80% of all Unit Owners in number and in common interest and the Consent of Eligible Mortgage Holders.

Section 13.03. Amendment for Filing of Supplemental Floor Plans. Notwithstanding Section 13.01 above, the Sponsor may execute and record amendment(s) to this Declaration at any time until it no longer owns Units for the purpose of amending Schedule C to this Declaration, and filing supplemental floor plans of Units, as described in Real Property Law Section 339-p. Such amendments need only be signed by the Sponsor, and attached thereto shall be a verified statement of a registered architect or licensed professional engineer as described in the aforementioned Section of the Real Property Law and of this Declaration.

Section 13.04. Amendment by Board of Managers to Correct Errors. Notwithstanding Section 13.01 above, the Board of Managers may make amendments to this Declaration and By-Laws to correct omissions or errors, which amendments shall not adversely modify substantial rights of the Sponsor, any Unit Owner or Eligible Mortgage Holder without the written permission of the Sponsor, such Unit Owner or Eligible Mortgage Holder.

#### ARTICLE XIV GENERAL

Section 14.01. Service of Process. The Secretary of State is designated as agent of the Board of Managers upon whom process against it may be served. The address within this State to which the Secretary of State shall mail a copy of any process against the Board of Managers served upon him or her is at Dwell on Jefferson Condominiums, 339 Hogan Road, Fairport, New York 14450, as may be amended from time to time by an amendment to this Declaration or by written notice to the Department of State.

Section 14.02. Notices. All notices hereunder shall be in writing and sent, unless otherwise specifically provided in this Declaration, by mail by depositing same in a post office or letter box in a postpaid sealed wrapper, addressed, as follows:

(a) If to go to the Board of Managers, at the office of the Board of Managers,  
and

(b) If to go to a Unit Owner or Unit mortgagee at such address as appears on the books of the Condominium; and

(c) If to go to a Eligible Mortgage Holder to request such Eligible Mortgage Holder's consent as is required by various provisions of this Declaration or of the Condominium Cy-Laws such notice shall be sent by certified or registered mail, return receipt requested, and if such notice includes a request for consent, shall include the statement that the failure to object to the requested consent within 60 days shall be deemed a consent.

(d) All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of this Declaration, or of the By-Laws of the Condominium, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Section 14.03. Notices to Mortgagees and Guarantors. Subject to the requirements this Section, any mortgagee holding a mortgage on a Unit or any guarantor of a mortgage on a Unit shall have the right to timely notice, pursuant to Section 14.02 above, of the following:

(a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing such its mortgage

(b) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any Unit for which it holds the mortgage;

(c) A lapse, cancellation, or material modification of any insurance policy maintained by the Board of Managers;

(d) Any proposed action that requires the consent of a specified percentage of mortgages; and

(e) A mortgagee holding a mortgage on a Unit or a guarantor of a mortgage on a Unit shall be entitled to such notice(s) provided it has requested in writing to the Board of Managers that it be notified of the actions or events described in this Section and it has provided the Board of Managers their name and address for such notice or has caused the mortgagor/Unit Owner to give such notice to the Board of Managers.

Section 14.04. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

Section 14.05. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

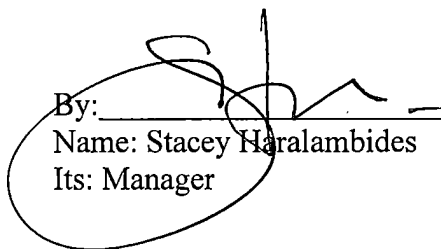
Section 14.06. Captions. The captions herein are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 14.07. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender whenever the context so requires.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Condominium to be signed by its duly authorized member on the date set forth in the acknowledgment below with the intent that it be effective as of the date first set forth above.

HARALAMTOWN LLC,  
Sponsor

By:   
Name: Stacey Haralambides  
Its: Manager

STATE OF NEW YORK    )  
                                  ) SS.:  
COUNTY OF MONROE    )

On the 14<sup>th</sup> day of November, in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Stacey Haralambides, 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 upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**ANTHONY MICHAEL CARELLO**  
**NOTARY PUBLIC, State of New York**  
Qualified in Monroe County  
No. 02CA6278366  
Commission Expires March 25, 2025

SCHEDULE A

DESCRIPTION OF DWELL ON JEFFERSON PROPERTY

ALL THAT TRACT OR PARCEL OF LAND, SITUATE IN THE TOWN OF PERINTON, COUNTY OF MONROE, STATE OF NEW YORK, BEING A PART OF TOWN LOT #52, TOWNSHIP 12, RANGE 4 BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A CONCRETE MONUMENT LOCATED ON THE NORTH RIGHT OF WAY LINE OF AYRAULT ROAD (WIDTH VARIES) AS APPROPRIATED BY THE PEOPLE OF THE STATE OF NEW YORK IN LIBER 7281 OF DEEDS, PAGE 292 (LIBER 1170 OF MAPS, PAGE 154) AT THE INTERSECTION OF THE WEST LINE OF THE LANDS OF THE NEW YORK STATE BARGE CANAL AND RUNNING

THENCE 1) S 86° 20' 24" W, ALONG THE NORTH RIGHT OF WAY LINE OF AYRAULT ROAD, A DISTANCE OF 228.80 FEET TO A CONCRETE MONUMENT;

THENCE 2) N 42° 07' 38" W, A DISTANCE OF 49.21 FEET TO A CONCRETE MONUMENT;

THENCE 3) N 04° 58' 56" W, ALONG THE EAST RIGHT OF WAY LINE OF JEFFERSON AVENUE (WIDTH VARIES), A DISTANCE OF 87.28 FEET TO A CONCRETE MONUMENT;

THENCE 4) N 02° 41' 03" E, ALONG THE EAST RIGHT OF WAY LINE OF JEFFERSON AVENUE, A DISTANCE OF 112.16 FEET TO A POINT;

THENCE 5) N 06° 14' 37" W ALONG THE EAST RIGHT OF WAY LINE OF JEFFERSON AVENUE, A DISTANCE OF 17.73 FEET TO A POINT;

THENCE 6) S 85° 40' 55" E A DISTANCE OF 334.69 FEET TO A POINT IN THE WEST LINE OF THE LANDS OF THE BARGE CANAL;

THENCE 7) S 17° 42' 44" W ALONG THE WEST LINE OF THE LANDS OF THE BARGE CANAL, A DISTANCE OF 223.92 FEET TO THE PLACE OF BEGINNING.



SCHEDULE B

DESCRIPTION OF THE BUILDINGS IN  
DWELL ON JEFFERSON

The Property, upon completion, will include the development of two (2) buildings, one containing 5 units and the other containing 6 units. Access will be provided by a new curb cut connection onto the east side of Jefferson Avenue (County Road 40) and extended into the site. There are a total of 33 parking spaces proposed for the project that include a combination of garage, driveway, surface, and land banked spaces. The site has been designed to accommodate a fire truck and emergency vehicles, which is enabled by a grass paver system located adjacent the asphalt pavement between the buildings. The proposal will combine the two existing tax parcels into one, which will total 1.60 acres and includes all buildings, pavement areas and open space areas.

The Sponsor will construct all 11 units. The units will all be single level, two bedrooms and two baths. Each unit has a single car garage attached to the building's lobby or the unit itself. The site features and proposed construction improvements are shown on BME Associates drawings 2719-02 through 13. The Town of Perinton granted Final Site Plan Approval of the plans on April 21, 2021.

SCHEDULE C

UNIT DESIGNATIONS/TAX LOT (SBL) NUMBERS/  
ROOMS/APPROXIMATE SQUARE FOOT AREAS/PERCENTAGE INTEREST  
IN COMMON ELEMENTS/ACCESS TO COMMON ELEMENTS

UNIT DESIGNATION/ STREET ADDRESS	TAX LOT/SBL NUMBERS	BEDROOMS/ BATHROOMS	% INTEREST IN COMMON ELEMENTS	APPROXIMATE SQUARE FOOT AREA
640 Jefferson Ave Unit H1	165.11-2-15.11./1	2/2	9.091	1,297sf
640 Jefferson Ave Unit H2	165.11-2-15.11./2	2/2	9.091	1,344sf
640 Jefferson Ave Unit H3	165.11-2-15.11./3	2/2	9.091	1,407sf
640 Jefferson Ave Unit H4	165.11-2-15.11./4	2/2	9.091	1,455sf
640 Jefferson Ave Unit H6	165.11-2-15.11./5	2/2	9.091	1,411sf
640 Jefferson Ave Unit H6	165.11-2-15.11./6	2/2	9.091	1,453sf
640 Jefferson Ave Unit B1	165.11-2-15.11./7	2/2	9.091	1,381sf
640 Jefferson Ave Unit B2	165.11-2-15.11./8	2/2	9.091	1,732sf
640 Jefferson Ave Unit B3	165.11-2-15.11./9	2/2	9.091	1,593sf
640 Jefferson Ave Unit B4	165.11-2-15.11./10	2/2	9.091	1,319sf
640 Jefferson Ave Unit B5	165.11-2-15.11./11	2/2	9.091	1,579sf

\* All Units have access to access attached balconies, patios, driveway, front walkway, exterior lawn and landscaped areas.

\*\* These Units are not yet built. This Schedule C may be amended after all the Units are completed.

SCHEDULE D

BY-LAWS OF  
DWELL ON JEFFERSON

BY-LAWS  
OF  
DWELL ON JEFFERSON CONDOMINIUMS

Anthony M. Carello, Esq.  
PHILLIPS LYTTLE LLP  
1400 First Federal Plaza  
Rochester, New York 14614

BY-LAWS  
OF  
DWELL ON JEFFERSON CONDOMINIUMS

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BY-LAWS  
OF  
DWELL ON JEFFERSON CONDOMINIUMS

**ARTICLE I**

**PLAN OF UNIT OWNERSHIP**

Section 1.01 Definitions. Capitalized terms not defined in these By-Laws shall have the meanings set forth for such terms in the Declaration.

“Board of Managers” shall mean and refer to that body of individuals elected or appointed pursuant to these By-Laws to administer the operation and maintenance of the Condominium.

“Buildings” shall mean and refer to the dwelling structures described on Schedule B of the Declaration and as more particularly described in Article III of the Declaration.

“Condominium” shall mean and refer to Dwell on Jefferson Condominiums.

“Consent of Eligible Mortgage Holders” shall mean and refer to actual written consent received from the Eligible Mortgage Holder or the failure of the Eligible Mortgage Holder to object in writing to the giving of such consent within 30 days after receipt of the request for such consent.

“Declaration” shall mean and refer the Declaration of Condominium Establishing Dwell on Jefferson recorded in the Monroe County Clerk’s Office and pursuant to which the Property is subjected to the provisions of Article 9-B of the Real Property Law of the State of New York.

“Eligible Mortgage Holder” shall mean and refer to the holder of a first mortgage on a Unit who has requested the Board of Managers to notify them on any proposed action or any proposed modification, alternation, amendment or addition to the legal documents of the Condominium which requires the consent of mortgagees or Eligible Mortgage Holders.

“Garage” shall mean and refer to that attached portion of a Unit designated in the Declaration which may be used to park a motor vehicle or for storage.

“Owner” or “Unit Owner” shall mean and refer to the record owner of a Unit in the Condominium.

“Property” shall mean and refer to the land and all improvements thereon (including the Units and the Common Elements), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of said Article 9-B of the Real Property Law of the State of New York.



“Recording Office” shall mean and refer to the Monroe County Clerk’s Office.

“Rules and Regulations” shall mean and refer to those guidelines relating to the use of the Property as may be adopted and amended from time to time by the Board of Managers.

“Unit” shall mean and refer to a living unit, including any attached garage, which living unit and garage are designated in the Declaration and intended for separate occupancy and use as a dwelling and as more particularly described in Article IV of the Declaration.

Section 1.02 Ownership. The land described in Schedule A of the Declaration recorded or to be recorded in the Recording Office and the appurtenances thereof, including the Buildings and other improvements constructed on said land (hereinafter collectively called the “Property”), has been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the Declaration and shall be known as the “Dwell on Jefferson”.

Section 1.03 Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property as described in the Declaration and to the use and occupancy thereof.

Section 1.04 Personal Application. All present and future Unit Owners and mortgagees, lessees, and occupants of Units and their employees, and any other persons who may use the facilities of the Property in any manner are subject to these By-Laws, the Declaration and the Rules and Regulations.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these By-Laws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

## ARTICLE II

### UNIT OWNERS-VOTING RIGHT AND MEETINGS

Section 2.01 Voting. For all voting purposes except for amendment to these By-Laws as provided below, each Unit Owner (including the Board of Managers if the Board of Managers shall then own or hold title to one or more Units) shall be entitled to cast one vote at all meetings of Unit Owners for each Unit owned by such Unit Owner, but the Board of Managers shall not cast any of its votes (for a Unit it may own) for the election of any member to the Board of Managers. If a Unit is owned by more than one person, as joint tenants, tenants by the entirety or as tenants in common, the persons owning such Unit shall reach agreement as to the matter voted upon and cast their one vote for their Unit. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. If a Unit is occupied by someone with a life estate in such Unit, such life estate tenant shall be entitled to exercise the vote with respect to such Unit if the Board of Managers has been notified in writing by the Owner of the Unit that such life estate tenant may exercise such right to vote.

Section 2.02 Right to Vote. At any meeting of the Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 2.03 Proxies. All proxies shall be in writing and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

Section 2.04 First Meeting and Annual Meetings; First Election of Board of Managers. After the transfer of title to all of the Units, the Sponsor shall notify all Unit Owners that a meeting of the Unit Owners shall be held within 30 days thereafter. At such meeting all Unit Owners shall elect a new Board of Managers which shall consist of three (3) members. Annual meetings of the Unit Owners shall be held on the anniversary of such meeting of the Unit Owners as provided herein or on such other date and at such time convenient to the Unit Owners as shall be designated by the Board of Managers. At such meetings the Board of Managers shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.04 of these By-Laws. Members of the Board of Managers appointed by the Sponsor shall serve for a term of one year. All other members of the Board of Managers shall serve for terms as set forth in Section 3.04 below. The Unit Owners may transact such other business at such meeting as may properly come before them.

Section 2.05 Place of Meetings. Meetings of the Unit Owners shall be held at a suitable place convenient to the Unit Owners as may be designated by the Board of Managers, within Monroe County.

Section 2.06 Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners if so directed by two (2) Board Members or upon a petition signed and presented to the Secretary by Owners of not less than 25% in number of the Unit Owners. The notice of any special meeting shall state the time and place of such meeting and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.07 Notice of Meetings. It shall be the duty of the Secretary to e-mail or mail by first-class postage a notice of each annual or special meeting of the Unit Owners at least 10 but not more than 30 days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at the residence address of the Unit Owners or e-mail address, as shown on the records of the Condominium or at such other address as such Unit Owner shall have designated by notice in writing to the Secretary, and to all mortgagees of Units who have requested the same. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

Section 2.08 Waiver and Consent. Whenever the vote of the Unit Owners at a meeting is required or permitted by any provision of the Declaration, statutes or of these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Unit Owners may be dispensed with if all 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 2.09 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of Unit Owners having one-half (1/2) of the total authorized votes of all Unit Owners shall constitute a quorum at all meetings of the Unit Owners. If any meeting of Unit Owners cannot be held because a quorum has not attended, a majority in common interest of the Unit Owners who are present at such meeting, either in person or by proxy, may, without notice other than announcement to those physically present, adjourn the meeting to a time not less than 48 hours from the time the original meeting was called, and from time to time thereafter, until a quorum shall be present or represented. The quorum required for each reconvened meeting shall be one-half (1/2) of the quorum required for the previous meeting provided, however, that the quorum in no event shall be less than 10% of the total authorized votes of all Unit Owners.

Section 2.10 Majority Vote. The vote of a majority of Unit Owners at a meeting at which a quorum shall be present shall be binding upon all Unit 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 Unit Owners" shall mean those Unit Owners having more than 50% of the total authorized votes of all Unit Owners present in person or by proxy and voting at any meeting of the Unit Owners, determined in accordance with the provisions of Section 2.01 of these By-Laws.

Section 2.11 Inspectors of Election. The Board of Managers in advance of any meeting of Unit Owners, may appoint two (2) or more persons, who need not be 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 Unit 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 Managers or at the meeting by the person presiding thereat.

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

Section 2.12 Order of Business at Meetings. The order of business at all meetings of the Unit Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meetings.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Managers.
- (f) Reports of committees.

- (g) Election of Inspectors of Election (when so required).
- (h) Election of members of the Board of Managers (when so required).
- (i) Unfinished business.
- (j) New business.

### ARTICLE III

#### BOARD OF MANAGERS

Section 3.01 Number and Qualification. The affairs of the Condominium shall be governed by a Board of Managers. The Board of Managers shall consist of three (3) persons designated by the Sponsor at the time the Declaration is recorded. Within 30 days after the initial transfer of title to 100% of the Units (other than to the Sponsor), the first annual meeting of Unit Owners shall be held pursuant to Section 2.04 of these By-Laws for the purpose of electing a new Board of Managers. All members of the Board of Managers shall be Owners or spouses of Owners or mortgagees of Units or, in the case of partnership and limited liability company Owners or mortgagees, shall be members or employees of such partnership or limited liability company, or, in the case of corporate Owners or mortgagees, shall be officers, directors, shareholders, employees or agents of such corporations or, in the case of fiduciary Owners or mortgagees, shall be the fiduciaries or officers, agents or employees of such fiduciaries or, in the case of members of the Board of Managers designated by the Sponsor, such members shall be any designees of the Sponsor.

Section 3.02 Powers and Duties. The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things except as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Managers by the Unit Owners. Such powers and duties of the Board of Managers shall include, but shall not be limited to, the following:

(a) Determination and levying of annual assessments ("common charges") payable in monthly installments to cover the cost of common expenses required for the affairs of the Condominium, including without limitation, the operation and maintenance of the Property. The Board of Managers may increase the annual assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners pro rata according to their respective common interest.

(b) Collection, use and expending the assessments collected to maintain, care for and preserve the Common Elements.

(c) Operation, care, upkeep and maintenance of the Common Elements.

(d) Purchasing or leasing or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners, Units offered for sale or lease or surrendered by their Owners to the Board of Managers.

(e) Obtaining and maintaining insurance for the Property, pursuant to the provisions of Article VII hereof.

(f) Purchasing of Units at foreclosure or other judicial sales in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all Unit Owners.

(g) Selling, leasing, mortgaging, repairing, maintaining, voting the votes appurtenant to (other than the election of members of the Board of Managers), or otherwise dealing with Units acquired by, and subleasing Units leased by, the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners.

(h) Suspend the right to the use of the Common Elements except for ingress and egress to the Unit Owner's home, during any period in which such Unit Owner shall be in default in the payment of any assessment levied by the Condominium. Such rights may also be suspended after a notice and Hearing for a period not to exceed 60 days for an infraction of published rules and regulations.

(i) Bringing and defending actions against Unit Owner(s) which are pertinent to the operation of the Condominium, and bringing actions on behalf of Unit Owners as provided for in Section 339-dd of the Real Property Law or in the Condominium Declaration.

(j) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements, provided, however that (i) the consent of at least 67% in number and in common interest of all Unit Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of 5% of the amount of the then current annual budget of the Condominium and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Unit Owner.

(k) Adoption and amendment of reasonable rules and regulations covering the details of operation and use of the Property. Such rules and regulations and amendments shall be binding upon the Unit Owner when the Board of Managers has approved them in writing. A copy of such Rules and Regulations and all amendments shall be delivered to each Unit; any Unit Owner may make suggestions to the Board. Suggestions to consider changes to any of the Rules and Regulations of the Association must be submitted in writing and signed by 20% of the current Unit Owners' households. All proposed changes to the Rules and Regulations shall be communicated to all Unit Owners at least 10 days prior to the time the Board is to vote on such changes. A Special Meeting of the Unit Owners to discuss such changes to the Rules and Regulations in advance of the Board vote may be requested in writing to the Board and signed by 25% of the current Unit Owners households. A simple majority of the entire Board of Managers is required to approve such changes to the Rules and Regulations provided the quorum is met.

(l) Collection of delinquent assessments by suit or otherwise, abatement of nuisances and the enjoinder and/or seeking of damages from the Unit Owners for violations of the rules and regulations referred to herein.

(m) Employing and terminating the employment of employees and independent contractors, purchasing supplies and equipment, entering into contracts and generally having the powers of manager in connection with the matters hereinabove set forth.

(n) Establishing of reserves for the repair and replacement of the Common Elements. The amount of such reserves shall be as the Board of Managers deems to be appropriate, shall be adequate to fund the projected cost of such repairs and replacements and shall be sufficient to meet the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages on the Units.

(o) Complying with any change in New York law as it may affect the Condominium.

(p) Assigning, in its discretion, the use of mailboxes and, as it deems appropriate or necessary, the use of parking spaces.

(q) Granting, with or without consideration, easements, rights of way or licenses for utilities or other similar services (e.g., cable television) across the Common Elements, and for the placement of air conditioner compressors on the Common Elements.

(r) Reviewing and rendering decisions on the applications submitted pursuant to Article VII of the Declaration for proposed alterations of the Units or Common Elements.

(s) Add or remove individuals from having internet access to Condominium bank accounts. The Secretary shall notify the Bank, in writing, when individuals are either given access or when access is terminated.

(t) Cause a financial statement for the Condominium to be prepared by the Condominium's independent public accountant following the end of each fiscal year.

Section 3.03 Committees Acting on Behalf of Board of Managers. The Board may appoint such standing and ad hoc committees as deemed necessary to fulfill the responsibilities of the Association. Committee members may consist of members of the Board or voting members of the Association. Examples of such committees that the Board may appoint are:

- (a) Nominating Committee
- (b) Social Committee
- (c) By-Laws and Standards Committee
- (d) Lawn and Landscape Contracting Committee
- (e) Snow Plowing and Driveway Contracting Committee
- (f) Town and Village Legislative Committee

As committees are appointed, the duties, membership and leadership of each committee will be defined by the Board.

Section 3.04 Nomination, Election and Term of Office. Nominations for election to the Board of Managers may be made if so appointed by the Board of Managers, by a Nominating Committee which shall consist of two (2) or more Unit Owners. Members of the Nominating Committee shall serve only to make the nominations for members of the Board of Managers to be elected at that meeting and shall make as many nominations for election to the Board of Managers as it shall, in its sole discretion, determine but not less than the number of vacancies as are to be filled.

Except as provided in Section 2.04 of these By-Laws, At the first Annual Meeting after the Sponsor no longer appoints any members to the Board of Managers, the Unit Owners shall elect one (1) Manager for a term of three (3) years, one (1) Manager for a term of two (2) years and one (1) Manager for a term of one (1) year. At each Annual Meeting thereafter, the Unit Owners shall replace those Managers whose terms have expired and elect such successor Managers for a term of three (3) years. Tie votes shall be decided by a runoff election unless the parties tying agree to a drawing of lots. Voting shall be by secret ballot which shall:

- (a) set forth the number of vacancies to be filled.
- (b) set forth the names of those nominated by the Nominating Committee to fill such vacancies.

Section 3.05 Removal of Members of the Board of Managers. Subject to the limitations set forth below, at any regular or special meeting of Unit Owners, any one or more of the members of the Board of Managers elected by the Unit Owners may be removed with or without cause by a majority of the Unit 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 Managers whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting. Members of the Board of Managers elected or appointed by the Sponsor may be removed without cause only by the Sponsor, and thereafter replaced by the Sponsor. Members of the Board of Managers elected or appointed by the Sponsor may be removed for cause by the Unit Owners, but such member's successor shall be appointed by the Sponsor.

Section 3.06 Resignation of Members of the Board of Managers. A member of the Board of Managers may resign at any time by giving written notice to the Board of Managers, or to the President or Secretary of the Board of Managers. Unless otherwise specified in the letter of resignation, the resignation shall take effect immediately upon receipt thereof by the Board, President or Secretary as the case may be, and acceptance of the resignation shall not be necessary to make it effective.

Section 3.07 Vacancies. Vacancies in the Board of Managers caused by any reason other than the removal of a member thereof by a vote of the Unit Owners, shall be filled by vote of a majority of the remaining members at a special meeting of the Board of Managers held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member

of the Board of Managers until the next annual meeting of the Unit Owners or until a successor is elected. Notwithstanding the above, if the vacancy occurs with respect to any member of the Board of Managers not designated by the Sponsor, the successor shall be a Unit Owner independent of the Sponsor. If the vacancy occurs with respect to any member of the initial Board of Managers as designated by the Sponsor, the Sponsor shall have the sole right to choose the successor to fill the unexpired portion of the term of such Manager.

Section 3.08 Meetings. Organizational, regular and special meetings of the Board of Managers shall be held as follows:

(a) Organizational Meeting. The first meeting of each newly elected Board of Managers shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter at such date, time and place, as may be practicable.

(b) Regular Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Managers, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each member of the Board of Managers personally, by mail or by e-mail, at least 10 days prior to the day set for such meeting.

(c) Special Meetings. Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each member of the Board of Managers either personally or by mail or e-mail, which notice shall state the time, place and purpose of the meeting. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least three (3) members of the Board of Managers.

Any member of the Board of Managers may at any time waive notice of any meeting of the Board of Managers in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Managers at any meeting of the Board shall constitute a waiver of notice by such member of the time and place thereof. If all the members of the Board of Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.09 Quorum of Board of Managers. A majority of the entire Board shall be necessary to constitute a quorum for the transaction of business at each meeting of the Board. No motion shall pass with less than a majority of the entire Board in favor. Also, if at any meeting there be less than a quorum present, a majority of those present may adjourn the meeting from time to time without notice other than by announcement at the meeting, until a quorum shall attend.

Section 3.10 No Compensation. No member of the Board of Managers shall receive any compensation from the Condominium for acting as such.

Section 3.11 Liability of the Board of Managers. The members of the Board of Managers shall not be liable to the Unit Owners for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Managers against all contractual liability to others arising out of contracts made by the Board of Managers on behalf of the



Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Managers shall have no personal liability with respect to any contract made by them on behalf of the Condominium. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Managers or out of the aforesaid indemnity in favor of the members of the Board of Managers shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the Unit Owners in the Common Elements. Every agreement made by the Board of Managers or by a managing agent or manager, on behalf of the Condominium, shall provide that the members of the Board of Managers, or the managing agent or the manager, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as such Unit Owner's interest in the Common Elements bears to the interest of all Unit Owners in the Common Elements.

**Section 3.12 Managing Agent and Manager.** The Board of Managers may employ for the Condominium a managing agent and/or a manager at a compensation established by the Board of Managers, to perform such duties and services as the Board of Managers shall authorize.

Any decision to discontinue such independent and professional management and establish self-management for those duties and services previously delegated to said managing agent and/or manager shall require (i) the prior written consent of 67% of all Unit Owners in number and in common interest voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be sent to all Unit Owners at least 30 days in advance and shall set forth the purpose of said meeting and (ii) the Consent of Eligible Mortgage Holders of 51% or more of the Units subject to mortgages held by Eligible Mortgage Holders.

**Section 3.13 Personal Attendance by Conference Call.** Any one or more members of the Board or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone call or video providing all members may hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

**Section 3.14 Action Without a Meeting.** Any action required or permitted to be taken by the Board or any committee thereof at a duly held meeting may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. Such resolution and the written consents thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.

## **ARTICLE IV**

### **OFFICERS**

**Section 4.01 Designation.** The principal officers of the Condominium shall be the President, the Vice-President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Managers. The Board of Managers may appoint an assistant treasurer, and assistant

secretary, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officer, must be a member of the Board of Managers.

**Section 4.02 Election and Appointment of Officers.** The elective officers of the Condominium shall be elected annually by the Board of Managers at the organizational meeting of each new Board of Managers and shall hold office at the pleasure of the Board of Managers. Appointive officers shall be appointed at such time and shall hold their office for such terms as the Board of Managers shall determine from time to time.

**Section 4.03 Removal of Officers.** Upon the affirmative vote of a majority of the members of the Board of Managers, any officer may be removed, either with or without cause, and a successor to such officer may be elected at any regular meeting of the Board of Managers, or at any special meeting of the Board of Managers called for such purpose.

**Section 4.04 President.** The President shall be the chief executive officer of the Condominium. The President shall be a member of the Board of Managers and preside at all meetings of the Unit Owners and of the Board of Managers. The President shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York.

**Section 4.05 Vice-President.** The Vice-President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Managers shall appoint some other member of the Board of Managers to act in the place of the President on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon the Vice-President by the Board of Managers or by the President.

**Section 4.06 Secretary.** The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Managers; shall record all votes and the minutes of all proceedings in a book to be kept for that purpose; shall have charge of such books and papers as the Board of Managers may direct; shall give or cause to be given, notice of all meetings of Unit Owners and all special meetings of the Board of Managers; and shall, in general, perform all the duties incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

**Section 4.07 Treasurer.** The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Managers, or the managing agent, in such depositories as may from time to time be designated by the Board of Managers, and shall, in general, perform all the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

**Section 4.08 Agreements, Contracts, Deeds, Checks, etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by

any two (2) officers of the Condominium or by such other person or persons as may be designated by the Board of Managers.

Section 4.09 Compensation of Officers. No officer shall receive any compensation from the Condominium for acting as such.

## ARTICLE V

### COMMON CHARGES AND ASSESSMENTS- DETERMINATION, PAYMENT AND COLLECTION

Section 5.01 Determination of Common Charges. The Board of Managers shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of the adopted budget to all Unit Owners at least 30 days prior to the beginning of the fiscal year. The Board of Managers shall send a copy of the budget as adopted and any supplement thereto to every Unit Owner and such Unit mortgagees as shall have requested the same. The Board of Managers shall determine the total amount required, including the operational items such as insurance, repairs, reserves, betterments, maintenance of the Common Elements and other operating expenses as well as charges to cover any deficits from prior years. The total annual requirements shall be assessed as a single equal sum against all Units, and prorated against each of said Units according to the respective common interests appurtenant to such Units, except that the Board of Managers may elect to specially allocate and apportion expenses, including but not limited to, maintenance, costs of water or other utility charges or insurance costs, among Unit Owners based on the special or exclusive availability or use or the exclusive control of Common Elements by a particular Unit Owner or Owners. Said common charges or assessments shall be payable monthly in advance unless the Board of Managers establishes other periods for payment. Special assessments, should such be required, shall be levied and paid in such manner as the Board of Managers shall determine for each such special assessment.

Section 5.02 Collection of Common Charges and Assessments. The liability of a Unit Owner for common charges is set forth in the Declaration. If a common charge or assessment or any installment thereof is not paid within 5 days after the due date, the Board of Managers may impose a late charge or charges on such amount or amounts as the Board of Managers deems reasonable not to exceed 10% of the amount of such overdue common charge or assessment or installment thereof, provided such late charges are equitably and uniformly applied.

If the common charge or assessment or installment thereof is not paid within 30 days after the due date (i) the common charge or assessment shall bear interest from the due date at such rate as may be fixed by the Board of Managers from time to time, such rate not to exceed the maximum rate of interest then permitted by law; (ii) the Board of Managers may accelerate the remaining installments, if any, of such common charges or assessments upon notice thereof to the Unit Owners which notice shall afford the Unit Owner not less than 10 days to pay such installments of common charges; and (iii) the Board of Managers may bring legal action against the Unit Owner personally obligated to pay the same or foreclose the lien on such Unit pursuant to, and in the manner provided by New York State Law. (In the event the Sponsor controls the Board of Managers, a decision to bring legal action against the Sponsor for failure to pay

common charges or other assessments on the Units owned by the Sponsor may be made by a majority of those Unit Owners other than the Sponsor.) If the common charge or assessment or installment thereof is not paid within 60 days after the due date, the Board of Managers, if it has not previously done so, shall furnish prompt written notice of such delinquency, if requested, to any holder, insurer or guarantor of the mortgage on the Unit for which the payment of common charges or assessments is delinquent.

The cost of any such proceedings and other costs and expenses incurred in efforts to collect such past due common charges or assessments, including reasonable attorney's fees, shall be added to the amount of such common charge or assessment, accelerated installments, if any, late charges and interest. Any amounts collected on past due common charges or assessments shall be applied in the following order: attorney's fees, other costs of collection, interest, late charges, and then the common charges or assessments, beginning with the common charge or assessment past due for the longest period. If there is any surplus remaining from the proceeds of a foreclosure sale after payment of the indebtedness and all expenses of the sale, such surplus shall be paid to the Unit Owner.

Pursuant to Section 339-kk of the New York Real Property Law, rents on Units owned by the Sponsor or other non-occupying Owners, shall be directly payable to the Condominium if the Unit Owner is more than 30 days late in the payment of any common charge, other assessment or late fee. The obligation to pay the rent directly to the Condominium shall remain in effect until such time as the payments owing are on a current basis, *i.e.* no longer in arrears for 60 days or more. Then tenant will be notified by the Board of Managers that such payments are current within three (3) days after they become current. The Sponsor will cause the Board of Managers to file a lien as provided for in Section 339-aa of the New York Real Property Law on Units in which the Sponsor is more than 30 days in arrears of common charges while it is in control of the Board of Managers.

Section 5.03 Rights and Obligations Regarding Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board of Managers to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Managers, acting on behalf of all Unit Owners, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the Unit. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5.04 Statement of Common Charges. Upon the written request of a Unit Owner, lessee or mortgagee with respect to the Unit owned by such Owner, leased by such lessee or upon which such mortgagee holds a mortgage, or any prospective purchaser, lessee, mortgagee or title insurer of such Unit, the Board of Managers, the Manager or the managing agent, shall promptly furnish a certificate in writing setting forth with respect to such Unit as of the date of such certificate, (i) whether or not the common charges due have been paid, (ii) the amount of such common charges, including interest and costs, if any, due and payable, and (iii) whether any other amounts or charges are owing to the Condominium, *i.e.*, for a special assessment for the cost of extinguishing a violation of the Declaration or rules and regulations. A reasonable charge, as

determined by the Board of Managers, may be made for the issuance of this certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Board of Managers and any bona fide purchaser or lessee of, or lender on, or title insurer of, the Unit with respect to which the request was made.

Section 5.05 Adjustment of Common Charges and Special Assessments on Transfer. Unless otherwise agreed upon between the parties to the transfer, upon the transfer of a Unit, common charges, 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 Managers in the 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 installment 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 5.06 Resale Assessment. Upon any resale of a Unit, the Grantee (Purchaser) thereof shall pay to the Condominium a Resale Assessment which shall be one hundred (\$100.00) dollars. "Resale" as referred to herein shall not include any transfer by inheritance, devise or gift or any transfer by foreclosure, deed in lieu of foreclosure, or pursuant to a decree in bankruptcy. These funds are not to be used to offset assessments.

Section 5.07 Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account", into which shall be deposited the operation portion of all common charges and special assessments as fixed and determined for all Units. Disbursements from said account shall be for the general needs of the operation including, but not limited to wages, repairs, betterments, maintenance and other operating expenses of the Common Elements and for the purchase, lease, sale or other expenses resulting from the purchase or lease of Units. The bank in which such funds are deposited shall send copies of all statements directly to the Board of Managers or persons designated by the Board of Managers.

## ARTICLE VI

### BOOKS AND RECORDS

Section 6.01 Records and Audits. The Board of Managers or the managing agent shall keep detailed records of the actions of the Board of Managers and the managing agent, minutes of the meetings of the Board of Managers, minutes of the meetings of the Unit Owners, and financial records and books of account of the Condominium, among other things, shall contain the amount of each assessment of common charges against such Unit, the dates when installments are due, the amounts paid thereon, and the balance remaining unpaid.

**Section 6.02 Annual Statement.** Within 120 days after the end of each fiscal year, a full and correct statement of the financial affairs of the Condominium, including a balance sheet and a financial statement of operation for the preceding fiscal year prepared and signed by a public or certified public accountant to the effect that the financial statement presents fairly the financial position of the Condominium and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period except as specified therein, shall be distributed to all Unit Owners and to all mortgagees of Units who have requested the same. Taking into consideration the cost of an audit vs. a review, the complexity and volume of the Condominium's financial affairs, and such other factors the Board of Managers deems relevant, the Board of Managers shall determine each year whether such statement shall be in the form of an audit or review, except that (i) an audit, at the expense of the Condominium shall be required if authorized in writing by at least two-thirds (2/3) of all Unit Owners or, if the Condominium is comprised of 50 or more Units, if the Holder, insurer or guarantor of any first mortgage that is secured by a Unit in the Condominium submits a written request for such an audit to the Board of Managers, and (ii) any Unit Owner or mortgage holder shall be entitled to obtain an audited statement at such Unit Owner's or mortgagee's own expense.

**Section 6.03 Availability of Records and Legal Documents.** The Board of Managers shall make available for inspection upon reasonable notice and during normal business hours, to existing and prospective purchasers, tenants, mortgagees, mortgage insurers and mortgage guarantors, current copies of the Condominium's Declaration, By-Laws, rules and regulations, budget, schedule of assessments and any other books, records and financial statements of the Condominium. The Board may furnish copies of such documents to such parties and may charge a reasonable fee to cover the cost of furnishing such copies.

## ARTICLE VII

### INSURANCE AND CASUALTY DAMAGE

**Section 7.01 Insurance to be Carried.** The Board of Managers shall obtain and maintain, (and review at least once each year) with such deductible amounts as the Board of Managers shall deem appropriate: (1) fire and casualty insurance, (including flood insurance if required for the mortgaging of individual Units) (2) liability insurance for occurrences on the Property, (3) directors' and officers' liability insurance covering wrongful acts of officers of the Condominium and the Board of Managers, (4) fidelity bond covering those who handle Condominium funds, and (5) workers' compensation insurance covering Condominium employees, if any and those who perform work for the Condominium as follows:

(a) Fire and Casualty. The policy shall cover the interests of Board of Managers and all Unit Owners and mortgagees in the Property and the Units as their interests may appear. Coverage shall be for the full replacement value, (without deduction for depreciation) of all improvements on the Property, i.e. covering the Units and including the wall to wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, wall coverings, all machinery servicing the Units and common facilities, and, if available, improvements and betterments (including upgrading of appliances, kitchen cabinets, carpeting, and lighting fixtures, etc.) made by present or prior Unit Owners or occupants, excluding (i) the land beneath the Units and foundations, and (ii) the personal property of Unit Owners and occupants.

The policy shall have the following provisions, endorsements and coverages: (i) extended coverage, sprinkler leakage (if applicable), debris removal, vandalism, malicious mischief, windstorm and water damage, (ii) inflation guard, or Blanket property limits (iii) coverage for loss of maintenance assessments from Unit Owners forced to vacate because of fire or other insured against casualty, (iv) waiver of any right to claim by way of subrogation against individual Unit Owners and the members of their households and families, the Board of Managers, the officers of the Condominium, and the managing agent, if any, for the Condominium, (v) that the insurance purchased by the Board of Managers shall be deemed primary coverage and any policies obtained by individual Unit Owners or mortgagees shall be deemed excess coverage and that the insurance obtained by the Board of Managers shall in no event be brought into "contribution" with insurance purchased by individual Unit Owners or mortgagees, (vi) a provision that the policy cannot be cancelled, invalidated or suspended because of the act or neglect of someone over whom the insured has no control, (vii) a provision that the policy may not be cancelled (including cancellation for non-payment of premium), substantially modified, invalidated or suspended, without at least 30 days' prior written notice to all of the insureds (10 days' notice for non-payment of premium), including all mortgagees of Units reported to the insurance carrier or its agent, and (viii) a provision that adjustment of loss shall be made by the Board of Managers.

Prior to obtaining any new fire and casualty insurance policy, the Board of Managers shall obtain a valuation from an insurance company or from such other source as the Board of Managers shall determine to be acceptable as to the full replacement value (without deduction for depreciation) of the improvements on the Property (exclusive of land and foundations) for the purpose of determining the amount of fire and casualty insurance to be effected pursuant to this Section.

(b) Flood Insurance. If any portion of the Property is located in an area identified by the Federal Emergency Management Agency as having special flood hazards, the Board of Managers shall obtain, if available, a policy of flood insurance covering the Units and other insurable improvements on the Property or portion thereof located entirely or partially in the flood hazard area. Such coverage shall be the maximum coverage available under the National Flood Insurance Program or 100% of the current replacement cost of all such Units and other insurable property, whichever is less.

The proceeds of all policies of physical damage insurance, if \$100,000.00 or less, shall be payable to the Board of Managers, and if \$100,000.00 or more, to an insurance trustee (bank, trust company or law firm) selected by the Board of Managers to be applied for the purpose of repairing, restoring or rebuilding unless otherwise determined by the Unit Owners pursuant to these Bylaws. This \$100,000.00 limitation shall increase automatically by 5% each calendar year after the year in which the Declaration is recorded and may be further raised or lowered from time to time upon approval of not less than two-thirds (b) of the entire Board of Managers. All fees and disbursements of the insurance trustee shall be paid by the Board of Managers and shall be a common expense of all Unit Owners.

The policy shall contain the standard mortgagee clause in favor of mortgagees which shall provide that any loss shall be payable to a mortgagee as its interest shall appear; subject, however, to the loss payment provisions in favor of the Board of Managers. The obligation to restore or reconstruct after damage due to fire or other insured peril supersedes the customary right of a mortgagee to have the proceeds of insurance coverage applied to the mortgage indebtedness.

The interest of the each Unit Owner and such Unit Owner's known mortgagee shall be acknowledged on the policy, as their interests may appear. Each Unit Owner and such Owner's known mortgagee shall receive, at the time of purchase and at the time a new policy is obtained or an existing policy renewed, a certificate evidencing proof of insurance coverage.

Certificates or endorsements to the policy, together with proof of payment of premiums, shall be furnished by the Board of Managers to all mortgagees of Units requesting the same for a reasonable charge.

(c) Liability. The liability insurance shall cover the Board of Managers and officers of the Condominium, the managing agent, if any, and all Unit Owners as their interests may appear, but not the liability of Unit Owners arising from occurrences within such Owner's Unit. The policy shall include the following endorsements: (i) commercial general liability including bodily injury, property damage and personal injury, (libel, slander, false arrest and invasion of privacy), (ii) medical payments, (iii) cross liability under which the rights of a named insured under the policy shall not be prejudiced with respect to such insured's action against another named insured, (iv) "severability of interest" precluding the insurer from denying coverage to a Unit Owner because of negligent acts of the Board of Managers or any other Unit Owner, (v) contractual liability, and (vi) host liquor liability coverage with respect to events sponsored by the Board of Managers.

Coverage may not be canceled or suspended (including cancellation for nonpayment of premium) or substantially modified without at least 30 days' prior written notice to the insureds (10 days for non-payment of premium), including all known mortgagees of Units as shown on the records of the Board of Managers. The Board of Managers shall review such coverage at least once each year.

(d) Directors' and Officers' Liability. The directors' and officers' liability insurance shall cover the "wrongful" acts (wrongful performance or failure to perform) of a officer of the Condominium or a member of the Board of Managers. The policy shall be on a "claims made" and shall include all prior officers and members of the Board of Managers, and any deductible provision shall apply only to each claim. The policy shall provide for "participation" by the Condominium or by the officers of the Condominium or member of the Board of Managers only to the minimum extent permitted by law or applicable government regulations.

(e) Fidelity Bond. The fidelity bond shall cover all members of the Board of Managers, all officers and employees of the Condominium and the Condominium's managing agent, if any, who handle Condominium funds. The bond shall name the Condominium as obligee and be in an amount not less than a sum equal to three (3) months' aggregate assessments on all



Units, plus the amount of reserves and other funds on hand. It shall provide that the bond may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least 30 days' prior written notice to the Condominium (10 days' notice for non-payment of premium) and to all institutional first mortgagees of Units whose names appear on the records of the Condominium.

The Board of Managers shall, at the request of any Unit Owner, Unit mortgagee, or prospective Unit Owner or Unit mortgagee, increase the amount of such bond to meet the reasonable requirements of any existing or proposed holder or insurer of any mortgage made or to be made on any Lot.

(f) Workers' Compensation. To the extent deemed reasonable and necessary by the Board of Managers, workers' compensation insurance shall be obtained. Such insurance shall cover any employees of the Condominium, as well as any other person performing work on behalf of the Condominium.

(g) Other Insurance. The Board of Managers may also obtain such other insurance as it shall deem necessary or desirable from time to time including "umbrella" catastrophe coverage, and hired and non-owned vehicle coverage.

Section 7.02 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 demonstrably unreasonable cost.

Section 7.03 Deductible. With respect to property insurance, the deductible shall apply to each occurrence, not each item of damage. The Board of Managers may pay the portion for which an individual Unit 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 Unit Owner, and shall be collectible in the same manner as common charges under Article X of the Declaration.

Section 7.04 Restoration or Reconstruction After Fire or Other Casualty; Responsibility for Insurance Deductible. In the event of damage to or destruction of any Unit or Units, insured through insurance obtained by or through the Condominium, as a result of fire or other casualty, the Board of Managers shall notify all mortgagees of such Unit or Units as indicated on the records of the Condominium and shall arrange for the prompt repair and restoration of the damaged property and the Board of Managers, or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments; provided, however, that if three-fourths (3/4) or more of the Units in a building are destroyed or substantially damaged and the Owners of 75% or more of all Units and of all Units in the building decide within 90 days after such damage or destruction not to proceed with repair or restoration, the net proceeds of insurance policies, if any, shall be divided among the Unit Owners in proportion to the damage, as determined by the Board of Managers, to their insured property in relation to the total damage (including demolition) to all the

insured property, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of such Owner's share of such funds all liens on such Owner's Unit.

In the event that insurance proceeds are, for any reason, including the deductible amount or insurance trustee's fees, insufficient to pay all of the costs of restoring or repairing the property to the same condition as formerly existed, the Board of Managers shall levy a special assessment to make up the deficiency against the Unit Owners of the damaged property, which special assessment shall be levied in proportion to the damage, as determined by the Board of Managers, to their insured property in relation to the total damage to all the insured property. If the Board of Managers cannot reasonably determine the allocation of damage among Units and Common Property, the insufficiency of funds can be deemed a common expense.

In the event of damage or destruction of any Unit or other improvements on the Property as a result of fire or other casualty covered by insurance obtained by or through the Board of Managers, the deductible amount of any insurance proceeds shall apply to each occurrence, not to each item of damage, and shall be funded as follows:

(a) If the property is damaged from a cause which emanates from improvements which the Board of Managers has the responsibility to maintain, the Board of Managers shall be responsible for the deductible amount, except that, if the cause of such damage is the result of gross negligence or the wantonly malicious act of any Unit Owner (or of a member of such Unit Owner's family or of a tenant of such Unit Owner or of a guest or invitee of such Unit Owner or of a member of such Unit Owner's family) the Unit Owner shall be responsible for such deductible amount.

(b) If the property is damaged from a cause which emanates from or within a Unit the Owner or Owners of such Unit shall be responsible for the deductible amount.

The Board of Managers may, at its option, pay the deductible amounts for which an individual Unit Owner is responsible, and the amounts 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 Unit Owner, and shall be collectible in the same manner as a common expense under Article X of the Declaration.

In the event of damage to or destruction of any common property or facility of the Condominium, insured through insurance obtained by the Board of Managers, as a result of fire or other casualty, the Board of Managers shall (i) promptly send written notice of such damage or destruction to all institutional first mortgagees whose names appear on the records of the Condominium and to the insurance trustee, if any, and the Board of Managers or the insurance trustee, as the case may be, 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. In the event that the insurance proceeds exceed the cost of repair and reconstruction of such property, no Unit Owner or any other party shall have priority to receive any portion of such surplus over such Unit Owner's mortgagee.

Section 7.05 Insurance Carried by Unit Owners. Each Unit Owner has the right, at such Unit Owner's expense, to obtain insurance for such Unit Owner's benefit, including (1) fire,

casualty and theft coverage for such Unit Owner's personal property, (2) coverage for such Unit Owner's personal liability within such Unit Owner's Unit and such Unit Owner's interest in the Common Elements and (3) fire and casualty insurance coverage for "improvements and betterments" to such Unit Owner's Unit which may not be covered by fire and casualty insurance obtained by or through the Board of Managers, provided, however, that (i) such policies contain waivers of subrogation, if available, and (ii) the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by the Unit Owner.

Section 7.06 Right of Mortgagees to Pay and be Reimbursed for Insurance and Property Taxes on Association Property. In the event the Board of Managers fail to obtain or maintain fire, casualty and liability insurance for the Property as required under this Article, such insurance may be obtained by one or more mortgagees of Units, singly or jointly. Such mortgagee or mortgagees shall be owed immediate reimbursement from the Board of Managers for any amount expended for such insurance.

## ARTICLE VIII

### SELLING, MORTGAGING AND LEASING UNITS

Section 8.01 Selling and Leasing Units. No Unit Owner shall convey, mortgage, pledge, sell or lease such Owner's Unit unless and until all unpaid common charges assessed against such Unit shall have been paid to the Board of Managers. However, such unpaid common charges can be paid, at the time of closing, out of the proceeds of the sale of a Unit or by the grantee. Further, a Unit Owner may convey such Owner's Unit and the common interest appurtenant thereto to the Board of Managers on behalf of all Unit Owners free of any cost to the Board or the Unit Owners and upon such conveyance such Unit Owner shall not be liable for any common charges thereafter accruing against such Unit. A sale or lease of any Unit in violation of this Section shall be voidable at the election of the Board of Managers.

Any lease or rental of a Unit shall be for a minimum of twelve (12) months, except for leases of Units owned by the Sponsor, which shall have no minimum term, shall be in such format and on such lease form, if any, as supplied by and approved from time to time by the Board of Managers, and shall provide for full compliance by the tenants with the Declaration, By-Laws and Rules and Regulations of the Condominium. The Owner shall be responsible for violations by such Owner's tenant should a tenant be in violation thereof at any time, the Board of Managers may send the Owner of the Unit which said tenant occupies written notice of such violation by certified or registered 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, or if the eviction proceedings are not reasonably diligently pursued thereafter, the Board of Managers may pursue any remedies which it may have under the Declaration or these By-Laws.

The imposition of any additional restrictions on the right of a Unit Owner to sell or otherwise transfer, lease or rent such Owner's Unit shall require the consent of the Owners of 67% or more of the Units, in number and in common interest, and the Consent of Eligible Mortgage Holders of 51% or more of the Units then subject to mortgages held by Eligible Mortgage Holders.

The above provisions of this Section shall not apply to the acquisition or sale of a Unit by a mortgagee who shall acquire title to such Unit by foreclosure or by deed in lieu of foreclosure. Such provisions shall, however, apply to any purchaser from such mortgagee.

**Section 8.02 Mortgaging of Units and Notice to Board of Managers.** Each Unit Owner shall have the right to mortgage such Owner's Unit without restriction. Either the Unit Owner who mortgages the Unit or the mortgagee shall notify the Board of Managers in writing of the name and address of the mortgagee. The Board of Managers shall maintain such information in a book entitled "Mortgagees of Units." No Unit Owner shall mortgage, pledge or hypothecate such Owner's Unit unless and until all unpaid common charges assessed against the Unit have been paid to the Board of Managers.

**Section 8.03 No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to such Owner's Unit without including therein the appurtenant common interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant common interest of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant common interests of all Units.

**Section 8.04 Gifts and Devises, etc.** Any Unit Owner shall be free to convey or transfer such Owner's Unit by gift or to devise the Unit by will, or to pass the Unit by intestacy, without restriction.

**Section 8.05 Waiver of Right of Partition With Respect to Such Units as Are Acquired by the Board of Managers, or its Designee, on Behalf of All Unit Owners as Tenants in Common.** In the event that a Unit shall be acquired by the Board of Managers, or its designee, on behalf of all Unit Owners as tenants in common, all such Owners shall be deemed to have waived all rights of partition with respect to such Unit and if the Board should so elect, the Unit Owner shall be deemed to have authorized and empowered the Board of Managers to institute legal proceedings to evict the purported tenant in the name of the said Unit Owner as the purported landlord.

## **ARTICLE IX**

### **AMENDMENT**

**Section 9.01 Amendments to By-Laws.** Except as hereinafter provided otherwise, these By-Laws may be modified, altered, amended or added to at any duly called meeting of Unit Owners provided that:

(a) a notice of the meeting containing a full statement of the proposed modification, alteration, amendment or addition, and the canvass period, if any, for voting on the amendment, has been sent at least 30 and not more than 50 days prior to the date set for said meeting, to all Unit Owners and to all Eligible Mortgage Holders; and

- (b) owners of 67% or more of the Units, in number and in common interest approve the change; and
- (c) the consent of Eligible Mortgage Holders of 51% or more of the number of Residential Units subject to first mortgages held by Eligible Mortgage Holders; and
- (d) the change is set forth as an amendment to the Declaration duly recorded in the Recording Office.

Notwithstanding the above, the Board of Managers, for a period of five (5) years from the date of recording of the Declaration, may make amendments to these By-Laws consistent with the current provisions of the Condominium Act, the Declaration and these By-Laws to correct omissions or errors, which amendments shall not adversely modify substantial rights of any Unit Owner or Eligible Mortgage Holder without the written permission of such Unit Owner or Eligible Mortgage Holder. Such amendments need only be signed by a majority of the Board of Directors.

## ARTICLE X

### MISCELLANEOUS

Section 10.01 Notices. All notices hereunder shall be in writing and sent, unless otherwise specifically provided in the Declaration or in these By-Laws, by mail by depositing such notice in a post office or letter box in a postpaid sealed wrapper, addressed, if to go to the Board of Managers, at the office of the Board of Managers, and if to go to a Unit Owner or Unit Mortgagee, to the address of such Unit Owner or mortgagee at such address as appears on the books of the Condominium. Notwithstanding the above, all notices to Eligible Mortgage Holders shall be sent by certified or registered mail, return receipt requested, and if such notice includes a request for consent, shall include a statement that the failure to object to the requested consent within 30 days shall be deemed a consent. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Section 10.02 Conflicts; Compliance with Article 9-B. These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Law of the State of New York. In case any of these By-Laws conflict with the provisions of said Statute or of the Declaration, the provisions of the Statute or of the Declaration, whichever the case may be, shall control.

Section 10.03 No Waiver for Failure to Enforce. No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 10.04 Gender. The use of the masculine gender in these By-Laws shall be deemed to include the masculine, feminine or neuter and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 10.05 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

Section 10.06 Severability. Should any part of these By-Laws be deemed void or become unenforceable at law or in equity, the validity, enforceability or effect of the balance of these By-Laws shall not be impaired or affected in any manner.